

FINANCING OF EDUCATIONAL EXCHANGE PROGRAM

Agreement and exchange of notes signed at The Hague May 17, 1949

Entered into force May 17, 1949

*Supplemented by agreement of June 22, 1966*¹

63 Stat. 2559; Treaties and Other
International Acts Series 1946

AGREEMENT

between the Government of the United States of America and the Government of the Kingdom of the Netherlands for the use of funds made available in accordance with the Agreement between the Government of the United States of America and the Government of the Kingdom of the Netherlands Regarding Settlement for Lend-Lease, Reciprocal Aid, Surplus Property, Military Relief, and Claims, signed at Washington, D.C., on May 28, 1947

The Government of the United States of America and the Government of the Kingdom of the Netherlands;

Desiring to promote further mutual understanding between the peoples of the United States of America and the Kingdom of the Netherlands by a wider exchange of knowledge and professional talents through educational contacts;

Considering that Section 32(b) of the United States Surplus Property Act of 1944, as amended by Public Law 584, 79th Congress,² provides that the Secretary of State of the United States of America may enter into an agreement with any foreign government for the use of currencies or credits for currencies of such foreign government acquired as a result of surplus property disposals for certain educational activities; and

Considering that under the provisions of the Agreement between the Government of the United States of America and the Government of the Kingdom of the Netherlands Regarding Settlement for Lend-Lease, Reciprocal Aid, Surplus Property, Military Relief, and Claims, signed at Washington, D.C., on May 28, 1947³ (hereinafter designated the "Settlement Agree-

¹ 18 UST 234; TIAS 6223.

² 60 Stat. 754.

³ TIAS 1750, *ante*, p. 188.

ment”), it is provided that the Government of the Kingdom of the Netherlands, when requested by the Government of the United States of America, will make available at any time or times, by payment to the Government of the United States of America or to such persons or organizations as the Government of the United States of America may designate, Netherlands currency in any amount (computed as provided in Sub-paragraph 7 E of the Settlement Agreement) not in excess of the then unpaid portion of the total principal amount plus past due interest, for the payment of the cost of educational programs agreed upon by the two Governments,

Have agreed as follows:

ARTICLE 1

There shall be established a foundation to be known as the United States Educational Foundation in the Netherlands (hereinafter designated “the Foundation”), which shall be recognized by the Government of the United States of America and the Government of the Kingdom of the Netherlands as an organization created and established to facilitate the administration of the educational program to be financed by funds made available by the Government of the Kingdom of the Netherlands under the terms of the present Agreement. Except as provided in Article 3 hereof the Foundation shall be exempt from the domestic and local laws of the United States of America and the Kingdom of the Netherlands, as they relate to the use and expenditure of currencies and credits for currencies, for the purposes set forth in the present Agreement.

The funds made available by the Government of the Kingdom of the Netherlands, within the conditions and limitations hereinafter set forth, shall be used by the Foundation or such other instrumentality as may be agreed upon by the Government of the United States of America and the Government of the Kingdom of the Netherlands for the purpose, as set forth in Section 32(b) of the United States Surplus Property Act of 1944, as amended, of

(1) financing studies, research, instruction, and other educational activities of or for citizens of the United States of America in schools and institutions of higher learning located in the Netherlands, Surinam, and the Netherlands West Indies, or of the nationals of the Netherlands, Surinam, and the Netherlands West Indies in United States schools and institutions of higher learning located outside the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands, including payment for transportation, tuition, maintenance, and other expenses incident to scholastic activities; or

(2) furnishing transportation for nationals of the Netherlands, Surinam, and the Netherlands West Indies who desire to attend United States schools and institutions of higher learning in the continental United States, Hawaii,

Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands and whose attendance will not deprive citizens of the United States of America of an opportunity to attend such schools and institutions.

ARTICLE 2

In the furtherance of the aforementioned purposes, the Foundation may, subject to the provisions of Article 10 of the present Agreement, exercise all powers necessary to the carrying out of the purposes of the present Agreement including the following :

- (1) Receive funds.
- (2) Open and operate bank accounts in the name of the Foundation in a depository or depositories to be designated by the Secretary of State of the United States of America.
- (3) Disburse funds and make grants and advances of funds for the authorized purposes of the Foundation.
- (4) Acquire, hold, and dispose of property in the name of the Foundation as the Board of Directors of the Foundation may consider necessary or desirable, provided, however, that the acquisition of any real property shall be subject to the prior approval of the Secretary of State of the United States of America.
- (5) Plan, adopt, and carry out programs, in accordance with the purposes of Section 32(b) of the United States Surplus Property Act of 1944, as amended, and the purposes of this Agreement.
- (6) Recommend to the Board of Foreign Scholarships, provided for in the United States Surplus Property Act of 1944, as amended, students, professors, research scholars, residents in the Netherlands, Surinam, and the Netherlands West Indies, and institutions of the Netherlands, Surinam, and the Netherlands West Indies qualified to participate in the program in accordance with the aforesaid Act.
- (7) Recommend to the aforesaid Board of Foreign Scholarships such qualifications for the selection of participants in the programs as it may deem necessary for achieving the purpose and objectives of the Foundation.
- (8) Provide for periodic audits of the accounts of the Foundation as directed by auditors selected by the Secretary of State of the United States of America.
- (9) Engage administrative and clerical staff and fix the salaries and wages thereof.

ARTICLE 3

All expenditures by the Foundation shall be made pursuant to an annual budget to be approved by the Secretary of State of the United States of America pursuant to such regulations as he may prescribe.

ARTICLE 4

The Foundation shall not enter into any commitments or create any obligation which shall bind the Foundation in excess of the funds actually on hand nor acquire, hold, or dispose of property except for the purposes authorized in the present Agreement.

ARTICLE 5

The management and direction of the affairs of the Foundation shall be vested in a Board of Directors consisting of ten members (hereinafter designated the "Board"), five of whom shall be citizens of the United States of America and five of whom shall be nationals of the Kingdom of the Netherlands. Of the citizens of the United States a minimum of three shall be officers of the United States Foreign Service establishment in the Netherlands. The principal officer in charge of the diplomatic mission of the United States of America to the Netherlands (hereinafter designated as the "Chief of Mission"), shall be Honorary Chairman of the Board. He shall cast the deciding vote in the event of a tie vote by the Board and shall appoint the Chairman of the Board. The United States citizens on the Board shall be appointed and removed by the Chief of Mission; the nationals of the Kingdom of the Netherlands on the Board shall be designated by the Government of the Kingdom of the Netherlands.

The members shall serve from the time of their appointment until one year from the following December 31 and shall be eligible for reappointment. Vacancies by reason of resignation, transfer of residence outside the Netherlands, expiration of term of service or otherwise, shall be filled in accordance with this procedure. The members shall serve without compensation, but the Board is authorized to pay the necessary expenses of the members in attending the meetings of the Board.

ARTICLE 6

The Board shall adopt such by-laws and appoint such committees as it shall deem necessary for the conduct of the affairs of the Foundation.

ARTICLE 7

Reports as directed by the Secretary of State of the United States of America shall be made annually on the activities of the Foundation to the Secretary of State of the United States of America and the Government of the Kingdom of the Netherlands.

ARTICLE 8

The principal office of the Foundation shall be in The Hague, but meetings of the Board and of any of its committees may be held in such other places as the Board may from time to time determine, and the activities of any of the

Foundation's officers or staff may be carried on at such places as may be approved by the Board.

ARTICLE 9

The Board may appoint an Executive Officer and determine his salary and term of service, provided however, that in the event it is found to be impracticable for the Board to secure an appointee acceptable to the Chairman, the Government of the United States of America may provide an Executive Officer and such assistants as may be deemed necessary to ensure the effective operation of the program. The Executive Officer shall be responsible for the direction and supervision of the Board's programs and activities in accordance with the Board's resolutions and directives. In his absence or disability, the Board may appoint a substitute for such time as it deems necessary or desirable.

ARTICLE 10

The decisions of the Board in all matters may, in the discretion of the Secretary of State of the United States of America, be subject to his review.

ARTICLE 11

The Government of the Kingdom of the Netherlands shall, within 30 days from the date of signature of the present Agreement, and on each January 1 thereafter, deposit with the Treasurer of the United States of America an amount of currency of the Government of the Kingdom of the Netherlands equivalent to \$250,000 (U.S. currency) until an aggregate amount of the currency of the Government of the Kingdom of the Netherlands equivalent to \$5,000,000 (U.S. currency) shall have been deposited. The deposits specified above shall be made in partial fulfillment of the provisions under paragraph 7 of the Settlement Agreement.

The rate of exchange between currency of the Government of the Kingdom of the Netherlands and United States currency to be used in determining the amount of currency of the Government of the Kingdom of the Netherlands to be deposited from time to time hereunder, shall be determined in accordance with Article 7 E of the Settlement Agreement.

The Government of the Kingdom of the Netherlands shall guarantee the United States of America against loss resulting from any alteration in the above rate of exchange or from any currency conversion with respect to any currency of the Government of the Kingdom of the Netherlands received hereunder and held by the Treasurer of the United States of America or by the Foundation by undertaking to pay to the Government of the United States of America such amounts of currency of the Government of the Kingdom of the Netherlands as are necessary to maintain the dollar value of such currency of the Government of the Kingdom of the Netherlands as is held by the Treasurer of the United States of America or the Foundation. The pur-

pose of this provision is to assure that the operations of the Foundation will not be interrupted or restricted by any deficits resulting from alterations in the above rate of exchange or from currency conversions.

The Secretary of State of the United States of America will make available for expenditure by the Foundation currency of the Government of the Kingdom of the Netherlands in such amounts as may be required by the Foundation but in no event in excess of the budgetary limitation established pursuant to Article 3 of the present Agreement.

ARTICLE 12⁴

Furniture, equipment, supplies, and any other articles intended for the official use of the Foundation shall be exempt in the territory of the Kingdom of the Netherlands, Surinam, and the Netherlands West Indies from customs duties, excises, and surtaxes, and every other form of taxation.

All funds and other property used for the purposes of the Foundation, and all official acts of the Foundation within the scope of its purposes shall likewise be exempt from taxation of every kind in the territory of the Kingdom of the Netherlands, Surinam, and the Netherlands West Indies.

ARTICLE 13

The Government of the Kingdom of the Netherlands shall extend to American citizens residing in the Kingdom of the Netherlands, Surinam, and the Netherlands West Indies and engaged in educational activities under the auspices of the Foundation such privileges with respect to exemption from taxation and other burdens affecting the entry, travel, and residence of such persons as are extended to nationals of the Kingdom of the Netherlands residing in the United States of America engaged in similar activities.

ARTICLE 14

Wherever, in the present agreement, the term "Secretary of State of the United States of America" is used, it shall be understood to mean the Secretary of State of the United States of America or any officer or employee of the Government of the United States of America designated by him to act in his behalf.

ARTICLE 15

The present Agreement may be amended by the exchange of diplomatic notes between the Government of the United States of America and the Government of the Kingdom of the Netherlands.

If any difference arises in regard to the interpretation of any article or expression in this Agreement, the parties to the Agreement shall settle such difference by direct negotiation through diplomatic channels.

⁴ For interpretations relating to art. 12, see exchange of notes, p. 268.

ARTICLE 16

The Government of the United States of America and the Government of the Kingdom of the Netherlands shall make every effort to facilitate the exchange of persons programs authorized in this Agreement and to resolve problems which may arise in the operation thereof.

ARTICLE 17

The present Agreement shall come into force upon the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE at The Hague, in duplicate, in the English and Dutch languages, this 17th day of May, 1949.

For the Government of the United States of America:

HERMAN B. BARUCH [SEAL]

For the Government of the Kingdom of the Netherlands:

STIKKER [SEAL]

EXCHANGE OF NOTES

The Minister of Foreign Affairs to the American Ambassador

THE HAGUE, 17th May 1949

YOUR EXCELLENCY,

On signing today the Agreement for the use of funds made available in accordance with the Agreement between the Government of the Kingdom of the Netherlands and the Government of the United States of America, regarding Settlement for Lend-Lease, Reciprocal Aid, Surplus Property, Military Relief and Claims, signed at Washington D.C. on May 28, 1947, I have the honour to refer to the exchange of letters during the months of June and July 1948 between Her Majesty's Embassy at Washington D.C. and the Department of State, concerning the interpretation of paragraphs 1 and 2 of Article 12 of the aforesaid Agreement and pursuant thereto I herewith confirm that it is agreed that:

Article 12, paragraph 1:

"Furniture, equipment, supplies and any other articles intended for the official use of the Foundation" does not include such articles intended for personal use of members of the Board of Directors.

Article 12, paragraph 2:

It is understood that the Foundation will be exempt from custom-duties, excises or surtaxes in all cases where such taxation is clearly distinguishable

such as import duties on imported goods. If goods are bought in the open market, excise and other indirect taxes will not be deducted from the purchasing price when the goods are bought.

The Netherlands Government, in order to avoid administrative complications, would appreciate if the Foundation should refrain from requesting a refund of such indirect, more or less "hidden" taxes. If this would not be feasible a procedure would have to be considered by which a refund could be made on for instance sales-tax.

The Foundation itself will not be taxed. No exemption can be granted of payment of registration dues, stampduties or notary-fees in the case of sales of real property or leases thereof.

I would be grateful to have Your Excellency's confirmation on behalf of the Government of the United States of the above interpretations and I have the honour to suggest that the present Note and Your Excellency's reply to that effect should be considered as placing on record the formal agreement of the two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

STIKKER

His Excellency

Dr. HERMAN B. BARUCH,
*Ambassador Extraordinary and
 Plenipotentiary
 of the United States of America.*

The American Ambassador to the Minister of Foreign Affairs

THE HAGUE, 17th May 1949

YOUR EXCELLENCY,

On signing today the Agreement for the use of funds made available in accordance with the Agreement made between the Government of the United States of America and the Government of the Kingdom of the Netherlands regarding Settlement for Lend-Lease, Reciprocal Aid, Surplus Property, Military Relief and Claims, signed at Washington on May 28, 1947, I have the honor to refer to the exchange of letters during the months of June and July 1948 between the Department of State and the Netherlands Embassy in Washington concerning the interpretation of paragraphs 1 and 2 of Article 12 of the aforesaid Agreement and pursuant thereto I herewith confirm that it is agreed that:

Article 12, Paragraph 1:

“Furniture, equipment, supplies, and any other articles intended for the official use of the Foundation” does not include such articles intended for personal use of members of the Board of Directors.

Article 12, Paragraph 2:

It is understood that the Foundation will be exempt from custom-duties, excises or surtaxes in all cases where such taxation is clearly distinguishable, such as import duties on imported goods. If goods are bought in the open market, excise and other indirect taxes will not be deducted from the purchase price when goods are bought.

The Government of the United States of America acknowledges that administrative complications may be involved in the collection of refunds of indirect taxes. It however suggests that a procedure be established whereby refunds can be made upon presentation of suitable documentation to the Netherlands Government.

The Government of the United States of America understands that the Educational Foundation established under the Fulbright Agreement will itself not be taxed. No exemption will be made, however, of payment of registration dues, stamp duties, or notary fees in the case of sales of real property or leases thereof.

I have the honor to agree that this Note, together with Your Excellency's Note dated 17th May 1949, shall be considered as placing on record the formal agreement of the two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

HERMAN B. BARUCH

His Excellency

Dr. D. U. STIKKER,
*Royal Netherlands Minister
for Foreign Affairs,
The Hague.*