

No. 14780

**FRANCE
and
FEDERAL REPUBLIC OF GERMANY**

**Exchange of notes constituting an agreement concerning the
droit de suite. Paris, 7 March and 4 April 1974, and
20 June 1975**

Authentic texts: German and French.

Registered by France on 26 May 1976.

**FRANCE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Échange de notes constituant un accord concernant le droit
de suite. Paris, 7 mars et 4 avril 1974, et 20 juin 1975**

Textes authentiques : allemand et français.

Enregistré par la France le 26 mai 1976.

[TRANSLATION — TRADUCTION]

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE *DROIT DE SUITE*

I

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY

RK 522.90/74

The Embassy of the Federal Republic of Germany has the honour to inform the Ministry of Foreign Affairs of the French Republic of the following:

The Copyright Act of the Federal Republic of Germany and the Copyright Act of the French Republic both contain provisions regulating what is known as the *droit de suite* (*Folgerecht*).

In the Federal Republic of Germany, under article 26 of the Act concerning copyright and similar rights of protection (Copyright Act) of 9 September 1965 (*Bundesgesetzblatt I*, p. 1273), as amended by the Act to amend the Copyright Act of 10 November 1972 (*Bundesgesetzblatt I*, p. 2081), plastic artists are entitled, in the event of resale of their original works through an art dealer or auctioneer, to a share in the proceeds of the sale.

In France, article 42 of Act No. 57-298 of 11 March 1957 concerning literary and artistic property (*Journal officiel* of 14 March and 19 April 1957) entitles the authors of graphic and plastic works to a share in the proceeds of every resale of an original work, whether by public auction or through a dealer.

The Federal Republic of Germany would be gratified if the *droit de suite*, which under the terms of article 14 *bis* of the Brussels text of the Berne Convention for the Protection of Literary and Artistic Works² is subject to reciprocity, were to be accorded in France to German authors and in the Federal Republic of Germany to French authors. Under article 121, paragraph 5, of the Copyright Act of the Federal Republic of Germany, foreign nationals have no claim to the *droit de suite* unless the State of which they are nationals accords a corresponding right to German nationals, and a notice to that effect has been published in the *Bundesgesetzblatt* by the Federal Minister of Justice. The Federal Government is prepared to issue such a notice for the benefit of French authors. In order to do so, it needs an assurance from the French Government that article 42 of the French Act No. 57-298 applies to German nationals.

The Embassy of the Federal Republic of Germany would be grateful if the Ministry of Foreign Affairs would inform it whether article 42 of the French Act No. 57-298 of 11 March 1957 concerning literary and artistic property applies to German nationals.

¹ Came into force on 20 June 1975 by the exchange of the said notes.

² United Nations, *Treaty Series*, vol. 828, p. 221.

The Embassy of the Federal Republic of Germany takes this opportunity, etc.
Paris, 7 March 1974.

Ministry of Foreign Affairs of the French Republic
Paris

II

86 DC/EC/5

The Ministry of Foreign Affairs presents its compliments to the Embassy of the Federal Republic of Germany and has the honour to acknowledge receipt of its note verbale RK 522.90/74 of 7 March 1974.

The Ministry of Foreign Affairs wishes to assure the Embassy of the Federal Republic of Germany that it is making a most careful study, in liaison with the competent agencies, of the question of the reciprocity of the *droit de suite* raised in the above-mentioned note verbale. Its reply will be communicated to the Embassy of the Federal Republic of Germany in due course.

The Ministry of Foreign Affairs takes this opportunity, etc.
Paris, 4 April 1974.
Embassy of the Federal Republic of Germany
Paris

III

No. 133 DC/EC/5

With reference to note verbale RK 522.90/74 of 7 March 1974 from the Embassy of the Federal Republic of Germany and its own note No. 86 DC/EC/5 of 4 April 1974, the Ministry of Foreign Affairs presents its compliments to the Embassy and has the honour to inform it of the following:

Article 42, paragraph 1, of the Act of 11 March 1957, which was an improved version of the Act of 20 May 1920, gives the authors of graphic and plastic works, notwithstanding any disposal of the original work, an inalienable right to a share in the proceeds of any sale of the work in question by public auction or through a dealer, the conditions governing the continuance of that right after the death of the author being set out in article 42, paragraph 2.

The last paragraph of article 42 stated that the conditions under which authors were to assert the rights accorded to them by the provisions of that article on the occasion of the sales referred to in paragraph 1 would be specified in administrative regulations.

In view of the problems involved in extending the application of the *droit de suite* to the proceeds of sales made through dealers, the enforcement of this right for the benefit of artists and their heirs has been and continues to be limited in its application to the proceeds of sales of graphic and plastic works by public auction, under the new conditions laid down by the Act of 11 March 1957 and in accordance with the procedures established by past practice.

Consequently, nationals of the Federal Republic of Germany may claim the *droit de suite* on the occasion of the sale of original graphic and plastic works of which they are the authors, within the limits and under the conditions provided by French law on the subject.

The Ministry of Foreign Affairs takes this opportunity, etc.

JACQUES DUPUY

Paris, 20 June 1975.

Embassy of the Federal Republic of Germany
Paris
