



Treaty Series No. 127 (1973)

## Exchange of Notes

between the Government of the  
United Kingdom of Great Britain and Northern Ireland  
and the Government of the Republic of Kenya

regarding the Establishment of a  
Joint Service Advisory Team in Kenya  
to assist in the Training and  
Development of the Armed Forces  
of Kenya

Nairobi, 23 October 1973

[The Agreement is deemed to have entered into force on 1 May 1973]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
December 1973*

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**EXCHANGE OF NOTES  
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM  
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE  
GOVERNMENT OF THE REPUBLIC OF KENYA REGARDING  
THE ESTABLISHMENT OF A JOINT SERVICE ADVISORY TEAM  
IN KENYA TO ASSIST IN THE TRAINING AND DEVELOPMENT  
OF THE ARMED FORCES OF KENYA**

No. 1

*The British High Commissioner at Nairobi to the Minister for  
Defence of Kenya*

*British High Commission,  
Nairobi.*

My dear Minister,

23 October 1973.

I have the honour to refer to the discussions which have taken place between representatives of the Government of the United Kingdom of Great Britain and Northern Ireland and of the Government of the Republic of Kenya regarding the establishment of a Joint Service Advisory Team in the Republic of Kenya to assist in the training and development of the Armed Forces of the Republic of Kenya.

In the course of these discussions it was agreed that the arrangements for the provision of the members of the Joint Service Advisory Team should be those as set out in the Appendix to this Note.

I have the honour to propose that, if these arrangements are acceptable to the Government of the Republic of Kenya, this Note together with its Appendix, and your reply to that effect, shall be regarded as constituting an Agreement between our two Governments in this matter which shall be deemed to have entered into force on the 1st day of May 1973 and shall remain in force until the 30th day of April 1975, and continue thereafter until either Government gives to the other a written six months' notice of termination whereupon, after the expiration of the period of notice, this Agreement shall forthwith terminate except any provisions thereof relating to the treatment of claims and the financial obligations of either Government which provisions shall remain in force.

Yours sincerely,  
ANTONY DUFF

## APPENDIX

### The Joint Service Advisory Team Agreement

#### Definitions

For the purpose of this Appendix:

“ The Status Agreement ” means the Agreement relating to the status of the forces of the United Kingdom in Kenya constituted by an Exchange of Letters between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Kenya at Nairobi on the 14th of July 1967.<sup>(1)</sup>

Except where the context otherwise requires, expressions in this Appendix shall have the meaning which they have for the purpose of the Status Agreement.

“ Service Regulations ” means any statute, order, regulation, warrant or instruction relating to the armed forces;

“ other ranks ” includes all members of the armed forces of the United Kingdom who do not hold commissioned rank;

“ entitled dependant ” means a dependant for whom under United Kingdom service regulations a free passage to or from Kenya is provided.

#### Section I. General

1. The Government of the United Kingdom shall endeavour to obtain volunteers from the regular Armed Forces of the United Kingdom to form a Joint Service Advisory Team (referred to in this Appendix as “ the Joint Service Advisory Team ”) to assist in the training and development of the Armed Forces in Kenya. The composition of the Joint Service Advisory Team shall be such as may from time to time be agreed between the Government of Kenya and the Government of the United Kingdom.

2. (a) The function of the Joint Service Advisory Team is to assist the Kenyan Ministry of Defence and the Commanders of the land, air and sea forces of Kenya in the discharge of their responsibility for the training and development of those forces.

(b) The way in which the Joint Service Advisory Team carries out this function shall be as arranged between the Kenyan Ministry of Defence and the Commanders of the land, air or sea forces of Kenya as appropriate or of senior officers appointed by them for the purpose, and the Commander of the Joint Service Advisory Team, (or the Officer Commanding of the appropriate branch of the Joint Service Advisory Team) it being the responsibility of such officers to afford all reasonable assistance in training and developing the Kenya Armed Forces to the extent of the establishment and equipment of the Joint Service Advisory Team.

(c) The responsibility of the Commander of the Joint Service Advisory Team for the command, efficiency and administration of the Team is to the Government of the United Kingdom through his service superiors, and accordingly except where otherwise provided by this

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<sup>(1)</sup> Treaty Series No. 32 (1968), Cmnd. 3581.

Appendix or except as may be otherwise arranged, in the event of the Government of Kenya or an authority of that Government wishing to raise any matters relating to Joint Service Advisory Team the matter shall be raised through the diplomatic channel, and normally with the United Kingdom High Commissioner in Kenya.

3. Separate arrangements, satisfactory to both Governments, shall be made in relation to the bearing of the cost of the provision of the Joint Service Advisory Team, the provision of facilities for the Joint Service Advisory Team and of facilities and benefits for its members.

4. The following provisions shall apply in regard to the relationship of the Joint Service Advisory Team to the Armed Forces of Kenya:

- (a) Members of the Joint Service Advisory Team shall be treated except in so far as this Appendix otherwise provides as members of the Armed Forces of Kenya of equivalent rank.
- (b) Members of the Joint Service Advisory Team shall not normally be given executive responsibility in the Armed Forces of Kenya except in pursuance of special arrangements made between the Government of Kenya and the Government of the United Kingdom. However, where in the course of his duties as a member of the Joint Service Advisory Team an officer or other rank is given such a responsibility, he shall have powers of command over any member of the Armed Forces of Kenya of relative rank, and shall be required to obey orders or instructions of superior officers under whose command he is placed, provided that such orders or instructions are not inconsistent with his duties under United Kingdom Service Regulations, and would if given by anyone subject to those Regulations constitute a lawful command under those Regulations.
- (c) Members of the Joint Service Advisory Team who are filling executive positions in the Establishment of the Armed Forces of Kenya under this paragraph shall retain the right of direct access to the Officer Commanding of the appropriate branch of the Joint Service Advisory Team.
- (d) Members of the Joint Service Advisory Team shall remain for all purposes members of the Armed Forces of the United Kingdom and under United Kingdom command and shall accordingly not be subject to the Service Regulations of Kenya or any arrest or detention thereunder nor to the jurisdiction of any authority, court or tribunal deriving its constitution or powers under the Service Regulations of Kenya.
- (e) Members of the Joint Service Advisory Team shall not take part in hostilities or other operations of a warlike nature undertaken by the Armed Forces of Kenya nor, without the consent of the Government of the United Kingdom, in the operations of those forces which are concerned with the preservation of peace, with internal security or with the enforcement of law and order.

- (f) Members of the Joint Service Advisory Team shall not be employed outside Kenya in training the Armed Forces of Kenya other than the normal sea training of the Kenyan Navy except in pursuance of special arrangements made between the Government of Kenya and the Government of the United Kingdom.

## **Section II. Application of the Status Agreement**

1. The Status Agreement shall, in its application to members of the Joint Service Advisory Team, be read subject to the modifications set out in this section.

2. (a) The provisions of paragraph 4 of the Appendix to the Status Agreement shall not prevent the Government of Kenya from holding a member of the Joint Service Advisory Team responsible for:

(i) damage to public or service property (which includes only property of or held for any department of the Government of Kenya or the Armed Forces of Kenya), or

(ii) loss of or misapplication of public or service funds or property shown to be due to an act or omission on his part involving fraud or dishonesty or misconduct in the performance of official duty. Arrangements for the mode of assessment of compensation in such cases shall be those set out in the Schedule hereto.

- (b) The Government of Kenya shall make good or pay compensation for loss or damage to the uniform and equipment of a member of the Joint Service Advisory Team where such loss or damage is occasioned by the performance of official duty excluding while in transit to and from Kenya.

- (c) The Government of Kenya shall make good or pay compensation for loss or damage arising out of civil disturbance or riots to personal property and uniform and equipment (unless covered by paragraph 2 (b) hereof) of members of the Joint Service Advisory Team.

3. The waiver effected by sub-paragraph (a) of paragraph 4 of the Appendix to the Status Agreement shall extend to damage caused by a member of the Joint Service Advisory Team employed outside Kenya if the sole reason why the sub-paragraph would not but for this provision apply is that the property in question is not in Kenya.

4. The cost of meeting claims arising out of acts or omissions of members of the Joint Service Advisory Team done or omitted in the course of their service as such shall be borne by the Government of Kenya and accordingly the following sub-paragraph shall be substituted for sub-paragraph (b) of paragraph 4 of the Appendix to the Status Agreement:

- “(b) All claims arising out of acts or omissions of members of the Joint Service Advisory Team done or omitted in the course of their service as such shall be dealt with by the Government of Kenya except in the case of claims made in the United Kingdom which shall be dealt with by the Government of the United Kingdom and shall in all cases be settled or otherwise disposed of at the cost of the Government of Kenya.”

5. Notwithstanding the provisions of paragraph 6 of the Appendix to the Status Agreement, arrangements may be made at the discretion of the Commander of the Joint Service Advisory Team for certain members of the Joint Service Advisory Team to wear the uniform of the Armed Forces of Kenya, where such members are required to perform executive duties in the Armed Forces of Kenya.

6. (a) For the purposes of sub-paragraph (c) of paragraph 8 of the Appendix to the Status Agreement, a motor vehicle shall be regarded as having been imported within a reasonable time after the entry into Kenya of a member of the Joint Service Advisory Team if it is imported within the first six months of the beginning of the tour of duty with the Joint Service Advisory Team.
- (b) Notwithstanding sub-paragraph (a) of paragraph 8 of the Appendix to the Status Agreement, items imported under sub-paragraph (c) of paragraph 8 of the Status Agreement by members of the Joint Service Advisory Team (other than motor vehicles) may be sold or otherwise disposed of to any person without payment of duty during the period of one month immediately preceding the end of the tour of duty and one month thereafter.

### **Section III. Conditions of Service**

#### *Pay and allowances*

1. The Government of the United Kingdom shall, in accordance with United Kingdom Service Regulations, pay members of the Joint Service Advisory Team the pay and emoluments of the ranks which they held during the period of service with the Joint Service Advisory Team.

#### *Period of service*

2. (a) The period of service shall be from the day upon which the individual ceases to do duty with the Force in which he last served before his service with the Joint Service Advisory Team until the day upon which he is taken onto the strength of his next unit.
- (b) The period shall include:
- (i) Embarkation leave before embarking;
  - (ii) A tour of duty in Kenya of two years or such shorter period as may be agreed between the Governments of the United Kingdom and Kenya and which shall include leave taken during the tour;
  - (iii) A second or subsequent tour of duty as may be agreed between the two Governments;
  - (iv) Inter-tour or end of tour leave (which may be taken in the United Kingdom) consisting of:
    - (aa) disembarkation leave of fourteen days;
    - (bb) one additional day for each month of the period of service with the Joint Service Advisory Team (excluding inter-tour or end of tour leave) in excess of six months;

- (cc) any annual leave due during the tour of duty but not taken up to a maximum of one quarter of the leave entitlement for each year of service with the Joint Service Advisory Team.

#### *Leave*

3. The leave entitlement for personnel of the Joint Service Advisory Team shall be as follows:

- (a) Embarkation Leave—14 days.
- (b) Annual Leave—A maximum of 42 days of which one quarter may be postponed and included in inter-tour or end of tour leave in accordance with paragraph 2 (b) (iv) of this Section.
- (c) Inter-tour and End of Tour Leave—Calculated in accordance with paragraph 2 (b) (iv) of this Section.
- (d) Compassionate Leave and other Leave—In accordance with United Kingdom Service Regulations and practice.

Married members of the Joint Service Advisory Team not accompanied by their wives shall be entitled to take leave in the United Kingdom once during the tour of duty in accordance with United Kingdom Service Regulations. When so taken leave shall be deemed to begin on the day upon which the individual reaches the first point of disembarkation in the United Kingdom and to cease on the day upon which the individual reaches the first point of disembarkation in Kenya, provided he travels by air.

#### *Rank and Promotion*

- 4. (a) If members of the Joint Service Advisory Team are selected to fill ranks in the Armed Forces of Kenya higher than their substantive rank they shall be granted temporary or acting rank in accordance with United Kingdom Service Regulations and any subsequent relinquishment shall also be in accordance with those Regulations.
- (b) Members of the Joint Service Advisory Team shall be eligible for promotion or advancement in accordance with United Kingdom Service Regulations.

#### *Termination of Service*

- 5. (a) If a member of the Joint Service Advisory Team neglects or refuses to perform his duties, or becomes unable to perform his duties by reason of disciplinary action, ill health or for any other reason, or misconducts himself or is unsuitable or inefficient, the Government of Kenya, after consultation with the Commander of the Joint Service Advisory Team may request the termination of the service of the individual.
- (b) In the event of an unforeseen reduction in the establishment of the Joint Service Advisory Team or in the requirement of the Government of Kenya for the services of the Joint Service Advisory Team the service of an individual may be terminated after six months previous written notice has been given to the United Kingdom High Commissioner.

- (c) If the Commander of the Joint Service Advisory Team is of the opinion that an individual has strong compassionate grounds for being relieved of his obligation to complete a full tour of duty, the service of that individual shall terminate on a date to be agreed between the Government of Kenya and the United Kingdom High Commissioner.
- (d) The Government of the United Kingdom reserves the right to withdraw the services of any or all members of the Joint Service Advisory Team after consultation with the Government of Kenya.

#### *Applicability of United Kingdom Service Regulations*

6. All members of the Joint Service Advisory Team shall remain subject to United Kingdom Service Regulations and shall at all times be and remain subject to all powers exercisable by the United Kingdom Service Authorities thereunder.

#### *Postings and Employment*

7. Members of the Joint Service Advisory Team shall not be employed otherwise than in the capacity for which they were selected, without the concurrence of the appropriate United Kingdom Service Authority.

#### *Nominations*

8. The nomination of any officer or other rank shall be subject to the acceptance of the Government of Kenya who may refuse to accept such officer or other rank if, on the grounds of qualification, experience, suitability or other consideration, such nomination is not considered by the Government of Kenya to be acceptable.

#### *Dependants*

9. Married members of the Joint Service Advisory Team shall normally be accompanied by their dependants.

### THE SCHEDULE

#### **Procedure for dealing with loss or damage or misapplication of funds**

1. If the Ministry of Defence or Service Authorities of Kenya are of the opinion that the circumstances set out in sub-paragraph (a) of paragraph 2 of Section II of the Appendix or any of such circumstances have arisen, the procedure set out in the following paragraphs shall apply:

- (a) The Ministry of Defence or Service Authorities of Kenya shall give to the United Kingdom Service Authorities full particulars of the loss, damage or misapplication, including all records of proceedings, depositions, statements and of the evidence relating thereto.



(b) The United Kingdom Service Authorities concerned shall make or cause to be made such investigation as they shall think fit and if satisfied that the loss, damage or misapplication was occasioned by any such act or omission as is mentioned in sub-paragraph (a) of paragraph 2 of Section II of the Appendix, the member or members of the Joint Service Advisory Team in question shall be invited to pay as or towards compensation for the loss or damage such sum as the United Kingdom Service Authorities shall in their discretion assess to be the amount which would have been awarded under United Kingdom Service Regulations had such loss or damage been occasioned to United Kingdom public or Service property or funds and the proceedings and investigations prescribed by United Kingdom Service Regulations been made.

2. If payment is made of the sum assessed in accordance with sub-paragraph (b) of paragraph 1 above it shall be accepted by the Government of Kenya in full and final settlement of any claims which the Government of Kenya may have against the member or members in question under the laws of Kenya in respect of such loss or damage or misapplication of funds.

No. 2

*The Minister for Defence of Kenya to the British High Commissioner  
at Nairobi*

*Ministry of Defence,  
Nairobi.*

*23rd October 1973.*

I have the honour to acknowledge the receipt of your Note of today's date setting out in an Appendix the arrangements agreed in discussion in respect of the Joint Service Advisory Team which it is proposed to establish in the Republic of Kenya, a copy of which is attached hereto.

In reply, I have the honour to inform you that the proposed arrangements are acceptable to the Government of the Republic of Kenya who therefore regard your Note, together with its Appendix and this reply, as constituting an Agreement between our two Governments in this matter which shall be deemed to have entered into force on the 1st day of May 1973 and shall remain in force until the 30th day of April 1975 and continue thereafter until either Government gives to the other a written six months' notice of termination whereupon, after the expiration of the period of notice, this Agreement shall forthwith terminate except any provisions thereof relating to the treatment of claims and the financial obligations of either Government which provisions shall remain in force.

**J. S. GICHURU**  
*Minister for Defence*



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