



Treaty Series No. 70 (1948)

# Exchange of Notes

between the Government of the United Kingdom  
and the Spanish Government

for the Recognition of the Assumption by the  
Allied Control Council of Powers of Disposal  
in regard to German Enemy Assets in Spain

[with Annex]

Madrid, 28th October, 1946

*Presented by the Secretary of State for Foreign Affairs to Parliament  
by Command of His Majesty*

LONDON  
HIS MAJESTY'S STATIONERY OFFICE  
TWO PENCE NET

Cmd. 7535

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE  
UNITED KINGDOM AND THE SPANISH GOVERNMENT  
FOR THE RECOGNITION OF THE ASSUMPTION BY THE  
ALLIED CONTROL COUNCIL OF POWERS OF DISPOSAL  
IN REGARD TO GERMAN ENEMY ASSETS IN SPAIN

*Madrid, 28th October, 1946*

No. 1

*His Majesty's Ambassador at Madrid to the Spanish Minister  
for Foreign Affairs*

Your Excellency,

*28th October, 1946.*

I HAVE the honour to refer to the various communications and conversations between your Excellency, the Minister Plenipotentiary in Charge of the Delegation of the Provisional Government of the French Republic in Spain, the Chargé d'Affaires of the United States of America and myself, with reference to the recognition of the Allied Control Council for Germany as exercising the authority of the former German Government. In this connexion I am instructed by His Majesty's Government in the United Kingdom to advise your Excellency as follows:—

1. In accordance with your Excellency's request there are attached authentic copies of the original English texts of the documents constituting the basic juridical and political authority of the Allied Control Council for Germany. These documents are:—

- (a) The Act of Surrender of Germany, dated 7th May, 1945.
- (b) The Declaration of Berlin, dated 5th June, 1945<sup>(1)</sup>.

By virtue of Article 4 of the Act of Surrender, Germany undertook to give effect to any general instrument of surrender which might later be imposed upon it.

This was imposed by the Declaration of Berlin of 5th June, 1945, under which the four occupying Allied Powers assumed all of the powers of the German Government, High Command, and any State, municipal or local government or authority of Germany. Concurrently, the four occupying Allied Powers agreed to exercise this authority through the Allied Control Council for Germany.

2. His Majesty's Government request that the Spanish Government recognise the assumption of these powers by the Allied Control Council for Germany as described in the Declaration of Berlin, dated 5th June, 1945, annexed hereto. The immediate consequences of this recognition are deemed to be the recognition of the authority of the Allied Control Council for Germany with respect to the governmental assets, whether official or quasi-official, of Germany in Spain, its Possessions and Protectorates (hereinafter collectively referred to as "Spain"), and likewise that the Allied Control Council for Germany has, within the limitations imposed by the laws of Spain, no less authority than any previous German Government with respect to German subjects and their property in Spain. At the same time, His Majesty's Government are mindful of questions raised by your Excellency concerning

<sup>(1)</sup> "Germany No. 1 (1945)," Cmd. 6648.

the eventual disposition of certain assets and of the proceeds of assets, and are prepared to undertake general negotiations on this subject with the Spanish Government at the earliest convenience of the Spanish Government and the Allied Control Council for Germany, following recognition.

3. I am authorised by His Majesty's Government to guarantee the Spanish Government that the first Government to succeed the Allied Control Council for Germany will recognise formally the validity of all actions taken by Spain at the request of the Allied Control Council for Germany.

4. His Majesty's Government take the position that such claims as the Spanish Government may present against Germany should be submitted in the general negotiations mentioned in paragraph 2 which are to follow recognition and that such claims will be given consideration at that time; and that the Allied Control Council for Germany will assume, after its recognition by Spain as the Government of Germany, the rights and obligations incident to its status as a government.

5. Upon the recognition by Spain of the Allied Control Council for Germany as the Government of Germany, the Spanish Government will adopt the necessary measures in order that the representatives in Spain of the Allied Control Council for Germany shall be considered as the Government of Germany with respect to the registration and disposal of property of the German Government, both official and quasi-official, situated in Spain. Such measures, which will include the delivery to the representatives of the Allied Control Council and the unblocking of such property, will be taken prior to and without prejudice to the general negotiations referred to in paragraph 2 of this note and subsequent paragraphs. It is understood that, in doubtful cases, the public character of those assets or property indicated by the representatives in Spain of the Allied Control Council as belonging to the German Government will be investigated, and that on establishing such character they will be registered in the same manner as those referred to in the previous sentences. It is similarly understood that, until the negotiations referred to in paragraph 2 of this note have been resolved, transfers abroad or investments of any class of German public property identified in Spain will be effected only upon prior agreement between the Spanish Government and the representatives of the Allied Control Council for Germany. Excepted from the above provisions are expenses normal to administration and general expenses of conservation. To this end an account of the representatives of the Allied Control Council for Germany will be opened in an official banking establishment.

Both the Spanish Government and the representatives of the Allied Control Council for Germany will exchange detailed information relating to German assets held or known by either party to exist in Spain, including, on the above-mentioned account being opened, information regarding the origin and composition of the funds of every nature to be credited to the account and which is at present in possession of the Spanish Government or the representatives of the Allied Control Council; similar information will be reciprocally exchanged for any amount subsequently credited.

In the general negotiations referred to in paragraph 2 and other sections of this note, the credits claimed by the Spanish Government against the German Government and those of the German Government against the Spanish Government will be examined.

6. Under the Declaration of Berlin, dated 5th June, 1945, annexed hereto, and in accordance with the Declaration of Potsdam, dated 2nd August, 1945<sup>(2)</sup>, the Governments of the United Kingdom, of the United States of

(<sup>2</sup>) "Miscellaneous No. 6 (1947)," Cmd. 7087.

America and the Provisional Government of the French Republic are jointly responsible for the German assets within geographical limitations in which Spain is located. Accordingly, the above three Allied Governments will act as the representatives in Spain of the Allied Control Council for Germany.

I have, &c.  
(Sd.) V. A. L. MALLET.

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## ANNEX

### Act of Military Surrender

1. We the undersigned, acting by authority of the German High Command hereby surrender unconditionally to the Supreme Commander, Allied Expeditionary Force, and simultaneously to the Soviet High Command all forces on land, sea and in the air who are at this date under German control.

2. The German High Command will at once issue orders to all German military, naval and air authorities and to all forces under German control to cease active operations at 2301 hours Central European time on 8th May and to remain in the positions occupied at that time. No ship, vessel, or aircraft is to be scuttled, or any damage done to their hull, machinery or equipment.

3. The German High Command will at once issue to the appropriate commanders, and ensure the carrying out of any further orders issued by the Supreme Commander, Allied Expeditionary Force, and by the Soviet High Command.

4. This act of military surrender is without prejudice to, and will be superseded by any general instrument of surrender imposed by, or on behalf of the United Nations and applicable to Germany and the German armed forces as a whole.

5. In the event of the German High Command or any of the forces under their control failing to act in accordance with this Act of Surrender, the Supreme Commander, Allied Expeditionary Force, and the Soviet High Command will take such punitive or other action as they deem appropriate.

Signed at Rheims at 0241 on the 7th day of May, 1945.

France

On behalf of the German High Command:

(Sd.) JODL.

In the presence of—

On behalf of the Supreme Commander,  
Allied Expeditionary Force:

(Sd.) W. B. SMITH.

(Sd.) S. SEVEZ,

*Major-General, French Army*

(Witness).

On behalf of the  
Soviet High Command:

(Sd.) SOUSLOPAROV.

*The Spanish Minister for Foreign Affairs to His Majesty's  
Ambassador at Madrid*

Excmo. Señor: *Madrid, 28 de octubre de 1946.*

MUY señor mío: Tengo la honra de acusar recibo a su atenta Nota fecha de hoy, por la que V.E. se sirve comunicarme lo siguiente:—

“Tengo el honor de referirme a las diferentes comunicaciones y conversaciones cruzadas entre V.E., la Embajada Británica, el Ministro Plenipotenciario Encargado de la Delegación en España del Gobierno Provisional de la República Francesa y el Encargado de Negocios de los Estados Unidos de América, relativas al reconocimiento del Consejo de Control Aliado en Alemania, como ejercitando la autoridad del anterior Gobierno alemán. A este respecto he recibido instrucciones de mi Gobierno para manifestar a V.E. lo siguiente:—

1. De acuerdo con lo solicitado por V.E., se unen a la presente Nota, copias auténticas de los textos originales en inglés de los documentos que constituyen la base de la autoridad jurídica y política del Consejo de Control Aliado en Alemania. Estos documentos son:—

- (a) El Acta de Rendición de Alemania, de fecha 7 de mayo de 1945;
- (b) la Declaración de Berlín fecha 5 de junio de 1945.

En virtud del artículo 4 del Acta de Rendición, Alemania se comprometió a hacer efectivo cualquier instrumento general de Rendición que pudiera serle impuesto más adelante.

Ello le fué impuesto por la Declaración de Berlín de 5 de junio de 1945, según la cual las cuatro Potencias Aliadas ocupantes asumieron todos los poderes del Gobierno alemán, del Alto Mando, y de todas las autoridades o Gobiernos de Estado, locales o municipales de Alemania. Simultáneamente las cuatro Potencias Aliadas ocupantes concertaron ejercer estos poderes a través del Consejo Aliado de Control para Alemania.

2. Mi Gobierno solicita que el Gobierno español reconozca la asunción de estos poderes por el Consejo de Control Aliado para Alemania, según se describe en la Declaración de Berlín de fecha 5 de junio de 1945, aneja a la presente. La consecuencia inmediata de este reconocimiento se estima ser el reconocimiento de la autoridad del Consejo de Control Aliado para Alemania con relación a las propiedades del Gobierno de Alemania, oficiales o para-estatales, situadas en España, sus posesiones y Protectorados (lo que en adelante será citado colectivamente como “España”), e igualmente que el Consejo de Control Aliado para Alemania tiene dentro de las limitaciones impuestas por las leyes de España, una autoridad no menor que cualquier anterior Gobierno alemán con respecto a los súbditos alemanes y sus propiedades en España. Al mismo tiempo mi Gobierno ha tenido presentes las cuestiones suscitadas por V.E. relativas a la eventual disposición de ciertos bienes o productos de estos bienes y está dispuesto a entablar negociaciones generales sobre esta materia con el Gobierno español, tan pronto como convenga al Gobierno español y al Consejo de Control Aliado para Alemania, después del reconocimiento.

3. Estoy autorizado por mi Gobierno para garantizar al Gobierno español que el primer Gobierno que suceda al Consejo de Control Aliado, reconocerá formalmente la validez de todos los actos ejecutados por España a petición del Consejo de Control Aliado para Alemania.

4. Mi Gobierno adopta la posición de que las reclamaciones que el Gobierno español pueda presentar contra Alemania, serán planteadas en las

negociaciones generales a que se refiere el párrafo 2, que deben seguir al reconocimiento, y que tales reclamaciones serán estudiadas en aquel momento; y que el Consejo de Control Aliado para Alemania asumirá después de su reconocimiento por España como Gobierno de Alemania, los derechos y las obligaciones inherentes a su condición de tal Gobierno.

5. Después del reconocimiento por España del Consejo de Control Aliado en Alemania como Gobierno de Alemania, el Gobierno español adoptará las medidas necesarias a fin de que los Representantes en España del Consejo de Control Aliado en Alemania, sean considerados como Gobierno de Alemania en cuanto se refiera al registro y disposiciones sobre las propiedades del Gobierno alemán situadas en España, de carácter oficial o para-estatal. Tales medidas, que incluirán su entrega a los Representantes del Consejo de Control Aliado y su desbloqueo, se verificarán previamente y sin perjuicio de las negociaciones generales a que se refiere el párrafo 2 de esta Nota y subsiguientes. Queda entendido que en los casos dudosos se investigará el carácter público de los bienes o propiedades que se indiquen por los Representantes en España del Consejo de Control Aliado como pertenecientes al Gobierno alemán y que si tal carácter se establece serán registrados o sometidos a la misma reglamentación que aquellos a que se refiere el concepto precedente. Queda igualmente entendido, que en tanto no hayan terminado las negociaciones a que se refiere el párrafo 2 de esta Nota, las transferencias al exterior o las inversiones de cualquier clase de propiedades públicas alemanas identificadas como tales en España, sólo podrán verificarse previo acuerdo entre el Gobierno español y los Representantes del Consejo de Control Aliado en Alemania. Se exceptúan de esta regla los gastos normales de administraciones y gastos generales de conservación. A este fin se abrirá en un establecimiento bancario oficial una cuenta por los Representantes del Consejo de Control Aliado en Alemania.

Tanto el Gobierno español como los Representantes del Consejo de Control Aliado en Alemania se facilitarán recíprocamente informaciones detalladas sobre los bienes alemanes existentes en España reconocidos o poseídos por cualquiera de ambas partes, incluyendo los que hayan de ingresarse en la cuenta más arriba mencionada, información que se referirá al origen y la composición de los fondos de cualquier clase que hayan de ser acreditados en la cuenta y que estén fiscalizados por el Gobierno español o por los Representantes del Consejo de Control Aliado; la misma información será recíprocamente canjeada para cualquier cantidad que deba acreditarse subsiguientemente.

En las negociaciones generales a que se refiere el párrafo 2 y otras partes de esta Nota, serán examinados los créditos que alegue el Gobierno español contra el Gobierno alemán y los del Gobierno alemán contra el Gobierno español.

6. De acuerdo con la Declaración de Berlín fecha 5 de junio de 1945, aneja a la presente, y con la Declaración de Potsdam fecha 2 de agosto de 1945, los Gobiernos de los Estados Unidos de América, de la Gran Bretaña y el Provisional de la República Francesa, responden conjuntamente de los bienes alemanes dentro de los límites geográficos que corresponden al área en que España está situada. En consecuencia, los precitados Gobiernos Aliados actuarán como los Representantes del Consejo de Control Aliado de Alemania en España.”

Tengo la honra de manifestar a V.E. la conformidad del Gobierno español con lo que antecede.

Aprovecho, &c.  
(Sd.) ARTAJO.



## Translation of No. 2

Your Excellency,

Madrid, 28th October, 1946.

I have the honour to acknowledge receipt of your Note of to-day's date in which your Excellency communicates the following:—

“ I have the honour to refer to the various communications and conversations between your Excellency, the British Embassy [*sic*], the Minister Plenipotentiary in Charge of the Delegation of the Provisional Government of the French Republic in Spain, and the Chargé d’Affaires of the United States of America, with reference to the recognition of the Allied Control Council for Germany as exercising the authority of the former German Government. In this connexion I am instructed by His Majesty’s Government in the United Kingdom to advise your Excellency as follows:—

1. In accordance with your Excellency’s request there are attached authentic copies of the original English texts of the documents constituting the basic juridical and political authority of the Allied Control Council for Germany. These documents are:—

- (a) The Act of Surrender of Germany, dated 7th May, 1945.
- (b) The Declaration of Berlin, dated 5th June, 1945.

By virtue of Article 4 of the Act of Surrender, Germany undertook to give effect to any general instrument of surrender which might later be imposed upon it.

This was imposed by the Declaration of Berlin of 5th June, 1945, under which the four occupying Allied Powers assumed all of the powers of the German Government, High Command, *and of all the local or municipal authorities of State Governments of Germany*. Concurrently, the four occupying Allied Powers agreed to exercise this authority through the Allied Control Council for Germany.

2. His Majesty’s Government request that the Spanish Government recognise the assumption of these powers by the Allied Control Council for Germany as described in the Declaration of Berlin, dated 5th June, 1945, annexed hereto. The immediate consequences of this recognition are deemed to be the recognition of the authority of the Allied Control Council for Germany with respect to the governmental assets, whether official or quasi-official, *situated in Spain*, its Possessions and Protectorates (hereinafter collectively referred to as “Spain”), and likewise that the Allied Control Council for Germany has, within the limitations imposed by the laws of Spain, no less authority than any previous German Government with respect to German subjects and their property in Spain. At the same time, His Majesty’s Government are mindful of questions raised by your Excellency concerning the eventual disposition of certain assets and of the proceeds of assets, and are prepared to undertake general negotiations on the subject with the Spanish Government at the earliest convenience of the Spanish Government and the Allied Control Council for Germany, following recognition.

3. I am authorised by His Majesty’s Government to guarantee the Spanish Government that the first Government to succeed the Allied Control Council for Germany will recognise formally the validity of all actions taken by Spain at the request of the Allied Control Council for Germany.

4. His Majesty’s Government take the position that such claims as the Spanish Government may present against Germany *will be* submitted in the general negotiations mentioned in paragraph 2 which are to follow recognition

and that such claims will be given consideration at that time; and that the Allied Control Council for Germany will assume, after its recognition by Spain as the Government of Germany, the rights and *obligations inherent to its status* as a government.

5. Upon the recognition by Spain of the Allied Control Council for Germany as the Government of Germany, the Spanish Government will adopt the necessary measures in order that the representatives in Spain of the Allied Control Council for Germany shall be considered as the Government of Germany with respect to the registration and disposal of property of the German Government, both official and quasi-official, situated in Spain. Such measures, which will include the delivery to the representatives of the Allied Control Council and the unblocking of such property, will be taken prior to and without prejudice to the general negotiations referred to in paragraph 2 of this note and subsequent paragraphs. It is understood that, in doubtful cases, the public character of those assets or property indicated by the representatives in Spain of the Allied Control Council as belonging to the German Government will be investigated, and that on establishing such character they will be registered *and regulated in the same manner* as those referred to in *the preceding concept*. It is similarly understood that, until the negotiations referred to in paragraph 2 of this note *have been completed*, transfers abroad or investments of any class of German public property identified in Spain will be effected only upon prior agreement between the Spanish Government and the representatives of the Allied Control Council for Germany. Excepted from the above provisions are expenses normal to administration and general expenses of conservation. To this end *an account of the Allied Control Council for Germany will be opened by the representatives* in an official banking establishment.

Both the Spanish Government and the representatives of the Allied Control Council for Germany will exchange detailed information relating to German assets held or known by either party to exist in Spain, *including those which may have to be deposited in the above-mentioned account, which information will relate to the origin and composition of the funds of any kind which may be controlled by the Spanish Government or by the representatives of the Allied Control Council*; similar information will be reciprocally exchanged for any amount subsequently credited.

In the general negotiations referred to in paragraph 2 and other sections of this note, the credits claimed by the Spanish Government against the German Government and those of the German Government against the Spanish Government will be examined.

6. Under the Declaration of Berlin, dated 5th June, 1945, annexed hereto, and in accordance with the Declaration of Potsdam, dated 2nd August, 1945, the Governments of *Great Britain*, of the United States of America and the provisional Government of the French Republic are jointly responsible for the German assets within geographical limitations in which Spain is located. Accordingly, the above three Allied Governments will act as the representatives in Spain of the Allied Control Council for Germany.”

I have the honour to inform your Excellency of the agreement of the Spanish Government to the foregoing.

I have &c.  
(Sd.) ARTAJO.