

MALAYSIA



Treaty Series No. 16 (1972)

Exchanges of Notes

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of Malaysia

regarding Assistance for the Malaysian
Armed Forces and the Arrangements
for a United Kingdom Force
in Malaysia

Kuala Lumpur, 1 December 1971

[The Agreement is deemed to have entered into force on 1 November 1971]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 1972*

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EXCHANGES OF NOTES
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF MALAYSIA REGARDING ASSISTANCE FOR
THE MALAYSIAN ARMED FORCES AND THE
ARRANGEMENTS FOR A UNITED KINGDOM FORCE
IN MALAYSIA

No. 1

*From the United Kingdom High Commissioner at Kuala Lumpur to
the Deputy Minister of Defence of Malaysia*

*British High Commission,
Kuala Lumpur.*

1 December, 1971.

My Dear Minister,

1. I have the honour to refer to the Agreement on External Defence and Mutual Assistance between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federation of Malaya, concluded at Kuala Lumpur on the 12th of October, 1957⁽¹⁾; to the provisions concerning that Agreement contained in the Exchanges of Letters between those two Governments effected on the same date; to Article VI of the Agreement relating to Malaysia signed on the 9th of July, 1963⁽²⁾, by the Government of the United Kingdom, the Government of the Federation of Malaya, the Government of North Borneo, the Government of Sarawak and the Government of Singapore and applying the Defence Agreement with certain adaptations to all the territories of Malaysia; and to the Communiqué issued by representatives of the Governments of Australia, Malaysia, New Zealand, Singapore, and the United Kingdom at the conclusion of the Ministerial Meeting in London on the 16th of April, 1971, to consider matters of common interest to all five Governments relating to the external defence of Malaysia and Singapore. I have the honour to propose the following:

- (1) The Defence Agreement and all the related Agreements and Exchanges of Letters referred to in paragraph 1 of this Note shall cease to have effect between the Government of the United Kingdom and the Government of Malaysia as from the 1st of November, 1971, and, in furtherance of the intentions expressed in the Communiqué of the Ministerial Meeting, the following arrangements shall apply instead between the two Governments as from that date:
 - (a) The Government of the United Kingdom shall, as may be agreed from time to time between the two Governments, furnish the Government of Malaysia with assistance of the kind referred to in Annex I to this Note for the training and development of the Armed Forces of Malaysia.

(1) Cmnd. 263.

(2) Cmnd. 2094.

- (b) The Government of Malaysia may after mutual consultation permit a United Kingdom force to be stationed or present in Malaysia upon such terms and conditions as may be agreed between the two parties, and as provided for in the Annexes to this Note. With the object of securing mutual agreement, the Government of the United Kingdom and the Government of Malaysia will consult together over any proposal to alter the size or character of the United Kingdom force.
- (c) The Government of Malaysia shall afford, in respect of such a force, its civilian component and dependants and such authorised service organisations as may be approved by the Government of Malaysia and the Government of the United Kingdom, rights and facilities in accordance with the provisions of Annex II to this Note.
- (d) In respect of the permission granted herein the Government of the United Kingdom shall, where liability shall be established in accordance with the laws of Malaysia, make good or pay compensation for any damage to property or for personal injury or death caused to any person arising from its exercise of the rights and facilities accorded to it for the purposes of this Note:

Provided that each Government shall waive its claims against the other for damage to property used for the purposes of their armed forces arising out of an act or omission committed in the course of his official duty by a member of the armed forces of either of them, or for personal injury or death of military personnel whilst such personnel are on duty;

Provided further that a member of the United Kingdom force or civilian component shall not be subject to any proceedings for the enforcement of any judgement against him in Malaysia in respect of a claim which arises out of the performance of his official duty.

The procedure for dealing with claims shall be in accordance with the provisions contained in Section 14 of Annex II to this Note.

- (e) The provisions contained in Annex III to this Note shall apply to any United Kingdom force that may be stationed or present in Malaysia with the consent of the Government of Malaysia and to the authorised service organisations, civilian component and dependants of such a force.
- (f) It is the duty of the United Kingdom Service authorities, members of the United Kingdom force and its civilian component and dependants to respect the laws of Malaysia and on request to render all assistance within their power to the Malaysian authorities to prevent misuse of the privileges granted and to ensure proper discharge of the obligations imposed under Annex II and Annex III to this Note. It is also the duty of the United Kingdom service authorities to issue instructions and take necessary measures to that end.

- (2) For the purposes of the arrangements described in this Note, or in its Annexes, the terms used therein shall, unless the context otherwise requires, have the following meanings respectively assigned to them:
- (a) "installations" means the areas in Malaysia occupied by the Government of the United Kingdom for the purposes of this Note and includes the immovable property and structures situated thereon or built therein;
 - (b) "United Kingdom force" means any contingent, or detachment of any naval, land or air forces of the United Kingdom when stationed or present in Malaysia with the consent of the Government of Malaysia but does not include loan personnel;
 - (c) "United Kingdom Service authorities" means the authorities empowered by the law of the United Kingdom to exercise command or jurisdiction over members of a United Kingdom force or civilian component or dependants;
 - (d) "Malaysian authorities" means the authority or authorities from time to time authorised or designated by the Government of Malaysia for the purpose of exercising the powers in relation to which the expression is used;
 - (e) "civilian component" means the civilian personnel accompanying a United Kingdom force, who are employed in the service of a United Kingdom force or by an authorised service organisation accompanying a United Kingdom force, and who are not stateless persons, nor nationals of, nor ordinarily resident in Malaysia;
 - (f) "authorised service organisation" means a body organised for the benefit of, or to serve the welfare of, a United Kingdom force or civilian component or dependants;
 - (g) "dependant" means a person not ordinarily resident in Malaysia who is the spouse of a member of a United Kingdom force or civilian component or who is wholly or mainly maintained or employed by any such member, or who is in his custody, charge or care, or who forms part of his family;
 - (h) "loan personnel" means officers and other ranks for the time being provided by the United Kingdom to assist in the training and development of the Armed Forces of Malaysia pursuant to the arrangements described in paragraph 1 1(a) and Annex I to this Note;
 - (i) "official vehicles" means vehicles, including hired vehicles, which are exclusively in the service of a United Kingdom force or authorised service organisation;
 - (j) the expression "of a United Kingdom force" used in relation to "vessels" or "aircraft" includes vessels and aircraft on charter for the exclusive service of a United Kingdom force.

2. If the foregoing is acceptable to the Government of Malaysia, I have the honour to propose that this Note and its Annexes together with your reply to that effect shall constitute an Agreement between the two Governments in this matter which shall be deemed to have entered into force on the 1st of November, 1971.

Yours sincerely,

J. B. JOHNSTON
High Commissioner.

ANNEX I

ASSISTANCE BY THE UNITED KINGDOM TO THE ARMED FORCES OF MALAYSIA

The Government of the United Kingdom shall provide as may be agreed between the Government of Malaysia and the Government of the United Kingdom and on such terms, including terms as to payment, as may be agreed:

- (a) personnel to assist in the training and development of the Armed Forces of Malaysia;
- (b) facilities, including instructional courses abroad, for training members of the Armed Forces of Malaysia;
- (c) expert advice and assistance in operational and technical matters;
- (d) use of facilities for the purposes of the Note;
- (e) assistance in the supply of equipment for the Armed Forces of Malaysia.

ANNEX II

RIGHTS AND FACILITIES

Section 1—Installations

(1) The Government of Malaysia shall permit a United Kingdom force to occupy such installations as are agreed by the Government of Malaysia upon such terms and conditions as may be agreed by the two Governments.

(2) The Government of Malaysia agrees to afford the Government of the United Kingdom an adequate opportunity to comment before any development is authorised in the vicinity of the installations that would hamper their operation or endanger their security.

Section 2—Training

(1) A United Kingdom force may use such defined land and sea areas, air space and facilities related thereto as may be agreed between the Government of the United Kingdom and the Government of Malaysia, for the purpose of training or exercises as may be agreed, and in accordance with Malaysian clearance procedures.

(2) The Government of the United Kingdom shall give the Government of Malaysia such prior notice of their intention to use any such areas or air space, or any related facilities, as may be agreed between the two Governments, and the Government of Malaysia shall take such measures as may be agreed between the two Governments to restrict civilian movement and activity in the areas or air space concerned during their use by a United Kingdom force, and generally to facilitate the carrying out of such training and exercises.

Section 3—Movement of Forces, Vessels, Aircraft and Vehicles

(1) The Government of Malaysia shall grant to a United Kingdom force, vessels, aircraft and vehicles of a United Kingdom force, freedom of entry to and egress from the installations, and shall not upon request unreasonably deny freedom of other movements for the purpose of the Note provided that the Government of Malaysia reserves the right to prescribe the routes to be used and from time to time to impose restriction on movements within Malaysia and to prohibit access to and passage through specified areas.

(2) Ships belonging to a United Kingdom force may with the consent of the Government of Malaysia visit Malaysian ports on reasonable notification and in accordance with Malaysian port regulations and procedure. The movement of vessels shall be in accordance with normal international practice.

(3) The Government of Malaysia shall allow individual members of a United Kingdom force, and its civilian component and dependants freedom of movement in the territory of Malaysia for the purpose of normal administrative duties and private activities.

(4) (a) The Government of the United Kingdom may in compliance with the port regulations or other applicable laws of Malaysia pass explosives (including ammunition) through the ports of Malaysia and transport them to any place and move them to any extent reasonably necessary within Malaysia.

(b) Notwithstanding the mutual waiver provided for under clause 1(1)(d) of the Note, the Government of the United Kingdom shall indemnify the port authorities and the Government of Malaysia against any legally enforceable claim arising out of the exercise of any of the rights aforesaid in respect of the transportation or storage of explosives. Where the responsibility rests partly or wholly with the port authorities or the Government of Malaysia, and taking into account all the circumstances of the case, the indemnity shall be such a sum as may be agreed between the parties.

(c) The Government of the United Kingdom shall pay compensation to the port authorities and to the Government of Malaysia for any damage to property of those authorities or of that Government, as the case may be, resulting from any explosion of such explosives. Such compensation shall be such a sum as may be agreed between the Government of the United Kingdom and the

port authorities or the Government of Malaysia, as the case may be, after having taken into account all the circumstances of the case.

- (d) In this Section the expression "Government of Malaysia" includes any State Government or local authority or any statutory authority other than port authorities exercising powers vested in it by Federal or State law.

Section 4—Control of Aircraft, Vessels and Vehicles

(1) The Government of the United Kingdom may as may be agreed by the two Governments exercise such control over aircraft, vessels and vehicles entering, leaving and within the installations as may be required for the efficient operation, safety and security of such installations.

(2) The Government of Malaysia shall arrange for such control over aircraft, vessels and vehicles entering, leaving and within areas near the installations as may be agreed between the Government of the United Kingdom and the Government of Malaysia to ensure the efficient operation, safety and security of such installations.

Section 5—Navigational Aids

The Government of the United Kingdom may with the approval of the Malaysian Government install in any location within the territory and territorial waters of Malaysia such lights and other aids to navigation as the Government of the United Kingdom may deem necessary to ensure the proper operation and safety of a United Kingdom force.

Section 6—Telecommunications Systems

(1) For the purpose of the command and control of a United Kingdom force in Malaysia, the Government of Malaysia shall allow a United Kingdom force to construct and use telecommunications systems (including radio, electromagnetic and radar systems) and link them with other systems or terminals inside or outside Malaysia, on terms and conditions to be agreed between the Government of the United Kingdom and the Government of Malaysia. All telecommunications links shall be by means of facilities to be provided by the Government of Malaysia on a basis to be agreed, provided that a United Kingdom force may install such facilities if the Government of Malaysia is unable to provide them or where Malaysian facilities are not suitable for the purpose.

(2) Radio frequencies required by a United Kingdom force shall be as assigned and registered by the competent authority for Malaysia and the Government of the United Kingdom shall be responsible to the competent authority for such frequencies. The Government of the United Kingdom shall also be responsible to the competent authority for powers of emission for their telecommunications, radio and radar systems in Malaysia.

(3) The Government of Malaysia may upon request and upon such terms and conditions as may be agreed provide facilities for broadcasting programmes suitable for members of a United Kingdom force, its civilian component and dependants.

Section 7—Postal Services

The Government of Malaysia may permit the Government of the United Kingdom to operate, if necessary, Post Offices within and postal services in and between the installations and between such installations and other Post Offices within and outside the territory of the Government of Malaysia for the exclusive use of the Government of the United Kingdom and members of a United Kingdom force, civilian component and dependants, under arrangements to be agreed with the Government of Malaysia.

Section 8—Local Purchases

Subject to any wishes expressed by the Government of Malaysia, the Government of the United Kingdom and their contractors and authorised service organisations shall purchase locally goods and commodities which they require for the purposes of the Note if they are available at a suitable price and are of the standard required.

Section 9—Employment of Local Civilians

Subject to any wish expressed by the Government of Malaysia, the Government of the United Kingdom and their contractors and authorised service organisations shall employ such local labour as they may require, provided the labour is available and qualified to do the work. The pay and conditions of employment of such labour shall conform to those obtaining in good employment in the district in which the work is carried out, including those generally prevailing under Malaysian law.

Section 10—Use of Public Services and Facilities

(1) Subject to Section 3 (1) (2) and (3) of this Annex, whenever use is made by a United Kingdom force, authorised service organisations, civilian component and dependants of any public utilities, other services and facilities, airfields, ports, harbours, roads, highways, railways, bridges, viaducts, canals, lakes, rivers and streams in Malaysia, the conditions in regard to the payment of dues or charges shall be comparable with those applicable from time to time to the Armed Forces of Malaysia.

(2) Where at the request of the Government of the United Kingdom roads or other public services are developed or maintained to a level which would not have been needed but for such request, the Government of the United Kingdom shall make a contribution towards the cost of such development or maintenance as the case may be on a basis to be agreed between the Government of the United Kingdom and the Government of Malaysia.

Section 11—Construction, Development, Maintenance and Removal of Facilities

(1) The Government of the United Kingdom may hereafter with the agreement of the Government of Malaysia construct, develop and maintain such facilities as may be necessary for the purposes of the Note and, except in cases where it may be agreed otherwise, shall be responsible for their removal when such facilities are no longer required by the Government of the United Kingdom.

(2) Where such facilities serve the needs of both Governments, the costs shall be borne by the two Governments in such proportions as may be agreed between them.

Section 12—Generation and Distribution of Light, Power and Water

Within the installations and in such places outside the installations as may be agreed with the Government of Malaysia, the Government of the United Kingdom may search for and win water and generate light and power for use in such installations, and may distribute such water and transmit such light and power between the source and any installations by means of cables, pipes or in any other way whatsoever.

Section 13—Import, Export, Taxation, etc.

(1) Save as provided expressly to the contrary in Annexes II and III, members of a United Kingdom force, its civilian component and dependants shall be subject to the laws and regulations in Malaysia relating to the matters dealt with in this Section.

(2) Official documents under official seal shall not be subject to customs inspection. The package shall be accompanied by a certificate which states that only official documents are enclosed. Samples of the official seals shall be lodged with the customs authorities.

(3) (a) A United Kingdom force may import free of duty equipment, material, vehicles, provisions, supplies and other goods for the exclusive official use or consumption of a United Kingdom force or civilian component.

(b) A member of a United Kingdom force or civilian component or a dependant may import free of duty used portable articles and household effects.

(4) A member of a United Kingdom force or civilian component may at the time of or within a reasonable period after his entry into Malaysia import temporarily and free of duty a private motor vehicle for his personal use and that of his dependants.

(5) Items which have been imported duty free under paragraphs (3) and (4) of this Section:

(a) may be re-exported freely, provided that in the case of goods imported under paragraph (3) a certificate is presented to the customs office: the customs authorities may verify that goods re-exported are as described in the certificate and have been imported under the conditions of paragraph (3) or (4) as the case may be;

(b) shall not, if they are owned by a member of a United Kingdom force or civilian component, be disposed of in Malaysia by way of either sale or gift except to members of a United Kingdom force or civilian component. Disposal otherwise may only be made on such conditions, including payment of duty and tax and compliance with the requirements of the controls of trade and exchange, as may be imposed by the competent Malaysian authorities;

(c) may, if they are owned by a United Kingdom force or by an authorised service organisation, be disposed of in Malaysia by public sale, auction, tender or private treaty, provided that:

(i) before doing so the United Kingdom Service authorities concerned shall first offer them for sale at a reasonable price having regard

to their condition and other relevant circumstances to the Government of Malaysia unless the latter shall have indicated that it is not interested in their acquisition;

- (ii) in so disposing of stores or goods the United Kingdom Service authorities concerned shall be liable to pay any duties which would be payable on the items so disposed of as if they were imported by a private individual into Malaysia at the date of such disposal.

(6) The arrangements in paragraph (5) (c) above shall cover only the sale or disposal of unforeseen surpluses or damaged items of official stores and equipment. Any such sale or disposal shall not be made in a manner or with such frequency as seriously to compete with or adversely affect legitimate trade or industry in the territory of Malaysia. The Government of the United Kingdom or the Government of Malaysia shall at the request of the other Government be ready at any time to enter into discussions for this purpose should it appear necessary to that other Government.

(7) The United Kingdom Service authorities shall be allowed delivery of all fuel, oil and lubricants exclusively for use in official vehicles, aircraft and vessels of a United Kingdom force or civilian component or an authorised service organisation, or in the installations, free of all duties and taxes.

(8) In paragraphs (3) to (7) of this Section:

(a) "duty" means customs duties and all other duties, taxes and *ad valorem* registration fees payable on importation and exportation as the case may be, except dues and taxes which are no more than charges for services rendered;

(b) "importation" includes withdrawal from customs warehouses or continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in Malaysia.

(9) The movement of vessels, vehicles or aircraft of a United Kingdom force in and over the territory and territorial waters of Malaysia shall be under conditions generally comparable with those applicable from time to time to the Armed Forces of Malaysia in respect of pilotage, harbour charges and all dues or tolls.

(10) Official vehicles of a United Kingdom force or civilian component or an authorised service organisation shall be exempt from any regulations relating to the registration of vehicles in Malaysia and from any tax payable in respect of the use of such vehicles on the roads of Malaysia.

(11) The Malaysian authorities shall accept as valid, without a driving test or fee, the driving permit or licence issued by the United Kingdom Service authorities to a member of a United Kingdom force or civilian component for the purpose of driving official vehicles. For the purpose of driving other vehicles, a driving permit or licence issued by the Malaysian authorities shall be obtained.

(12) Authorised service organisations shall be exempt in Malaysia from taxes on income and profit, and shall not be subject to the laws in Malaysia governing the constitution, management, conduct and taxation of companies or other organisations as such.

(13) The Government of Malaysia shall exempt from tax the official emoluments paid from United Kingdom Government funds to members of a United Kingdom force or civilian component whilst in Malaysia, in respect of their offices under the Government of the United Kingdom, if such emoluments are subject to an income tax in the United Kingdom, provided that nothing herein contained shall prejudice any claims for exemption or relief from taxation under arrangements between the two Governments for the avoidance of double taxation.

(14) Where land or buildings occupied by the United Kingdom Service authorities in Malaysia for the purposes of the Note fall within the area of a local government authority, the United Kingdom Service authorities shall make to the Government of Malaysia a contribution ascertained on a basis to be agreed between the Government of the United Kingdom and the Government of Malaysia which shall take into account the extent to which the facilities or services rendered by that local authority, and normally covered by the general rating assessment, are enjoyed by a United Kingdom force, and the services and facilities provided or undertaken by a United Kingdom force on its own behalf.

(15) This Section shall not apply to persons ordinarily resident in Malaysia.

Section 14—Procedure on Claims

(1) Claims (other than contractual claims) in respect of an act or omission of a member of a United Kingdom force or civilian component or other officer or servant of the Government of the United Kingdom and which arose out of and in the course of his employment as such in Malaysia, other than claims waived under paragraph 1 (1) (d) of the Note, shall be expeditiously investigated by an appropriate authority of the Government of the United Kingdom and where liability would be established in accordance with the laws of Malaysia shall be settled by the payment by such authority of such compensation as the claimant might have been awarded under the laws of Malaysia in all the circumstances of the case:

Provided that if such a claim arises conjointly out of an act or omission of a member of a United Kingdom force in Malaysia or civilian component and of an act or omission of a member of the Armed Forces of Malaysia arising out of the performance of an official duty, the Government of the United Kingdom and the Government of Malaysia shall share equitably the cost of settling the claim including all expenses connected therewith and where a claim results in litigation and a court of law rules that one party is more to blame than the other party and apportions the liability of the parties the responsibility of either Government to make good the judgment shall be to the extent as ruled by the court.

(2) Paragraph 1 (1) (d) of the Note and sub-section (1) of this Section shall not apply to claims in respect of an act or omission by civilian personnel employed by an authorised service organisation; or to claims involving an act or omission of a member of a United Kingdom force or

civilian component or other officer or servant of the Government of the United Kingdom which did not arise out of the performance of official duty. In these cases the normal legal process of Malaysia shall apply.

(3) Apart from claims waived under the first proviso of paragraph 1 (1) (d) of the Note, claims by either Government against the other shall be subject to negotiation between them.

ANNEX III

STATUS OF FORCES

Section 1—Criminal Jurisdiction

(1) Subject to the provisions of this Section :

(a) the United Kingdom Service authorities shall have the right to exercise within Malaysia all criminal and disciplinary jurisdiction conferred on them by the law of the United Kingdom over members of a United Kingdom force or civilian component or dependants;

(b) the Malaysian authorities shall have jurisdiction over the members of a United Kingdom force or civilian component or dependants with respect to offences committed within Malaysia and punishable by the law of Malaysia.

(2) (a) The United Kingdom Service authorities shall have the right to exercise exclusive jurisdiction over members of a United Kingdom force or civilian component or dependants with respect to offences punishable by the law of the United Kingdom but not by the law of Malaysia.

(b) The Malaysian authorities shall have the right to exercise exclusive jurisdiction over members of a United Kingdom force or civilian component or dependants with respect to offences punishable by the law of Malaysia but not by the law of the United Kingdom.

(3) In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply :

(a) the United Kingdom Service authorities shall have the primary right to exercise jurisdiction over members of a United Kingdom force or civilian component or dependants in relation to :

(i) offences against the security of the United Kingdom, offences solely against the property of that country or against the person or property of another member of a United Kingdom force or civilian component or of a dependant;

(ii) offences arising out of an act or omission done in the performance of official duty, other than offences for which under existing practice the primary right of jurisdiction has been waived;

(b) in the case of any other offence, the Malaysian authorities shall have the primary right to exercise jurisdiction;

(c) if the authorities having the primary right decide not to exercise jurisdiction, they shall notify the other authorities as soon as practicable. The authorities having the primary right of jurisdiction shall give sympathetic consideration to a request from the other authorities for a waiver of their right in cases where those other authorities consider such waiver to be of particular importance, or where suitable punishment can be applied by disciplinary action without recourse to a court.

(4) The foregoing provisions of this Section shall not confer any right on the United Kingdom Service authorities to exercise jurisdiction over persons who are nationals of or ordinarily resident in Malaysia unless they are members of a United Kingdom force or dependants.

(5) (a) The United Kingdom Service authorities and the Malaysian authorities shall assist each other in arresting members of a United Kingdom force or civilian component or dependants and handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions. The United Kingdom Service authorities shall assist the Malaysian authorities in the arrest within the installations of other offenders against the laws of Malaysia.

(b) The Malaysian authorities shall give prompt notification to the United Kingdom Service authorities of the arrest of any member of a United Kingdom force or civilian component or a dependant.

(c) The custody of an accused member of a United Kingdom force or civilian component or a dependant over whom the Malaysian authorities are to exercise jurisdiction shall remain with the United Kingdom Service authorities until he is brought to trial by the Malaysian authorities.

(6) (a) The United Kingdom Service authorities and the Malaysian authorities shall assist each other in carrying out all necessary investigations into offences and in the collection and production of evidence relating to an offence. For the purpose of this paragraph, members of the police force of Malaysia may, by arrangement with the United Kingdom Service authorities, have reasonable access to the installations except to premises which are enclosed and under guard.

(b) The United Kingdom Service authorities and the Malaysian authorities shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

(7) Where an accused has been tried in accordance with the provisions of this Section by the United Kingdom Service authorities or the Malaysian authorities as the case may be, and has been acquitted, or has been convicted, he may not be tried again for the same offence by the United Kingdom Service authorities or the Malaysian authorities as the case may be. However, nothing in this paragraph shall prevent the United Kingdom Service authorities from trying a member of a United Kingdom force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the Malaysian authorities.

(8) Whenever a member of a United Kingdom force or civilian component, or a dependant, is prosecuted under the jurisdiction of Malaysia he shall be entitled :

- (a) to a prompt and speedy trial;
- (b) to be informed in advance of trial of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favour if they are within the jurisdiction of Malaysia;
- (e) to have legal representation of his own choice for his defence, or to have free or assisted legal representation under the conditions prevailing for the time being in Malaysia;
- (f) to have the services of a competent interpreter; and
- (g) to communicate with a representative of his Government and, when the rules of the court permit, to have a representative of that Government present at his trial.

Section 2—Security

(1) The United Kingdom Service authorities may take such measures within their installations as they deem necessary to ensure the security of the installations and of the equipment, property, records and official information of a United Kingdom force.

(2) The Malaysian authorities shall co-operate with the United Kingdom Service authorities in taking such steps as from time to time may be necessary to ensure the security of the installations and of the equipment, property, records and official information of a United Kingdom force, its members, civilian component and dependants and their property.

(3) A United Kingdom force shall have the right to maintain Service police for the maintenance of discipline within the force and for the security of the installations which it occupies. Such Service police may, with the agreement of and in liaison with the Malaysian authorities, be employed outside the installations insofar as such employment may be necessary to maintain the security of such installations or discipline and order among the members of a United Kingdom force.

(4) A United Kingdom force shall have the right to raise and maintain civil police services for the maintenance of order and security within any installations which it occupies. With the agreement of the Malaysian authorities, such civil police may be employed outside the installations under arrangements made between the United Kingdom Service authorities and the Malaysian authorities.

Section 3—Compulsory Service

Members of a United Kingdom force or civilian component or dependants shall not be subject to any law enacted in Malaysia relating to liability for compulsory service of any kind.

Section 4—Carriage of Arms

Members of a United Kingdom force and members of civil police services mentioned in Section 2 (4) above may possess and carry arms when authorised to do so by their orders, except that the members of such civil police when employed outside the installations shall carry arms only with the agreement of the Malaysian authorities.

Section 5—Exchange Control

(1) Members of a United Kingdom force or civilian component and dependants shall remain subject to the foreign exchange regulations of the United Kingdom but as regards acts done in the territory of Malaysia shall also be subject to the exchange control regulations of Malaysia in force from time to time.

(2) Remittances between Malaysia and the United Kingdom shall be freely permitted in respect of:

- (a) funds derived by members of a United Kingdom force or civilian component from services or employment in connection with the purposes of the Note;
- (b) funds belonging to an authorised service organisation and derived from its recognised trading activities; and
- (c) funds derived by members of a United Kingdom force or civilian component or dependants or by an authorised service organisation from sources outside Malaysia, subject to the regulations of the United Kingdom.

(3) The preceding paragraphs shall not preclude the transmission into or outside Malaysia of foreign exchange instruments representing the official funds of a United Kingdom force.

(4) This Section shall not apply to persons ordinarily resident in Malaysia.

Section 6—Entry and Exit

Subject to compliance with the immigration formalities established by Malaysia and provided they are in possession of official identity cards or other documents of identity normally issued to them, members of a United Kingdom force shall be exempt from passport and visa regulations and immigration requirements on entering or leaving the territory of Malaysia. They shall also be exempt from the regulations of Malaysia on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of Malaysia. Members of a civilian component or dependants of such a force shall be similarly exempt provided they are in possession of valid passports and subject to mutual arrangements between the two Governments in respect of Malaysian regulations on the registration and control of aliens.

No. 2

*From the Deputy Minister of Defence of Malaysia to the United Kingdom
High Commissioner at Kuala Lumpur*

*Ministry of Defence,
Kuala Lumpur.*

My dear High Commissioner,

1 December, 1971.

1. I refer to your Note of today's date about the defence arrangements between our two Governments, the terms of which are as follows:

[As in No. 1]

A copy of the Annexes to your Note is attached to this reply.

2. In reply, I confirm that your Note and its Annexes correctly state the understanding between the Government of Malaysia and the Government of the United Kingdom and in accordance with the proposal contained therein your Note and its Annexes and this reply shall constitute an Agreement between our two Governments.

Yours sincerely,

TENGGU AHMAD RITHAUDDEEN AL-HAJ BIN
TENGGU ISMAIL

Deputy Minister of Defence.

[Annexes as in No. 1]

No. 3

*From the United Kingdom High Commissioner at Kuala Lumpur
to the Deputy Minister of Defence of Malaysia*

*British High Commission,
Kuala Lumpur.*

My dear Minister,

1 December, 1971.

1. With reference to our Exchange of Notes of today's date, relating to defence arrangements, I write to record the understanding reached between us that an authorised service organisation approved by the Government of Malaysia and the Government of the United Kingdom may import free of duty reasonable quantities of provisions, supplies and other goods for the exclusive use or consumption of the members of a United Kingdom force or civilian component or dependants.

2. I should be grateful if you would confirm that the above correctly records the understanding between our two Governments.

3. In this connection, I am instructed to request the Malaysian Government to approve the Navy, Army and Air Force Institutes as an authorised service organisation.

4. I should also be grateful for your agreement that the Services Kinema Corporation may be similarly recognised as an authorised service organisation and may import free of duty supplies and equipment appropriate to its own operations.

5. I take this opportunity to state that it would be the intention of the United Kingdom Government similarly to approach the Malaysian Government for approval should there be any other body which at any time in the future the United Kingdom Government wished to propose should be recognised as an authorised service organisation.

Yours sincerely,

J. B. JOHNSTON

High Commissioner.

No. 4

From the Deputy Minister of Defence of Malaysia to the United Kingdom High Commissioner at Kuala Lumpur

*Ministry of Defence,
Kuala Lumpur.*

My dear High Commissioner,

1 December, 1971.

1. I refer to paragraph 1 of your letter of today's date referring to the import facilities for an authorised service organisation, which reads as follows:

"1. With reference to our Exchange of Notes of today's date, relating to defence arrangements, I write to record the understanding reached between us that an authorised service organisation approved by the Government of Malaysia and the Government of the United Kingdom may import free of duty reasonable quantities of provisions, supplies and other goods for the exclusive use or consumption of the members of a United Kingdom force or civilian component or dependants."

2. In reply, I confirm that the above correctly states the understanding between our two Governments.

3. As regards paragraph 3 of your letter, the Government of Malaysia agree that the Navy, Army and Air Force Institutes will be recognised as an authorised service organisation until further notice.

4. The Government of Malaysia also agree to recognise the Services Kinema Corporation as an authorised service organisation and this organisation may import free of duty supplies and equipment appropriate to its own operations.

5. I note that you will similarly seek the approval of the Government of Malaysia should there in the future be any other body which the United Kingdom Government may wish to propose should be recognised as an authorised service organisation.

Yours sincerely,

TENGKU AHMAD RITHAUDDEEN AL-HAJ BIN
TENGKU ISMAIL

Deputy Minister of Defence

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