

Economic Cooperation Agreement between the Netherlands and the USA (The Hague, 2 July 1948)


Caption: On 2 July 1948, in The Hague, the governments of the Netherlands and the United States sign an agreement concerning economic cooperation between the two countries in the framework of the Marshall Plan.

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Economic Co-operation Agreement between the Governments of the Netherlands and the United States of America (1948)

ANNEX Interpretative Notes.....

The Governments of the Netherlands and the United States of America:

Recognizing that the restoration or maintenance in European countries of principles of individual liberty, free institutions, and genuine independence rests largely upon the establishment of sound economic conditions, stable international economic relationships, and the achievement by the countries of Europe of a healthy economy independent of extraordinary outside assistance;

Recognizing that a strong and prosperous European economy is essential for the attainment of the purposes of the United Nations;

Considering that the achievement of such conditions calls for a European recovery plan of self-help and mutual co-operation, open to all nations which co-operate in such a plan, based upon a strong production effort, the expansion of foreign trade, the creation or maintenance of internal financial stability and the development of economic co-operation, including all possible steps to establish and maintain valid rates of exchange and to reduce trade barriers;

Considering that in furtherance of these principles the Government of the Netherlands has joined with other like-minded nations in a Convention for European Economic Co-operation signed at Paris on April 16, 1948 under which the signatories of that Convention agreed to undertake as their immediate task the elaboration and execution of a joint recovery program, and that the Government of the Netherlands is a member of the Organization for European Economic Co-operation created pursuant to the provisions of that Convention;

Considering also that, in furtherance of these principles, the Government of the United States of America has enacted the Economic Co-operation Act of 1948, providing for the furnishing of assistance by the United States to nations participating in a joint program for European recovery, in order to enable such nations through their own individual and concerted efforts to become independent of extraordinary outside economic assistance;

Taking note that the Government of the Netherlands has already expressed its adherence to the purposes and policies of the Economic Co-operation Act of 1948;

Desiring to set forth the understandings which govern the furnishing of assistance by the Government of the United States of America under the Economic Co-operation Act of 1948, the receipt of such assistance by the Netherlands, and the measures which the two Governments will take individually and together in furthering the recovery of the Netherlands as an integral part of the joint program for European recovery;

Have agreed as follows:

Article I

Assistance and Co-operation

1. The Government of the United States of America undertakes to assist the Netherlands, by making available to the Government of the Netherlands or to any person, agency or organization designated by the latter Government such assistance as may be requested by it and approved by the Government of the United States of America. The Government of the United States of America will furnish this assistance under the provisions, and subject to all of the terms, conditions and termination provisions, of the Economic Co-operation Act of 1948, acts amendatory and supplementary thereto and appropriation acts thereunder, and will make available to the Government of the Netherlands only such commodities, services and other assistance as are authorized to be made available by such acts.

2. The Government of the Netherlands, acting individually and through the Organization for European Economic Co-operation, consistently with the Convention for European Economic Co-operation signed at

Paris on April 16, 1948, will exert sustained efforts in common with other participating countries speedily to achieve through a joint recovery program economic conditions in Europe essential to lasting peace and prosperity and to enable the countries of Europe participating in such a joint recovery program to become independent of extraordinary outside economic assistance within the period of this Agreement. The Government of the Netherlands reaffirms its intention to take action to carry out the provisions of the General Obligations of the Convention for European Economic Cooperation, to continue to participate actively in the work of the Organization for European Economic Cooperation, and to continue to adhere to the purposes and policies of the Economic Co-operation Act of 1948.

3. With respect to assistance furnished by the Government of the United States of America to the Netherlands and procured from areas outside the United States of America, its territories and possessions, the Government of the Netherlands will co-operate with the Government of the United States of America in ensuring that procurement will be effected at reasonable prices and on reasonable terms and so as to arrange that the dollars thereby made available to the country from which the assistance is procured are used in a manner consistent with any arrangements made by the Government of the United States of America with such country.

Article II

General Undertakings

1. In order to achieve the maximum recovery through the employment of assistance received from the Government of the United States of America, the Government of the Netherlands will use its best endeavors:

(a) to adopt or maintain the measures necessary to ensure efficient and practical use of all the resources available to it, including:

(i) such measures as may be necessary to ensure that the commodities and services obtained with assistance furnished under this Agreement are used for purposes consistent with this Agreement and, as far as practicable, with the general purposes outlined in the schedules furnished by the Government of the Netherlands in support of the requirements of assistance to be furnished by the Government of the United States of America;

(ii) the observation and review of the use of such resources through an effective follow-up system approved by the Organization for European Economic Co-operation; and

(iii) to the extent practicable, measures to locate, identify and put into appropriate use in furtherance of the joint program for European recovery, assets, and earnings therefrom which belong to nationals of the Netherlands and which are situated within the United States of America, its territories or possessions. Nothing in this clause imposes any obligation on the Government of the United States of America to assist in carrying out such measures or on the Government of the Netherlands to dispose of such assets;

(b) to promote the development of industrial and agricultural production on a sound economic basis; to achieve such production targets as may be established through the Organization for European Economic Co-operation; and when desired by the Government of the United States of America, to communicate to that Government detailed proposals for specific projects contemplated by the Government of the Netherlands to be undertaken in substantial part with assistance made available pursuant to this Agreement, including whenever practicable projects for increased production of coal, steel, transportation facilities and food;

(c) to stabilize its currency, establish or maintain a valid rate of exchange, balance its governmental budget as soon as practicable, create or maintain internal financial stability, and generally restore or maintain confidence in its monetary system; and

(d) to co-operate with other participating countries in facilitating and stimulating an increasing interchange of goods and services among the participating countries and with other countries and in reducing public and private barriers to trade among themselves and with other countries.

2. Taking into account Article 8 of the Convention for European Economic Co-operation looking toward the full and effective use of manpower available in the various participating countries, the Government of the Netherlands will accord sympathetic consideration to proposals made in conjunction with the International Refugee Organization directed to the largest practicable utilization of manpower available in any of the participating countries in furtherance of the accomplishment of the purposes of this Agreement.

3. The Government of the Netherlands will take the measures which it deems appropriate, and will co-operate with other participating countries, to prevent, on the part of private or public commercial enterprises, business practices or business arrangements affecting international trade which restrain competition, limit access to markets or foster monopolistic control whenever such practices or arrangements have the effect of interfering with the achievement of the joint program of European recovery.

Article III

Guaranties

1. The Governments of the Netherlands and of the United States of America will, upon the request of either Government, consult respecting projects in the Netherlands proposed by nationals of the United States of America and with regard to which the Government of the United States of America may appropriately make guaranties of currency transfer under section 111 (b) (3) of the Economic Co-operation Act of 1948.

2. The Government of the Netherlands agrees that if the Government of the United States of America makes payment in United States dollars to any person under such a guaranty, any guilders, or credits in guilders, assigned or transferred to the Government of the United States of America pursuant to that section shall be recognized as property of the Government of the United States of America.

Article IV

Local Currency

1. The provisions of this Article shall apply only with respect to assistance which may be furnished by the Government of the United States of America on a grant basis.

2. The Government of the Netherlands will establish a special account in The Netherlands Bank in the name of the Government of the Netherlands (hereinafter called the Special Account) and will make deposits in guilders to this account as follows:

(a) The unencumbered balances of the deposits made by the Government of the Netherlands pursuant to the exchange of notes between the two Governments dated April 20, 1948;

(b) Amounts commensurate with the indicated dollar cost to the Government of the United States of America of commodities, services and technical information (including any costs of processing, storing, transporting, repairing or other services incident thereto) made available to the Netherlands on a grant basis by any means authorized under the Economic Co-operation Act of 1948, less, however, the amount of the deposits made pursuant to the exchange of notes referred to in sub-paragraph (a). The Government of the United States of America shall from time to time notify the Government of the Netherlands of the indicated dollar cost of any such commodities, services and technical information, and the Government of the Netherlands will thereupon deposit in the Special Account a commensurate amount of guilders computed at a rate of exchange which shall be the par value agreed at such time with the International Monetary Fund. The Government of the Netherlands may at any time make advance deposits in the Special Account which shall be credited against subsequent notifications pursuant to this paragraph.

3. The Government of the United States of America will from time to time notify the Government of the Netherlands of its requirements for administrative expenditures in guilders within the Netherlands incident to operations under the Economic Cooperation Act of 1948, and the Government of the Netherlands will thereupon make such sums available out of any balances in the Special Account in the manner requested by

the Government of the United States of America in the notification.

4. Five percent of each deposit made pursuant to this Article in respect of assistance furnished under authority of the Foreign Aid Appropriation Act, 1949, shall be allocated to the use of the Government of the United States of America for its expenditures in the Netherlands, and sums made available pursuant to paragraph 3 of this Article shall first be charged to the amounts allocated under this paragraph.

5. The Government of the Netherlands will further make such sums of guilders available out of any balances in the Special Account as may be required to cover costs (including port, storage, handling and similar charges) of transportation from any point of entry in the Netherlands to the consignee's designated point of delivery in the Netherlands of such relief supplies and packages as are referred to in Article VI.

6. The Government of the Netherlands may draw upon any remaining balance in the Special Account for such purposes as may be agreed from time to time with the Government of the United States of America. In considering proposals put forward by the Government of the Netherlands for drawings from the Special Account, the Government of the United States of America will take into account the need for promoting or maintaining internal monetary and financial stabilization in the Netherlands and for stimulating productive activity and international trade and the exploration for and development of new sources of wealth within the Netherlands, including in particular:

(a) expenditures upon projects or programs, including those which are part of a comprehensive program for the development of the productive capacity of the Netherlands and the other participating countries, and projects or programs the external costs of which are being covered by assistance rendered by the Government of the United States of America under the Economic Co-operation Act of 1948 or otherwise, or by loans from the International Bank for Reconstruction and Development;

(b) expenditures upon the exploration for and development of additional production of materials which may be required in the United States of America because of deficiencies or potential deficiencies in the resources of the United States of America; and

(c) effective retirement of the national debt, especially debt held by the central bank or other banking institutions.

7. Any unencumbered balance other than unexpended amounts allocated under paragraph 4 of this Article remaining in the Special Account on June 30, 1952, shall be disposed of within the Netherlands for such purposes as may hereafter be agreed between the Governments of the Netherlands and the United States of America, it being understood that the agreement of the United States of America shall be subject to approval by Act or joint resolution of the Congress of the United States of America.

Article V

Access to Materials

1. The Government of the Netherlands will facilitate the transfer to the United States of America, for stockpiling or other purposes, of materials originating in the Netherlands which are required by the United States of America as a result of deficiencies or potential deficiencies in its own resources, upon such reasonable terms of sale, exchange, barter or otherwise, and in such quantities, and for such period of time, as may be agreed to between the Governments of the Netherlands and the United States of America, after due regard for the reasonable requirements of the Netherlands for domestic use and commercial export of such materials. The Government of the Netherlands will take such specific measures as may be necessary to carry out the provisions of this paragraph, including the promotion of the increased production of such materials within the Netherlands, and the removal of any hindrances to the transfer of such materials to the United States of America. The Government of the Netherlands will, when so requested by the Government of the United States of America, enter into negotiations for detailed arrangements necessary to carry out the provisions of this paragraph.

2. Recognizing the principle of equity in respect to the drain upon the natural resources of the United States of America and of the participating countries, the Government of the Netherlands will, when so requested by the Government of the United States of America, where applicable negotiate (a) a future schedule of minimum availabilities to the United States of America for future purchase and delivery of a fair share of materials originating in the Netherlands which are required by the United States of America as a result of deficiencies or potential deficiencies in its own resources at world market prices so as to protect the access of United States industry to an equitable share of such materials either in percentages of production or in absolute quantities from the Netherlands, (b) arrangements providing suitable protection for the right of access for any citizen of the United States of America or any corporation, partnership, or other association created under the laws of the United States of America or of any State or Territory thereof and substantially beneficially owned by citizens of the United States of America, in the development of such materials on terms of treatment equivalent to those afforded to the nationals of the Netherlands, and (c) an agreed schedule of increased production of such materials where practicable in the Netherlands and for delivery of an agreed percentage of such increased production to be transferred to the United States of America on a long-term basis in consideration of assistance furnished by the United States of America under this Agreement.

3. The Government of the Netherlands, when so requested by the Government of the United States of America, will cooperate, wherever appropriate, to further the objectives of paragraphs 1 and 2 of this Article in respect of materials originating outside of the Netherlands.

Article VI

Travel Arrangements and Relief Supplies

1. The Government of the Netherlands will co-operate with the Government of the United States of America in facilitating and encouraging the promotion and development of travel by citizens of the United States of America to and within participating countries.

2. The Government of the Netherlands will, when so desired by the Government of the United States of America, enter into negotiations for agreements (including the provision of duty-free treatment under appropriate safeguards) to facilitate the entry into the Netherlands of supplies or relief goods donated to or purchased by United States voluntary non-profit relief agencies and of relief packages originating in the United States of America and consigned to individuals residing in the Netherlands.

Article VII

Consultation and Transmittal of Information

1. The two Governments will, upon the request of either of them, consult regarding any matter relating to the application of this Agreement or to operations or arrangements carried out pursuant to this Agreement.

2. The Government of the Netherlands will communicate to the Government of the United States of America in a form at intervals to be indicated by the latter after consultation with the Government of the Netherlands:

(a) detailed information of projects, programs and measures proposed or adopted by the Government of the Netherlands to carry out the provisions of this Agreement and the General Obligations of the Convention for European Economic Co-operation;

(b) full statements of operations under this Agreement, including a statement of the use of funds, commodities and services received thereunder, such statements to be made in each calendar quarter;

(c) information regarding its economy and any other relevant information, necessary to supplement that obtained by the Government of the United States of America from the Organization for European Economic Co-operation, which the Government of the United States of America may need to determine the nature and scope of operations under the Economic Co-operation Act of 1948, and to evaluate the effectiveness of assistance furnished or contemplated under this Agreement and generally the progress of the joint recovery

program.

3. The Government of the Netherlands will assist the Government of the United States of America to obtain information relating to the materials originating in the Netherlands referred to in Article V which is necessary to the formulation and execution of the arrangements provided for in that Article.

Article VIII

Publicity

1. The Governments of the Netherlands and the United States of America recognize that it is in their mutual interest that full publicity be given to the objectives and progress of the joint program for European recovery and of the actions taken in furtherance of that program. It is recognized that wide dissemination of information on the progress of the program is desirable in order to develop the sense of common effort and mutual aid which are essential to the accomplishment of the objectives of the program.

2. The Government of the United States of America will encourage the dissemination of such information and will make it available to the media of public information.

3. The Government of the Netherlands will encourage the dissemination of such information both directly and in co-operation with the Organization for European Economic Co-operation. It will make such information available to the media of public information and take all practicable steps to ensure that appropriate facilities are provided for such dissemination. It will further provide other participating countries and the Organization for European Economic Cooperation with full information on the progress of the program of economic recovery.

4. The Government of the Netherlands will make public in the Netherlands in each calendar quarter, full statements of operations under this Agreement, including information as to the use of funds, commodities and services received.

Article IX

Missions

1. The Government of the Netherlands agrees to receive a Special Mission for Economic Co-operation which will discharge the responsibilities of the Government of the United States of America in the Netherlands under this Agreement.

2. The Government of the Netherlands will, upon appropriate notification from the Ambassador of the United States of America in the Netherlands, consider the Special Mission and its personnel, and the United States Special Representative in Europe, as part of the Embassy of the United States of America in the Netherlands for the purpose of enjoying the privileges and immunities accorded to that Embassy and its personnel of comparable rank. The Government of the Netherlands will further accord appropriate courtesies to the members and staff of the Joint Committee on Foreign Economic Cooperation of the Congress of the United States of America, and grant them the facilities and assistance necessary to the effective performance of their responsibilities.

3. The Government of the Netherlands, directly and through its representatives on the Organization for European Economic Co-operation, will extend full co-operation to the Special Mission, to the United States Special Representative in Europe and his staff, and to the members and staff of the Joint Committee. Such co-operation shall include the provision of all information and facilities necessary to the observation and review of the carrying out of this Agreement, including the use of assistance furnished under it.

Article X

Settlement of Claims of Nationals

1. The Government of the Netherlands and the United States of America agree to submit to the decision of

the International Court of Justice any claim espoused by either Government on behalf of one of its nationals against the other Government for compensation for damage arising as a consequence of governmental measures (other than measures concerning enemy property or interests) taken after April 3, 1948, by the other Government and affecting property or interest of such national, including contracts with or concessions granted by duly authorized authorities of such other Government. It is understood that the undertaking of each Government in respect to claims espoused by the other Government pursuant to this paragraph is made in the case of each Government under the authority of and is limited by the terms and conditions of such effective recognition as that heretofore given to the compulsory jurisdiction of the International Court of Justice under Article 36 of the Statute of the Court. The provisions of this paragraph shall be in all respects without prejudice to other rights of access, if any, of either Government to the International Court of Justice or to the espousal and presentation of claims based upon alleged violations by either Government of rights and duties arising under treaties, agreements or principles of international law.

2. The Governments of the Netherlands and the United States of America further agree that such claims may be referred, in lieu of the Court, to any arbitral tribunal mutually agreed upon.

3. It is further understood that neither Government will espouse a claim pursuant to this Article until its national has exhausted the remedies available to him in the administrative and judicial tribunals of the country in which the claim arose.

Article XI

Definitions

As used in this Agreement:

(a) the Netherlands means the Kingdom of the Netherlands consisting of its territory in Europe, the Netherlands Indies, Surinam and Curaçao;

(b) the term “participating country” means

(i) any country which signed the Report of the Committee of European Economic Co-operation at Paris on September 22, 1947, and territories for which it has international responsibility and to which the Economic Co-operation Agreement concluded between that country and the Government of the United States of America has been applied, and

(ii) any other country (including any of the zones of occupation of Germany, and areas under international administration or control, and the Free Territory of Trieste or either of its zones) wholly or partly in Europe, together with dependent areas under its administration;

for so long as such country is a party to the Convention for European Economic Co-operation and adheres to a joint program for European recovery designed to accomplish the purposes of this Agreement.

Article XII

Entry into Force, Amendment, Duration

1. This Agreement shall become effective on this day’s date. Subject to the provisions of paragraphs 2 and 3 of this Article, it shall remain in force until June, 1953, and, unless at least six months before June 30, 1953, either Government shall have given notice in writing to the other of intention to terminate the Agreement on that date, it shall remain in force thereafter until the expiration of six months from the date on which such notice shall have been given.

2. If, during the life of this Agreement, either Government should consider there has been a fundamental change in the basic assumptions underlying this Agreement, it shall so notify the other Government in writing and the two Governments will thereupon consult with a view to agreeing upon the amendment, modification or termination of this Agreement. If, after three months from such notification, the two

Governments have not agreed upon the action to be taken in the circumstances, either Government may give notice in writing to the other of intention to terminate this Agreement. Then, subject to the provisions of paragraph 3 of this Article, this Agreement shall terminate either:

- (a) six months after the date of such notice of intention to terminate, or
- (b) after such shorter period as may be agreed to be sufficient to ensure that the obligations of the Government of the Netherlands are performed in respect of any assistance which may continue to be furnished by the Government of the United States of America after the date of such notice;

provided, however, that Article V and paragraph 3 of Article VII shall remain in effect until two years after the date of such notice of intention to terminate, but not later than June 30, 1953.

3. Subsidiary agreements and arrangements negotiated pursuant to this Agreement may remain in force beyond the date of termination of this Agreement and the period of effectiveness of such subsidiary agreements and arrangements shall be governed by their own terms. Article IV shall remain in effect until all the sums in the currency of the Netherlands required to be deposited in accordance with its own terms have been disposed of as provided in that Article. Paragraph 2 of Article III shall remain in effect for so long as the guaranty payments referred to in that Article may be made by the Government of the United States of America.

4. This Agreement may be amended at any time by agreement between the two Governments.

5. The Annex to this Agreement forms an integral part thereof.

6. This Agreement shall be registered with the Secretary-General of the United Nations.

In witness whereof the respective representatives, duly authorized for the purpose, have signed the present Agreement.

Done at The Hague, in duplicate, in the Dutch and English languages, both texts authentic, this second day of July, 1948.

ANNEX

Interpretative Notes

1. It is understood that the requirements of paragraph 1 (a) of Article II, relating to the adoption of measures for the efficient use of resources, would include, with respect to commodities furnished under the Agreement, effective measures for safeguarding such commodities and for preventing their diversion to illegal or irregular markets or channels of trade.

2. It is understood that the obligation under paragraph 1 (c) of Article II to balance the budget as soon as practicable would not preclude deficits over a short period but would mean budgetary policy involving the balancing of the budget in the long run.

3. It is understood that the business practices and business arrangements referred to in paragraph 3 of Article II mean:

- (a) fixing prices, terms or conditions to be observed in dealing with others in the purchase, sale or lease of any product;

- (b) excluding enterprises from, or allocating or dividing, any territorial market or field of business activity, or allocating customers, or fixing sales quotas or purchase quotas;
- (c) discriminating against particular enterprises;
- (d) limiting production or fixing production quotas;
- (e) preventing by agreement the development or application of technology or invention whether patented or unpatented;
- (f) extending the use of rights under patents, trademarks or copyrights granted by either country to matters which, according to its laws and regulations, are not within the scope of such grants, or to products or conditions of production, use or sale which are likewise not the subjects of such grants; and
- (g) such other practices as the two Governments may agree to include.

4. It is understood that the Government of the Netherlands is obligated to take action in particular instances in accordance with paragraph 3 of Article II only after appropriate investigation or examination.

5. It is understood that the phrase in Article V “after due regard for the reasonable requirements of the Netherlands for domestic use” would include the maintenance of reasonable stocks of the materials concerned and that the phrase “commercial export” might include barter transactions. It is also understood that arrangements negotiated under Article V might appropriately include provision for consultation, in accordance with the principles of Article 32 of the Havana Charter for an International Trade Organization, in the event that stockpiles are liquidated.

6. It is understood that the Government of the Netherlands will not be requested, under paragraph 2 (a) of Article VII, to furnish detailed information about minor projects or confidential commercial or technical information the disclosure of which would injure legitimate commercial interests.

7. It is understood that the Government of the United States of America in making the notifications referred to in paragraph 2 of Article IX would bear in mind the desirability of restricting, so far as practicable, the number of officials for whom full diplomatic privileges would be requested. It is also understood that the detailed application of Article IX would, when necessary, be the subject of intergovernmental discussion.

8. It is understood that any agreements which might be arrived at pursuant to paragraph 2 of Article X would be subject to ratification by the Senate of the United States of America.

9. It is understood that the definitions contained in Article XI imply no restriction upon the Government of the Netherlands with regard to the carrying forward of contemplated changes in the structure of the Kingdom of the Netherlands. It is further understood that if while this Agreement is in effect arrangements are made for a change in status of territories presently a part of the Kingdom of the Netherlands, the relation of such territories to this Agreement will be the subject of future consultation.