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UNITED STATES OF
AMERICA

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RELEASED IN FULL

Treaty Series No. 1 (2000)

Exchange of Notes

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the United States of America

concerning the construction of
a Monitoring Facility on Diego Garcia,
British Indian Ocean Territory

(British Indian Ocean
Territory Agreement 1999)

London, 18 June and 21 July 1999

[The Agreement entered into force on 21 July 1999]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 2000*

Cm 4582

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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 UNITED STATES OF AMERICA CONCERNING THE CONSTRUCTION OF A MONITORING FACILITY ON DIEGO GARCIA, BRITISH INDIAN OCEAN TERRITORY (BRITISH INDIAN OCEAN TERRITORY AGREEMENT 1999)

No. 1

The Head of Overseas Territories Department, Foreign and Commonwealth Office to the Ambassador of the United States of America at London.

London

18 June 1999

Our reference: OTI083/001/99

I have the honour to refer to the Agreement constituted by the Exchange of Notes dated 30 December 1966¹ between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America concerning the availability of the British Indian Ocean Territory for defence purposes and to the Agreement constituted by the Exchange of Notes dated 25 February 1976² between the two Governments concerning a United States Navy Support Facility on Diego Garcia, British Indian Ocean Territory. Pursuant to paragraph 2(b) of the former Agreement, I now convey the approval of the Government of the United Kingdom of Great Britain and Northern Ireland to the construction on Diego Garcia, British Indian Ocean Territory, of a monitoring facility for inclusion in the International Monitoring System to be established pursuant to the Comprehensive Nuclear Test-Ban Treaty, adopted at New York on 10 September 1996,³ and for satisfying requirements of the United States of America, and propose an Agreement in the following terms:

Scope of and responsibility for the monitoring facility

1. The Government of the United States of America shall undertake, at no expense to the Government of the United Kingdom of Great Britain and Northern Ireland, to construct, maintain and operate a hydroacoustic monitoring facility on Diego Garcia, British Indian Ocean Territory, to meet US requirements and for inclusion in the International Monitoring System to be established, pursuant to the Comprehensive Nuclear Test-Ban Treaty, by the Preparatory Commission and its Provisional Technical Secretariat. Notwithstanding that the monitoring facility shall be constructed, maintained and operated by the Government of the United States, the Government of the United Kingdom of Great Britain and Northern Ireland shall be the State responsible for the monitoring facility pursuant to Section A of Part 1 of the Protocol of the Comprehensive Nuclear Test-Ban Treaty.

Purpose of the monitoring facility

2. The purpose of the monitoring facility shall be to provide data to the International Data Centre and, as appropriate, the Provisional or Prototype International Data Centre, established by the Preparatory Commission and the Comprehensive Nuclear Test-Ban Treaty Organization in accordance with the terms of the Treaty; and directly to the United States of America. At its own expense, the Government of the United States of America may install and maintain a separate data channel for its own purposes.

¹ Treaty Series No. 15 (1967) Cmd. 3231

² Treaty Series No. 19 (1976) Cmd. 6413

³ Miscellaneous No. 7 (1997) Cm 3665

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Compliance with the Comprehensive Nuclear Test Ban Treaty

3. The monitoring facility shall be surveyed, constructed, operated and maintained in accordance with US requirements and applicable provisions of the Comprehensive Nuclear Test-Ban Treaty, the technical specifications approved by the Preparatory Commission on 18 August 1998, and the associated Operational Manuals adopted by the Preparatory Commission of the Comprehensive Nuclear Test-Ban Treaty Organization. The two Governments shall take any measures necessary to work, as appropriate, with the Preparatory Commission or the Comprehensive Nuclear Test-Ban Treaty Organization to ensure that the station will be certified to operate as an International Monitoring System station. Given the obligation of the Organization in Article IV of the Treaty and the provisional obligation of the Preparatory Commission in paragraph 3(c) of the Annex to the Resolution Establishing the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty to meet the costs of IMS facilities, the US and the UK shall cooperate in any effort to obtain funding from the Organization or the Preparatory Commission, as appropriate, for some or all of the costs of establishing, operating, and maintaining this station. Installation, operation, maintenance, and funding of any future upgrades of the station following initial certification will be a matter for consultation and agreement between Governments.

4. The Governments shall cooperate with the Comprehensive Nuclear Test-Ban Treaty Organization to provide a direct connection from the monitoring facility to the Global Communications Infrastructure (GCI) of the Treaty Organization to ensure compliance with the Comprehensive Nuclear Test-Ban Treaty and its Preparatory Commission requirements. Continuous data from the monitoring facility will be transmitted using the GCI, uninterrupted to the International Data Centre and, as appropriate, the Provisional or Prototype International Data Centre.

Respect for British Indian Ocean Territory laws and regulations

5. The Government of the United States shall, with regard to the construction and operation of the monitoring facility, respect all applicable British Indian Ocean Territory laws and regulations, and shall, as far as possible, minimise any adverse impact that the monitoring facility might have on the local environment.

Construction of the facility

6. The plans for the construction of the monitoring facility, and its precise location, shall be agreed between the two Governments, and they shall jointly review the construction plans with the Provisional Technical Secretariat of the Comprehensive Nuclear Test-Ban Treaty Preparatory Commission prior to commencement of construction. Prior to, and during, construction of the monitoring facility, the Government of the United States shall keep the Government of the United Kingdom of Great Britain and Northern Ireland informed of progress and of any significant difficulties encountered or envisaged.

Oversight

7. The Government of the United Kingdom of Great Britain and Northern Ireland shall have the right to oversee planning, construction, maintenance and operation of the monitoring facility and, given its overall responsibility for the facility, will serve as the conduit of information on this facility to the Preparatory Commission of the Comprehensive Nuclear Test-Ban Treaty Organization.

Reduced Assessment

8. As set forth in Article IV, paragraph 22 of the Comprehensive Nuclear Test-Ban Treaty, and the appropriate provisions of the Financial Regulations of the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization, decisions of the Preparatory Commission (for example, CTBT/PC/III/CRP.2/Rev.2 and CTBT/PC/II/CRP.15/Rev.1) and taking into account any subsequent decisions taken by the Preparatory Commission and the Comprehensive Nuclear Test-Ban Treaty Organization, the two Governments may submit requests, either independently or jointly, for a reduced assessment to the Preparatory Commission or the Executive Council. Prior to such request, the two Governments shall have agreed on the division of any funding that

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each Government shall have contributed toward the establishment/upgrade of the station, and the Government of the United Kingdom of Great Britain and Northern Ireland shall have informed the Comprehensive Nuclear Test-Ban Treaty Preparatory Commission or the Executive Council of the results of such agreements.

Notification

9. The Government of the United Kingdom of Great Britain and Northern Ireland shall register this Agreement with the Secretary General of the United Nations and shall inform the Provisional Technical Secretariat of the Comprehensive Nuclear Test-Ban Treaty Organization of its conclusion.

Availability of funds

10. To the extent that the carrying out of any activity or the implementation of any part of this Agreement depends upon funds to be appropriated by the Congress of the United States, it shall be subject to the availability of such funds.

Duration

11. This Agreement shall continue in force for as long as the British Indian Ocean Territory Agreement of 30 December 1966 continues in force, or until such time as the parties agree that no part of Diego Garcia is any longer required for the purpose of the facility as set forth in paragraph 2, whichever occurs first. After this Agreement has been in force for ten years, either party may terminate it upon one-year notice.

Options for future infrasound and radionuclide stations

12. The Governments of the United States of America or the United Kingdom of Great Britain and Northern Ireland may, subject to the availability of funds and mutual agreement between the two Governments, later include additional monitoring facilities consisting of an infrasound station and a radionuclide station.

If the Government of the United States of America is content with these proposals, I have the honour to propose that this Note together with your reply to that effect shall constitute an Agreement between our two Governments which shall enter into force on the date of your reply and shall be known as the British Indian Ocean Territory Agreement 1999.

I have the honour to convey to Your Excellency the assurance of my highest consideration

C J B WHITE

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No. 2

*The Ambassador of the United States of America at London, to the Head of the Overseas
Territories Department, Foreign and Commonwealth Office*

*London**21 July 1999*

No. 045

Your Excellency:

I have the honor to acknowledge receipt of your letter number OT1083/001/99 of 18
June 1999 which reads as follows:

[As in No. 1]

In reply I have the honor to inform you that the foregoing proposal is acceptable to the
Government of the United States of America which therefore approves your Excellency's
suggestion that your note and this reply shall constitute an Agreement between the two
Governments which shall enter into force on the date of this note.

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

PHILIP LADER

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