

No. 4712

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND, CANADA, AUSTRALIA,
NEW ZEALAND, UNION OF SOUTH AFRICA,
INDIA and PAKISTAN
and
FEDERAL REPUBLIC OF GERMANY**

**Agreement (with exchange of notes) regarding the war
graves, cemeteries, and memorials of the British
Commonwealth in the territory of the Federal Republic
of Germany. Signed at Bonn, on 5 March 1956**

Official texts: English and German.

*Registered by the United Kingdom of Great Britain and Northern Ireland on
13 March 1959.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD, CANADA, AUSTRALIE,
NOUVELLE-ZÉLANDE, UNION SUD-AFRICAINE,
INDE et PAKISTAN
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord (avec échange de notes) concernant les sépultures,
cimetières et monuments commémoratifs militaires du
Commonwealth britannique sur le territoire de la
République fédérale d'Allemagne. Signé à Bonn, le
5 mars 1956**

Textes officiels anglais et allemand.

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le
13 mars 1959.*

No. 4712. AGREEMENT¹ BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, CANADA, AUSTRALIA, NEW ZEALAND, THE UNION OF SOUTH AFRICA, INDIA AND PAKISTAN AND THE FEDERAL REPUBLIC OF GERMANY REGARDING THE WAR GRAVES, CEMETERIES AND MEMORIALS OF THE BRITISH COMMONWEALTH IN THE TERRITORY OF THE FEDERAL REPUBLIC OF GERMANY. SIGNED AT BONN, ON 5 MARCH 1956

The United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand, the Union of South Africa, India and Pakistan (hereinafter referred to as "the Commonwealth countries") of the one part and the Federal Republic of Germany of the other part,

Desiring to make provision with regard to the Cemeteries, Graves and Memorials of Members of the Armed Forces of the Commonwealth Countries fallen as a result of the wars of 1914-18 and 1939-45 and interred in the Territory of the Federal Republic of Germany, and

Having regard to the provisions of the Agreement signed at Bonn on the fifth of March, 1956,² between the Commonwealth Countries, the Federal Republic of Germany and the French Republic regarding questions affecting German War Graves in cemeteries in France in the permanent care of the Imperial War Graves Commission,

Have agreed as follows :

Article 1

(1) The present Agreement applies to Cemeteries, Graves and Memorials in the Territory of the Federal Republic of Germany in which are buried the bodies of members of the Armed Forces of the Commonwealth Countries fallen in the wars of 1914-18 and 1939-45 and the Memorials erected, or which may be erected, in their honour.

(2) In the present Agreement the expression "Commonwealth War Cemeteries, Graves and Memorials" includes the Cemeteries, Graves and Memorials of the wars of 1914-18 and 1939-45 situated in the Territory of the Federal Republic of Germany. Where necessary the Cemeteries, Graves and

¹ Came into force on 12 June 1957, in accordance with the provisions of article 15.

² See p. 169 of this volume.

Memorials of the two wars are distinguished as “ Commonwealth 1914-18 War Cemeteries, Graves and Memorials ” and “ Commonwealth 1939-45 War Cemeteries, Graves and Memorials. ”

Article 2

(1) The Imperial War Graves Commission incorporated by Royal Charter dated the twenty-first day of May 1917 (hereinafter referred to as “ the Commission ”), is recognised by the Federal Republic of Germany as the sole authority charged on behalf of the Commonwealth Countries with the permanent care of Commonwealth War Cemeteries, Graves and Memorials in the Territory of the Federal Republic of Germany.

(2) The Imperial War Graves Commission has the legal status of a juridical person in the Federal Territory.

Article 3

(1) The Federal Republic of Germany shall place at the disposal of the Commission the lands required for the permanent Commonwealth War Cemeteries, Graves and Memorials of the 1939-45 war for use by the Commission free of charge and in perpetuity for the purposes set forth in the present Agreement.

(2) The Federal Republic of Germany undertakes to invite the appropriate German authorities to grant free of cost the land required for Commonwealth 1939-45 War Graves situated in public cemeteries in the Federal Territory.

(3) In regard to the lands in use for the Commonwealth 1914-18 War Cemeteries, Graves and Memorials in the Territory of the Federal Republic of Germany the Federal Republic of Germany undertakes to maintain their present legal status.

Article 4

(1) The Commission may at its discretion transfer into Commonwealth War Cemeteries such Commonwealth War Graves as it may deem necessary, whether on account of the isolated position of any such graves or for any other reason.

(2) The Federal Republic of Germany shall arrange for the competent German authorities to grant the necessary permits for the exhumation and transport of the bodies to be so transferred.

(3) If, in order to group together any such graves as are referred to in paragraph (1) of this Article, the Commission shall recognise as necessary the creation of new Cemeteries, it shall submit its proposals to the Government of the Federal Republic of Germany. This Government will favourably consider whether steps can be taken for the acquisition of the land required for this purpose in accordance with the provisions of Article 3 of the present Agreement.

Article 5

(1) The Federal Republic of Germany recognises the right of the Commission at its own cost to ensure and provide for the lay-out, construction, maintenance and control of the Commonwealth 1939-45 War Cemeteries.

(2) The Commission is accordingly authorised to enclose such cemeteries, to lay them out and construct them on a system approved by the Commission, to erect in such Cemeteries sepulchral monuments or other structures, to make plantations in them, to enact regulations governing visits to such Cemeteries and to select persons to take charge of them who may be nationals of the Commonwealth Countries.

(3) Questions relative to the lay-out of Commonwealth 1939-45 War Graves situated in publicly or privately owned Cemeteries shall be decided by the Commission in agreement with the competent German authorities. If necessary, the Government of the Federal Republic of Germany will make available its good offices to the Commission for this purpose.

(4) The Commission may, in agreement with the competent German authorities, provide for the lay-out of Commonwealth 1939-45 War Graves situated in publicly-owned Cemeteries which also contain German or other military Graves. When the Commission considers it desirable that a common system of lay-out should be adopted for a mixed Cemetery, it shall submit its proposals to the competent German authority.

Article 6

(1) As regards the Commonwealth Cemeteries and Memorials of the 1914-18 war the Federal Republic of Germany recognises the rights as heretofore enjoyed by the Commission to continue to provide for the lay-out and maintenance of the said Cemeteries and Memorials, as well as the right to issue internal regulations and to exercise control within the Cemeteries, and to enact regulations governing visits to such Cemeteries and to select persons to take charge of them, who may be nationals of the Commonwealth Countries.

(2) The Federal Republic of Germany further agrees that the Commission shall be at liberty, if it sees fit, to utilize vacant space in any such Cemeteries for the reception of Commonwealth 1939-45 War Graves and to establish such additional monuments, structures or plantations and make such improvements therein as it may deem necessary.

Article 7

The bodies of members of the Armed Forces of the Commonwealth Countries interred in the Territory of the Federal Republic of Germany shall not be removed from the Territory of the Federal Republic of Germany without the consent of the Commission.

Article 8

(1) Requests for permission to erect any monument designed to recall a feat of arms of the Armed Forces of the Commonwealth Countries or of any unit of those Forces shall be presented by the Commission to the Government of the Federal Republic of Germany for its concurrence.

(2) Should a request of this nature be made direct to the Government of the Federal Republic of Germany, the latter shall refer it to the Commission before giving any decision, and shall consider in agreement with the Commission what action shall be taken thereon.

Article 9

In order to represent the Commission in the Territory of the Federal Republic of Germany in its relations with the appropriate authorities, and especially to exercise in the name of the Commission all or part of the rights reserved to it under the present Agreement, the Commission shall appoint a Joint Committee to be composed as laid down in Articles 10 and 11 of the present Agreement. This Committee shall be competent to perform in the name of the Commission and within the limits of the powers delegated to it by the latter, all civil acts necessary to enable it to fulfil its objects.

Article 10

(1) Except as provided by Article 11 of the present Agreement, the Committee referred to in Article 9 shall be composed of not more than twelve members, comprising not more than four honorary members, of whom two shall represent the Federal Republic of Germany and the others the Commonwealth Countries, and not more than eight official members, of whom four shall represent the Federal Republic of Germany and the others the Commonwealth Countries.

(2) The members of the Committee shall be appointed by the Commission. Nevertheless as far as the German members are concerned the appointment shall take place on the recommendation of the Government of the Federal Republic of Germany, which recommendations shall be requested and transmitted through the diplomatic channel.

(3) The German honorary members shall be chosen from persons who have won distinction in public life, in Letters, Art or Science.

(4) The German official members shall be chosen as representing such Departments of the Government of the Federal Republic of Germany or such recognised German Organisations as may be agreed upon between the Government of the Federal Republic of Germany and the Commission. They shall cease to form part of the Committee from the day when they vacate their functions in the Departments or Organisations concerned. The Government of the Federal Republic of Germany undertakes to notify the Commission of all changes which may take place among the German official members.

(5) The Commission shall appoint the Secretary-General of the Committee.

Article 11

To facilitate the examination and solution of questions affecting German war graves situated in Commonwealth War Cemeteries in France the French Government shall be invited to designate one honorary member and one official member of the Committee referred to in Article 9 of this Agreement who shall be invited by the Committee to participate in the proceedings of the Committee concerning the War Graves in question.

Article 12

(1) Import duties (Customs dues and Consumption taxes, including Turnover Equalisation Tax) shall not be levied on articles imported into the Territory of the Federal Republic of Germany by the Commission for the purpose of fulfilling its functions if the Commission furnishes the customs posts with a certificate declaring the purposes for which the articles are to be used.

(2) The Federal Republic of Germany undertakes to exempt the Commission from the duties on mineral oil products acquired by it in the Territory of the Federal Republic of Germany for use in motor vehicles in their service.

(3) The Commission shall be exempt from any taxes relating to any income or property which it may have in the Federal Republic of Germany for the purpose of carrying out its official functions.

(4) By way of adjustment of the Turnover Tax chargeable within the scope of the present Agreement on deliveries or services to the Commission four per cent. of the amounts of the accounts produced shall be refunded upon application by a Finance Office to be designated by the Federal Minister of Finance.

Article 13

In exercising the rights conferred by the present Agreement, the Commission shall conform to the laws and regulations in force in the Territory of the

Federal Republic of Germany except in so far as it is exempted therefrom under the provisions of the present Agreement.

Article 14

This Agreement shall also apply in *Land* Berlin unless the Government of the Federal Republic of Germany shall make a declaration¹ to the contrary to each of the other Contracting Parties within three months after the entry into force of the present Agreement.

Article 15

As soon as the Agreement has received in the Federal Republic of Germany the assent required under the Constitution, the date of its entry into force shall be fixed by an exchange of Notes between the Government of the Federal Republic of Germany and the Governments of the other Contracting Parties.

IN WITNESS WHEREOF the undersigned, duly authorised in that behalf have signed the present Agreement and affixed thereto their seals.

DONE at Bonn, this fifth day of March, 1956, in English and German, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the Federal Republic of Germany, and of which certified copies shall be transmitted by that Government to each of the other Contracting Parties.

For the Federal Republic of Germany :

[L.S.] VON BRENTANO

For the United Kingdom of Great Britain and Northern Ireland :

[L.S.] F. R. HOYER MILLAR

For Canada :

[L.S.] C. S. A. RITCHIE

For Australia :

[L.S.] J. D. L. HOOD

For New Zealand :

[L.S.] T. Clifton WEBB

For the Union of South Africa :

[L.S.] A. H. MERTSCH

For India :

[L.S.] A. C. N. NAMBIAR

For Pakistan :

[L.S.] J. A. RAHIM

¹ According to the information received from the United Kingdom of Great Britain and Northern Ireland the Government of the Federal Republic of Germany made no such declaration.

EXCHANGE OF NOTES

I¹

Her Majesty's Ambassador at Bonn to the Federal German Minister for Foreign Affairs

BRITISH EMBASSY

Bonn, March 5, 1956

Your Excellency,

On the instructions of Her Majesty's Principal Secretary of State for Foreign Affairs I have the honour to inform you that the Government of the United Kingdom of Great Britain and Northern Ireland undertake to grant the Government of the Federal Republic of Germany in the matter of the care and maintenance of graves of former members of the German armed forces interred in the United Kingdom and other territory for whose international relations the Government of the United Kingdom is responsible treatment which having regard to the number of such graves corresponds to and is not less favourable than the treatment granted by the Government of the Federal Republic of Germany in accordance with the provisions of the Agreement signed this day between the United Kingdom, Canada, Australia, New Zealand, the Union of South Africa, India and Pakistan of the one part and the Federal Republic of Germany of the other part concerning the care and maintenance of the Commonwealth Graves in the Federal Republic of Germany. The Government of the United Kingdom will accordingly make arrangements through the diplomatic channel with the Government of the Federal Republic of Germany for the granting of appropriate facilities in any of the United Kingdom territories in question and will take the necessary steps to ensure that every possible assistance shall be afforded to the competent German agencies in the tracing of such graves.

If the above proposals meet with the approval of the Government of the Federal Republic of Germany I have the honour to suggest that this Note and your Excellency's reply in that sense should be regarded as constituting an Agreement between the two Governments in this matter.

I have, &c.

F. R. HOYER MILLAR

¹ According to the information provided by the United Kingdom of Great Britain and Northern Ireland notes in similar terms were exchanged between Canada, Australia, New Zealand, the Union of South Africa, India and Pakistan on the one part, and the Federal Republic of Germany on the other.

[TRANSLATION¹ — TRADUCTION²]

Bonn, March 5, 1956

Mr. Ambassador,

I have the honour to acknowledge receipt of your letter of to-day's date, which is worded as follows :

[See note I]

I have the honour to inform you that the Government of the Federal Republic of Germany is in agreement with the content of your letter referred to above and regards that letter and my reply thereto of to-day's date as constituting an Agreement between our two Governments.

Accept, &c.

BRENTANO

III

The Federal German Minister for Foreign Affairs to Her Majesty's Ambassador at Bonn

[GERMAN TEXT — TEXTE ALLEMAND]

[TRANSLATION¹ — TRADUCTION²]

Bonn, den 5. März 1956

Bonn, March 5, 1956

Herr Botschafter!

Mr. Ambassador,

Unter Bezugnahme auf die Bestimmungen des am heutigen Tage von der Bundesrepublik Deutschland einerseits und den Regierungen des Vereinigten Königreichs von Grossbritannien und Nordirland, Kanadas, Australiens, Neuseelands, der Südafrikanischen Union, Indiens und Pakistans andererseits unterzeichneten Abkommens über die Pflege und den Unterhalt von Commonwealth-Gräbern in der Bundesrepublik Deutschland und unter Bezugnahme auf den Notenwechsel vom heutigen Tage über die

With reference to the provisions of the Agreement concerning the care and maintenance of Commonwealth Graves in the Federal Republic of Germany, signed to-day³ by the Federal Republic of Germany, of the one part, and the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand, the Union of South Africa, India and Pakistan, of the other part, and with reference to the Exchange of Notes of to-day's date concerning the care and maintenance of German War Graves in the United

¹ Translation by the Government of the United Kingdom.

² Traduction du Gouvernement du Royaume-Uni.

³ Voir p. 182 de ce volume.

Frage der Pflege und des Unterhalts deutscher Kriegsgräber im Vereinigten Königreich von Grossbritannien und Nordirland, beehre ich mich, Ihre Aufmerksamkeit auf Artikel 2 Siebenter Teil des in Bonn am 26. Mai 1952 unterzeichneten Vertrages zur Regelung aus Krieg und Besatzung entstandener Fragen in der gemäss Liste IV zu dem am 23. Oktober 1954 in Paris unterzeichneten Protokoll über die Beendigung des Besatzungsregimes in der Bundesrepublik Deutschland geänderten Fassung zu lenken. Die Regierung der Bundesrepublik Deutschland ist der Auffassung, dass die Bestimmungen des Artikels 2, Siebenter Teil des genannten Vertrages von den in dem obenerwähnten Notenwechsel enthaltenen Vereinbarungen unberührt bleiben und dass Erwägungen, die sich aus der Durchführung dieses Artikels ergeben, den Gegenstand von Besprechungen zwischen der Regierung der Bundesrepublik Deutschland und der Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland bilden sollen.

Sollte diese Auffassung die Billigung der Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland finden, so beehre ich mich anzuregen, dieses Schreiben und die zustimmende Antwort Eurer Excellenz als eine Feststellung der übereinstimmenden Ansicht der beiden Regierungen in dieser Angelegenheit zu betrachten.

Genehmigen Sie, u.s.w.,

BRENTANO

Kingdom of Great Britain and Northern Ireland, I have the honour to draw your attention to Article 2 of Chapter Seven of the Convention for the Settlement of Matters arising out of the War and the Occupation signed at Bonn on the 26th of May, 1952,¹ as amended by Schedule IV of the Protocol on the Termination of the Occupation Régime in the Federal Republic of Germany signed at Paris on the 23rd of October, 1954.² The Government of the Federal Republic of Germany take the view that the provisions of Article 2 of Chapter Seven of the said Convention remain unaffected by the agreement contained in the Exchange of Notes referred to above and that considerations arising out of the implementation of that Article should form the subject of discussions between the Government of the Federal Republic of Germany and the Government of the United Kingdom of Great Britain and Northern Ireland.

Should this view meet with the approval of the Government of the United Kingdom of Great Britain and Northern Ireland I have the honour to suggest that this Note and the affirmative reply of your Excellency thereto should be regarded as placing on record the understanding of the two Governments in this matter.

Accept, &c.

BRENTANO

¹ United Kingdom : " Germany No. 6 (1952), " Cmd. 8571.

² United Kingdom : " Germany No. 1 (1955), " Cmd. 8368.

IV

Her Majesty's Ambassador at Bonn to the Federal German Minister for Foreign Affairs

BRITISH EMBASSY

Bonn, March 5, 1956

Your Excellency,

I have the honour to reply to your letter of to-day's date, which reads as follows :

[*See note III*]

I am instructed to inform you that the view taken by the Government of the Federal Republic of Germany has met with the approval of Her Majesty's Government in the United Kingdom.

I have, &c.

F. R. HOYER MILLAR