

No. 4680

**NEW ZEALAND
and
UNITED STATES OF AMERICA**

**Exchange of notes (with memorandum of understandings)
constituting an agreement regarding the provision of
facilities in New Zealand for United States Antarctic
expeditions. Wellington, 24 December 1958**

Official text: English.

Registered by New Zealand on 24 February 1959.

**NOUVELLE-ZÉLANDE
et
ÉTATS-UNIS D'AMÉRIQUE**

**Échange de notes (avec mémorandum d'accord) constituant
un accord assurant aux expéditions antarctiques améri-
caines des facilités en Nouvelle-Zélande. Wellington,
24 décembre 1958**

Texte officiel anglais.

Enregistré par la Nouvelle-Zélande le 24 février 1959.

No. 4680. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA REGARDING THE PROVISION OF FACILITIES IN NEW ZEALAND FOR UNITED STATES ANTARCTIC EXPEDITIONS. WELLINGTON, 24 DECEMBER 1958

I

The Right Honourable Walter Nash, Minister of External Affairs of New Zealand, to His Excellency Mr. Francis H. Russell, Ambassador of the United States of America in New Zealand

MINISTRY OF EXTERNAL AFFAIRS
WELLINGTON

24 December 1958

Excellency,

I have the honour to refer to discussions which have taken place between the New Zealand and the United States authorities regarding the future provision of facilities in New Zealand for United States personnel, ships and aircraft engaged in operations in Antarctica. As you know, the New Zealand Government wishes to provide whatever assistance it can to the United States Government in connection with such operations, and a number of understandings regarding the provision of appropriate facilities in New Zealand have been reached during the discussions.

These understandings, which include a statement of the assistance which the United States Government has offered in respect of New Zealand operations in Antarctica, are set out in the attached memorandum.²

It is suggested that these arrangements should endure for the full period during which United States personnel, ships and aircraft may be in New Zealand in connection with United States operations in Antarctica during the present International Geophysical Year and for the period ending on 31 December 1959, and that the provision of any necessary facilities which may thereafter be required in New Zealand be discussed in correspondence between us at the appropriate time.

¹ Came into force on 24 December 1958 by the exchange of the said notes.

² See p. 114 of this volume.

If the proposals contained in the present note, and the understandings set out in the attached memorandum are acceptable to the Government of the United States of America, I have the honour to suggest that this note and your reply thereto, should constitute an agreement between our Governments, the agreement to enter into force on the date of your note in reply.

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

W. NASH

MEMORANDUM OF UNDERSTANDINGS

1. (a) The New Zealand Government will provide as far as possible facilities in New Zealand requested by the United States authorities in connection with United States operations in Antarctica. It agrees to the establishment of operational headquarters in New Zealand and to the transit of United States personnel, ships and aircraft through New Zealand. United States personnel may be accommodated in New Zealand and United States aircraft may be based at agreed airports within New Zealand.

(b) The New Zealand Government agrees to the establishment and operation of a military and affiliate radio station in New Zealand by the United States authorities, under arrangements to be made with the Royal New Zealand Air Force.

(c) In each case where facilities are provided by the New Zealand Government, the financial basis on which they are made available, and the conditions on which they shall be returned, will be decided by agreement between the New Zealand and the United States authorities.

2. As appropriate, the normal requirements in connection with the arrival and departure of ships and aircraft in New Zealand, as well as passport, visa and other immigration laws and regulations will be waived in respect of United States personnel, and ships and aircraft of the United States Navy and Air Force engaged upon operations in Antarctica.

3. (a) Subject to such procedures as may be arranged, the Government of New Zealand will exempt from payment of taxes and customs duties, goods imported into or exported out of New Zealand by the United States authorities or United States personnel in connection with United States operations in Antarctica.

(b) The presence of United States personnel in New Zealand solely in connection with United States operations in Antarctica shall not subject them to taxation on their salary and emoluments received from the United States Government or on any tangible movable property the presence of which in New Zealand is due solely to their temporary presence there, nor constitute residence nor domicile for New Zealand tax purposes.

4. (a) If United States personnel are alleged to have committed acts which are offences against New Zealand law, the following provisions shall apply :

- (i) The New Zealand authorities, recognising the problems arising from the concurrent jurisdiction in criminal matters over such personnel in New Zealand territory, will consider alleged offences affecting only United States personnel or property, or committed in the performance of official duty, as a matter for the United States authorities.
- (ii) Moreover, the New Zealand authorities will not ordinarily be concerned to institute proceedings in the New Zealand courts in respect of alleged minor offences which do not fall within the categories referred to in (i) above.
 - (b) For their part, the United States authorities will take measures to ensure respect for the laws of New Zealand by United States personnel and will take whatever steps are necessary to punish personnel who have committed acts which are offences against those laws.
 - (c) United States personnel who have been arrested or apprehended, whether by the New Zealand authorities or by the United States authorities, will be retained in custody by the United States authorities, who shall produce the personnel concerned, upon request by the New Zealand authorities, for investigation, identification or trial.
 - (d) It is understood that the principle of not trying an accused twice for the same offence will be followed, except that the United States authorities shall remain free to punish for violation of rules of military discipline.

5. (a) It is the understanding of the New Zealand Government that United States law makes provision for the settlement of meritorious claims for loss or damage caused by the acts or omissions (whether committed on or off duty) of United States personnel, and acts or omissions arising out of the performance of official duty by employees of the United States forces who are nationals of or ordinarily resident in New Zealand. In this connection, it is understood that the United States compensation authorities will pay, in accordance with and to the fullest extent possible under United States claims rules and procedures, just and reasonable compensation, when accepted by claimants in full satisfaction and in final settlement, for meritorious claims for injury or death or damage to property arising out of such acts or omissions. It is understood that United States claims legislation requires that such claims be presented to United States authorities within one year after the occurrence of the accident or incident out of which the claim arises.

(b) It is further understood by the two Governments that the satisfactory procedures which have been arranged with the Office of the Solicitor-General of New Zealand for the settlement of such claims will be maintained, and accordingly that the United States compensation authorities will, in determining liability and compensation, continue to give due regard to the Solicitor-General's assessment and to the amount which he may recommend for settlement in particular cases.

6. The Government of the United States of America for its part will provide as far as possible logistic support requested by the New Zealand authorities in connection with New Zealand operations in Antarctica.

7. The Governments of New Zealand and the United States of America will cooperate in making appropriate administrative arrangements to give effect to the under-

standings set out in this memorandum and to resolve any other practical issues which may from time to time arise from the presence in New Zealand of personnel, ships and aircraft of United States Antarctic expeditions.

8. The term "United States personnel" includes uniformed members of the United States forces and civilian employees of the forces except those employees who are nationals of, or ordinarily resident in, New Zealand.

II

His Excellency Mr. Francis H. Russell, Ambassador of the United States of America in New Zealand, to The Right Honourable Walter Nash, Minister of External Affairs of New Zealand

AMERICAN EMBASSY
WELLINGTON

24 December 1958

Excellency,

I have the honour to acknowledge the receipt of your note of today's date, together with the memorandum of understandings attached thereto, the texts of which read as follows :

[See note I]

I have the honour to inform you that the Government of the United States of America accepts the proposals contained in your note, together with the understandings set out in the memorandum attached thereto, and regards your note and my present reply as constituting an agreement between our two Governments, the agreement to enter into force on this day.

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

Francis H. RUSSELL