

No. 4195

**NETHERLANDS
and
FRANCE**

**Exchange of notes constituting an agreement for the
settlement of war and flood damage. Paris, 15 No-
vember and 15 December 1954**

Official text: French.

Registered by the Netherlands on 10 March 1958.

**PAYS-BAS
et
FRANCE**

**Échange de notes constituant un accord pour régler les
dommages de guerre et les dommages causés par les
inondations. Paris, 15 novembre et 15 décembre 1954**

Texte officiel français.

Enregistré par les Pays-Bas le 10 mars 1958.

[TRANSLATION — TRADUCTION]

No. 4195. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE NETHERLANDS AND FRANCE FOR THE SETTLEMENT OF WAR AND FLOOD DAMAGE. PARIS, 15 NOVEMBER AND 15 DECEMBER 1954

I

EMBASSY OF THE NETHERLANDS

Paris, 15 November 1954

Your Excellency,

With reference to the negotiations between France and the Netherlands on war damage, held at The Hague from 24 to 27 September 1954, I have the honour to inform you that the Netherlands and French delegations have agreed on the following provisions :

Article I

The Netherlands Government shall grant to French individuals and bodies corporate, whose property in the territory of the Netherlands was destroyed or damaged by warfare or by the 1953 floods, compensation equal to that given to Netherlands individuals and bodies corporate for losses of the same type and magnitude under the Netherlands Act of 9 February 1950 concerning material war damage and the Netherlands Act of 24 December 1953 concerning flood damage.

The following shall be eligible to benefits under this Agreement :

(1) Individuals who were French nationals on the date on which the damage was sustained ;

(2) Bodies corporate possessing capital represented by shares, provided, under the provisions of article 2 of the Netherlands Act of 9 February 1950, that on the date on which the damage was sustained :

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

(b) Or, where the ownership of the issued capital cannot be determined, the functions of managers (*directeurs*) and directors (*commissaires*) were exercised to the extent of at least 50 per cent by French nationals or by French and Netherlands nationals.

¹ Came into force on 12 July 1955, the date of receipt of a note from the Government of the Netherlands informing the Government of France that the constitutional approval required in the Netherlands had been obtained, in accordance with the terms of the said notes.

(3) Bodies corporate having no capital represented by shares, provided that, on the date on which the damage was sustained, at least half of the controlling interest was vested in French nationals or in French and Netherlands nationals.

For the purposes of this Agreement, "French nationals" means individuals who possessed French nationality or the status of nationals of the French Union on the date on which the damage was sustained.

Article 2

The French Government shall grant to Netherlands individuals and bodies corporate, whose property was destroyed or damaged by warfare on French metropolitan territory, compensation equal to that given for losses of the same type and magnitude to French individuals and bodies corporate under the French Act of 28 October 1946.

The following shall be eligible to benefit under this Agreement :

(1) Individuals, other than those already compensated under article 10 (4) of the French Act of 28 October 1946, who had the status of Netherlands nationals on the date on which the damage was sustained ;

(2) Bodies corporate having their head office in the Netherlands or France, provided that they are formed under Netherlands or French law and, in accordance with article 11 of the French Act of 28 October 1946, that :

(a) More than half of the owners, directors or administrators held French or Netherlands nationality on 1 September 1939 and on the date on which the damage was sustained, or, in the case of French nationals, recovered French nationality in the intervening period ;

(b) More than half of the capital was owned by French or Netherlands nationals on 1 September 1939 and on the date on which the damage was sustained, or became the property of such persons in the intervening period.

In the case of incorporated or share-partnership companies, the capital considered shall be the capital represented at the last general meeting prior to 1 September 1939 or the date on which the damage was sustained.

(3) Netherlands individuals and bodies corporate who are part owners of property held in joint ownership, compensation to be payable for said portions of the property.

For the purposes of this Agreement, "Netherlands nationals" means :

(1) Netherlands nationals who held that status on the date on which the damage was sustained ;

(2) Persons who had the status of Netherlands subjects on the date on which the damage was sustained and on the date of the entry into force of the Agreement.

The benefits of these provisions shall not be granted to persons who, with the consent of the competent authorities and under the circumstances described in article 10 (5) of the French Act of 28 October 1946, disposed of their damaged property prior to the entry into force of this Agreement.

Article 3

The following are not included in the scope of this Agreement :

(1) Damage caused by Netherlands, French or allied troops, or their services by actions other than military operations.

However, damage resulting from preventive defence measures taken after 2 September 1939 is not excluded by this provision.

(2) Damage to sea-going vessels and fishing boats, including everything on board such shipping.

(3) Damage to boats engaged in inland shipping registered in either of the two countries and damaged in the territory of the other country.

The engines, tackle, any other operating equipment and furnishings for the personal use of the crew of such boats shall be similarly excluded.

(4) Damage to property which, from 10 May 1940 onwards was, for fear of hostilities, temporarily removed from one of the countries concerned to the other or was brought to one country by refugees living in the other.

Article 4

Where the laws and regulations in force in the country where the damage was sustained allow the transfer of the compensation, persons who have sustained damage to their property, or their heirs, may, subject to exchange regulations in force at the time the transfer is made, apply their compensation to the restoration of their destroyed property in the country of which they are nationals. In that event, the compensation shall be computed and paid in accordance with the laws and by the Government of the country in which the damage was sustained.

Article 5

Under the provisions of the foregoing articles, the Netherlands and French Governments undertake to treat the beneficiaries of this Agreement as their own nationals.

Article 6

A joint commission shall be established to settle at the administrative level problems arising from the application of this Agreement.

The commission shall consist of three representatives of each country.

Article 7

Unless a formal declaration of the damages to which this Agreement refers has been made to the competent authorities in the manner appropriate to each country, such declaration shall be made, under penalty of forfeiture of rights, within ten months following the date of entry into force of the Agreement.

I have the honour to state, on instructions from my Government, that the foregoing provisions are acceptable to the Netherlands Government. If the French Government also finds them acceptable, I have the honour to suggest

that this note and your reply thereto should be regarded as constituting an agreement between our two Governments, which shall enter into force on the date of receipt of a note whereby the Netherlands Government informs the French Government that the constitutional approval required in the Netherlands has been obtained.

I have the honour to be, etc.

(Signed) W. VAN BOETZELAER
Ambassador

H.E. Mr. Pierre Mendès-France
President of the Council
Minister of Foreign Affairs
Quai d'Orsay
Paris

II

MINISTRY OF FOREIGN AFFAIRS

Paris, 15 December 1954

Your Excellency,

I have the honour to acknowledge receipt of your note dated 15 November 1954 in the following terms :

[See note I]

I have the honour to confirm the French Government's acceptance of the foregoing provisions.

I have the honour to be, etc.

(Signed) MOUSTIER

H.E. Baron W. van Boetzelaer
Ambassador of the Netherlands
Paris
