

No. 1376

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

**Exchange of notes (with memorandum of understanding)  
constituting an agreement regarding claims by British  
subjects against the Government of Siam. Bangkok,  
6 January 1947**

*Official text: English.*

*Registered by the United Kingdom of Great Britain and Northern Ireland on  
23 August 1951.*

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

**Échange de notes (avec mémorandum d'accord) constituant  
un accord relatif aux réclamations des sujets britan-  
niques à l'encontre du Gouvernement siamois. Bangkok,  
6 janvier 1947**

*Texte officiel anglais.*

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le  
23 août 1951.*

No. 1376. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND SIAM REGARDING CLAIMS BY BRITISH SUBJECTS AGAINST THE GOVERNMENT OF SIAM. BANGKOK, 6 JANUARY 1947

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I

BRITISH LEGATION  
BANGKOK

6th January 1947

5/43/47.

Your Excellency,

On behalf of His Majesty's Government in the United Kingdom I have the honour to submit, herewith, the text of a Memorandum of Understanding designed, as indicated in its first paragraph, to provide means for the early settlement of certain claims by British Subjects against the Government of Siam.

2. I should be grateful if Your Excellency would be so good as to inform me, as well as the Consular representatives of Australia and India who are addressing you direct, that the text of the enclosed Memorandum is acceptable to the Siamese Government.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) G. H. THOMPSON

His Excellency Nai Direck Jayanâma  
etc., etc., etc.  
Minister for Foreign Affairs  
Bangkok

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<sup>1</sup> Came into force on 6 January 1947, by the exchange of the said notes.

## BRITISH COMMONWEALTH-SIAMESE CLAIMS COMMITTEE

1. A British Commonwealth-Siamese Claims Committee shall be set up at Bangkok to carry out the relevant provisions of the formal agreement made by Siam with Great Britain and India on the 1st January 1946,<sup>1</sup> and the final peace agreement with Australia on the 3rd April 1946. Its composition, function and procedure are set forth in paragraphs 2, 3, 4 and 5 below. There shall fall within the province of this Committee all claims which British nationals are entitled to make by virtue of the Provisions of the Agreements of January 1st 1946 and April 3rd 1946 in respect of loss or damage to British property, rights and interests or personal prejudice arising out of the war. References in the subsequent paragraphs of this agreement to British property rights and interests or to personal prejudice suffered by British nationals shall be construed in conformity with the foregoing.

2. *Composition.* The Committee shall consist of three members representing respectively United Kingdom, Australia and India, and three members representing Siam. The Chairman shall be one of the British Commonwealth members and shall have a casting vote in addition to his member vote. The United Kingdom member may be assisted by an assessor appointed by the Government of any other British territory not directly represented on the Committee when the claimant belongs to such territory.

3. *Functions.* (a) The Committee shall have the function of (1) formulating the detailed principles required to give effect to the broad policy agreed between the British Commonwealth Governments and Siamese Government (see below) as a basis for the payment of compensation by the latter Government, the Siamese Government undertaking to apply those principles in settling the claims; and (2) operating in effect as a final Court of Appeal for claims either not settled within the appropriate prescribed period or otherwise in dispute.

(b) The Committee shall not be bound by strict legal rules of evidence and procedure, but shall be free to aim at equitable and rapid settlement and to establish its own rules to that end.

(c) The Committee shall not be called upon to examine claims in which a final settlement has been reached and agreed by direct negotiation between the Siamese Government and the claimant party or the appropriate British Commonwealth Government.

<sup>1</sup> See p. 131 of this volume.

(d) The Siamese Government shall recognise as binding the decisions taken by the Committee and shall undertake to give effect to them.

4. *Procedure.* The procedure for submitting claims whether governmental or private under Article 2 (d) of the British-Siamese Agreement of January 1st shall be that claims shall first of all be collected and verified by the Governments of Burma and Malaya whose representatives will be given any facilities in Siam necessary for the identification of property removed from Burma and Malaya respectively. The Governments of Burma and Malaya shall present such claims through His Majesty's Legation to the Siamese Government who will be required to dispose of them expeditiously. These Governments shall have the right to appeal to the Committee through His Majesty's Minister, Bangkok, in the case of claims not settled within the periods as laid down for the settlement of claims under paragraph 5 (h) below.

5. The procedure for submitting other claims to the Siamese Government shall be as follows (in the case of Australian or Indian claims, substitute "Australian or Indian Consular Representative" for "British Legation" as appropriate) :—

- (a) The Siamese Government in agreement with the other signatories shall issue standard forms for the submission of claims in line with the principles agreed between the member governments. Supporting documents shall not be submitted in original, but officially certified true copies shall be furnished and shall be accepted by the Siamese Government as valid in place of original documents. Both claims and supporting documents shall be prepared in quadruplicate. The forms shall be in English and documents in English shall be accepted without translation; the proceedings of the Committee shall be conducted in the English language. Claims in respect of property shall be filed with the Siamese Government within eighteen months and those in respect of personal prejudice within twelve months of the public announcement inviting the submission of claims, but in very special cases fully justified by facts the Committee may decide to direct receipt and consideration of claims after the expiration of the times specified.
- (b) Claims formulated in the United Kingdom shall, if in respect of property, be sent to the Board of Trade, London (Trading with the Enemy Department) and if in respect of personal prejudice to the Foreign Office, London; after screening three copies shall be passed to the British Legation at Bangkok.
- (c) Claims formulated in other parts of the Commonwealth shall be sent to the governments concerned and after screening shall be similarly passed to the British Legation, Bangkok.

- (d) Claims formulated in Siam shall be sent to and screened at the British Legation, Bangkok.
- (e) The British Legation, Bangkok, shall then send one copy each of all screened claims to the competent department of the Siamese Government for action and to the Claims Committee for information; if the claim was originally formulated in Siam, copy shall be sent by the British Legation to the government of the territory to which the claimant belonged; the last copy shall be retained at the Legation. (Note: The acceptance of a claim by a government or the Legation for transmission to the Siamese Government shall not commit either of the two governments or the Committee in any way. Screening shall amount to no more than the elimination of any claims which are clearly outside the obligations undertaken by the Siamese Government and to advising claimants if necessary on the procedure to be followed when formulating their claims).
- (f) The Siamese authorities shall acknowledge receipt of the claims to the British Legation with copy to the Committee.
- (g) The Siamese Government shall in due course send a notification of each claim settled with particulars of settlement to the Legation (with duplicate for transmission to the government concerned) and to the Committee.
- (h) Any claim rejected in whole or in part by the Siamese Government or any claim which the Siamese Government desires to refer to the Committee, shall be submitted forthwith to the Committee for adjudication. Should any claim remain unsettled in the case of property at the end of six months after presentation to the Siamese Government and in the case of personal prejudice at the end of three months, the Committee shall, in the absence of a request to the contrary from the claimant, proceed to adjudicate on the claim.

6. *Property Rights and Interests.* The prime object of the Governments of the British Commonwealth is to secure the restoration of British property, rights and interests in every case in which this can be reasonably achieved, but the owner may elect, subject to the consent of the Committee, to accept restoration or compensation in lieu. The following considerations govern such restoration :—

- (a) The expression " property " includes all movable and immovable property, together with any rents (which includes rents for premises in Siam not enjoyed) profits actually earned or accrued, interest, dividends, royalties, or income of a like nature arising therefrom, and includes any estate or interest in such property, any negotiable instrument, security, debt or other chose in action and any other right or interest whether in possession or not,

and industrial, literary and artistic property rights. The expression "rights and interests" includes the right to require compensation in respect of the cost of repatriation of persons forcibly removed from Burma or Malaya to Siam.

- (b) The property to be restored is that existing in Siam on 8th December 1941, or arising therein after that date, or existing in British territory which Siam occupied or purported to acquire on the date of that occupation or purported acquisition, or arising therein during the period of occupation or purported acquisition.
- (c) The obligations undertaken by the Siamese Government for safeguarding, maintaining and restoring unimpaired the property in question shall remain fully operative until restoration is accepted by the owner or his legal representative or declined by him in acknowledgment of the receipt of adequate compensation in lieu, so long as, in the opinion of the Committee, there is no undue or unreasonable delay in accepting or declining restoration.
- (d) The Siamese Government shall restore British property as it stands at the request of the owner and within one month of his request in the case of movable property and three months in the case of immovable property. Movable property shall be restored to the owner at the place from which it was removed or at any other place within reason designated by the owner.
- (e) The restoration of the property to the owner shall be at the cost of the Siamese Government and shall be made free of any encumbrances which have attached to the property while it has been out of the owner's control and shall be without prejudice to any claim or claims the owner may present for compensation in respect of damage to the property, or loss sustained by him through having been deprived of its possession. No liens or charges or expenses incurred in connection with or charged against the property at the date of its restoration to the owner shall be enforceable unless the advances or expenses to which they relate have been agreed to by the respective Governments or by or on behalf of the owner. The British owner of property which has been expropriated, sold or transferred shall be entitled, on his demand, to secure the cancellation of the instrument under which the property was so dealt with. Where British property has been leased without the consent of the owner the lease may, at the owner's option, be terminated at the date of restoration or be permitted to continue in force under the terms of the lease. As regards bank accounts and other credits, "restoration" means restoration in the same type of account and in the same currency as existed when the account was removed from the control of the owner.
- (f) At the date of restoration of the property the Siamese Government shall furnish at its own expense a complete inventory of the extent and condition

of the property restored, and an authorised representative of that Government shall, together with the owner or his representative, certify the correctness of the inventory.

- (g) Any partnership, association or incorporation in which there is a British majority holding (i.e., 50% or more) or controlling interest irrespective of the country on which incorporation took place and of whether the holding is direct or indirect, shall be deemed to be a British property, as shall be any property which under any special regime deriving from Siamese war-time legislation was regarded or treated as British.
  - (h) The term "restoration of British property" is accepted by the Siamese Government as including the securing of the annulment of all periods of prescription and limitations of right of action operative since 7th December 1941 in respect of property rights and interests acquired before, on or after that date, and as including the restoration in good order to its owners of all property within the jurisdiction of the Siamese Government which has been subjected to an act of dispossession.
  - (i) Neither before nor after restoration to the owner shall British property be subject to any impost, taxation or levy, fee or charges imposed for the purpose of meeting losses or claims in respect of war damage or the cost and charges falling on the Siamese Government under the Agreements of 1st January and 3rd April 1946, and any monies which have been so paid in respect of such property shall be refunded.
7. The settlement of claims for compensation shall be governed by the following considerations :
- (a) Within the broad headings of claims in respect of property and claims in respect of personal prejudice (see paragraph 8 below), the scope of the compensation payable by the Siamese Government shall include compensation for loss or damage resulting from negligence, improper acts or omissions of sequestrators, administrators, managers or persons acting under the authority of the Siamese Government or appointed by or responsible to it, and shall include damage suffered by British property or nationals as a result of Siamese judicial decisions made after 7th December 1941.
  - (b) The value of British property of whatever kind shall be accepted for the purposes of calculating the compensation due to be paid in respect of it, as the sterling value of that property, if in Siam, as at the 8th December 1941 or at the date of its arising therein, if later, or, if in territory which Siam occupied or purported to acquire, as at the date of that occupation or purported acquisition or at the date, if later, on which the property arose therein.

The compensation to be paid shall be the sum required, at the date of payment of the compensation, to restore that value in its entirety or to purchase similar property in Siam, without any cost whatever to the owner.

Compensation for claims under Article 2 (d) shall be payable in sterling; that for other claims in sterling or local currency, as shall be necessary to secure the full restoration of the value of the property or the purchase of similar property in Siam; claimants now permanently resident outside Siam may demand payment in sterling of compensation in respect of loss or damage to their personal property.

- (c) The British Commonwealth Governments reserve their rights to look to the Siamese Government for the settlement of such claims as may properly be made by British owners in respect of loss or damage suffered by their property during the Siamese occupation of territories which were on 8th May 1941 under the sovereignty of France.

8. *Personal Prejudice.* Acting in accordance with paragraph 3 (a) above the Committee shall define the classes of claim in respect of personal prejudice which shall be admitted, the tests to be applied to individual claims and, as far as may be practicable in advance, indicate the rates at which compensation in certain classes of prejudice of frequent occurrence shall be awarded. The following among others are considered *prima facie* valid grounds for claims :—

- i. (a) Unlawful arrest and detention before the 25th January 1942, detention or internment after that date and loss of salary or income resulting from such arrest, detention or internment.
- (b) Ill treatment during detention or internment before or after the outbreak of war; ill treatment may be defined as acts of omission or commission contravening the principles laid down by the Geneva<sup>1</sup> and The Hague<sup>2</sup> Conventions with regard to Prisoners of War, and which directly or indirectly involve unnecessary suffering to the individual or result in disfigurement.
- (c) Injury to health which may be defined as physical disability or mental impairment resulting from detention, internment, the acts of the Siamese or their Allies whereby the sufferer's ability after release to earn his living or enjoy the normal amenities of life is impaired.

<sup>1</sup> League of Nations, *Treaty Series*, Vol. CXVIII, p. 343.

<sup>2</sup> *British and Foreign State Papers*, Vol. 100, p. 338.



- (d) Bereavement resulting from causes covered by (a), (b) and (c) immediately above. Compensation shall be assessed either on the flat rate established by the Committee for all cases, or based on the pecuniary benefit which dependents might reasonably have expected to enjoy had the deceased remained alive, such compensation to be paid in a lump sum and not as pension or annuity.
- (e) Prejudice suffered from inability to meet fixed charges and periodical payments (a) arising in Siam, (b) arising elsewhere.
- ii. Compensation awarded under the Head of Personal Prejudice shall be payable in sterling or local currency at the claimant's option, provided that in the case of individuals who have retained continuous residence in Siam for at least ten years immediately preceding the filing of the claim, the Committee's consent must be obtained for payment in sterling. Where the validity of certain parts of the claim is contested, payment for the uncontested parts shall not be delayed.
9. Income tax shall not be charged on any sums paid as compensation in respect of loss of or damage to property or in respect of personal prejudice. When accumulated arrears on account of any income are paid, income tax shall be deducted only by reference to the individual amounts as they would have fallen due in each year and not by reference to the total sum in the year in which that sum is actually paid or charged to tax. The tax in respect of any one year shall not be assessed except in accordance with the laws and regulations and rates in force on 7th December 1941.
10. *Establishment.* The salaries of the members of the British Commonwealth-Siamese Claims Committee shall be paid by their respective Governments. Salaries of locally engaged staff and office expenditure shall be borne by the Siamese Government.
11. The word "British" used in the above paragraphs shall have the meanings set forth in Article 23 of the Agreement between the Governments of Great Britain and India on the one hand and the Siamese Government on the other dated 1st January 1946 for the Termination of the State of War, except as provided in 6 (g) above.

British Legation  
Bangkok  
6th January, 1947

## II

MINISTRY OF FOREIGN AFFAIRS  
SARANROM PALACE

6th January, 1947.

No. 101/2490

Monsieur le Ministre,

I have the honour to acknowledge the receipt of Your Excellency's Note of today's date with which you submit the text of a Memorandum of Understanding designed, as indicated in its first paragraph, to provide means for the early settlement of certain claims by British subjects against the Government of Siam, at the same time enquiring whether the text of the Memorandum in question is acceptable to His Majesty's Government.

In reply, I have the honour to inform Your Excellency that the above-mentioned text of a Memorandum of Understanding is acceptable to His Majesty's Government, and that I have, at the same time, addressed similar information to the Acting Consul-General for Australia and the Consul for India who have separately approached me on the subject.

I avail myself of this opportunity, Monsieur le Ministre, to renew to Your Excellency the assurance of my highest consideration.

Diréck JAYANÂMA  
Minister for Foreign Affairs

His Excellency  
Monsieur G. H. Thompson, C.M.G.  
His Britannic Majesty's Envoy Extraordinary  
and Minister Plenipotentiary  
Bangkok

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