No. 8737

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and UNITED STATES OF AMERICA

Exchange of notes constituting an agreement concerning the availability for defense purposes of the British Indian Ocean Territory (with annexes). London, 30 December 1966

Official text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 22 August 1967.

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD et ÉTATS-UNIS D'AMÉRIQUE

Échange de notes constituant un accord en vue de rendre disponible, à des fins de défense, le Territoire britannique de l'océan Indien (avec annexes). Londres, 30 décembre 1966

Texte officiel anglais.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 22 août 1967.

No. 8737. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING THE AVAILABILITY FOR DEFENCE PURPOSES OF THE BRITISH INDIAN OCEAN TERRITORY. LONDON, 30 DECEMBER 1966

I

The Ambassador of the United States of America to the Secretary of State for Foreign Affairs

Note No. 25

London, 30 December 1966

Sir,

I have the honor to refer to recent discussion between representatives of the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the availability, for the defense purposes of both Governments as they may arise, of the islands of Diego Garcia and the remainder of the Chagos Archipelago, and the islands of Aldabra, Farquhar, and Desroches constituting the British Indian Ocean Territory, hereinafter referred to as "the Territory". The United States Government has now authorized me to propose an Agreement in the following terms:

(1) The Territory shall remain under United Kingdom sovereignty.

(2) Subject to the provisions set out below the islands shall be available to meet the needs of both Governments for defense. In order to ensure that the respective United States and United Kingdom defense activities in the islands are correlated in an orderly fashion:

(*a*) In the case of the initial United States requirement for use of a particular island the appropriate governmental authorities shall consult with respect to the time required by the United Kingdom authorities for taking those administrative measures that may be necessary to enable any such defense requirement to be met.

(*b*) Before either Government proceeds to construct or install any facility in the Territory, both Governments shall first approve in principle the requirement for that facility, and the appropriate administrative authorities of the two

[1] Came into force on 30 December 1966 by the exchange of the said notes.

Governments shall reach mutually satisfactory arrangements concerning specific areas and technical requirements for respective defense purposes.

(*c*) The procedure described in sub-paragraphs (*a*) and (*b*) shall not be applicable in emergency circumstances requiring temporary use of an island or part of an island not in use at that time for defense purposes provided that measures to ensure the welfare of the inhabitants are taken to the satisfaction of the Commissioner of the territory. Each Government shall notify the other promptly of any emergency requirements and consultation prior to such use by the United States Government shall be undertaken as soon as possible.

(3) The United Kingdom Government reserves the right to permit the use by third countries of British-financed defense facilities, but shall where appropriate consult with the United States Government before granting such permission. Use by a third country of United States or jointly-financed facilities shall be subject to agreement between the United Kingdom Government and the United States Government.

(4) The required sites shall be made available to the United States authorities without charge.

(5) Each Government shall normally bear the cost of site preparation, construction, maintenance, and operation for any facilities developed to meet its own requirements. Within their capacities, such facilities shall be available for use by the forces of the other Government under service-level arrangements. However, there may be certain cases where joint financing should be considered, and in these cases the two Governments shall consult together.

(6) Commercial aircraft shall not be authorized to use military airfields in the Territory. However, the United Kingdom Government reserves the right to permit the use in exceptional circumstances of such airfields, following consultation with the authorities operating the airfields concerned, under such terms or conditions as may be defined by the two Governments.

(7) For its defense purposes on the islands, the United States Government may freely select United States contractors and the sources of equipment, material, supplies, or personnel, except that:

(*a*) the United States Government and United States contractors shall make use of workers from Mauritius and Seychelles to the maximum extent practicable, consistent with United States policies, requirements and schedules; and

(*b*) the appropriate administrative authorities of the two Governments shall consult before contractors or workers from a third country are introduced.

(8) The exemption from charges in the nature of customs duties and other taxes in respect of goods, supplies and equipment brought to the Territory in connection with the purposes of this Agreement by or on behalf of the United States Government, United States contractors, members of the United States Forces, contractor personnel or dependents, and the exemption from taxation of certain persons serving or employed in the Territory in connection with those purposes, shall be such exemption as is set out in Annex I to this Note.

(9) The arrangements regarding the exercise of criminal jurisdiction and claims shall be those set out in Annex II to this Note.

(10) For the purpose of this Agreement:

(*a*) "Contractor personnel" means employees of a United States contractor who are not ordinarily resident in the Territory and who are there solely for the purposes of this Agreement;

(*b*) "Dependents" means the spouse and children under 21 years of age of a person in relation to whom it is used; and, if they are dependent upon him for their support, the parents and children over 21 years of age of that person;

(*c*) "Members of the United States Forces" means

(i) military members of the United States Forces on active duty;

(ii) civilian personnel accompanying the United States Forces and in their employ who are not ordinarily resident in the Territory and who are there solely for the purpose of this Agreement; and

(iii) dependents of the persons described in (i) and (ii) above;

(*d*) "United States authorities" means the authority or authorities from time to time authorized or designated by the United States Government for the purpose of exercising the powers in relation to which the expression is used;

(*e*) "United States contractor" means any person, body or corporation ordinarily resident in the United States of America, that, by virtue of a contract with the United States Government, is in the Territory for the purposes of this Agreement, and includes a sub-contractor;

(*f*) "United States Forces" means the land, sea and air armed services of the United States, including the Coast Guard.

(11) The United States Government and the United Kingdom Government contemplate that the islands shall remain available to meet the possible defense needs of the two Governments for an indefinitely long period. Accordingly, after an initial period of 50 years this Agreement shall continue in force for a further period of twenty years unless, not more than two years before the end of the initial period, either Government shall have given notice of termination to the other, in which case this Agreement shall terminate two years from the date of such notice.

If the foregoing proposal is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honor to propose that this Note and its Annexes, together with your reply to that effect, shall constitute an Agreement between the two Governments which shall enter into force on the date of your reply.

Accept, Sir, the renewed assurances of my highest consideration.

David BRUCE

ANNEX I

CUSTOMS DUTIES AND TAXATION

1. *Customs Duties and other Taxes on Goods*

(1) No import, excise, consumption or other tax, duty or impost shall be charged on:

(*a*) material, equipment, supplies, or goods for use in the establishment, maintenance, or operation of the facilities which are consigned to or destined for the United States authorities or a United States contractor;

(*b*) goods for use or consumption aboard United States public vessels or aircraft;

(*c*) goods consigned to the United States authorities or to a United States contractor for the use of or for sale to military members of the United States Forces, or to other members of the United States Forces, or to those contractor personnel and their dependents who are not engaged in any business or occupation in the Territory;

(*d*) the personal belongings or household effects for the personal use of persons referred to in sub-paragraph (*c*) above, including motor vehicles, provided that these accompany the owner or are imported either—

(i) within a period beginning sixty days before and ending 120 days after the owner's arrival; or

(ii) within a period of six months immediately following his arrival;

(*e*) goods for consumption and goods (other than personal belongings and household effects) acquired after first arrival, including gifts, consigned to military members of the United States Forces, or to those other members of the United States Forces who are nationals of the United States and are not engaged in any business or occupation in the Territory, provided that such goods are:

(i) of United States origin if the Commissioner so requires, and

(ii) imported for the personal use of the recipient.

(2) No export tax shall be charged on the material, equipment, supplies or goods mentioned in paragraph (1) in the event of reshipment from the Territory.

(3) Article 1 of this Annex shall apply notwithstanding that the material, equipment, supplies or goods pass through other parts of the Territory en route to or from a site.