

No. 4149

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**UNITED KINGDOM  
OF GREAT BRITAIN AND NORTHERN IRELAND  
and  
FEDERATION OF MALAYA**

**Agreement (with annexes and exchange of letters) on external  
defence and mutual assistance. Signed at Kuala  
Lumpur, on 12 October 1957**

*Official text: English.*

*Registered by the United Kingdom of Great Britain and Northern Ireland on  
8 January 1958*

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

**Accord (avec annexes et échange de lettres) relatif à la  
défense extérieure et à l'aide mutuelle. Signé à Kuala-  
Lumpur, le 12 octobre 1957**

*Texte officiel anglais.*

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le  
8 janvier 1958.*

No. 4149. AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FEDERATION OF MALAYA ON EXTERNAL DEFENCE AND MUTUAL ASSISTANCE. SIGNED AT KUALA LUMPUR, ON 12 OCTOBER 1957

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Whereas the Federation of Malaya is fully self-governing and independent within the Commonwealth ;

And whereas the Government of the Federation of Malaya and the Government of the United Kingdom of Great Britain and Northern Ireland recognise that it is in their common interest to preserve peace and to provide for their mutual defence ;

And whereas the Government of the Federation of Malaya has now assumed responsibility for the external defence of its territory ;

Now therefore the Government of the Federation of Malaya and the Government of the United Kingdom of Great Britain and Northern Ireland have agreed as follows :

*Article I*

The Government of the United Kingdom undertake to afford to the Government of the Federation of Malaya such assistance as the Government of the Federation of Malaya may require for the external defence of its territory.

*Article II*

The Government of the United Kingdom will furnish the Government of the Federation of Malaya with assistance of the kind referred to in Annex 1<sup>2</sup> of this Agreement, as may from time to time be agreed between the two Governments for the training and development of the armed forces of the Federation.

*Article III*

The Government of the Federation of Malaya will afford to the Government of the United Kingdom the right to maintain in the Federation such naval, land and

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<sup>1</sup> Came into force on 12 October 1957, upon signature, in accordance with article XII.

<sup>2</sup> See p. 68 of this volume.

air forces including a Commonwealth Strategic Reserve as are agreed between the two Governments to be necessary for the purposes of Article I of this Agreement and for the fulfilment of Commonwealth and international obligations. It is agreed that the forces referred to in this Article may be accompanied by authorised service organisations, and civilian components (of such size as may be agreed between the two Governments to be necessary) and dependants.

#### *Article IV*

The Government of the Federation of Malaya agrees that the Government of the United Kingdom may for the purposes of this Agreement have, maintain and use bases and facilities in the Federation in accordance with the provisions of Annexes 2<sup>1</sup> and 4<sup>2</sup> of this Agreement and may establish, maintain and use such additional bases and facilities as may from time to time be agreed between the two Governments. The Government of the United Kingdom shall at the request of the Government of the Federation of Malaya vacate any base or part thereof; in such event the Government of the Federation of Malaya shall provide at its expense agreed alternative accommodation and facilities.

#### *Article V*

The conditions contained in Annex 3<sup>3</sup> of this Agreement shall apply to the forces, the authorised service organisations, the civilian components and the dependants referred to in Article III while in the territory of the Federation of Malaya in pursuance of this Agreement.

#### *Article VI*

In the event of a threat of armed attack against any of the territories or forces of the Federation of Malaya or any of the territories or protectorates of the United Kingdom in the Far East or any of the forces of the United Kingdom within those territories or protectorates or within the Federation of Malaya, or other threat to the preservation of peace in the Far East, the Governments of the Federation of Malaya and of the United Kingdom will consult together on the measures to be taken jointly or separately to ensure the fullest co-operation between them for the purpose of meeting the situation effectively.

#### *Article VII*

In the event of an armed attack against any of the territories or forces of the Federation of Malaya or any of the territories or protectorates of the United King-

<sup>1</sup> See p. 68 of this volume.

<sup>2</sup> See p. 90 of this volume.

<sup>3</sup> See p. 78 of this volume

dom in the Far East or any of the forces of the United Kingdom within any of those territories or protectorates or within the Federation of Malaya, the Governments of the Federation of Malaya and of the United Kingdom undertake to co-operate with each other and will take such action as each considers necessary for the purpose of meeting the situation effectively.

#### *Article VIII*

In the event of a threat to the preservation of peace or the outbreak of hostilities elsewhere than in the area covered by Articles VI and VII the Government of the United Kingdom shall obtain the prior agreement of the Government of the Federation of Malaya before committing United Kingdom forces to active operations involving the use of bases in the Federation of Malaya ; but this shall not affect the right of the Government of the United Kingdom to withdraw forces from the Federation of Malaya.

#### *Article IX*

The Government of the United Kingdom will consult the Government of the Federation of Malaya when major changes in the character or deployment of the forces maintained in the Federation of Malaya as provided for in accordance with Article III are contemplated.

#### *Article X*

The Government of the Federation of Malaya and the Government of the United Kingdom will afford each other an adequate opportunity for comment upon any major administrative or legislative proposals which may affect the operation of this Agreement.

#### *Article XI*

For the purpose of this Agreement, unless the context otherwise requires :

“bases” means areas in the Federation made available by the Government of the Federation of Malaya to the Government of the United Kingdom for the purposes of this Agreement and includes the immovable property and installations situated thereon or constructed therein ;

“force” means any body, contingent, or detachment of any naval, land or air forces, or of any such forces, including a Commonwealth Strategic Reserve when in the territory of the Federation pursuant to this Agreement but shall not include any forces of the Federation of Malaya ;

“the Federation” means the Federation of Malaya ;

“Service authorities” means the authorities of a force who are empowered by the law of the country to which the force belongs to exercise command or jurisdiction over members of a force or civilian component or dependants ;

“Federation authorities” means the authority or authorities from time to time authorised or designated by the Government of the Federation of Malaya for the purpose of exercising the powers in relation to which the expression is used ;

“civilian component” means the civilian personnel accompanying a force, who are employed in the service of a force or by an authorised service organisation accompanying a force, and who are not stateless persons, nor nationals of, nor ordinarily resident in, the Federation ;

“authorised service organisation” means a body organised for the benefit of, or to serve the welfare of, a force or civilian component or dependants ;

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

“service vehicles” means vehicles, including hired vehicles, which are exclusively in the service of a force or authorised service organisation ;

the expression “of a force” used in relation to “vessels” or “aircraft” includes vessels and aircraft on charter for the service of a force.

#### *Article XII*

This Agreement shall come into force on the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at Kuala Lumpur in duplicate, this 12th day of October, 1957.

For the Government of the United Kingdom of Great Britain  
and Northern Ireland :

*(Signed)* G. W. TORY

For the Government of the Federation of Malaya :

*(Signed)* TUNKU ABDUL RAHMAN PUTRA

## ANNEX 1

## ASSISTANCE BY THE UNITED KINGDOM TO THE ARMED FORCES OF THE FEDERATION

The Government of the United Kingdom, having already undertaken to finance certain capital costs of expansion of the armed forces of the Federation further agree to foster the closest co-operation between the armed forces of the two countries, including joint training of unit formations ; and to provide, if so requested by the Government of the Federation of Malaya :

- (a) personnel to assist in the staffing, administration and training of the armed forces of the Federation ;
- (b) facilities, including instructional courses abroad, for training members of the armed forces of the Federation ;
- (c) expert advice and assistance in operational and technical matters ;
- (d) use of facilities within the United Kingdom bases for the maintenance and logistic support of the armed forces of the Federation ;
- (e) assistance in the supply of equipment for the armed forces of the Federation.

## ANNEX 2

## BASES, TRAINING AND FACILITIES

*Section 1—Bases and Land*

(1) The registration of ownership, and the terms of tenure, of land held by the Government of the United Kingdom now or in the future, and the arrangements for acquiring further land, and for the disposal of land or property held, acquired, purchased, constructed or installed at the expense of the Government of the United Kingdom shall be in accordance with the understandings reached between the Government of the United Kingdom and the Government of the Federation of Malaya as set out in Annex 4.

(2) The Government of the Federation of Malaya agrees to afford the Government of the United Kingdom an adequate opportunity to comment before any development is authorised in the vicinity of the bases that would hamper their operation or endanger their security.

(3) The Government of the United Kingdom shall not be obliged on abandoning the use or occupation of any State land or property to leave such land or property in the condition in which it was before such use or occupation.

*Section 2—Training*

(1) The Government of the United Kingdom may use such defined land and sea areas and facilities outside the bases as may be agreed between the Government of the United Kingdom and the Government of the Federation of Malaya for the purpose of periodic training and exercises of the force.

(2) The Government of the United Kingdom shall give the Government of the Federation of Malaya such prior notice of their intention to use these further areas and facilities as may be agreed between the two Governments ; and the Government of the Federation of Malaya shall take such measures as may be agreed between the two Governments to restrict civilian movement and activity in these areas during their use by the forces, and generally to facilitate the carrying out of such exercises.

#### *Section 3—Survey*

The Government of the United Kingdom may with the agreement of the Federation authorities conduct such topographical, hydrographical, geodetic and other surveys as are required for the purposes of this Agreement in and over the territory and territorial waters of the Federation. The results of such surveys, including relevant maps, air photographs, triangulation and other control data, will be made available to the Federation authorities if required.

#### *Section 4—Movement of Forces, Vessels, Aircraft and Vehicles*

(1) The Government of the Federation of Malaya shall grant to the forces, civilian components and dependants, and vessels, aircraft and vehicles of the forces, freedom of entry to and egress from and movement between the bases by water, land and air. Her Majesty's ships may visit Federation ports on reasonable notification.

(2) The Government of the Federation of Malaya shall allow the forces, civilian components and dependants and the vessels, aircraft and vehicles of the forces freedom of movement in and over the territory and territorial waters of the Federation of Malaya for the purposes of this Agreement. Aircraft movements shall normally be made in accordance with such regulations of the Government of the Federation of Malaya for the control of aircraft as may be agreed with the Service authorities from time to time, and the movement of vessels shall be in accordance with the normal international practice and any port regulations.

(3) (a) The Government of the United Kingdom shall have the right to pass explosives (including ammunition) through the ports of the Federation and to transport them to any place and to move them to any extent reasonably necessary within the Federation.

(b) The Government of the United Kingdom will indemnify the Port authorities and the Government of the Federation against any legally enforceable claim presented against them by reason of the happening during the exercise of any of the rights aforesaid in breach of Port bye-laws or other laws in the Federation in respect of the transport or storage of explosives or any explosion of such explosives.

(c) The Government of the United Kingdom will pay compensation to the port authorities and to the Government of the Federation for any damage to property of those authorities or of that Government, as the case may be, resulting from any explosion of such explosives during the exercise by the Government of the United Kingdom of any of the rights aforesaid.

(d) The indemnity or compensation in any case arising under subparagraph (b) or (c) of this paragraph shall be such a sum as is agreed between the Government of the United Kingdom and the port authorities or the Government of the Federation, as the case may be, after having taken into account all the circumstances of the case.

(e) In this section, the expression "Government of the Federation" includes any State Government or local authority or any statutory authority other than port authorities exercising powers vested in it by Federal or State law.

#### *Section 5—Control of Aircraft, Vessels and Vehicles*

(1) Save as may be otherwise agreed between the Government of the United Kingdom and the Government of the Federation of Malaya, the Government of the United Kingdom may exercise such control over aircraft, vessels and vehicles entering, leaving and within the bases as may be required for the efficient operation, safety and security of the bases.

(2) The Government of the Federation of Malaya will arrange for such control over aircraft, vessels and vehicles entering, leaving and within areas near the bases as is agreed between the Government of the United Kingdom and the Government of the Federation of Malaya to be necessary to ensure the efficient operation, safety and security of the bases.

#### *Section 6—Navigational Aids*

The Government of the Federation of Malaya shall allow the Government of the United Kingdom to instal throughout the territory and territorial waters of the Federation of Malaya such lights and other aids to navigation as the Government of the United Kingdom may deem necessary to ensure the proper operation and safety of the forces, provided that the location of any such aid shall be agreed with the Government of the Federation of Malaya.

#### *Section 7—Power to Construct and use Telecommunications, Radar and Broadcasting Systems*

(1) The Government of the United Kingdom shall be entitled to link new and existing telecommunications (including radio and electromagnetic systems) and radar systems with the systems of the Government of the Federation of Malaya and with systems outside the Federation of Malaya on terms and conditions to be agreed between the Government of the United Kingdom and the Government of the Federation of Malaya.

(2) The Government of the Federation of Malaya shall facilitate the transmission of broadcast programmes suitable for members of the forces, the civilian components and dependants, and shall, if requested by the Service authorities, permit such authorities to make arrangements for relaying broadcasts within and between the bases.



(3) The Government of the United Kingdom shall continue to use and be responsible for existing registered frequencies and powers of emission for their telecommunications, radio and radar systems in the Federation, unless otherwise agreed between the Government of the United Kingdom and the Government of the Federation of Malaya ; and there shall be agreement between the two Governments about the use by the Government of the United Kingdom of new frequencies and powers of emission for their telecommunications, radio and radar systems in the Federation ; and the Government of the Federation of Malaya, for its part, undertakes to notify the Government of the United Kingdom of any proposal to introduce any new frequencies or powers of emission for the Government of the Federation of Malaya's telecommunications, radio and radar systems in the Federation.

#### *Section 8—Postal Services*

The Government of the Federation of Malaya shall permit the Government of the United Kingdom to operate if necessary post offices within the bases, and postal services in and between the bases and between the bases and other post offices within and outside the territory of the Federation of Malaya for the exclusive use of the authorities of the Government of the United Kingdom and members of the forces, civilian components and dependants, under arrangements to be agreed with the Government of the Federation of Malaya.

#### *Section 9—Local Purchases*

Subject to any wishes expressed by the Government of the Federation of Malaya, the Government of the United Kingdom and their contractors and authorised service organisations shall purchase locally goods and commodities which they require for the purposes of this Agreement if they are available at a suitable price and are of the standard required.

#### *Section 10—Employment of Local Civilians*

(1) Subject to any wish expressed by the Government of the Federation of Malaya, the Government of the United Kingdom and their contractors and authorised service organisations shall employ such local labour as they may require, provided the labour is available and qualified to do the work. The pay and conditions of employment of such labour shall conform to those obtaining in good employment in the district in which the work is carried out, including those generally prevailing under Federation law. Having regard to the special purpose of the bases, the Government of the Federation of Malaya agrees that in exceptional circumstances laws relating to public health and public safety and for the protection of workers may be applied in a manner that will not hamper the operation of the bases for the purposes of this Agreement.

(2) In the recruitment of local civilians for clerical work, preference shall be given to persons eligible for employment in the service of the Federation Government.

*Section 11—Recruitment for enlistment in the Forces*

Subject to any wish expressed by the Government of the Federation of Malaya, the Government of the United Kingdom may recruit any persons in the Federation of Malaya for voluntary enlistment in the forces.

*Section 12—Use of Public Services and Facilities*

(1) The Government of the United Kingdom may employ and use for the forces, authorised service organisations, civilian components and dependants any and all public utilities, other services and facilities, airfields, ports, harbours, roads, highways, railways, bridges, viaducts, canals, lakes, rivers and streams in the Federation of Malaya under conditions generally comparable with those applicable from time to time to the armed forces of the Federation of Malaya, unless, in special circumstances, the Government of the Federation of Malaya may otherwise determine.

(2) Where, at the request of the Government of the United Kingdom, roads or other public services are developed or maintained to a level which would not have been needed but for such request, the Government of the United Kingdom shall make a contribution towards the cost of such development or maintenance as the case may be on a basis to be agreed between the Government of the United Kingdom and the Government of the Federation of Malaya.

*Section 13—Construction, Development and Maintenance of Facilities*

(1) The Government of the United Kingdom may with the agreement of the Government of the Federation of Malaya construct, develop and maintain facilities including roads, railways, bridges, harbours, airfields, channels, entrances and anchorages which are necessary for the purposes of this Agreement.

(2) Where such facilities serve the needs of both Governments, the costs shall be borne by the two Governments in such proportions as are agreed between them.

*Section 14—Generation and Distribution of Light, Power and Water and Winning of Construction and Building Materials*

(1) Within the bases and in such places outside the bases as are agreed with the Government of the Federation of Malaya, the Government of the United Kingdom may generate light and power for use in the bases, and transmit and distribute water and such light and power between the source and any base by means of cables, pipes or in any other way whatsoever.

(2) The Government of the United Kingdom may, but only in such places whether within or outside the bases as are agreed with the Government of the Federation of Malaya, search for and win water and search for and win materials for construction or building undertaken by or on behalf of the Government of the United Kingdom for the purpose of this Agreement.

## ANNEX 3

## STATUS OF FORCES

*Section 1—Criminal Jurisdiction*

(1) Subject to the provisions of this section :

- (a) the Service authorities shall have the right to exercise within the Federation all criminal and disciplinary jurisdiction conferred on them by the law of the country to which the force belongs over members of a force or civilian component or dependants ;
- (b) the Federation authorities shall have jurisdiction over the members of a force or civilian component or dependants with respect to offences committed within the Federation and punishable by the law of the Federation.

(2)—(a) The Service authorities shall have the right to exercise exclusive jurisdiction over members of a force or civilian component or dependants with respect to offences punishable by the law of the country to which the force belongs but not by the law of the Federation.

(b) The Federation authorities shall have the right to exercise exclusive jurisdiction over members of a force or civilian component or dependants with respect to offences punishable by the law of the Federation but not by the law of the country to which the force belongs.

(3) In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply :

- (a) the Service authorities shall have the primary right to exercise jurisdiction over members of a force or civilian component or dependants in relation to :
  - (i) offences against the security of the country to which the force belongs, offences solely against the property of that country or against the person or property of another member of the force or civilian component or of a dependant ;
  - (ii) offences arising out of any act or omission done in the performance of official duty ;
- (b) in the case of any other offence, the Federation authorities shall have the primary right to exercise jurisdiction ;
- (c) if the authorities having the primary right decide not to exercise jurisdiction, they shall notify the other authorities as soon as practicable. The authorities having the primary right of jurisdiction shall give sympathetic consideration to a request from the other authorities for a waiver of their right in cases where those other authorities consider such waiver to be of particular importance, or where suitable punishment can be applied by disciplinary action without recourse to a court.

(4) The foregoing provisions of this section shall not confer any right on the Service authorities to exercise jurisdiction over persons who are nationals of or ordinarily resident

in the Federation unless they are members of the force or civilian component or dependants.

(5)—(a) The Service authorities and the Federation authorities shall assist each other in arresting members of a force or civilian component or dependants and handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions. The Service authorities shall assist the Federation authorities in the arrest within the bases of other offenders against the laws of the Federation.

(b) The Federation authorities shall give prompt notification to the Service authorities of the arrest of any member of a force or civilian component or a dependant.

(c) The custody of an accused member of a force or civilian component or a dependant over whom the Federation is to exercise jurisdiction shall remain with the Service authorities until he is brought to trial by the Federation authorities.

(6)—(a) The Service and Federation authorities shall assist each other in carrying out all necessary investigations into offences and in the collection and production of evidence relating to an offence. For the purpose of this paragraph, members of the police force of the Federation may, by arrangement with the Service authorities, have reasonable access to the bases, except to premises which are enclosed and under guard.

(b) The Service and Federation authorities shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

(7) Where an accused has been tried in accordance with the provisions of this Section by the Service authorities or the Federation authorities as the case may be, and has been acquitted, or has been convicted, he may not be tried again for the same offence by the Service authorities or the Federation authorities as the case may be. However, nothing in this paragraph shall prevent the Service authorities from trying a member of a force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the Federation authorities.

(8) Whenever a member of a force or civilian component or a dependant is prosecuted under the jurisdiction of the Federation he shall be entitled :

- (a) to a prompt and speedy trial ;
- (b) to be informed in advance of trial of the specific charge or charges made against him ;
- (c) to be confronted with the witnesses against him ;
- (d) to have compulsory process for obtaining witnesses in his favour if they are within the jurisdiction of the Federation ;
- (e) to have legal representation of his own choice for his defence, or to have free or assisted legal representation under the conditions prevailing for the time being in the Federation ;
- (f) to have the services of a competent interpreter ; and
- (g) to communicate with a representative of his Government and, when the rules of the court permit, to have a representative of that Government present at his trial.

*Section 2—Security*

(1) The Service authorities may take such measures as they deem necessary to ensure the security of the bases and the equipment, property, records and official information of the forces.

(2) The Federation authorities will co-operate with the Service authorities in taking such steps as from time to time may be necessary to ensure the security of the forces, members of the forces or civilian component and dependants and their property.

(3) The Government of the Federation of Malaya undertakes to enact such legislation and to take such other action as is necessary to ensure the adequate security within the territory of the Federation of the bases and the equipment, property, records and official information of the forces, and the punishment of persons who contravene the laws of the Federation relating thereto.

(4) A force shall have the right to maintain Service police for the maintenance of discipline within the force and for the security of the bases which it occupies. Members of such police may, with the agreement of and in liaison with the Federation authorities, be employed outside the bases insofar as such employment may be necessary to maintain the security of the bases or discipline and order among the members of the force.

(5) A force shall have the right to raise and maintain civil police services for the maintenance of order and security within any bases which it occupies. With the agreement of the Federation authorities, members of these police services may be employed outside the bases under arrangements made between the Service and Federation authorities.

*Section 3—Compulsory Service*

Members of a force or civilian component or dependants shall not be subject to any legislation in the Federation relating to liability for compulsory service of any kind.

*Section 4—Carriage of Arms*

Members of a force and members of the civil police services mentioned in Section 2 (5) above may possess and carry arms when authorised to do so by their orders, except that the members of the civil police when employed outside the bases shall carry arms only with the agreement of the Federation authorities.

*Section 5—Exchange Control*

(1) Members of a force or civilian component and dependants shall remain subject to the foreign exchange regulations of the country to which the force belongs, but as regards acts done in the territory of the Federation shall also be subject to the exchange control regulations of the Federation in force from time to time.

(2) Remittances between the Federation and the country to which a force or a member of a force belongs shall be freely permitted in respect of :

- (a) funds derived by members of the force or civilian component from services or employment in connection with the purposes of this Agreement ;
- (b) funds belonging to an authorised service organisation and derived from its recognised trading activities ; and
- (c) funds derived by members of the force or civilian component or dependants or by an authorised service organisation from sources outside the Federation, subject to the regulations of the country to which the force belongs ;

provided that funds remitted into the Federation may be freely remitted back only to the country from which they originally came, or to some other country within the Sterling Area.

(3) The preceding paragraphs shall not preclude the transmission into or outside the Federation of foreign exchange instruments representing the official funds of a force.

- (4) This section shall not apply to persons ordinarily resident in the Federation.

#### *Section 6—Import, Export, Taxation, etc.*

(1) Save as provided expressly to the contrary in this Annex, members of a force or civilian component and dependants shall be subject to the laws and regulations administered by the customs authorities of the Federation.

(2) Official documents under official seal shall not be subject to customs inspection. The package shall be accompanied by a certificate which states that only official documents are enclosed. Samples of the official seals will be lodged with the customs authorities.

(3)—(a) A force may import free of duty equipment, material, vehicles, provisions, supplies and other goods for the exclusive use or consumption of the force or civilian component.

(b) On and after the day on which the Federation attains independence, an authorised service organisation may continue to import provisions, supplies and other goods for the exclusive use or consumption of the members of a force or civilian component or dependants on the same terms as to exemption or proportionate exemption from duty as those in force in the Federation on the day immediately preceding that day, provided that these arrangements may from time to time be varied by agreement between the Government of the United Kingdom and the Government of the Federation of Malaya.

(c) A member of a force or civilian component or a dependant may import free of duty such used portable articles and household effects, and goods by parcel post, the duty free importation of which is permitted such a member or dependant under the law in force in the Federation on the day immediately preceding the attainment of independence by the Federation, provided that these arrangements may from time to time be varied by agreement between the Government of the United Kingdom and the Government of the Federation of Malaya.

(4) A member of a force or civilian component may at the time of or within a reasonable period after his entry into the Federation import temporarily and free of duty a private motor vehicle for his personal use and that of his dependants.

(5) Items which have been imported duty free under paragraphs (3) or (4) of this section :

- (a) may be re-exported freely, provided that in the case of goods imported under paragraph 3 a certificate is presented to the customs office ; the customs authorities may verify that goods re-exported are as described in the certificate and have been imported under the conditions of paragraphs (3) or (4) as the case may be ;
- (b) shall not, if they are owned by a member of a force or civilian component, be disposed of in the Federation by way of either sale or gift except to members of a force or civilian component or dependants. Disposal otherwise may only be made on such conditions, including payment of duty and tax and compliance with the requirements of the controls of trade and exchange as may be imposed by the competent Federation authorities ;
- (c) may, if they are owned by a force or by an authorised service organisation, be disposed of in the Federation by public sale, auction, tender or private treaty, provided that :—
  - (i) before doing so the authorities concerned shall first offer them for sale at a reasonable price having regard to their condition and other relevant circumstances to the Government of the Federation of Malaya unless the latter shall have indicated that it is not interested in their acquisition ;
  - (ii) in so disposing of stores or goods the authorities concerned shall be liable to pay any duties which would be payable on the items so disposed of as if they were imported by a private individual into the Federation at the date of such disposal.

(6) The arrangements in paragraph (5) (c) above shall cover only the sale or disposal of unforeseen surpluses or damaged items of official stores and equipment. Any such sale or disposal shall not be made in a manner or with such frequency as seriously to compete with or adversely affect legitimate trade or industry in the territory of the Federation. The Government of the United Kingdom or the Government of the Federation of Malaya will at the request of the other Government be ready at any time to enter into discussions for this purpose should it appear necessary to that other Government.

(7) The Service authorities shall be allowed delivery of all fuel, oil and lubricants exclusively for use in service vehicles, aircraft and vessels of a force or civilian component or an authorised service organisation, or in the bases, free of all duties and taxes.

(8) In paragraphs (3)—(7) of this section :

- (a) "duty" means customs duties and all other duties, taxes and *ad valorem* registration fees payable on importation and exportation as the case may be, except dues and taxes which are no more than charges for services rendered ;
- (b) "importation" includes withdrawal from customs warehouses or continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in the Federation.

(9) The movement of vessels, vehicles or aircraft of the forces in and over the territory and territorial waters of the Federation of Malaya shall be free from compulsory pilotage, harbour charges and all dues or tolls, except charges for specific services rendered at the request of the Service authorities of a force.

(10) Service vehicles of a force or civilian component or an authorised service organisation shall be exempt from any regulations relating to the registration of vehicles in the Federation and from any tax payable in respect of the use of such vehicles on the roads of the Federation.

(11) The Federation authorities shall accept as valid, without a driving test or fee, the driving permit or licence issued by the Service authorities to a member of a force or civilian component for the purpose of driving service vehicles. For the purpose of driving other vehicles, a driving permit or licence issued by the Federation authorities must be obtained.

(12) Authorised service organisations shall be exempt in the Federation from taxes on income and profits, and shall not be liable to the Federation laws governing the constitution, management, conduct and taxation of companies or other organisations as such.

(13) The Government of the Federation of Malaya shall exempt from tax the official emoluments paid from United Kingdom or other Commonwealth Government funds to members of a force or civilian component whilst in the Federation of Malaya, in respect of their offices under the United Kingdom or other Commonwealth Governments, if such emoluments are subject to an income tax in the United Kingdom or other Commonwealth country as the case may be, provided that nothing herein contained shall prejudice any claims for exemption or relief from taxation under arrangements for the avoidance of double taxation to which the Government of the Federation of Malaya is a party.

(14) Where land or buildings held by the Service authorities in the Federation of Malaya for the purposes of this Agreement fall within the area of a local government authority, the Service authorities shall make to the Government of the Federation of Malaya a contribution ascertained on a basis agreed between the Government of the United Kingdom and the Government of the Federation of Malaya which will take into account the extent to which the facilities or services rendered by that local authority, and normally covered by the general rating assessment, are enjoyed by the forces, and the services and facilities provided or undertaken by the forces on their own behalf.



(15) The Service authorities shall take all possible measures, and on request shall render all assistance within their power to the Federation authorities, to prevent misuse of the privileges granted and to ensure proper discharge of the obligations imposed under this section and the immediately preceding section. In particular the Service authorities shall by appropriate administrative instructions bring their rights and obligations to the notice of all members of the force and the civilian component and dependants.

(16) This section shall not apply to persons ordinarily resident in the Federation.

#### *Section 7—Entry and Exit*

Subject to compliance with the formalities established by the Federation relating to entry and departure members of a force or a civilian component or dependants shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of the Federation. They shall also be exempt from the regulations of the Federation authorities on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territory of the Federation.

### ANNEX 4

#### LAND TENURE AND DISPOSAL

##### *Introductory*

(1) The primary need for the United Kingdom Service authorities is security of tenure over the lands they occupy in the Federation of Malaya.

(2) Except in the case of one or two old alienations they hold no registered title in their own name over any of the lands which they have acquired and paid for. In the Malay States (except in the cases mentioned above), in those cases where the documents of title have been issued, the Public Trustee is registered as the legal owner holding the lands in trust for the Service authorities. In other cases the issue of the documents of title is still pending but as soon as the documents are issued they will be registered in the name of the Public Trustee.

(3) In the former Settlements of Penang and Malacca however the practice has been for the title to all land acquired for Service purposes to be vested in the Crown.

(4) Now that the Federation of Malaya is an independent sovereign state the practice hitherto followed both in the Malay States and in Penang and Malacca requires amendment.

(5) It is the accepted policy of the Government of the Federation of Malaya that no foreign or Commonwealth Government shall be permitted to own or hold title to land in the Federation except for consular or diplomatic purposes.

*Registration of Interest*

(6) In view of the foregoing, and in order to permit the Service authorities to hold a registrable interest in the lands they occupy, the Government of the Federation of Malaya undertakes to enact legislation which will permit the United Kingdom Service authorities through their representative to hold registrable interest in land and property in accordance with the provisions of this Annex for the purposes of this Agreement, and which, with that object, will provide also for the incorporation in the Federation of the representative of the Service authorities.

*Titles to Land*

(7) The Government of the Federation of Malaya will grant to the Service authorities leases initially for a period of 30 years with a condition that the Government of the Federation of Malaya will grant to the Service authorities, if those authorities so desire, a further lease or leases on the same terms and for such further periods as may be necessary to implement the terms of this Agreement.

(8) Where the title under which the land was previously alienated does not enure for 30 years, the lease shall be for that lesser period. It shall be open to the Service authorities to seek a renewal of such lease on terms to be agreed.

*Cost of Acquisition, Quit Rents and other Charges*

(9) The Service authorities shall bear the cost of the purchase, compulsory acquisition or alienation of further land required by them for the purposes of this Agreement. They shall also pay all fees due and payable in respect of any land transaction, annual quit rent and other charges imposed by law for the time being in force in respect of any land held by them for the purpose of this Agreement. The expression "other charges" does not include local authority rates which are dealt with under Annex 3, Section 6 (14).

*Temporary Occupation Licence*

(10) When State Land is required for a short period and no permanent structure or work is intended to be constructed on such land, the Service authorities may, with the agreement of the Government of the Federation of Malaya, occupy the land in Temporary Occupation Licence direct from the State Government on such terms as may be agreed with such State Government.

*Private Hirings*

(11) The approval of the Federation or State Governments will not be necessary in the case of hirings of property by the Service authorities including leases not exceeding three years certain from private owners for the purpose of accommodating members of a force or civilian component or dependants.

*Use of Land for purposes of laying down Pipes, etc.*

(12) Where land is required outside the bases for the purpose of laying down water pipes, sewers, drains, telecommunication or electric lines, the Service authorities may make suitable arrangements with the private owner of such land or, where there is no private owner, with the State Government before such work is undertaken.

*Disposal of Land or Property*

(13) Land occupied by the Service authorities or immovable property constructed at United Kingdom expense which become surplus to Service requirements will be offered to the Government of the Federation of Malaya on terms to be agreed between that Government and the Government of the United Kingdom on the basis of the original cost to the Service authorities of acquiring such land, or constructing such property and of improvements made to such land or property so that the Service authorities can recoup themselves reasonably of the expenditure incurred. If the land or immovable property is not required by the Government of the Federation of Malaya, it will dispose of the said land or immovable property in the open market on terms acceptable to the Service authorities and the net proceeds shall be paid to those authorities. On any such disposal, the Government of the Federation of Malaya undertakes to arrange for the purchaser to receive a title in perpetuity or for the balance of the term of years as the title under which the Government of the Federation of Malaya holds the land provides and which will enable the purchaser to enjoy the land for such purposes as may be approved by the appropriate authority. For the purpose of this section, any alternative accommodation and facilities provided by the Government of the Federation of Malaya at its own expense in accordance with the exchange arrangements set out in Article IV of this Agreement shall be deemed to have been provided at United Kingdom expense.

*Implementation*

(14) The Government of the United Kingdom and the Government of the Federation of Malaya will lay down the procedure for implementing the provisions of this Annex.

## EXCHANGE OF LETTERS

## I

OFFICE OF THE HIGH COMMISSIONER FOR THE UNITED KINGDOM  
KUALA LUMPUR

12th October, 1957

Sir,

In our discussions on the Agreement on External Defence and Mutual Assistance<sup>1</sup> we concluded following a common practice as between equal partners in the Commonwealth that it was unnecessary to insert an article dealing with the duration and review of the Agreement, but that each party would always retain the right to suggest a review of the Agreement should this seem necessary for any reason.

I should be grateful if you would confirm that this letter correctly states the understanding in this matter between our two Governments, and, if the Government of the Federation of Malaya agrees, I would suggest that this letter and your reply should be regarded as placing that understanding on record and should be read as one with the Agreement.

I have the honour to be, Sir,

Your most obedient, humble Servant,

(Signed) G. W. TORY  
High Commissioner for the United Kingdom  
in the Federation of Malaya

The Hon'ble the Prime Minister  
and Minister of External Affairs  
Federation of Malaya

<sup>1</sup> See p. 60 of this volume.

## II

PRIME MINISTER

KUALA LUMPUR, FEDERATION OF MALAYA

12th October, 1957

Your Excellency,

I refer to your letter of today's date about the duration and review of the Agreement on External Defence and Mutual Assistance between our two Governments, the terms of which are as follows.

[See letter I]

In reply, I confirm that your letter correctly states the understanding between our two Governments, and, in accordance with the suggestion contained therein, your letter and this reply will be regarded as placing that understanding on record and will be read as one with the Agreement.

I have the honour to be,

Your Excellency's most obedient, humble Servant,

(Signed) TUNKU ABDUL RAHMAN PUTRA  
Prime Minister & Minister for External Affairs  
Federation of Malaya

His Excellency The High Commissioner for the United Kingdom  
in the Federation of Malaya  
Kuala Lumpur

## III

OFFICE OF THE HIGH COMMISSIONER FOR THE UNITED KINGDOM

KUALA LUMPUR

12th October, 1957

Sir,

In our discussions on Annex 3, Section 1 (3) (a) (ii) of the Agreement on External Defence and Mutual Assistance, the United Kingdom delegation stressed the importance of following current international practice, such as governs the similar agreements in force between Her Majesty's Government and the Government of the United States of America and their other allies in the defence arrangements of the free world, in the matter of jurisdiction over offences committed in the course of duty.

The Federation delegation for their part expressed their concern that there should not in practice be any departure from the arrangements existing before independence under which the Federation civil courts have commonly exercised jurisdiction over certain types and classes of offences which are offences against both Service law and the laws of the Federation.

In order to satisfy both these requirements, we agreed that, while the Agreement should maintain current international practice by according to the Service authorities the primary right of jurisdiction in connection with such offences arising from acts or omissions done in the course of official duty by members of the forces, arrangements should at the same time be made administratively under which the civil courts of the Federation would commonly exercise jurisdiction over such offences in accordance with existing practice. Instructions agreed with the Government of the Federation will be issued to the Commanders-in-Chief, and copies will be lodged with the Government of the Federation of Malaya. No alteration will be made to these instructions except with the concurrence of the Government of the Federation of Malaya.

I should be grateful if you would confirm that this letter correctly states the understanding in this matter between our two Governments, and, if the Government of the Federation of Malaya agrees, I would suggest that this letter and your reply should be regarded as placing that understanding on record and should be read as one with the Agreement.

I have the honour to be, Sir,

Your most obedient, humble Servant,

(Signed) G. W. TORY  
High Commissioner for the United Kingdom  
in the Federation of Malaya

The Hon'ble the Prime Minister  
and Minister of External Affairs  
Federation of Malaya

## IV

PRIME MINISTER  
KUALA LUMPUR, FEDERATION OF MALAYA

12th October, 1957

Your Excellency,

I refer to your letter of today's date about the provisions of Annex 3, Section 1 (3) (a) (ii) of the Agreement on External Defence and Mutual Assistance in the matter of jurisdiction over offences committed in the course of duty, the terms of which are as follows :

[See letter III]

In reply, I confirm that your letter correctly states the understanding between our two Governments, and, in accordance with the suggestion contained therein, your letter and this reply will be regarded as placing that understanding on record and will be read as one with the Agreement.

I have the honour to be,

Your Excellency's most obedient, humble Servant,

TUNKU ABDUL RAHMAN PUTRA  
Prime Minister and Minister for External Affairs  
Federation of Malaya

His Excellency The High Commissioner for the United Kingdom  
in the Federation of Malaya  
Kuala Lumpur