

No. 7538

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
CANADA**

**Exchange of notes (with annex) constituting an agreement
on arrangements regarding the status of Canadian
forces in Bermuda. London, 11 September 1964**

Official text: English.

*Registered by the United Kingdom of Great Britain and Northern Ireland on
13 January 1965.*

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

**Échange de notes (avec annexe) constituant un accord relatif
au statut des forces canadiennes aux Bermudes. Lon-
dres, 11 septembre 1964**

Texte officiel anglais.

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 13 jan-
vier 1965.*

No. 7538. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF CANADA ON ARRANGEMENTS REGARDING THE STATUS OF CANADIAN FORCES IN BERMUDA. LONDON, 11 SEPTEMBER 1964

I

The High Commissioner for Canada to the Secretary of State for Commonwealth Relations

London, September 11, 1964

Sir,

I have the honour to refer to discussions which have taken place between Canadian and British officials concerning the status of Canadian Forces in Bermuda and to propose on behalf of the Government of Canada that the arrangements set out in the Annex to this Note shall regulate that status.

I also propose that any amendments to the Annex that may be required from time to time shall be made by an Exchange of Notes between the Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland.

If these proposals are acceptable to the United Kingdom Government, I have the honour to propose that this Note, together with the Annex, and your reply to that effect shall constitute an Agreement between our two Governments, with effect from the date of your reply, which shall remain in force until six months after either side has given written notice of termination.

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

Lionel CHEVRIER

¹ Came into force on 11 September 1964 by the exchange of the said notes.

A N N E X

ARRANGEMENTS REGARDING THE STATUS OF CANADIAN FORCES IN
BERMUDA*Article I*

DEFINITIONS

In these Arrangements

- (a) "Canadian visiting force" means any element of the Canadian Forces present in the territory of Bermuda ;
- (b) "member" means any officer or man of the Canadian Forces present in Bermuda in connection with official duties, and includes any civilian person in the employ of, and who accompanies, the Canadian visiting force except civilian employees who are normally resident in Bermuda at the time they enter the employ of the Canadian visiting force or who possess Bermudian status under provisions of the Bermuda Immigration and Protection Act, 1956 ;
- (c) "dependent" means a person who is a wife, child or other relative of, and who accompanies and is dependent for support on, a member ;
- (d) "Canadian service authorities" means the service authorities and service courts of Canada that are empowered by the law of Canada to enforce Canadian service law ;
- (e) "service authorities" means naval, military or air force authorities ;
- (f) "service court" means a court established under service law ;
- (g) "service law" means the law governing all or any of the Canadian Forces.

Article II

VISITING FORCE

2. The Governments of the United Kingdom and Bermuda consent to the presence in Bermuda of the Canadian visiting force consisting of such elements as are set out in the Schedule hereto.

Article III

FACILITIES AND SERVICES

3. Requirements of the Canadian visiting force for land, accommodation, frequencies, power, construction, repair, maintenance, and for procurement in Bermuda of other goods, materials and services shall be satisfied as agreed with the appropriate Bermudian authorities.

4. The Government of Canada may make arrangements with authorities of the United Kingdom or the United States for the occupancy or use of accommodation, material, or services of the United States or United Kingdom forces in Bermuda.

5. The Government of Canada may at any time while these Arrangements are in force, or within a reasonable time thereafter, remove from Bermuda movable improvements placed by or on behalf of Canada in Bermuda.

Article IV

RESPECT FOR LOCAL LAW

6. It is the duty of the Canadian visiting force and members to respect the law of Bermuda. It is also the duty of the Canadian service authorities to take necessary measures to that end.

Article V

JURISDICTION

7. (1) Except in respect of offences mentioned in (3) of this paragraph, the civil courts of Bermuda shall have the primary right to exercise jurisdiction in respect of any act or omission constituting an offence against any law in force in Bermuda alleged to have been committed by a member or dependent.

(2) Subject to the provisions of this Article, the Canadian service authorities may exercise within Bermuda in relation to members and dependents all the criminal and disciplinary jurisdiction that is conferred upon them by the law of Canada.

(3) With respect to the trial of a member for any offence respecting

(a) the property or security of Canada ;

(b) the person or property of another member or dependent ; or

(c) an act done or anything omitted in the performance of official duty

the Canadian service authorities have the primary right to exercise jurisdiction where, under the law of Canada, Canadian service authorities have power to exercise such jurisdiction within Bermuda.

(4) Where a member or dependent has been tried by a civil court of Bermuda and has been convicted or acquitted, he may not be tried again within Bermuda for the same offence by the Canadian service authorities, but nothing in this sub-paragraph prevents the Canadian service authorities from trying within Bermuda a member for any violation of rules of discipline arising from an act or omission that constituted an offence for which he was tried by the civil court.

(5) Where a member or dependent has been tried by the Canadian service authorities and has been convicted or acquitted, he may not be tried again by a civil court of Bermuda for the same offence.

(6) Where under (1) or (3) of this paragraph a civil court of Bermuda or a service court of Canada has the primary right to exercise jurisdiction, the court having such primary right shall deal with charges against alleged offenders in the first instance unless such right is waived by the appropriate authority in favour of trial in the other court.

(7) A certificate of the appropriate service authorities of Canada stating that anything alleged to have been done or omitted by a member was or was not done or omitted in the performance of official duty shall be *prima facie* evidence of that fact.

(8) A member may exercise police functions in Bermuda in respect of a person who is a member or dependent.

(9) The authorities of Bermuda and Canada shall assist each other in the arrest of members of the Canadian visiting force or their dependents in Bermuda.

(10) The authorities of Bermuda shall notify promptly the appropriate service authorities of Canada of the arrest of a member or dependent.

(11) The custody of an accused member or dependent over whom Bermuda is to exercise jurisdiction shall, unless otherwise decided by the Canadian service authorities, if he is in the hands of the Canadian service authorities, remain with those authorities until he is charged by the authorities of Bermuda.

(12) The authorities of Bermuda and Canada shall assist each other in the carrying out of all necessary investigations into offences and in the collection and production of evidence, including the appearance of witnesses and the seizure and handing over of objects connected with the offence.

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

Article VI

SECURITY

8. The Government of Bermuda shall take such steps as may from time to time be agreed to be necessary with a view to enactment of legislation to ensure the adequate security and protection of the bases, establishments, equipment and other property and the punishment of persons who may contravene any laws or regulations made for that purpose.

9. On entry into Bermuda, official documents of the Canadian visiting force under official seal and military material certified as classified by an authority of Canada shall not be subject to customs inspection.

Article VII

CLAIMS

10. The Government of Canada agrees to pay adequate and effective compensation which shall not be less than the sum payable under the law of Bermuda to a person, other than a member or a dependent, in respect of a valid claim arising out of an act done or anything omitted by a member in the performance of his official duties in Bermuda or resulting from any action or omission of the Canadian visiting force in connection with construction, maintenance or use of any installation in Bermuda by that force. At the request of the officer commanding the Canadian visiting force, the authorities of Bermuda

shall co-operate with and assist authorities or agencies of Canada engaged in the investigation of claims against the Canadian visiting force or a member to ensure a fair disposal thereof.

11. A member of the Canadian visiting force shall not be subject to any proceedings for the enforcement of any judgment given against him in Bermuda in a matter arising out of the performance of his official duties.

Article VIII

DUTY AND TAXES

12. No import, excise, consumption or other tax, duty or impost shall be charged on

- (a) material, equipment, supplies, or goods for use in construction, maintenance, operation or defence of any installation, consigned to, or destined for the Canadian Forces ;
- (b) goods for use or consumption aboard ships or aircraft of the Canadian Forces ;
- (c) goods consigned to the Canadian visiting force for use of service institutes under the control of the Canadian service authorities, or for sale in reasonable quantities thereat to members and their dependents ; and
- (d) the personal belongings and household effects of members and their dependents imported within six months of first arrival of the member or his dependents.

13. No export tax shall be charged on the material, equipment, supplies, or goods mentioned in paragraph 12 (a) in the event of export from Bermuda.

14. Members and dependents may buy goods at service institutes operated in Bermuda by the United Kingdom or United States authorities under arrangements made by the United Kingdom or United States and Canadian service authorities, provided that such arrangements are approved by the authorities of Bermuda.

15. The Canadian service authorities shall, in co-operation with the authorities of Bermuda, take such steps as are necessary to prevent abuse of privileges granted by this Article to the Canadian visiting force, members and dependents. Except as authorised by the Bermudian authorities, goods acquired or imported under sub-paragraphs (c) and (d) of paragraph 12 and under paragraph 14 may not be disposed in Bermuda by way of sale, gift, or otherwise to persons who are not entitled to similar exemptions.

16. (1) Where the liability for any form of taxation in Bermuda depends upon residence or domicile, a period during which a member or dependent is in Bermuda by reason of his being a member or dependent shall, for the purpose of such taxation, be

deemed not to be a period of residence in Bermuda and not to create a change of residence or domicile.

(2) A member is exempt from taxation in Bermuda on the salary and emoluments paid to him as such member by the Government of Canada and in respect of any tangible movable property that is in Bermuda temporarily by reason of his presence in Bermuda as such member.

Article IX

MOTOR VEHICLES

17. Subject to arrangements with the authorities of Bermuda, the Canadian visiting force may operate service vehicles in Bermuda.

18. No tax or fee shall be payable in respect of registration or licence for the operation of Canadian service vehicles in Bermuda.

19. The service driving permit issued by the Canadian Service authorities to a member shall be accepted as valid in Bermuda by the authorities of Bermuda for the operation of service vehicles.

Article X

ARMS

20. Service members may possess and carry arms on condition that they are authorised to do so by their orders. The authorities of Canada shall give sympathetic consideration to requests from the Government of Bermuda concerning this matter.

Article XI

IMMIGRATION

21. On entry into or exit from Bermuda,

- (a) a service member may be required to present, on demand, only a personal identity card issued by the Canadian Service authorities and an individual or collective Canadian service movement order ; and
- (b) a civilian member and a dependent may be required to produce a valid Canadian passport.

22. Members and dependents shall not by reason only of their presence in Bermuda under these Arrangements acquire any right to permanent residence or domicile in Bermuda.

23. If the status of a member or dependent in Bermuda is altered so that he would no longer be entitled to be treated as such, the authorities of Canada shall notify the Government of Bermuda and shall, if such person is required to leave Bermuda by the Government of Bermuda, be responsible for receiving the person concerned in Canada or otherwise disposing of him outside Bermuda.

Article XII

PUBLIC SERVICES

24. The Canadian visiting force shall have the right to use all utilities, services and facilities, roads, highways, bridges, viaducts, canals and similar channels of transportation belonging to, or controlled or regulated by the Government of Bermuda or the Government of the United Kingdom under conditions comparable to and no less favourable than those applicable from time to time to the Government of the United Kingdom or any other government that has forces lawfully stationed in Bermuda.

SCHEDULE

ARRANGEMENTS REGARDING THE STATUS OF CANADIAN FORCES IN BERMUDA

<i>Service</i>	<i>Description</i>	<i>Maximum Number of Personnel</i>
RCN	Radio Station located at Daniel's Head	50
All Services	Administrative and liaison personnel	as required, and in numbers acceptable to the authorities of Bermuda
RCN	HMC Ships and aircraft visiting Bermuda for the period of each visit	as required, and in numbers acceptable to the authorities of Bermuda
RCAF	Aircraft visiting Bermuda for the period of each visit	as required, and in numbers acceptable to the authorities of Bermuda

II

The Secretary of State for Commonwealth Relations to the High Commissioner for Canada

COMMONWEALTH RELATIONS OFFICE

September 11, 1964

Your Excellency,

I have the honour to acknowledge receipt of your Note of today's date which reads as follows :

[See note I]

I have the honour to inform you that the Government of the United Kingdom accept the proposals contained in your Note and agree that your Note together with the Annex and this reply shall constitute an agreement between our two Governments which shall remain in force until six months after either side has given written notice of termination.

I have the honour to be,

Your Excellency's obedient servant,

Duncan SANDYS