

No. 11252

**UNITED STATES OF AMERICA
and
UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND**

Exchange of notes constituting an agreement for making available an area within the United States Naval Air Station for the construction by the Government of Bermuda, at its expense, of a proposed road and for the use of the proposed road by vehicular and pedestrian traffic. London, 28 January 1971

Authentic text: English.

Registered by the United States of America on 4 August 1971.

**ÉTATS-UNIS D'AMÉRIQUE
et
ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD**

Échange de notes constituant un accord relatif au dégagement d'une zone à l'intérieur de la base aéronavale des États-Unis aux fins de la construction d'une route par le Gouvernement des Bermudes et à ses frais, et de l'utilisation de cette route par les véhicules et les piétons. Londres, 28 janvier 1971

Texte authentique: anglais.

Enregistré par les États-Unis d'Amérique le 4 août 1971.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT ¹
BETWEEN THE UNITED STATES OF AMERICA AND THE
UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND FOR MAKING AVAILABLE AN
AREA WITHIN THE UNITED STATES NAVAL AIR
STATION FOR THE CONSTRUCTION BY THE GOVERN-
MENT OF BERMUDA, AT ITS EXPENSE, OF A PRO-
POSED ROAD AND FOR THE USE OF THE PROPOSED
ROAD BY VEHICULAR AND PEDESTRIAN TRAFFIC

I

*The American Ambassador to the British Secretary of State for Foreign
and Commonwealth Affairs*

January 28, 1971

No. 2

Sir,

I have the honour to refer to the Agreement relating to the Bases leased to the United States of America, signed on March 27, 1941, as amended ² and to recent discussions between representatives of the Government of the United States and the Government of Bermuda regarding a proposed road through the United States Naval Air Station, Bermuda (formerly known as the United States Kindley Air Force Base, Bermuda).

I now have the honour to inform you that the Government of the United States is prepared to enter into an agreement in the following terms, for making available an area within the United States Naval Air Station for the construction by the Government of Bermuda, at its expense, of the proposed road and for the use of the proposed road by vehicular and pedestrian traffic:

(1) The area to be made available to the Government of Bermuda shall comprise the area located generally as shown on the map annexed to this Note described in

¹ Came into force on 28 January 1971, the date of the note in reply, in accordance with the provisions of the said notes.

² League of Nations, *Treaty Series*, vol. CCIV, p. 15. For subsequent actions, see United Nations, *Treaty Series*, vol. 73, p. 143; vol. 88, p. 273; vol. 99, p. 97, and annex A in volumes 373 and 649.

metes and bounds and geographical co-ordinates on the United States Air Force Drawing No. PBD 1968-1 prepared and held in the United States Naval Air Station Civil Engineer's Office* and in constructional detail on the three sheets of Drawing No. 5/10/41 prepared and held in the Public Works Department of Bermuda* including all such portions of the United States Military Road Called "Swalwell Drive" as are located therein. The area made available shall be used by the Government of Bermuda for the construction thereon, at its own expense, of the proposed road between the road used by the Government of Bermuda known as "Kindley Field Road" and the public road known as "St. David's Road" as is shown on the said Drawings, in which road shall be incorporated, with such realignments as may be appropriate or necessary, the said portions of Swalwell Drive and which road shall be for the use of vehicular and pedestrian traffic passing thereover between the Kindley Field Road and St. David's Road and which when constructed shall also be known as "St. David's Road."

(2) The Government of Bermuda shall not be required to pay rent to the Government of the United States for the area made available.

(3) The Government of Bermuda shall have control and jurisdiction over the area made available in the same manner and to the same extent as it would if the area were outside the leased area and shall relieve the Government of the United States from responsibility for the road, including its maintenance and traffic control.

(4) The United States military authorities shall have the right to use the proposed road and to determine, so as to prevent interference with United States military activities at the base, the manner and location of the construction and installation of any works, fixtures, and facilities on the area made available.

(5) Before the area made available is used by or with the authority of the Government of Bermuda for the traffic purposes aforesaid the Government of Bermuda shall in accordance with guidelines and criteria agreed between the United States military authorities and the Government of Bermuda, construct at its own expense:

- (a) a dividing fence along the southern boundary of the area made available;
- (b) a new roadway to be called "Swalwell Drive" to the south of such dividing fence located generally as shown on the three sheets of Drawing No. 5/10/41; and
- (c) the new traffic complex shown on Sheet 1 of the said Drawing together with a new gatehouse, bus shelter and telephone kiosk to be located generally as shown on the said Sheet.

* Not printed herein. The drawings are filed in the Archives of the Department of State where they are available for reference.

(6) The Government of Bermuda shall hold harmless the Government of the United States its agents and employees from all claims for injury to, or death of, persons or damage to, or destruction of, property, arising from the construction of any works, fixtures or facilities contemplated by these arrangements, unless such injury, death or damage results from the gross negligence or wilful misconduct of an employee of the Government of the United States.

(7) The use of the area made available for the purpose specified herein shall not be considered to diminish in any way the military nature and importance of the United States Naval Air Station. Except as expressly provided herein, these arrangements shall not, in any manner derogate from the provisions of the Agreement relating to the Bases leased to the United States of America, signed on March 27, 1941 as modified by the following instruments:

the Agreement concerning the Opening of Certain Military Air Bases in the Caribbean Area and Bermuda to Use by Civil Aircraft, dated February 24, 1948; ¹ the Agreement modifying the Agreement relating to the Bases leased to the United States of America of March 27, 1941, ² effected by the Exchange of Notes dated July 19 and August 1, 1950³; the Agreement on the Provision of Civil Airport Facilities at the Kindley Air Force Base, Bermuda, effected by the Exchange of Notes dated March 23 and April 25, 1951⁴; the Agreement extending the Area of the Civil Air Terminal in Bermuda, effected by the Exchange of Notes, dated May 25, 1960⁵ and the Agreement regarding additional Civil Airport facilities at the United States Kindley Air Force Base, Bermuda, effected by the Exchange of Notes dated June 4, 1968.⁶

(8) The United States military authorities and the Government of Bermuda or any authority designated by that Government in that behalf may conclude supplementary arrangements in implementation of this agreement in accordance with its intent and purposes.

If the foregoing is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honour to propose that this Note and your reply to that effect shall constitute an Agreement between our two Governments which shall enter into force on the date of Your Excellency's

¹ United Nations, *Treaty Series*, vol. 73, p. 143.

² League of Nations, *Treaty Series*, vol. CCIV, p. 15.

³ United Nations, *Treaty Series*, vol. 88, p. 273.

⁴ *Ibid.*, vol. 99, p. 97.

⁵ *Ibid.*, vol. 373, p. 362.

⁶ *Ibid.*, vol. 649, p. 318.

reply and shall remain in force until the expiration of the lease of the United States Naval Air Station.

WALTER H. ANNENBERG

Enclosures:

1. United States Air Force
Drawing No. PBD 1968-1.
2. Public Works Department of Bermuda
Drawing No. 5/10/41.

The Right Honourable Sir Alec Douglas-Home, K.T., M.P.,
Secretary of State for Foreign and Commonwealth Affairs
London

II

*The British Secretary of State for Foreign and Commonwealth Affairs
to the American Ambassador*

FOREIGN AND COMMONWEALTH OFFICE

28 January, 1971

Your Excellency,

I have the honour to acknowledge the receipt of your Note No. 2 of 28 January which reads as follows:

[See note I]

In reply I have the honour to inform Your Excellency that the foregoing proposals are acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland who therefore agree that your Note and this reply shall constitute an Agreement between the two Governments in this matter which shall enter into force on today's date and shall remain in force until the expiration of the lease of the United States Naval Air Station.

I have the honour to be, with the highest consideration, Your Excellency's obedient Servant,

For the Secretary of State:

[Signed]

R. N. POSNETT

His Excellency, The Honourable Walter H. Annenberg
American Embassy
London