

WAR GRAVES

Exchange of notes at The Hague April 11, 1947

Entered into force April 11, 1947

*Amended by agreement of November 17, 1950, and January 2, February 1, and March 2, 1951*¹

*Extended by agreement of January 14 and August 29, 1955, and March 9, 1956*²

*Terminated November 18, 1970, by agreement of May 4, 1970*³

61 Stat. 4037; Treaties and Other
International Acts Series 1777

*The American Chargé d'Affaires ad interim to the Minister
of Foreign Affairs*

No. 705

THE HAGUE, *April 11, 1947*

EXCELLENCY:

I have the honor to refer to my note No. 688, of March 26, 1947, in which I informed Your Excellency that the Department of State had authorized the Embassy to effect an exchange of notes with Your Excellency concerning American War Graves in the Netherlands and in its Overseas Territories.

The plan presented by the American Graves Registration Command, including the "major concessions" desired, in connection with American War Graves in the Netherlands and the Netherlands Overseas Territories, is as follows:

"1. The Plan Presented:

1. It is the declared policy of the Government of the United States of America, upon application by the next of kin, to return to the Homeland for interment at places designated by the next of kin, or in national cemeteries, the remains of persons who died on or after September 3, 1939, and are buried outside the continental limits of the United States, and who were:

- a. Members of the armed forces of the United States who died in the service.
- b. Civilian officers and employees of the United States.

¹ 149 UNTS 426.

² 8 UST 377; TIAS 3786.

³ 21 UST 2416; TIAS 6978.

- c. Citizens of the United States who served in the armed forces of any Government at war with Germany, Italy, Japan, or any other belligerent power, and who died while in such service and who were citizens of the United States at the time of such service.
- d. Citizens of the United States whose homes are in fact in the United States and whose death, outside the continental limits thereof can be directly attributed to the war or who died while employed or otherwise engaged in activities contributing to the prosecution of the war.
- e. Such other citizens of the United States, the return of the remains of whom would, in discretion of the Secretary of War, serve the public interest.

2. Future policy of the Government of the United States and the desires of the next of kin of deceased persons may also necessitate the concentration of remains into "Fields of Honors" in each of the United Nations or in other Nations, their possessions or territories, for perpetual care by the United States Government.

3. It may be fitting and proper, at a future date, to commemorate the accomplishment, heroism and sacrifices of the Armed Forces of the United States by monuments or other suitable means.

4. There are presently interred in temporary United States Military Cemeteries in many of the various United Nations and other Nations, or the possessions or territories subject to their jurisdiction, the remains of members of Allied Armed Forces, Italian, German, Japanese and other former belligerent powers which require transfer of the custody of the remains to another country in order to secure perpetual care and maintenance of the graves of such deceased.

5. In furtherance of the objectives hereinbefore set forth, major concessions as enumerated below are desired from each of the Nations in order that the United States of America, through its duly designated representatives, may conduct these sacred operations without undue restrictions upon the Government of the United States.

Major Concessions Requested:

- a. The right to establish and maintain temporary cemeteries within the Nation, its possessions or territories subject to the control of the respective Government as are necessary for the burial of deceased persons subject to its control and to make exhumations therefrom or from other locations for repatriation or for concentration into permanent cemeteries abroad including movement of bodies from other countries into said Nation, its possessions or territories, provided however that no remains may be removed from the Netherlands to any colony or possession of the Netherlands, nor be removed from the Netherlands to any Netherlands territory over sea out of Europe, nor be removed from those territories to the Netherlands.

- b. The right to be exempt from all national, local or other laws and/or regulations relating to the securing of permits for disinterments; sanitation, upon an assurance that such work will be conducted in a manner not detrimental to public health, any question as to detriment, in case same shall be raised by the respective Government, to be determined by mutual accord; and from the payment of any duties, taxes or fees of any kind whatsoever for the burial, disinterment for reburial or movement of bodies or the maintenance of permanent graves.
- c. Free entrance and exit for all personnel, supplies, transportation (air, motor, and water), including the use of highways and inland and coastal waterways necessary or incident to repatriation and concentration activities.
- d. Use of such ports, port facilities, including but not limited to, warehousing, docks, pilotage, supplies and services as are essential to repatriation and concentration activities subject only to payment of the established rates of compensation therefor.
- e. Use of rail and water transportation, including but not limited to that belonging or subject to the regulations of the respective Government to the extent required for the work involved and subject to payment for the use thereof at prevailing rates.
- f. The right to the use of buildings, services and to employ labor within the respective Nation, the possessions or territories subject to the jurisdiction thereof, as are required for all activities involved by payment for use thereof at prevailing rates.
- g. The respective Government shall procure possession of such sites for permanent cemeteries (Field of Honor) and/or memorials as are deemed necessary by the Government of the United States and will be pleased to grant to the United States of America the use thereof in perpetuity without payment by the United States of compensation therefor. Such sites shall be at location judged appropriate for the purpose by designated representatives of the Netherlands, and shall include sufficient ground in addition to burial space, for proper beautification, approach roads where required, and the construction of such buildings as are essential to the housing of caretakers, reception of visitors and general maintenance work and memorials at or separate and apart from cemeteries.
- h. The right without regard to any national or local laws, customs, or regulations, to plan, layout, improve, construct buildings thereon, and beautify and provide for the perpetual custody and maintenance of such cemeteries and memorials as are directed by the United States Government, but subject however to the following provisions:
 - a. The determination of the boundaries of any such cemetery, and particularly those portions lying outside of the burial plots and serving for beautification and/or as a site for the erection of a memorial,

- must be discussed with and approved by appropriate agencies of the respective government or political component thereof.
- b. Like discussion and agreement is required with respect to the course of access roads leading into any such cemetery, the landscaping of portions of any such cemetery, lying outside of the burial plots, the fencing or hedging of the cemetery, and the height, exterior plans and site of any memorial or the permanent structure to be erected thereon.
 - i. All salaries and other remuneration paid to personnel, who are citizens of the United States, by the United States while engaged in, and all facilities, material and supplies whether purchased locally or otherwise, utilized in these operations, including land for permanent cemeteries and memorials, and improvements thereto and buildings constructed thereon shall be exempt from any and all forms of taxation, direct or indirect.
 - j. The respective Government, at such time and place as the United States Government so requests, will assume custody of the remains and provide for the permanent maintenance of the graves of personnel formally serving with other Allied Armed Forces, Italy, Germany, Japan, or any other belligerent power which are now buried in temporary United States Military Cemeteries or other places now within custody of the United States Government located in the respective country, its possessions or territories, provided, however, that the United States reserves similar rights, as hereinbefore set forth to be exercised, if so desired, to disinter and transport the remains of members of other Allied Nations to cemeteries designated by such Nation within said respective country, the possessions or territories subject to the jurisdiction thereof.
 - k. The provisions of this section shall apply with equal force and effect to the shipment of remains from other foreign countries into the respective Nation, the possessions or territories subject to the jurisdiction of said nation, where the next of kin reside in said country, or one of its possessions or territories, and request final interment of remains therein, provided however that no remains may be removed from the Netherlands to any Netherlands territory over sea out of Europe, nor be removed from those territories to the Netherlands.
 - l. The rights, privileges and prerogatives reserved to the United States herein shall be exercised prior to January 1, 1955, except as relates to use of land acquired for cemeteries, memorials and improvements thereto, including buildings constructed thereon, which shall run in perpetuity."

As Your Excellency is aware, the question of the above mentioned "major concessions" have been the subject of various informal conversations between officers of this Embassy and representatives of the Ministry for Foreign

Affairs; and it is my understanding that Your Excellency's Government is prepared to grant these concessions. If such is indeed the case, I shall appreciate receiving Your Excellency's confirmation thereof.

Accept, Excellency, the assurances of my highest consideration.

J. WEBB BENTON
Chargé d'Affaires, a.i.

His Excellency

Baron C. G. W. H. VAN BOETZELAER VAN OOSTERHOUT,
*Royal Netherlands Minister for Foreign Affairs,
The Hague.*

*The Minister of Foreign Affairs to the American Chargé d'Affaires
ad interim*

No. 37378

THE HAGUE, April 11, 1947

SIR,

I have the honour to acknowledge receipt of your note of to-day's date, no. 705, in the following terms:

[For text of U.S. note, see above.]

I have the honour to confirm that the Netherlands Government is prepared to grant the concessions as laid down in the abovementioned note. Please accept, Sir, the assurance of my high consideration.

For the Minister of Foreign Affairs:

SNOUCK HURGRONJE

To J. WEBB BENTON ESQ.,
*Chargé d'Affaires a.i.
of the United States of America.*