

No. 6915

**UNITED STATES OF AMERICA
and
NEW ZEALAND**

**Exchange of notes (with Memorandum of Understandings)
constituting an agreement relating to a program of
research by the United States Air Force on aerospace
disturbances. Wellington, 15 May 1963**

Official text: English.

Registered by the United States of America on 18 September 1963.

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

**Échange de notes (avec Mémorandum d'accord) constituant
un accord relatif à un programme de recherche de
l'Armée de l'air des États-Unis sur les perturbations
dans l'air et l'espace. Wellington, 15 mai 1963**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 18 septembre 1963.

No. 6915. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND NEW ZEALAND RELATING TO A PROGRAM OF RESEARCH BY THE UNITED STATES AIR FORCE ON AEROSPACE DISTURBANCES. WELLINGTON, 15 MAY 1963

I

*The American Ambassador to the Minister of External Affairs
of New Zealand*

EMBASSY OF THE UNITED STATES OF AMERICA

Wellington, May 15, 1963

No. 5

Excellency :

I have the honor to refer to our recent discussions concerning the provision of facilities in New Zealand for use by the United States Air Force in a program of research on aerospace disturbances, to be carried out in cooperation with the Royal New Zealand Air Force, and to propose that the provisions contained in the attached Memorandum of Understandings shall apply to this research program.

If the proposals contained in the present note, and the understandings set out in the attached Memorandum, are satisfactory to your Government, I have the further honor to propose that this note and your reply thereto indicating such approval should constitute an agreement between our two Governments, to enter into force on the date of your note in reply.

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

Anthony B. AKERS

Enclosure :
Memorandum

His Excellency The Right Honorable Keith J. Holyoake, C.H.
Minister of External Affairs
Wellington

¹ Came into force on 15 May 1963 by the exchange of the said notes.

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 the program of research on aerospace disturbances. It agrees to the establishment of operational headquarters in New Zealand and to the transit of United States personnel 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 such communications facilities as may be required for this program.

(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.

(d) Joint manning of the research facilities may be carried out on a basis to be agreed between the appropriate United States and New Zealand 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 aircraft of the United States Air Force engaged in the program.

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 the program.

(b) The presence of United States personnel in New Zealand solely in connection with this program 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.

(c) Contractors with the United States Government (including subcontractors) present in New Zealand solely for the purposes of this agreement shall be free from taxation in New Zealand in respect of remuneration from services

rendered in New Zealand under this agreement and income derived from sources outside New Zealand while engaged in New Zealand under this agreement.

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, recognizing 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 Governments of New Zealand and the United States of America will cooperate in making appropriate administrative arrangements to give effect to the understandings 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 and aircraft of the United States in connection with the program.

7. 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; for the purposes of paragraphs 1, 2 and 3 of this memorandum it also includes the dependents of United States personnel. For the purposes of paragraphs 1, 2 and 3 (a) of this memorandum the term also includes employees (with their dependents) of contractors with the United States Government who are present in New Zealand solely for the purposes of this agreement, except those employees who are nationals of, or ordinarily resident in, New Zealand.

8. This agreement shall remain in force for an initial term of ten years. Thereafter, either Government may at any time give to the other Government notice of intention to terminate the present agreement which shall then terminate after the expiration of six months from the date on which the notice was received.

II

The Minister of External Affairs of New Zealand to the American Ambassador

OFFICE OF THE MINISTER OF EXTERNAL AFFAIRS
WELLINGTON

15 May 1963

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 and attached Memorandum]

I have the honour to inform you that the proposals contained in your note, together with the understandings set out in the Memorandum attached thereto, are satisfactory to the Government of New Zealand, which regards your note and my present reply as constituting an agreement between our two Governments, to enter into force on today's date.

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

Keith HOLYOAKE

His Excellency Mr. Anthony B. Akers
Ambassador of the United States of America
Wellington