

No. 3916

**NEW ZEALAND
and
FEDERAL REPUBLIC OF GERMANY**

Exchange of correspondence constituting an agreement concerning the Convention of 20 March 1928 regarding legal proceedings in civil and commercial matters. Bonn, 10 and 30 December 1952, 16 and 30 January and 5 March 1953, and Wellington, 23 February and 30 March 1955

Official texts: English and German.

Registered by New Zealand on 2 July 1957.

**NOUVELLE-ZÉLANDE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

Échange de correspondance constituant un accord relatif à la Convention du 20 mars 1928 concernant les actes de procédure en matières civile et commerciale. Bonn, 10 et 30 décembre 1952, 16 et 30 janvier et 5 mars 1953, et Wellington, 23 février et 30 mars 1955.

Textes officiels anglais et allemand.

Enregistré par la Nouvelle-Zélande le 2 juillet 1957.

No. 3916. EXCHANGE OF CORRESPONDENCE CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE CONVENTION OF 20 MARCH 1928² REGARDING LEGAL PROCEEDINGS IN CIVIL AND COMMERCIAL MATTERS. BONN, 10 AND 30 DECEMBER 1952, 16 AND 30 JANUARY AND 5 MARCH 1953, AND WELLINGTON, 23 FEBRUARY AND 30 MARCH 1955

I

H. B. McKenzie Johnston Esq.
Office of the United Kingdom High Commissioner in Germany
to Dr Fuchs
Federal Ministry of Foreign Affairs

OFFICE OF THE UNITED KINGDOM
HIGH COMMISSIONER
WAHNERHEIDE

10 December 1952

I have two further points to raise with you in connection with our present negotiations towards the reapplication of treaties.

The first concerns the Convention and Notes on Civil Procedure signed in London on 20th March, 1928² (RGB1 1928, II, page 623), which we are agreed to reapply (Annex A of your draft letter to the Secretary-General of the Allied High Commission). New Zealand acceded to this treaty with effect from 1st January, 1930 by virtue of a notification of 1st August, 1929³ given by His Majesty's Chargé d'Affaires in Berlin in a communication addressed to Dr. Stresemann (see RGB1 1929, II, page 637). This notification was given on behalf of His Majesty's Government in New Zealand pursuant to Article 17 of the Convention and the accession extended to the Cook Islands (including Niue) and to the Mandated Territory of Western Samoa.

The Government of New Zealand now desire that this Convention should be reapplied as between New Zealand, the Cook Islands and the Trust Territory

¹ Came into force on 1 January 1953, in accordance with the terms thereof.

² League of Nations, *Treaty Series*, Vol. XC, p. 287; Vol. XCII, p. 413; Vol. C, p. 252; Vol. CIV, p. 523; Vol. CVII, p. 525; Vol. CXXII, p. 356; Vol. CXXX, p. 451; Vol. CXXXIV, p. 408; Vol. CLVI, p. 208; Vol. CLX, p. 348, and Vol. CXCVII, p. 301.

³ League of Nations, *Treaty Series*, Vol. XC, p. 300.

of Western Samoa on the one hand and the German Federal Republic on the other hand. They also desire to give the following notice (pursuant to Article 17 (b) of the Convention) in place of that contained in numbered paragraph 2 of the communication addressed to Dr. Stresemann by His Majesty's Chargé d'Affaires in Berlin on the 1st August, 1929 :

“With regard to New Zealand, the authority to which judicial and extra-judicial documents and “letters of request” are to be transmitted is the Supreme Court of New Zealand, and communications should be addressed in the English language to the Registrar of that Court at Wellington.

“With regard to the Cook Islands, the authority to which such documents and “letters of request” are to be transmitted is the High Court of the Cook Islands. Communications concerning the service of documents and taking of evidence in the island of Niue should be addressed in the English language to the Registrar of the High Court of the Cook Islands at Niue. Communications concerning the service of documents and taking of evidence in the Cook Islands other than Niue should be addressed in the English language to the Registrar of the High Court of the Cook Islands at Raratonga.

“With regard to the Trust Territory of Western Samoa, the authority to which such documents and “letters of request” are to be transmitted is the High Court of Western Samoa, and communications should be addressed in the English language to the Registrar of that Court at Apia.”

Provided the Federal Government has no objection to this proposal I should be glad if you could arrange to have a suitable request after the usual style addressed to the Allied High Commission in order that the latter may give effect to the wish of the Government of New Zealand.

H. B. MCKENZIE JOHNSTON

II

Herr von Trützschler
Federal Ministry of Foreign Affairs

to Herr H. J. Joos
Secretary-General of the Allied High Commission

[GERMAN TEXT — TEXTE ALLEMAND]

[TRANSLATION¹ — TRADUCTION²]

AUSWÄRTIGES AMT
 BONN

FEDERAL MINISTRY OF FOREIGN AFFAIRS
 BONN

den 30. Dezember 1952

30 December 1952

Herr Generalsekretär,

Sir,

Mit Beziehung auf das Schreiben des Auswärtigen Amtes vom 31. Oktober 1952 – 512-00/24 (Z.V) V. 20861/52 – betreffend die Wiederverwendung deutsch-britischer Vorkriegsverträge beehre ich mich, noch folgendes ergänzend mitzuteilen :

With reference to the letter of the Federal Ministry of Foreign Affairs of 31 October 1952 — 512-00/24 (Z.V.) V. 20861/52 — concerning the re-application of pre-war treaties between the former German Reich and the United Kingdom, I have the honour to give you the following supplementary information :

I) Zu : "1.) Zu Anhang A" :

I. Ad "1) Appendix A" :

Die Bundesregierung stimmt weiterhin dem ihr inzwischen übermittelten Wunsch der Regierung von Neu-Seeland zu, das an 5. Stelle genannte Abkommen und Notenwechsel über den Rechtsverkehr auch im Verhältnis der Bundesrepublik Deutschland zu Neu-Seeland mit Wirkung vom 1. Januar 1953 zur Wiederverwendung zu bringen.

The Federal Government further agrees to the wish of the Government of New Zealand, transmitted to it in the meantime, that the Agreement listed under item 5 and the Exchange of Letters on Legal Relations be re-applied, with effect from 1 January 1953, also between the Federal Republic of Germany and New Zealand.

Genehmigen Sie, Herr Generalsekretär, den Ausdruck meiner ausgezeichneten Hochachtung.

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

Im Auftrag :
 v. TRÜTZSCHLER

By Order :
 v. TRÜTZSCHLER

¹ Translation by the Government of New Zealand.

² Traduction du Gouvernement néo-zélandais.

III

Herr von Trützschler
Federal Ministry of Foreign Affairs

to W. Neate Esq.
Secretary-General of the Allied High Commission

[GERMAN TEXT — TEXTE ALLEMAND]

[TRANSLATION¹ — TRADUCTION²]

AUSWÄRTIGES AMT
 BONN

FEDERAL MINISTRY OF FOREIGN AFFAIRS
 BONN

den 16. Januar 1953

16 January 1953

Herr Generalsekretär,

Sir,

Ich beehre mich, auf mein Schreiben vom 30. Dezember 1952 – 240-06 E II 17492/52 – über die Wiederanwendung deutsch-britischer Vorkriegsverträge zurückzukommen.

I have the honour to revert to my letter of 30 December 1952 – 240-06 E II 17492/52 — concerning the re-application of pre-war treaties between Germany and the United Kingdom.

In Absatz "I.) zu 1.) Zu Anhang A" des obengenannten Schreibens habe ich mitgeteilt, dass die Regierungen der Bundesrepublik Deutschland und von Neuseeland den Wunsch haben, "das an 5. Stelle genannte Abkommen und Notenwechsel über den Rechtsverkehr auch im Verhältnis der Bundesrepublik Deutschland zu Neuseeland mit Wirkung vom 1. Januar 1953 zur Wiederanwendung zu bringen."

In paragraph "I.) Ad 1.) Appendix A" of the letter referred to above I informed you that the Government of the Federal Republic of Germany and the Government of New Zealand have the wish "that the Agreement listed under item 5 and the Exchange of Letters on Legal Relations be re-applied, with effect from 1 January 1953, also between the Federal Republic of Germany and New Zealand."

Ergänzend dazu beehre ich mich mitzuteilen, dass das Einverständnis der beiden Regierungen sich auf die Wiederanwendung der vorbezeichneten Vereinbarungen im Verhältnis zwischen der Bundesrepublik Deutschland einerseits und Neuseeland, den Cook Inseln und dem Treuhandgebiet von West-Samoa andererseits erstreckt (New Zealand, The Cook Islands and the Trust Territory of Western Samoa).

I have the honour to add that the understanding reached between the two Governments extends to the re-application of the above-mentioned Agreement between the Federal Republic of Germany, on the one hand, and New Zealand, the Cook Islands, and the Trust Territory of Western Samoa, on the other.

¹ Translation by the Government of New Zealand.

² Traduction du Gouvernement néo-zélandais.

Die Regierung der Bundesrepublik Deutschland bittet daher, die in Absatz III des eingangs genannten Schreibens erbetene Erklärung der Verbindlichkeit entsprechend erweitern zu wollen.

Genehmigen Sie, Herr Generalsekretär, den Ausdruck meiner ausgezeichneten Hochachtung.

The Government of the Federal Republic of Germany therefore requests that the binding declaration, asked for in paragraph III of the letter referred to above, be extended to this effect.

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

Im Auftrag :
V. TRÜTZSCHLER

By Order :
VON TRÜTZSCHLER

IV

*W. Neate Esq.,
Secretary-General of the Allied High Commission
to Herr Ministerialdirektor Blankenhorn
Office of the Chancellor of the Federal Republic of Germany*

ALLIED HIGH COMMISSION FOR GERMANY
BONN

30 January 1953

Sir,

I have the honour to refer to your letter 240-06 E II 17492/52 dated 30 December 1952 (as amended by your letter 240-06 E II 531/53 of 16 January 1953) in which you informed the Allied High Commission that the Federal Government shares the wish of the Government of New Zealand to give effect from 1 January 1953 between the Federal Republic on the one hand and New Zealand, the Cook Islands and the Trust Territory of Western Samoa on the other to the Convention and Notes concerning Civil Procedure (RGB1. 1928, II, page 623) signed in London on 20 March 1928.

The Allied High Commission has no objection to the giving of effect to this Convention and hereby declares it to be applicable to the Federal Republic and binding upon it from 1 January 1953 in accordance with the agreement reached.

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

N. DAVIES
for W. NEATE
Secretary-General

V

*The Office of the United Kingdom High Commissioner to the Federal German Ministry
for Foreign Affairs*

OFFICE OF THE UNITED KINGDOM HIGH COMMISSIONER
WAHNERHEIDE

30 January 1953

The Office of the United Kingdom High Commissioner presents its compliments to the Federal Ministry for Foreign Affairs and has the honour to refer to the Convention and Notes on Civil Procedure signed in London on 20th March, 1928 (RGB1 1928, II, page 623) which have been declared by the Allied High Commission in their letter AGSEC (53) 75 of 30th January 1953 to be applicable between the Federal Republic on the one hand and New Zealand, the Cook Islands and the Trust Territory of Western Samoa on the other hand from 1st January 1953.

The Office of the United Kingdom High Commissioner has the honour to give on behalf of the Government of New Zealand the following notice pursuant to Article 17 (b) of the Convention :

“With regard to New Zealand, the authority to which judicial and extra-judicial documents and “letters of request” are to be transmitted is the Supreme Court of New Zealand, and communications should be addressed in the English language to the Registrar of that Court at Wellington.

“With regard to the Cook Islands, the authority to which such documents and “letters of request” are to be transmitted is the High Court of the Cook Islands. Communications concerning the service of documents and taking of evidence in the island of Niue should be addressed in the English language to the Registrar of the High Court of the Cook Islands at Niue. Communications concerning the service of documents and taking of evidence in the Cook Islands other than Niue should be addressed in the English language to the Registrar of the High Court of the Cook Islands at Raratonga.

“With regard to the Trust Territory of Western Samoa, the authority to which such documents and “letters of request” are to be transmitted is the High Court of Western Samoa, and communications should be addressed in the English language to the Registrar of that Court at Apia.”

The Office of the United Kingdom High Commissioner would be glad to receive confirmation from the Federal Ministry for Foreign Affairs that the Federal Government accepts this notice.

VI

*The Federal German Ministry of Foreign Affairs
to the Office of the United Kingdom High Commissioner*

[GERMAN TEXT — TEXTE ALLEMAND]

[TRANSLATION¹ — TRADUCTION²]

AUSWÄRTIGES AMT
BONN

FEDERAL MINISTRY OF FOREIGN AFFAIRS
BONN

den 5. März 1953

5 March 1953

Das Auswärtige Amt beehrt sich, den Eingang der Note vom 30. Januar 1953 betreffend die Wiederanwendung des Abkommens über den Rechtsverkehr vom 20. März 1928 im Verhältnis zu Neuseeland zu bestätigen und das Einverständnis der Bundesregierung mitzuteilen, dass das Abkommen über den Rechtsverkehr vom 20. März 1928 (RGB1. 1928 II S. 623/RGB1. 1929 II S. 637) im Verhältnis zwischen der Bundesrepublik Deutschland einerseits und Neuseeland, den Cookinseln und dem Treuhandgebiet von West-Samoa andererseits mit der Massgabe wieder angewendet wird, dass auf Grund des Art. 17 (b) folgende Bestimmungen gelten :

The Federal Ministry of Foreign Affairs has the honour to acknowledge receipt of the note of 30 January 1953 concerning the reapplication of the Agreement on Legal Relations of 20 March 1928 with New Zealand and to inform you that the Federal Government agrees that the Agreement on Legal Relations of 20 March 1928 (RGB1. 1928 II, page 623/RGB1. 1929 II, page 637) be reapplied between the Federal Republic of Germany, on the one hand, and New Zealand, the Cook Islands, and the Trust Territory of Western Samoa, on the other, with the proviso that pursuant to Article 17 (b) the following provisions are applicable :

[See note V — Voir note V]

[See note V]

Der Herr Bundesminister der Justiz ist gebeten worden, innerhalb seines Geschäftsbereiches die zuständigen Behörden durch Rundverfügung entsprechend zu unterrichten.

The Federal Minister of Justice has been requested to inform the appropriate authorities of his Department to this effect through circular decree.

Eine Bekanntmachung über die Wiederanwendung des Abkommens wird demnächst im Bundesgesetzblatt, Teil II, veröffentlicht werden.

A notification concerning the reapplication will be published in the near future in the Federal Law Gazette, Part II.

¹ Translation by the Government of New Zealand.

² Traduction du Gouvernement néo-zélandais.

VII

*The Legation of the Federal Republic of Germany, Wellington
to the Ministry of External Affairs of New Zealand*

LEGATION OF THE FEDERAL REPUBLIC OF GERMANY
WELLINGTON

23 February 1955

The Legation of the Federal Republic of Germany presents its compliment to the Ministry of External Affairs and has the honour to inform that the Government of the Federal Republic would appreciate if the German-British Agreement on Legal Proceedings of March 20, 1928, reapplied between Germany and New Zealand (including the Trust Territory of Western Samoa) as from January 1, 1953, could also be reapplied to the *Land* Berlin (West Berlin) as from same date. The necessary legal conditions in Berlin have already been fulfilled.

VIII

*The Ministry of External Affairs of New Zealand
to the Legation of the Federal Republic of Germany, Wellington*

MINISTRY OF EXTERNAL AFFAIRS
WELLINGTON

30 March 1955

The Ministry of External Affairs presents its compliments to the Legation of the Federal Republic of Germany and has the honour to refer to the Legation's Note of 23 February 1955 proposing that the re-application in relations between New Zealand and the Federal Republic of the Convention between the United Kingdom and Germany Regarding Legal Proceedings in Civil and Commercial Matters signed at London on 20 March 1928, should be regarded as including the *Land* Berlin.

The New Zealand authorities are quite agreeable to this course and the Convention will be regarded as having been re-applied in relations between New Zealand, the Cook Islands (including Niue) and the Trust Territory of Western Samoa on the one hand, and the Federal Republic of Germany including the *Land* Berlin on the other, as from 1 January 1953.

A. D. McI.