

**No. 3085**

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**UNION OF SOUTH AFRICA  
and  
FRANCE**

**Exchange of notes constituting an agreement concerning  
the release of French assets. Cape Town, 18 April 1947**

*Official texts: English and French.*

**Exchange of notes constituting an agreement amending the  
above-mentioned Agreement. Pretoria, 6 August and  
21 October 1955**

*Official text: English.*

*Registered by the Union of South Africa on 23 December 1955.*

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**UNION SUD-AFRICAINNE  
et  
FRANCE**

**Échange de notes constituant un accord relatif au déblocage  
des avoirs français. Le Cap, 18 avril 1947**

*Textes officiels anglais et français.*

**Échange de notes constituant un accord modifiant l'Accord  
susmentionné. Prétoria, 6 août et 21 octobre 1955**

*Texte officiel anglais.*

*Enregistrés par l'Union Sud-Africaine le 23 décembre 1955.*

No. 3085. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> BETWEEN THE UNION OF SOUTH AFRICA AND FRANCE CONCERNING THE RELEASE OF FRENCH ASSETS. CAPE TOWN, 18 APRIL 1947

Nº 3085. ÉCHANGE DE NOTES CONSTITUANT UN ACCORD<sup>1</sup> ENTRE L'UNION SUD-AFRICAINE ET LA FRANCE RELATIF AU DÉBLOCAGE DES AVOIRS FRANÇAIS. LE CAP, 18 AVRIL 1947

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I

DEPARTMENT OF EXTERNAL AFFAIRS

Cape Town, 18th April, 1947

Mr. Minister,

I have the honour to inform you that the Union Government are desirous of expediting the release of funds and property held by the Custodian of Enemy Property on behalf of French citizens and after careful consideration of the matter the Union Government feel that the settlement of claims by French citizens would be greatly facilitated if the Government of France could see their way to accept responsibility for restoring moneys and property released by the Custodian to the rightful owners in France.

The following conditions are proposed by the Union Government for the settlement of this matter:

1. In this note—

“ person ” shall mean natural person;

“ institution ” shall include any firm, authority, government department, partnership and company, limited or unlimited;

“ Union ” and “ Union of South Africa ” shall include the Mandated Territory of South West Africa;

“ France ” shall mean metropolitan France, French Colonies, Protectorates, Mandated Territories and possessions.

2. The Custodian of Enemy Property of the Union of South Africa (hereinafter called the Custodian) shall furnish the representatives of France with full particulars in regard to all funds deposited with him on behalf of persons in France and institutions established in France, as also in regard to all property including shares,

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<sup>1</sup> Came into force on 18 April 1947 by the exchange of the said notes.

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<sup>1</sup> Entré en vigueur le 18 avril 1947 par l'échange desdites notes.

debentures, and other securities belonging to persons in France, and to institutions established in France, the title to which has in the meantime been transferred to him.

3. The Custodian shall also furnish the said representatives with particulars of all claims registered in his office by persons and institutions in the Union of South Africa against persons in France and against institutions established in France and of any claims registered in respect of property in France belonging to persons in the Union of South Africa, Union nationals resident outside the Union and institutions established in the Union.
4. In so far as the funds and property mentioned in paragraph 2 have not already been released to the original owners, the said funds and property with the exception of registered securities shall be transferred en bloc to the Government of France. As far as registered securities are concerned, the Custodian will release such securities in each case whenever he receives a request to that effect from the Government of France.
5. The Government of France shall make arrangements for the verification of all particulars supplied to them under paragraph 2 by the Government of the Union of South Africa and shall in due course inform the Custodian which of the items included in the return of funds and property held on behalf of persons in France were registered in the names of enemy nationals or in the names of institutions belonging to enemy nationals. The Government of France undertake to return to the Custodian the funds and property belonging to enemy nationals, or enemy-owned institutions.
6. If it is evident from the data available in France that claims of persons or institutions domiciled in France against debtors in the Union were expressed in the national currency of France then the rate of exchange to be applied in such cases shall be the rate of exchange ruling on the date of payment and any exchange profits resulting from these transactions shall be refunded to the Custodian.
7. The Government of France hereby indemnify the Custodian against any claims from any source whatever in regard to all moneys paid over to that Government and all property including securities released by him to that Government or to French nationals at that Government's request.
8. The Custodian shall not be held liable for funds which he has not collected on behalf of persons in France, owing to the fact that debtors in the Union have omitted to submit a statement of their debts or because the debtors were not able to pay the amounts owing by them or for any other reason. In so far as such funds are not due to institutions established in France belonging to enemy nationals, the Custodian undertakes, however, to assist the Government of France to the best of his ability with the tracing and collection of such moneys as should have been paid but were not thus paid.
9. The Government of France will cause the statements of claims received from the Custodian to be investigated and will notify him of the correctness or otherwise of claims for money due in respect of debts, and furnish him with full details of the position in regard to any claim in respect of property in France, indicating whether such property is available for restoration to the owners in the Union of South

Africa and the condition of such property. The Government of France shall assist the Government of the Union of South Africa to the best of their ability with the tracing and collection of such moneys owing by debtors in France to creditors in the Union.

10. Transfers between the two countries of funds covered by this agreement will be effected in accordance with the existing payment arrangements between the Sterling area and the French Franc area.
11. In so far as taxation may affect the assets covered by this agreement, the Government of the Union of South Africa and the French Government will accord each other most favoured nation treatment.

If the foregoing proposals are acceptable to your Government, I would suggest that this note and your confirmatory reply thereto be regarded as an agreement between our two Governments in the matter.

Please accept, Mr. Minister, the renewed assurance of my highest consideration.

For the Minister of External Affairs:

D. D. FORSYTH  
Secretary for External Affairs

E. A. M.-J. Lancial, Esq.  
Envoy Extraordinary and Minister Plenipotentiary of France  
Cape Town

[TRADUCTION — TRANSLATION]

[*Voir note II*]

## II

RÉPUBLIQUE FRANÇAISE  
LÉGATION DE FRANCE

No. 139

Cape Town, le 18 avril 1947

Monsieur le Premier Ministre,

J'ai l'honneur d'accuser réception de votre note en date de ce jour, ainsi conçue:

« Monsieur E. A. M.-J. Lancial,  
Envoyé extraordinaire  
et Ministre plénipotentiaire de France,  
Cape Town

« Monsieur le Ministre,

« J'ai l'honneur de porter à votre connaissance que le Gouvernement de l'Union est désireux d'accélérer la relâche des fonds et biens détenus par le

J'ai l'honneur de vous assurer que ces propositions sont acceptables par le Gouvernement français. Je vous confirme que votre note ci-dessus et la présente réponse vaudront constatation de l'accord intervenu entre nos Gouvernements. Le texte en langue française fera foi au même titre que le texte en langue anglaise.

Je saisis cette occasion pour vous prier d'agréer, Monsieur le Premier Ministre, les assurances de ma plus haute considération.

E. LANCIAL

Le Maréchal J. C. Smuts, O.M., C.H., K.C.D., M.P.  
Premier Ministre  
Ministre des affaires extérieures  
Cape Town

## II

[TRANSLATION — TRADUCTION]

FRENCH REPUBLIC  
LEGATION OF FRANCE

No. 139

Cape Town, 18 April 1947

Sir,

I have the honour to acknowledge the receipt of your note of today's date in the following terms:

[*See note I*]

I have the honour to assure you that these proposals are acceptable to the French Government. I confirm that your note above and this reply shall constitute a statement of the agreement between our two Governments. The French text and the English text shall be equally authentic.

I have the honour to be, etc.

E. LANCIAL

Field Marshal J. C. Smuts, O.M., C.H., K.C.D., M.P.  
Prime Minister  
Minister of Foreign Affairs  
Cape Town

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup>  
BETWEEN THE UNION OF SOUTH AFRICA AND  
FRANCE AMENDING THE AGREEMENT OF 18 APRIL  
1947<sup>2</sup> CONCERNING THE RELEASE OF FRENCH AS-  
SETS. PRETORIA, 6 AUGUST AND 21 OCTOBER 1955

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I

6th August, 1955

Mr. Minister,

I have the honour to refer to negotiations which have taken place between this Embassy and the Union Government in regard to the release of all registered securities and accrued dividends held by the Union Custodian of Enemy Property on behalf of French citizens and institutions established in France.

The French Government propose that the Agreement of the 18th April 1947,<sup>2</sup> between the Governments of France and the Union of South Africa concerning the release of funds and property held by the Custodian be amended by the addition of the following sentence, at the end of paragraph 4 of the said agreement:

“ All registered securities and accrued dividends not so released as at the 1st January 1955 shall be released forthwith. They will be put at the disposal of their legitimate owners by the Custodian of Enemy Property with the proviso that the paragraphs 5 and 7 of the Agreement shall not be applicable to the registered securities and accrued dividends, thus released. ”

If the foregoing proposal is acceptable to the Union Government, I would suggest that this letter and your confirmatory reply thereto be regarded as constituting an agreement on that matter between our two Governments.

Please accept, Mr. Minister, the renewed assurance of my highest consideration.

A. GAZEL

H.E. The Honourable the Minister of External Affairs  
Pretoria

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<sup>1</sup> Came into force on 21 October 1955 by the exchange of the said notes.

<sup>2</sup> See p. 36 of this volume.

## II

## DEPARTMENT OF EXTERNAL AFFAIRS

139/5

Pretoria, 21st October 1955

Your Excellency,

I have the honour to acknowledge Your Excellency's Note No. 56 of the 6th August, 1955, the text of which, in its agreed English version, reads as follows:—

[*See note I*]

In reply thereto, I have the honour to inform Your Excellency that the Government of the Union of South Africa are in agreement with the foregoing and that Your Excellency's Note and the present reply shall be regarded as constituting an agreement between our two Governments as from the date of this reply.

Please accept, Your Excellency, the renewed assurance of my highest consideration.

E. H. Louw  
Minister of External Affairs

His Excellency Mr. A. Gazel  
Ambassador Extraordinary and Plenipotentiary of France  
Pretoria