

No. 3723

NETHERLANDS
and
LUXEMBOURG

**Exchange of notes constituting an agreement concerning
compensation for damage caused by war and flood.
Luxembourg, 6 February 1956**

Official text: French.

Registered by the Netherlands on 1 March 1957.

PAYS-BAS
et
LUXEMBOURG

**Échange de notes constituant un accord concernant l'in-
demnisation des dommages causés par fait de guerre
et par fait d'inondation. Luxembourg, 6 février
1956**

Texte officiel français.

Enregistré par les Pays-Bas le 1^{er} mars 1957.

[TRANSLATION — TRADUCTION]

No. 3723. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG CONCERNING COMPENSATION FOR DAMAGE CAUSED BY WAR AND FLOOD. LUXEMBOURG, 6 FEBRUARY 1956

I

EMBASSY OF THE NETHERLANDS

Luxembourg, 6 February 1956

Your Excellency,

In the course of the negotiations held at The Hague on 16, 17 and 20 September 1955 concerning compensation for damage caused by war and flood, a Luxembourg delegation and a Netherlands delegation reached an understanding on a draft agreement in the following terms :

Article 1

(1) The acts, orders and regulations of Luxembourg on war damage compensation, with the exception of titles II and III and articles 59 and 60 of the Luxembourg Act of 25 February 1950, shall apply, subject to the limitation provided by paragraph (2) below, to war damage caused by the Second World War in the territory of the Grand Duchy of Luxembourg to material private property, immovable and movable (other than securities and cash), which on the date of damage belonged to individuals able to prove that they were Netherlands nationals both on the date of damage and on the date of payment of compensation. Persons who were Netherlands nationals on one only of the said two dates and were Luxembourg nationals on the other date shall likewise be eligible for such benefit.

For the purposes of this Agreement, the expression "Netherlands nationals" shall mean individuals having Netherlands nationality.

(2) Compensation shall not, however, be payable where the Grand Ducal Government, whose decision shall be final, holds that the applicant is in easy circumstances.

(3) In cases where the right to compensation is transferred, surrendered or divided and, more generally, in all the cases referred to in article 14 of the said Act of 25 February 1950, Netherlands nationals shall be treated in the same way as Luxembourg nationals.

¹ Came into force on 31 October 1956, in accordance with the final provisions of the said notes.

Article 2

The Netherlands Act of 9 February 1950 concerning material war damage and the Netherlands Act of 24 December 1953 concerning flood damage shall apply to war damage caused by the Second World War in the territory of the Kingdom of the Netherlands in Europe, and to damage caused by the 1953 floods, to material immovable and movable property (other than securities and cash) which on the date of damage belonged to Luxembourg individuals and corporate bodies.

The following shall be eligible to benefit under this Agreement :

Individuals who were Luxembourg nationals on the date of damage ;

Corporate bodies possessing capital represented by shares, subject, in accordance with the provisions of article 2 of the Netherlands Act of 9 February 1950, to the condition that on the date of damage :

(a) At least half the capital issued belonged to Luxembourg nationals or to Luxembourg and Netherlands nationals ;

(b) Or, where the ownership of the capital issued cannot be determined, at least half the functions of managers (*gérants, directeurs*) and directors (*administrateurs, commissaires*) were exercised by Luxembourg nationals or by Luxembourg and Netherlands nationals ;

Corporate bodies without capital represented by shares, provided that on the date of damage at least half the controlling power over such bodies was vested in Luxembourg nationals or in Luxembourg and Netherlands nationals.

Article 3

This Agreement shall not apply to war damage sustained by ships and boats, including the engines, tackle, any other operating equipment and furnishings for the owner-boatman's personal use, where responsibility for compensation is laid upon his country of nationality by its national law.

It shall, on the other hand, apply to cargo, furnishings and the personal effects of passengers, seamen or boatmen who are not owners of the boat.

Article 4

Persons who, as a result of acts of war from 10 May 1940 onwards, were evacuated to or took refuge in the territory of the other country and sustained war damage therein shall be deemed to have sustained such damage within the frontiers of their own country.

Article 5

Compensation for damage to goods, packages or other movable property in transit shall be paid by the country in which the damage occurred. If the place where the damage occurred cannot be determined with certainty, the damage shall be deemed to have occurred at the place of departure.

Article 6

The two Governments undertake to provide each other with all necessary assistance in carrying out this Agreement.

The competent Ministers of the two countries, or their representatives, shall keep each other informed concerning the carrying out of the Agreement and shall seek to settle amicably any difficulties that may arise in its application.

The procedure laid down in the foregoing paragraph shall in no circumstances inhibit the right of persons who have sustained damage to their property to appeal against administrative decisions as provided for in Luxembourg and Netherlands war damage legislation.

Article 7

On pain of forfeiture of rights, cases of damage covered by this Agreement shall, unless this formality has already been complied with, be declared to the competent authorities, in accordance with the established procedure of each country, within six months from the date of the entry into force of the Agreement.

I have the honour to inform you that the Government of the Netherlands accepts this draft agreement, and I suggest that this note and such affirmative reply as you may be good enough to address to me should be regarded as constituting the Agreement between our two Governments. This Agreement shall enter into force on the date when the two Governments shall have notified each other that the approval required by the respective Constitutions of the two countries has been obtained.

I have the honour to be, etc.

(Signed) TEIXEIRA

His Excellency Mr. Joseph Bech
President of the Government
Minister of Foreign Affairs
Luxembourg

II

MINISTRY OF FOREIGN AFFAIRS

Luxembourg, 6 February 1956

Your Excellency,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows :

[See note I]

I have the honour to signify the Luxembourg Government's agreement to the foregoing.

I have the honour to be, etc.

The Minister of Foreign Affairs a.i. :

(Signed) FRIEDEN

His Excellency Jonkheer E. Teixeira de Mattos
Ambassador of the Netherlands
Luxembourg