

No. 9181

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
MALAYSIA**

Exchange of letters constituting an agreement to provide personnel to assist in the staffing, administration and training of the armed forces of Malaysia (with appendix and annexes). Kuala Lumpur, 5 December 1967

Official text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 8 August 1968.

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
MALAISIE**

Échange de lettres constituant un accord relatif à la fourniture de personnel chargé d'aider au recrutement, à l'administration et à l'instruction des forces armées malaisiennes (avec appendice et annexes). Kuala Lumpur, 5 décembre 1967

Texte officiel anglais.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 8 août 1968.

No. 9181. EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF MALAYSIA TO PROVIDE PERSONNEL TO ASSIST IN THE STAFFING, ADMINISTRATION AND TRAINING OF THE ARMED FORCES OF MALAYSIA. KUALA LUMPUR, 5 DECEMBER 1967

I

*The United Kingdom High Commissioner at Kuala Lumpur
to the Deputy Prime Minister of Malaysia*

BRITISH HIGH COMMISSION
KUALA LUMPUR

5th December, 1967

Dear Deputy Prime Minister,

I have the honour to refer to the request of the Government of Malaysia to the Government of the United Kingdom of Great Britain and Northern Ireland to provide personnel to assist in the staffing, administration and training of the Armed Forces of Malaysia in accordance with Article II of and Annex 1 to the Agreement on External Defence and Mutual Assistance between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federation of Malaya signed on 12th October, 1957,² and extended to Malaysia by an Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Governments of the Federation of Malaya, North Borneo, Sarawak and Singapore signed on 9th July, 1963.

The Government of the United Kingdom will endeavour to obtain volunteers from its Armed Forces for loan to the Armed Forces of Malaysia in such numbers as shall from time to time be agreed upon between the United Kingdom High Commissioner and the Malaysian Minister of Defence.

I have the honour to propose that the arrangements governing the provision of these personnel shall be the arrangements set out in the Appendix to this Letter and

¹ Came into force on 5 December 1967, with retroactive effect from 16 September 1963, in accordance with the provisions of the said letters.

² United Nations, *Treaty Series*, Vol. 285, p. 59.

that if these arrangements are acceptable to the Government of Malaysia this Letter, together with your reply to that effect, shall be regarded as constituting an Agreement in this matter between our two Governments which shall be deemed to have entered into force on 16th September, 1963.

Yours sincerely,

Michael WALKER

APPENDIX

CONTENTS

- | | |
|---|---|
| 1. Definitions | 11. Pay and allowances |
| 2. Composition | 12. Period of Loan |
| 3. Relationship with Malaysian Ministry of Defence | 13. Leave |
| 4. Relationship with the Armed Services of Malaysia | 14. Rank and promotion |
| 5. Jurisdiction | 15. Termination of Loan |
| 6. Uniform | 16. Applicability of United Kingdom Service Law |
| 7. Claims | 17. Nominations |
| 8. Taxation, import, export, etc. | 18. Postings and employment |
| | 19. Obligations of the Government of Malaysia |
| 9. Remittance of funds | 20. Payments and provisions by the Government of the United Kingdom |
| 10. Movement, entry and exit | |

Annex 1. Facilities and benefits

Annex 2. Procedure for dealing with loss or damage or misapplication of funds or property

Definitions

1. "Loan Personnel" means officers and other ranks of the United Kingdom naval, military and air forces for the time being provided to assist in the staffing, administration and training of the Armed Forces of Malaysia pursuant to Article II of the Defence Agreement, and "Loan" shall be construed accordingly ;

"The Defence Agreement" means the Agreement on External Defence and Mutual Assistance between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federation of Malaya signed on 12 October, 1957 and extended to Malaysia by an Agreement concluded between the Government of the United Kingdom of Great Britain and Northern Ireland and the Governments of the Federation of Malaya, North Borneo, Sarawak and Singapore signed on 9 July, 1963 ;

“dependant” means a person not ordinarily resident in Malaysia who is the spouse of a member of the Loan Personnel or who is wholly or mainly maintained or employed by such member, or who is in his custody charge or care or who forms part of his family;

“entitled dependant” means the spouse and a child (including an adopted or a step-child) of a member of Loan Personnel for whom the United Kingdom Government or in the case of personnel seconded before 16 September, 1963, the Malaysian Government have provided or will provide a free passage to or from Malaysia;

“United Kingdom Service Authorities” means the authorities empowered by the law of the United Kingdom to exercise command or jurisdiction over or administration of members of the Armed Forces of the United Kingdom including Loan Personnel or their dependants;

“Service Law” means any Statute, Order, Regulation, Warrant or Instruction relating to naval, military or air forces;

“Unit” includes a headquarters, ship or establishment;

“other ranks” includes all personnel of any of the Armed Forces of the United Kingdom who do not hold a commissioned rank, except acting sub-lieutenants and midshipmen of the Royal Navy.

Composition

2. Loan Personnel will serve with units of the Armed Forces of Malaysia and may also be required to serve on the staff of the Malaysian Ministry of Defence to assist in the administration and training of the Armed Forces of Malaysia. Loan Personnel shall constitute “The United Kingdom element serving with the Armed Forces of Malaysia” for the purposes of discipline and administration under United Kingdom Service Law.

Relationship with the Malaysian Ministry of Defence

3. While on loan to the Armed Forces of Malaysia it is the duty of members of Loan Personnel to obey and comply with all Standing and General Orders and other orders and instructions relating to their duties given to them by the Government of Malaysia through its Ministers or its duly authorised officers from time to time, provided that such orders and instructions are not inconsistent with their obligations as members of the United Kingdom Armed Forces.

Relationship with the Armed Services of Malaysia

4. (a) Members of Loan Personnel shall be treated, except in so far as otherwise provided in this Appendix, as members of the Armed Forces of Malaysia of equivalent rank.

(b) Members of Loan Personnel shall, in particular, have over members of any Malaysian Force the like powers of command as if they were members of the Malay-

sian Forces of relative rank and will, subject to sub-paragraph (c) of this paragraph, be required to obey the commands of superior officers under whose command they are placed provided that such commands are consistent with their obligations under United Kingdom Service Law and would, if given by a person subject to that Law, constitute a lawful command under it but shall not be subject to the Service Law of Malaysia or to the jurisdiction of any Court or tribunal deriving its constitution or functions under the Service Law of Malaysia.

(c) Members of Loan Personnel or dependants shall not be subject to any legislation in Malaysia relating to liability for compulsory service of any kind.

(d) Married members of Loan Personnel will normally be accompanied by their wives and other dependants, subject to prior consultation between the Malaysian Ministry of Defence and the Senior United Kingdom Loan Officer.

Jurisdiction

5. (a) Subject to the provisions of this paragraph—

(i) the United Kingdom Service Authorities shall have the right to exercise within Malaysia all criminal and disciplinary jurisdiction conferred on them by the law of the United Kingdom over members of Loan Personnel and dependants;

(ii) the courts of Malaysia shall have jurisdiction over members of Loan Personnel and dependants with respect to offences committed in Malaysia and punishable by the law of Malaysia.

(b) The exercise of jurisdiction over members of Loan Personnel and dependants in criminal and disciplinary matters shall, except as may be otherwise arranged, be regulated by the application of principles similar to those regulating the exercise of jurisdiction in such matters over other members of the Armed Forces of the United Kingdom and dependants while in Malaysia by virtue of the Defence Agreement.

Uniform

6. To such extent as shall be arranged between the authorities of Malaysia and of the United Kingdom the appropriate uniform and insignia of the Armed Forces of Malaysia may be worn by Loan Personnel instead of the appropriate uniform of the United Kingdom Armed Forces.

Claims

7. (a) (i) The Government of Malaysia waives any claim which it may have against members of Loan Personnel and the Government of the United Kingdom for damage to any property of the Government of Malaysia caused by a member of Loan Personnel in the course of his service in that capacity or for the death of or injury to any member of the Malaysian Armed Forces so caused;

(ii) the Government of the United Kingdom waives any claim which it may have against the Government of Malaysia for damage to any property of the Government of