

No. 3182

CANADA
and
FRANCE

Exchange of notes (with annexed memorandum) constituting an agreement concerning the release of certain private property from Government control. Ottawa, 12 February and 22 March 1946

Official texts: English and French.

Exchange of notes constituting an agreement abrogating the above-mentioned Agreement. Ottawa, 13 November and 8 December 1951

Official text: French.

Registered by Canada on 13 March 1956.

CANADA
et
FRANCE

Échange de notes (avec mémorandum annexé) constituant un accord visant la mainlevée du contrôle du Gouvernement sur certains biens privés. Ottawa, 12 février et 22 mars 1946

Textes officiels anglais et français.

Échange de notes constituant un accord abrogeant l'Accord susmentionné. Ottawa, 13 novembre et 8 décembre 1951

Texte officiel français.

Enregistrés par le Canada le 13 mars 1956.

No. 3182. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN CANADA AND FRANCE CONCERNING THE RELEASE OF CERTAIN PRIVATE PROPERTY FROM GOVERNMENT CONTROL. OTTAWA, 12 FEBRUARY AND 22 MARCH 1946

I

The Secretary of State for External Affairs to the French Ambassador

DEPARTMENT OF EXTERNAL AFFAIRS

Ottawa, February 12, 1946

Excellency,

I have the honour to refer to your Note No. 14, dated January 14, 1946, regarding the arrangements being made for the release of French private assets at present under the control of the Custodian of Enemy Property in Canada.

2. The annexed memorandum has been prepared as an outline of the policy which the Government of Canada proposes to follow in the release of the above-mentioned assets. It also sets out the understanding of the Government of Canada regarding the attitude of the French Government to the release of these assets and to related problems.

3. If the proposals are acceptable, the present Note with the annexed memorandum, and your reply thereto, will be considered as placing on formal record the understanding between the two Governments in this matter.

Accept, Excellency, the renewed assurances of my highest consideration.

N. A. ROBERTSON
For the Secretary of State for External Affairs

¹ Came into force on 22 March 1946 by the exchange of the said notes. By an exchange of notes dated 23 March and 3 April 1946 the agreement was made applicable to the Principality of Monaco.

MEMORANDUM

THE CUSTODIAN PROPOSED POLICY FOR THE RELEASE OF FRENCH PROPERTY

The following is a summary of discussions which have taken place between representatives of the French Government, the Department of External Affairs and the Custodian. The Custodian is prepared to put into effect the policy outlined on being advised that the French Government agrees with the contents of this memorandum.

For the purpose of these proposals the following expressions shall be construed so that :

(a) "France" shall mean all French territory in Europe, Algeria, Tunisia and the French Zone of Morocco, and such other French territories and contiguous territories to which these proposals may be extended from time to time by the Custodian.

(b) "Persons" shall mean individuals or corporations who resided in or had their principal place of business in France on the 5th day of June, 1944.

(c) "Property" shall mean all real and personal property and all rights and interest therein, whether legal or equitable.

1. The custodian has negotiated an agreement with the United Kingdom Custodian agencies, and has reached an understanding with the United States Custodian and the United States Treasury officials on questions of conflicting jurisdiction and these proposals shall only apply to French property which will ultimately remain at the disposal of the Custodian.

2. These proposals do not apply to British subjects or Canadian citizens; the disposal of the property of such persons will be dealt with as between such persons and the Custodian.

3. Nothing in these proposals shall be deemed to override applicable local law (including Exchange Control Regulations and fiscal legislation and/or regulations) now in effect or hereafter put into effect in Canada.

4. These proposals shall only affect property vested in and/or controlled by the Custodian because of the occupation of France by the enemy and/or the issuing of an Order-in-Council proscribing the said country.

5. The Custodian will not, for the present, release any property to residents of France, nor to persons who have left France after the 5th day of June, 1944, until arrangements for release are completed with the French Government or until the views of the French Government are ascertained in any particular case with the following exceptions :

(a) The Custodian will permit the payment of pensions, arrears of pensions, Workmen's Compensation payments and current annuities including annuities under insurance policies and endowment contracts.

(b) Interim payments on compassionate grounds from accumulated revenues up to such amount as may be permitted by the Foreign Exchange Control Board for payment to British subjects or other persons residing in France, and

(c) Will release to residents of France, on production of evidence satisfactory to the Custodian, all accounts where the total value of assets is \$3,000.00 or less.

6. The Custodian will release French property only on the basis of an individual application supported by a certificate issued by L'Office des Changes.

7. The Custodian will accept the certificate issued by L'Office des Changes as conclusive evidence of the bona fide of the applicant, subject to the right, notwithstanding the issue of such certificate, to discuss with the French authorities those cases wherein adverse information may be received.

8. The Custodian will supply, for the information of the French authorities, a list of names in which French accounts are recorded, together with addresses in the cases where these are known to the Custodian. This information will be in addition to the general summary of accounts and broad classification of the nature of these accounts earlier supplied to the French Government, which will be supplemented from time to time.

9. The Custodian and the French Government agencies involved will exchange information as to enemy interest affecting property vested in or controlled by the Custodian.

10. The Custodian may request, and the appropriate French Government agency will supply, information in cases where applications for release of property are from resident aliens in France.

11. Where no claim is received by the Custodian the question of the ultimate disposal of property will be discussed with the French authorities.

12. A moratorium on payments has been imposed by the Custodian's Regulations, on property vested in him and the Custodian is prepared to inform claimants that unless certain overdue payments are made before release, no moratorium will protect such property after a release is granted. The Custodian does not accept any responsibility for failure to notify such claimants.

13. The Custodian will supply certificate and release application forms to L'Office des Changes.

14. Application forms will be distributed by L'Office des Changes to claimants, on the basis of the list of names and addresses supplied by the Custodian, and on the completion of the application forms the said L'Office des Changes will collect same and attach the necessary certificates.

15. The applicant's declaration may be taken before a British or Canadian diplomatic or consular official, or such other officials in France as may be authorized by the French Government.

16. The application must be supported by a certificate signed on behalf of L'Office des Changes.

17. The application form, together with the certificate, may be sent directly to Ottawa or to the Custodian's London office.

18. In the event that a certificate is refused by L'Office des Changes that office will immediately notify the Custodian of the name of the applicant and of the grounds for refusal.

19. Where property is held for the account of a French bank or other financial institution, the Custodian will require individual applications by the customers of that bank or financial institution claiming such property so that the beneficial ownership may be determined.

20. In the case of corporations applying for the release of their property the Custodian will require an application supported by information as to the ownership of the corporation, and the Custodian will indicate whether or not he considers such corporate entity to be enemy owned or enemy controlled and will discuss all such cases with the French authorities.

21. In the case of French financial institutions holding large blocks of Canadian securities for which they have issued their own certificates, the Custodian will require information as to the ultimate beneficial ownership of the securities represented by the certificates.

22. The French Government agrees that, subject to fiscal legislation or legislation dealing with the control of foreign exchange in France, persons resident in Canada shall be free to resume ownership and management of their property situated in France, and they agree to assist in tracing such property and restoring it to the control of such persons.

23. The French Government agrees that they will give no less favourable treatment to British subjects and/or Canadian citizens, with respect to their property in France, than they do to French citizens.

24. The French Government agrees to take such action as may be necessary to remove legal obstacles (including periods of prescription) which might prevent an equitable settlement of outstanding indebtedness and the return to persons resident in Canada of their property situated in France.

25. In negotiating any treaties of peace, the French Government agrees that, with respect to Canadian property in France seized by any enemy organization, it will endeavour to ensure the recovery of such property.

26. The representatives of the French Government had advised that certain commercial debts, interest and other liquid assets owing to persons residing in Canada, were collected by the German authorities and the French Government agrees to release such moneys to persons residing in Canada upon their application to L'Office des Changes.

27. The French Government agrees that legal disputes concerning the Custodian's management shall be settled directly between the Custodian and the interested parties. In the event, however, of the absence of settlement between the two parties, the two Governments shall consult with a view to an equitable settlement.

28. The French Government agrees that if any property is released pursuant to these proposals by the Custodian and it is subsequently found that such property is or was owned by persons residing in or carrying on business in any territory of a country

that is or has been at war with Canada, the Custodian's release shall be considered null and void and the property will be restored to the control of the Custodian.

29. The Custodian has advised the representatives of the French Government that during the war French interests in industrial property, including patents, trade marks, industrial designs and copyrights, have been protected and the Custodian is prepared to release such interests in accordance with these proposals. The representatives of the French Government have advised that they are equally prepared to restore to persons residing in Canada their interests in such property in France. It is, however, agreed that questions relating to the release of industrial property be subject to further discussions.

30. The Custodian has advised the representatives of the French Government that he will make an administration charge, as authorized by the Revised Regulations Respecting Trading with the Enemy (1943), against all property released under these proposals, except in the case of commercial credits and bank balances where the net amount received by the Custodian will be released to the beneficial owner without deducting an administration charge.

31. It is agreed that any information exchanged between the Custodian and the French authorities under these proposals shall be considered as strictly confidential and not to be made available to any other persons or Governments.

32. These proposals will be considered by the Custodian and by the French Government as a *modus operandi* subject to such changes as may be agreed upon from time to time and will be considered as coming into effective operation on the date that the representatives of the French Government advise the Custodian that the proposals are acceptable.

DATED at Ottawa this 12th day of February, 1946.

II

The French Ambassador to the Secretary of State for External Affairs

[TRANSLATION¹ — TRADUCTION²]

FRENCH EMBASSY IN CANADA

No. 65

Ottawa, March 22, 1946

Sir,

With reference to your letter of February 12 last, I have the honour to inform you that my Government agrees to the Memorandum attached to your

¹ Translation by the Government of Canada.

² Traduction du Gouvernement canadien.

above letter concerning the de-blocking of private French assets sequestered in Canada.

As you kindly suggested, this letter together with yours of February 12 shall constitute an agreement between our two Governments as of to-day, March 22.

Accept, Sir, the assurances of my highest consideration.

J. DE HAUTECLOCQUE

[TRANSLATION¹ — TRADUCTION²]

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT³
BETWEEN CANADA AND FRANCE ABROGATING THE
AGREEMENT OF 12 FEBRUARY AND 22 MARCH 1946⁴
CONCERNING THE RELEASE OF CERTAIN PRIVATE
PROPERTY FROM GOVERNMENT CONTROL. OTTA-
WA, 13 NOVEMBER AND 8 DECEMBER 1951

I

The Ambassador of France to Canada to the Secretary of State for External Affairs

FRENCH EMBASSY

No. 141

Ottawa, November 13, 1951

Excellency,

With reference to the report of the discussions between French and Canadian experts held in Ottawa on October 11 and 12, 1951, I have the honour to inform you that the French Government agrees to the following provisions :

1. The Agreement of March 22, 1946,⁴ between France and Canada concerning the release of certain private property from Canadian Government control, is abrogated.

2. French assets shall be released from custody by the Canadian Government. Consequently :

(a) Banks and other holders of assets under custody shall hereafter be free to make them available to their French owners;

(b) All appropriate arrangements shall be made by the Canadian Custodian to ensure that the assets physically seized by him will be surrendered to their French owners.

3. The provisions of this exchange of notes shall come into force on the date of signature.

I should appreciate it if you would let me have confirmation that the foregoing is acceptable to the Canadian Government.

Accept, Excellency, the assurances of my highest consideration.

Hubert GUÉRIN

¹ Translation by the Government of Canada.

² Traduction du Gouvernement canadien.

³ Came into force on 8 December 1951 by the exchange of the said notes.

⁴ See p. 166 of this volume.

II

*The Secretary of State for External Affairs to the Ambassador of France
to Canada*

DEPARTMENT OF EXTERNAL AFFAIRS

No. E-126

Ottawa, December 8, 1951

Excellency,

I have the honour to refer to your Note No. 141 dated November 13, in which you informed me of the agreement of the French Government on the following provisions regarding the release of French private assets under the control of the Canadian Custodian :

[*See note I*]

The Canadian Government is in agreement with the foregoing and I am pleased to inform you that your Note and the present reply thereto shall be regarded as constituting an agreement between the two Governments in this matter.

Accept, Excellency, the renewed assurances of my highest consideration.
