

No. 12401

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

Exchange of notes constituting an agreement concerning officers designated by the Government of the United Kingdom in the services of the Government of Malaysia and the State Governments of Sabah and Sarawak. Kuala Lumpur, 31 March 1971

Authentic text : English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 30 March 1973.

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

Échange de notes constituant un accord relatif aux agents affectés au service du Gouvernement malaisien et des Gouvernements des États du Sabah et du Sarawak par le Gouvernement du Royaume-Uni. Kuala Lumpur, 31 mars 1971

Texte authentique : anglais.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 30 mars 1973.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF MALAYSIA CONCERNING OFFICERS
DESIGNATED BY THE GOVERNMENT OF THE UNITED
KINGDOM IN THE SERVICES OF THE GOVERNMENT OF
MALAYSIA AND THE STATE GOVERNMENTS OF SABAH
AND SARAWAK

I

*The United Kingdom Acting High Commissioner at Kuala Lumpur
to the Chief Secretary to the Government of Malaysia*

BRITISH HIGH COMMISSION
KUALA LUMPUR

31st March, 1971

Dear Tan Sri Abdul Kadir,

I have the honour to refer to discussions which have taken place between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Malaysia relating to certain officers in the services of the Government of Malaysia and the State Governments of Sabah and Sarawak designated by the Government of the United Kingdom, and to place on record the terms of the agreement which was resolved:

1. In this Agreement the term "the employing Government" shall mean:

- (a) In respect of officers seconded by the Government of Sabah or the Government of Sarawak for service under the Government of Malaysia, the Government of Malaysia;
- (b) In respect of officers recruited by the Government of Malaysia for service in Sabah or Sarawak, the Government of Malaysia;
- (c) In respect of officers in the public service of Sabah, the Government of Sabah;
- (d) In respect of officers in the public service of Sarawak, the Government of Sarawak.

2. The Government of the United Kingdom will make the reimbursements and payments, as specified in this Agreement, to or in respect of officers in the public service of the employing Government who are designated by the Government of the United Kingdom in accordance with this Agreement (such officers hereinafter being referred to as "designated officers").

3. The Government of the United Kingdom and the employing Government will hold annual reviews of the requirements that the employing Government may have as regards the employment of designated officers in their public services, so that the Government of the United Kingdom may, in consultation with the employing Government determine the classes or categories of officers, members of which the Government of the United Kingdom

¹ Came into force on 1 April 1971, in accordance with sub-paragraph 14.

is prepared to designate, the number of officers in each such class or category which may be designated and the maximum sum that will be available during any specified period to meet the obligations of the Government of the United Kingdom under this Agreement. During such reviews the employing Government will provide the Government of the United Kingdom with such information as that Government may require in order to calculate the amounts payable by that Government and the number of officers to be designated.

4. An officer may be designated generally or for such period as may be specified in the designation; and the designation of an officer may be terminated at the discretion of the Government of the United Kingdom: provided that the Government of the United Kingdom in exercise of the discretion to terminate the designation of an officer shall take into account the consequences that would follow if the designation were to be terminated.

5. The Government of the United Kingdom will reimburse the employing Government:

- (a) Sums equal to the inducement allowances paid to designated officers by the employing Government, at such annual rates as are specified by the Government of the United Kingdom, less the sums agreed by that Government and the employing Government as being equivalent to the proceeds of taxation payable on these allowances, together with any gratuities accruing to these officers by virtue of these inducement allowances;
- (b) one half of the aggregate amount paid by the employing Government in providing for designated officers and their dependent families' passages on such occasions (not being occasions referred to in paragraph 7 of this agreement) as the employing Government may, with the concurrence of the Government of the United Kingdom, prescribe.

6. The Government of the United Kingdom will, on behalf of the employing Government, pay direct to each designated officer:

- (a) any education allowance for which the officer may be eligible in respect of any child under such terms and conditions and at such rates as may be specified from time to time by the Government of the United Kingdom;
- (b) any appointment grant for which the officer may be eligible on such terms and conditions and at such rates as may be specified from time to time by the Government of the United Kingdom.

7. The Government of the United Kingdom will, to the same extent as heretofore, meet the cost of holiday passages for the children of a designated officer, that is to say, passages to enable children to visit their parents in Malaysia on such terms and conditions and occasions and in respect of such children and at such rates and by such classes of accommodation as may be specified from time to time by the Government of the United Kingdom.

8. Any allowance or grant payable direct to a designated officer by the Government of the United Kingdom in accordance with the provisions of this Agreement will be paid into an account at a bank nominated by the officer situated in the United Kingdom or the Republic of Ireland or such other country as may be agreed by the Government of the United Kingdom.

9. Any allowance or grant paid direct by the Government of the United Kingdom to a designated officer shall be exempt from the payment of income tax under any law in force in Malaysia.

10. In the event of a designated officer being seconded from the employment of the employing Government without the concurrence of the Government of the United Kingdom, the employing Government will, if requested to do so by the Government of the United Kingdom, pay to that Government a sum equal to the total cost of the reimbursements and payments made by that Government in respect of that officer whilst so seconded.

11. The employing Government will provide each designated officer, within a reasonable time of his taking up employment with that Government, with accommodation and basic furnishings in good condition suitable to the rank and family circumstances of the officer at a rent reasonable in relation to his basic salary.

12. The employing Government will promptly inform the Government of the United Kingdom of any event which might affect the eligibility of a designated officer under this Agreement to receive payments from the Government of the United Kingdom.

13. The employing Government will, whenever requested to do so by the Government of the United Kingdom, supply to that Government such accounts and other information in connection with the operation of this Agreement as may be specified in such request.

14. This Agreement shall come into operation on 1st April 1971 and on 31st March 1971 the Overseas Service (North Borneo) Agreement 1961, the Overseas Service (Sarawak) Agreement 1961 and the Overseas Service (Malaysia) Agreement 1964¹ shall terminate.

15. This Agreement shall terminate, unless some other date is agreed between the Governments of the United Kingdom and of Malaysia, on 31st March 1976.

2. If this letter correctly sets out the terms that have been agreed, I have the honour to suggest that this letter and your reply should be regarded as constituting an agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Malaysia and should be cited as the Overseas Service (Malaysia) Agreement 1971.

Yours sincerely,

A. A. DUFF
Acting High Commissioner for the United Kingdom
for and on behalf of the Government of the United Kingdom

II

*The Chief Secretary to the Government of Malaysia to the United Kingdom
Acting High Commissioner at Kuala Lumpur*

31 March, 1971

Dear Mr. Duff,

I have the honour to acknowledge receipt of your letter of 31st March 1971 which reads as follows :

[See note I]

I have further the honour to express agreement of my Government with the contents.

Yours sincerely,

[Signed]
Tan Sri ABDUL KADIR BIN SHAMSUDDIN
Chief Secretary to the Government
Malaysia

¹ United Nations, *Treaty Series*, vol. 552, p. 259.