

No. 6602

**UNITED STATES OF AMERICA
and
NEW ZEALAND**

**Exchange of notes constituting an agreement relating to the
loan of a vessel to New Zealand. Washington, 8 June
1962**

Official text: English.

Registered by the United States of America on 15 April 1963.

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

**Échange de notes constituant un accord relatif au prêt d'un
navire à la Nouvelle-Zélande. Washington, 8 juin 1962**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 15 avril 1963.

No. 6602. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND NEW ZEALAND RELATING TO THE LOAN OF A VESSEL TO NEW ZEALAND. WASHINGTON, 8 JUNE 1962

I

The Secretary of State to the Ambassador of New Zealand

DEPARTMENT OF STATE
WASHINGTON

June 8, 1962

Excellency :

I have the honor to refer to recent discussions between representatives of our two governments concerning the loan of a naval vessel by the Government of the United States to the Government of New Zealand and to propose the following understandings between our governments on this subject :

1. The Government of the United States will lend to the Government of New Zealand for the period set out below the vessel " *USS Namakagon* " (AOG 53), hereinafter referred to as the " vessel ".

2. Detailed arrangements shall be made between authorized representatives of our two governments, or their agencies, for the purpose of implementing the understandings and undertakings specified in this note.

3. The Government of New Zealand requires and shall use the vessel and its equipment, spares, and allowances solely to maintain the legitimate self-defense of New Zealand or to participate in missions mutually agreed, including missions in the Antarctic and elsewhere, by the representatives referred to in paragraph number 2 of this note. The Government of New Zealand will retain possession of, and will use, the vessel and its equipment, spares, and allowances subject to the terms and conditions contained in this note, and in support of the obligations resting upon it and other nations bound by the Security Treaty between Australia, New Zealand, and the United States of America signed at San Francisco on September 1, 1951.² The Government of New Zealand will accord designated representatives of the Government of the United States opportunity, as appropriate, to observe and review the utilization of the vessel and will provide them with such information with respect to use and operation of the vessel as they may require for this purpose.

¹ Came into force on 8 June 1962 by the exchange of the said notes.

² United Nations, *Treaty Series*, Vol. 131, p. 83.

4. The period for the loan of the vessel shall be five years from the date of its delivery to the Government of New Zealand. Six months before the termination of this period, however, the two governments will, if the Government of New Zealand requests, consult as to the advisability and feasibility of extending the loan for an additional period to be mutually agreed upon, but not to exceed five years. The Government of the United States may, however, request the return of the vessel at any time after the date of delivery if such action is necessitated by its own defense requirements. In this event, the Government of New Zealand will promptly return the vessel to the Government of the United States.

5. The vessel, together with its available on-board spares and allowances, including consumable stores and fuel, will be delivered to the Government of New Zealand at such place and time as may be mutually agreed by the representatives referred to in paragraph number 2 of this note. The delivery shall be evidenced by a delivery certificate. The Government of New Zealand shall have the use of all outfitting equipment, appliances, fuel, consumable stores, spares, and replacement parts on board the vessel at the time of its delivery.

6. The Government of New Zealand agrees to pay the Government of the United States :

- (a) the cost of rehabilitating and outfitting the vessel to the extent required by the Government of New Zealand;
- (b) the fair value and installation costs of any equipment and material which is placed on board at the request of the Government of New Zealand and which is additional to or substituted for normal allowances; and
- (c) the cost of any related services furnished in connection with such rehabilitation, outfitting, and installation.

Such payments shall be pursuant to the detailed arrangements referred to in paragraph number 2 of this note and in accordance with the Foreign Assistance Act of 1961, acts amendatory and supplementary thereto, and appropriation acts thereunder.

7. Title to the vessel and to the items and appurtenances referred to in paragraph number 5 of this note, except fuel, consumable stores, spares, and replacement parts, shall remain in the Government of the United States. The Government of New Zealand may, however, place the vessel under its flag and designate and name the vessel in accordance with Royal New Zealand Navy custom and tradition.

8. The Government of New Zealand renounces all claims against the Government of the United States arising from the transfer, use, or operation of the vessel and will save the Government of the United States harmless from any such claims asserted by third parties.

9. Upon the expiration or termination of the loan, the vessel, together with its outfitting equipment, appliances, and its available on-board spares and allowances, including consumable stores, replacement parts, and fuel, will be returned to the Government of the United States at a place and time specified by the Government of the United States, in substantially the same condition, reasonable wear and tear excepted, as when transferred, or will be otherwise disposed of as specified by the Government of the United

States. Any items and appurtenances on board the vessel at the time of redelivery shall, if they are not already the property of the Government of the United States, become the property of the Government of the United States without compensation. If the vessel is returned to the Government of the United States at its request prior to the expiration of the initial five-year period, the two governments will consult with respect to such compensation on a pro rata basis to the Government of New Zealand for rehabilitation or outfitting costs or any additional material or altered fittings placed on board in accordance with the provisions of paragraph number 6 of this note as may be authorized by the laws of the United States in effect at that time.

10. The Government of New Zealand will pay the Government of the United States just and reasonable compensation for damages to, or loss of, the vessel. The Government of New Zealand shall not, however, be liable for damage to, or loss of, the vessel arising out of enemy action sustained while in use in accordance with the provisions of paragraph number 3 of this note or as a result of *force majeure*, so long as such damage or loss is not substantially attributable to negligence in operation or maintenance of the vessel. Should the vessel sustain damages from any cause, such as in the opinion of the Government of New Zealand render it a total loss, the Government of New Zealand shall consult with the Government of the United States before declaring the said vessel a total loss.

11. The Government of New Zealand shall maintain the security of the vessel and of equipment, materials, and information furnished in connection therewith.

If these understandings are acceptable to your government, I further propose that this note and your reply concurring therein shall constitute an agreement between our two governments which shall enter into force on the date of your reply.

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

For the Secretary of State :

W. Averell HARRIMAN

His Excellency G. R. Laking
Ambassador of New Zealand

II

The Ambassador of New Zealand to the Secretary of State

NEW ZEALAND EMBASSY
WASHINGTON 8, D.C.

8 June 1962

Sir,

I have the honour to acknowledge the receipt of your note of 8 June 1962 reading as follows :

[See note I]

I have pleasure in confirming that the understandings proposed in your note are acceptable to the Government of New Zealand and confirm that your note and this reply shall constitute an agreement between our two governments entering into force today.

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

G. R. LAKING
Ambassador

The Secretary of State
Department of State
Washington, D.C.