

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
SWITZERLAND**

**Agreement for the settlement of conflicting claims to German
assets in their respective territories. Signed at Berne,
on 8 December 1950**

Exchange of notes. Berne, 18 April 1953

Official texts of the agreement: English and French.

Official text of the notes: English.

*Registered by the United Kingdom of Great Britain and Northern Ireland on 13
October 1953.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
SUISSE**

**Accord sur la résolution des conflits de séquestre relatifs aux
biens allemands sis sur leurs territoires. Signé à Berne,
le 8 décembre 1950**

Échange de notes. Berne, 18 avril 1953

Textes officiels de l'accord: anglais et français.

Texte officiel des notes: anglais.

*Enregistrés par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 13
octobre 1953.*

No. 2295. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE FEDERAL COUNCIL OF THE SWISS CONFEDERATION FOR THE SETTLEMENT OF CONFLICTING CLAIMS TO GERMAN ASSETS IN THEIR RESPECTIVE TERRITORIES. SIGNED AT BERNE, ON 8 DECEMBER 1950

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") and the Federal Council of the Swiss Confederation (hereinafter referred to as "the Government of Switzerland"),

Desiring to resolve conflicting claims to German assets in their respective territories and to facilitate the disposal of such assets to the common advantage,

Have agreed as follows :—

Article 1

A.—Currency notes and securities in bearer form which—

- (a) have been issued by either of the Contracting Governments or by an enterprise organised under its laws ; and
- (b) are owned by a German national, or by a German-controlled enterprise organised under the laws of either of the Contracting Governments,

shall be disposed of by the Contracting Government in whose territory they are located.

B.—Each Contracting Government will, to the extent of the powers it usually exercises in these matters, facilitate the disposal and servicing of securities in bearer form which fall to the other Contracting Government under the preceding paragraph of this Article.

Article 2

Securities in registered form which—

- (a) have been issued by either of the Contracting Governments or by an enterprise organised under its laws ; and

¹ Came into force on 2 April 1953 by the exchange of notes of 18 April 1953 (see p. 64).

(b) are owned by a German national, or by a German-controlled enterprise organised under the laws of either of the Contracting Governments, shall be disposed of by the Contracting Government in whose territory they were issued.

Article 3

A cover account opened with a financial institution situated in the territory of one of the Contracting Governments and constituting the counterpart of a foreign currency account maintained in favour of a German national by a financial institution which is not German-controlled and is situated in the territory of the other Contracting Government shall be released.

Article 4

Notwithstanding anything in Articles 1 or 2 of the present Agreement, property in the territory of one of the Contracting Governments forming part of the estate of a person other than a German national who has died domiciled in the territory of the other Contracting Government, in which estate a German national has an interest, shall be released to the Contracting Government in whose territory the estate is being administered, with the exception of immovable property and rights secured upon immovable property which shall be disposed of by the Contracting Government in whose territory the immovable property is located.

Article 5

Notwithstanding anything in Articles 1 or 2 of the present Agreement, any interest of a German national in property in the territory of either Contracting Government forming part of a valid foundation (*Stiftung*) or *bona fide* trust shall be disposed of by the Contracting Government under whose laws the foundation or trust has been constituted.

Article 6

The Contracting Governments, with a view to reconciling the application of the legislation in force in Switzerland and the United Kingdom, will enter into detailed arrangements for the disposal of the property in the United Kingdom or Switzerland of German-controlled enterprises organised under the laws of Switzerland or the United Kingdom respectively.

Article 7

Notwithstanding anything to the contrary in the present Agreement, property which is held for the benefit of a German national by any person or enterprise as a cloak, whether such person or enterprise purports to hold the property as nominee, agent, trustee or in any other capacity, shall be regarded as directly owned by that German national.

Article 8

The Contracting Governments undertake to respect liens, pledges and rights of a similar nature attached to property covered by the present Agreement, provided that they were created prior to the date when the Contracting Government in whose territory the property is located instituted measures for the control of property of German nationals and provided that they are valid according to its law.

Article 9

The Contracting Governments agree to safeguard as far as possible, on a case basis, Swiss and United Kingdom interests in the enterprises, estates, trusts and foundations, whose assets are to be dealt with in accordance with the present Agreement.

Article 10

In the present Agreement—

(1) the term "German national" shall mean and include—

- (a) a person of German nationality resident in Germany on or after the material date ;
- (b) a juridical person existing under the laws of Germany on or after the material date ;

(2) the expression "material date" means in relation to the Government of the United Kingdom the third day of September, 1939, and in relation to the Government of Switzerland the sixteenth day of February, 1945 ;

(3) an enterprise shall be considered as being German-controlled if German nationals—

- (a) hold 50 % or more of the voting rights or of other proprietorship interests ;
or
- (b) exercise an effective control over the policy, management, voting-power or operation of the enterprise.

Article 11

The Contracting Governments undertake to exchange all information and assistance necessary for the implementation of the present Agreement. In particular each Contracting Government undertakes to furnish to the other Contracting Government any information in its possession or which it is able to obtain concerning property covered by the present Agreement of which the ownership has not been disclosed to the persons holding or managing the same.

Article 12

The Government of the United Kingdom may at the time of signature or later declare by notification in writing that it desires the present Agreement

to apply to all or any of the territories for the international relations of which it is responsible and the Agreement shall apply to the territories named in the notification from the date of receipt thereof by the Government of Switzerland or from the date on which the Agreement comes into force, whichever is the later.

Article 13

The present Agreement shall also apply to the Principality of Liechtenstein.

Article 14

The present Agreement shall come into force on the date upon which the Government of Switzerland notifies the Government of the United Kingdom that it has authorised by decree the liquidation of German property in Switzerland pursuant to the Agreement concerning the Liquidation of German Property in Switzerland concluded at Washington on 25th May, 1946.

DECLARATION

The Contracting Governments agree in principle that the external capital assets of enterprises organised under the laws of Germany, in which there are substantial non-German interests, should so far as practicable be excluded from the German property liquidated in the United Kingdom and Switzerland and will consult together to give effect to this principle in particular cases, as they arise, of German incorporations in which there are substantial United Kingdom or Swiss interests.

IN WITNESS WHEREOF the undersigned, duly authorised for the purpose by their respective Governments, have signed the present Agreement and have affixed thereto their seals.

DONE in Berne in duplicate in the English and French languages, both texts being equally authoritative, on the eighth day of December, nineteen hundred and fifty.

[L.S.] Patrick S. SCRIVENER

[L.S.] W. STÜCKI

EXCHANGE OF NOTES

I

Her Majesty's Minister at Berne to the Delegate of the Swiss Federal Council for Special Missions

BRITISH LEGATION

Berne, 18th April, 1953

Your Excellency,

The Agreement between the Government of the United Kingdom and the Federal Council of the Swiss Confederation for the Settlement of Conflicting Claims to German Assets in their Respective Territories signed at Berne on 8th December, 1950 (hereinafter referred to as "the Inter-custodial Agreement"), provides in Article 14 that it should enter into force when the Swiss Government notifies the Government of the United Kingdom that it has authorised by decree the liquidation of German property in Switzerland. Since the signature of the Inter-custodial Agreement the situation has been changed as a result of the signature at Berne on 28th August, 1952,¹ of the Agreement between the United Kingdom, France and the United States and Switzerland concerning German property in Switzerland whereby the three Governments have received a lump sum in lieu of the proceeds of liquidation.

2. The Government of the United Kingdom therefore proposes that the Inter-custodial Agreement should be regarded as having come into force upon the date upon which the Swiss Government made the payment mentioned in Article 1 of the Agreement of 28th August, 1952, namely, on the 2nd April, 1953.

3. I am also instructed to state that the Government of the United Kingdom intend to deal under the Distribution of German Enemy Property Act with the assets of enterprises organised under the laws of Switzerland which have been taken under control under the Trading with the Enemy legislation in the United Kingdom, and to reaffirm its view that such action will be fully in accordance with the provision of the Inter-custodial Agreement.

4. I have the honour to propose that, if the arrangements set out above are acceptable to the Swiss Government, this Note and your Excellency's reply in that sense shall be regarded as constituting an Agreement between our respective Governments.

I have, &c.

P. SCRIVENER

¹ See p. 69 of this volume.

II

*The Delegate of the Swiss Federal Council for Special Missions
to Her Majesty's Minister at Berne*

Berne, 18th April, 1953

Your Excellency,

I have the honour to acknowledge receipt of your letter of to-day reading as follows :—

[See note I]

In reply I have the honour to confirm that my Government concurs with the arrangements set out above and regards your Note and my reply as constituting an Agreement between the two Governments.

I have &c.

W. STŮCKI