

NIGERIA



Treaty Series No. 90 (1972)

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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 Federal Republic of Nigeria

concerning the provision of a British
Training Team to assist in the Training
and Development of the Naval Forces
of Nigeria

Lagos, 26 June 1969

[The Agreement entered into force on 26 June 1969]

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

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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 FEDERAL REPUBLIC OF NIGERIA
CONCERNING THE PROVISION OF A BRITISH TRAINING
TEAM TO ASSIST IN THE TRAINING AND DEVELOPMENT OF
THE NAVAL FORCES OF NIGERIA**

No. 1

*The United Kingdom High Commissioner at Lagos to the Commissioner
for Defence of the Federal Republic of Nigeria*

*Office of the High Commissioner
for the United Kingdom,
Lagos.*

My dear Commissioner,

26 June, 1969.

I refer to the request of the Government of the Federal Republic of Nigeria to the Government of the United Kingdom of Great Britain and Northern Ireland that a British Training Team should be established in Nigeria for the purpose of assisting in the training and development of the Naval Forces of Nigeria. I have set out in the Appendix to this Letter the arrangements agreed in discussion in respect of such a Team.

I propose that if these arrangements are acceptable to the Government of Nigeria this Letter together with its Appendix and your reply to that effect shall constitute an Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federal Republic of Nigeria which shall be deemed to enter into force on 26 June, 1969, and shall continue in force until determined by the giving by either Government to the other Government of written notice of determination, whereupon this Agreement shall forthwith determine, except any provisions thereof relating to the criminal jurisdiction of the Courts of Nigeria, the indemnities afforded by the Government of Nigeria, the treatment of claims and the financial obligations of either Government, which provisions shall remain in force.

Yours sincerely,

LESLIE GLASS

APPENDIX

Definitions

1. For the purpose of this Appendix—

“Nigeria” means the Federal Republic of Nigeria;

“dependant” means the spouse of, or

any person wholly or mainly maintained by, or in the custody or charge of or who forms part of the family of, or any other person (not being a national of nor ordinarily resident in Nigeria) who is in domestic employment in the household of a member of the British Training Team in Nigeria;

“United Kingdom Service Authorities” means the Authorities of the United Kingdom empowered by the law of the United Kingdom to exercise command or jurisdiction over the Armed Forces of the United Kingdom and their dependants;

“Service Regulations” means any statute, order, regulation, warrant or instruction relating to naval, military or air forces;

“unit” includes a headquarters, ship or establishment;

“other ranks” includes all personnel of any of the United Kingdom Armed Forces who do not hold commissioned rank;

“entitled dependants” means a dependant for whom under United Kingdom Service Regulations a free passage to or from Nigeria is provided.

Composition

2. The Government of the United Kingdom will endeavour to obtain volunteers from the regular Armed Forces of the United Kingdom to form a British Training Team to assist in the training and development of the Naval Forces of Nigeria. The composition of the British Training Team shall be such as may from time to time be mutually agreed upon between the Government of the United Kingdom and the Government of Nigeria.

(a) The function of the British Training Team is to assist the Commander of the Naval Forces of Nigeria in the discharge of his responsibility for the training and development of those forces.

(b) The duties of the British Training Team in carrying out their function shall be arranged between the Commander of the Naval Forces of Nigeria or senior officers appointed by him for the purpose and the Commanding Officer of the British Training Team. It will be the responsibility of such Commanding Officer to afford all reasonable assistance in training and developing the Nigerian Naval Forces to the extent of the establishment and equipment of the British Training Team.

(c) The responsibility of the Commanding Officer of the British Training Team for the command, efficiency and administration of the British Training Team is to the Government of the United Kingdom through his service superiors and accordingly, except where otherwise provided by this Appendix or except as may be otherwise agreed upon, in the

event of the Government of Nigeria or an authority of that Government wishing to raise any matter relating to the British Training Team, the matter shall be raised with the British High Commission in Nigeria.

Cost

3. The cost of the provision of the British Training Team, and the provision of facilities and benefits for its members shall be the subject of separate arrangements satisfactory to both Governments.

Relationship with the Armed Forces of Nigeria

4. (a) Members of the British Training Team shall be treated (except as otherwise provided in this Appendix) as members of the Armed Forces of Nigeria of equivalent rank.

(b) Members of the British Training Team will not take part in hostilities or other operations of a warlike nature undertaken by the Armed Forces of Nigeria 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.

(c) Members of the British Training Team will not normally be given an executive responsibility in the Armed Forces of Nigeria. However, where in the course of his duties as a member of the British Training Team an officer or other rank is given such a responsibility, he will have powers of command over any member of the Armed Forces of Nigeria as if he were a member of the Armed Forces of Nigeria of relative rank, and will 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.

(d) A member of the British Training Team who is filling an executive position in the Armed Forces of Nigeria under this paragraph will retain the right of direct access to the Commanding Officer of the British Training Team.

(e) Members of the British Training 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 Nigeria 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 Nigeria.

(f) Members of the British Training Team will not be employed in any capacity outside Nigeria, except in the normal course of sea training, otherwise than in pursuance of special arrangements made between the Government of Nigeria and the Government of the United Kingdom.

Observance of Nigerian law

5. It is the duty of members of the British Training Team in Nigeria and their dependants to respect Nigerian law and to abstain from any activity

inconsistent with the spirit of this Appendix, and in particular to abstain from any political activity in Nigeria. It is also the duty of the United Kingdom authorities to take any necessary precautions or measures for the proper observance of these provisions.

Uniform and arms

6. Members of the British Training Team will wear British uniform in performing official duties. They may possess and carry arms in accordance with the general service practice having due regard to the customs and practice of the Armed Forces of Nigeria.

Jurisdiction

7. (a) Subject to the provisions of this paragraph—

- (i) the Service Authorities of the United Kingdom shall have the right to exercise within Nigeria or on board any ship or aircraft of Nigeria all criminal and disciplinary jurisdiction conferred on them by the law of the United Kingdom over members of the British Training Team and their dependants. This includes the right to repatriate members or their dependants to the United Kingdom for trial and punishment;
- (ii) the Nigerian Courts shall have jurisdiction over members of the British Training Team and their dependants with respect to offences committed in Nigeria and punishable by the law of Nigeria.

(b) Where both the Nigerian Courts and the United Kingdom Service Authorities have the right to exercise jurisdiction the United Kingdom Service Authorities shall have the primary right to exercise jurisdiction if—

- (i) the offence is an offence against the property or security of the United Kingdom or against the property or person of another member of the British Training Team in Nigeria or a dependant of a member, or
- (ii) the offence arises out of an act or omission done in the course of official duty.

In any other case the Nigerian Courts shall have the primary right to exercise jurisdiction. If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its rights in cases where that other State considers such waiver to be of particular importance and in cases of minor offences where the Nigerian Courts have the primary right and where the United Kingdom Service Authorities can impose a suitable punishment by disciplinary action without recourse to a Court.

- (c) (i) The authorities of each Government shall assist each other in the arrest of members of the British Training Team or their dependants in the territory of Nigeria for the purpose of handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(ii) The Nigerian Authorities shall notify the British High Commissioner or Deputy British High Commissioner promptly of the arrest of a member of the British Team or of a dependant.

(iii) In the case where the Nigerian Courts are to exercise jurisdiction over a member of the British Training Team or over a dependant the Commanding Officer of the British Training Team shall have the right to take custody of him, and will ensure that he remains in Nigeria until he is brought to trial by the Nigerian Courts; and further undertakes to present him to those Courts for investigatory proceedings and trial when required.

(d) (i) The Nigerian Authorities and the Authorities of the United Kingdom will assist each other in the investigation and obtaining of evidence in relation to any alleged offences.

(ii) The Nigerian Authorities and the Authorities of the United Kingdom shall notify each other of the disposition of all cases in which both the Nigerian Courts and the Service Authorities of the United Kingdom have the right to exercise jurisdiction.

(e) Where an accused has been tried in accordance with the provisions of this paragraph by the United Kingdom Service Authorities or the Nigerian Courts and has been convicted or acquitted (which expression includes a charge being dismissed by the Commanding Officer of the accused after investigation in the case where the primary right rests with the United Kingdom Service Authorities), he shall not be tried again for the same offence or in respect of the same circumstances within Nigeria. This sub-paragraph shall not prevent the United Kingdom Service Authorities from trying a member of the British Training Team for the violation of any disciplinary rules arising from an act or omission which constituted an offence for which he was tried by the Nigerian Courts.

(f) Where a member of the British Training Team or his dependant is prosecuted under Nigerian jurisdiction he shall be entitled—

(i) to a prompt and speedy trial;

(ii) to be informed of the specific charge or charges made against him within a reasonable time before trial;

(iii) to be confronted with the witnesses against him;

(iv) to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the Nigerian Courts;

(v) 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 Nigeria;

(vi) if he considers it necessary, to have the services of a competent interpreter; and

(vii) to communicate with a representative of the Government of the United Kingdom and, when the rules of the Court permit, to have a representative of that Government present at his trial.

(g) A death sentence shall not be carried out in Nigeria by the United Kingdom Service Authorities if Nigerian law does not provide for such punishment in a similar case.

Claims

8. (a) (i) The Nigerian Government waives any claim which it may have against a member of the British Training Team and the Government of the United Kingdom for damage to any property of the Government of Nigeria used by its land, sea or air forces caused by a member of the British Training Team in the course of his duty in that capacity or for the death of or injury to any member of the Armed Forces of Nigeria so caused.
- (ii) The Government of the United Kingdom waives any claim which it may have against the Nigerian Government for the death of or injury to a member of the British Training Team caused by a member of the Nigerian Armed Forces in the course of his duty in that capacity.

(b) All claims arising out of acts or omissions of members of the British Training Team done or omitted in the course of their duties as such shall be dealt with by the Nigerian Government (or, in the case of claims brought or made in the United Kingdom, by the United Kingdom Government) and in all cases settled at the cost of the Government of Nigeria.

(c) A member of the British Training Team shall not be subject to any proceedings for the enforcement of any judgment given against him in Nigeria in a matter which arises in the course of his duty as a member of the British Training Team.

(d) The Nigerian Authorities and the Authorities of the United Kingdom will co-operate in the procurement of evidence to assist in the hearing and disposal of a claim to which this paragraph relates.

(e) The Nigerian Government shall make good or pay compensation for loss of or damage to personal effects (including household goods, motor cars and motor cycles) of members of the British Training Team arising out of civil disturbance or riots.

Taxation

9. (a) The presence in Nigeria of members of the British Training Team shall not be regarded as constituting residence or domicile in Nigeria for the purposes of determining the incidence of any form of taxation which depends on residence or domicile.

(b) Members of the British Training Team shall be exempt from taxation by the Nigerian Authorities on their pay, allowances and other emoluments and benefits (whether in cash or in kind) paid to them as such and shall also be exempt from taxation on any tangible movable property, including taxation levied by charges for the grant of licences, in their ownership, possession or use.

Imports, exports, etc.

10. (a) The British Training Team may import free of duty equipment, provisions, supplies and other goods required for official purposes or for the personal consumption or use of members of the British Training Team or their dependants.

(b) A member of the British Training Team may, within six months of his first arrival or that of a dependant to join him, import his personal effects, any additional furniture and household goods he may require, free of duty.

(c) A member of the British Training Team may, within six months of his first arrival or that of a dependant to join him on one occasion during his period of service import a motor vehicle free of duty or purchase one in Nigeria for his personal use free of duty.

(d) Goods imported or purchased under this paragraph shall not be disposed of within Nigeria without the prior permission of the Nigerian Government; they may, however, be freely exported without payment of duty provided that motor vehicles imported or purchased under sub-paragraph (c) of this paragraph may be sold after prior notification to the Board of Customs and Excise to another person in Nigeria who is entitled to import or purchase a motor car free of duty.

(e) In this paragraph "duty" means customs duties, purchase tax, and all duties and taxes payable on importation or exportation except any due which is a charge for services rendered.

Remittance of funds

11. Subject to the exchange control regulations of Nigeria and the United Kingdom—

(a) remittances between the territory of Nigeria and the territory of the United Kingdom shall be freely permitted in respect of

(i) funds derived by members of the British Training Team from services or employment in connection with their official duties whether as members of the United Kingdom Armed Forces or of the British Training Team;

(ii) funds derived by members or their dependants from sources outside Nigeria subject to any laws or regulations of the United Kingdom in that respect;

(b) remittances from Nigeria to the United Kingdom shall be freely permitted in respect of funds derived from the proceeds of sale of personal effects, furniture, motor vehicles and other property used by a member while serving in Nigeria which are disposed of in anticipation of the termination of his service.

Movement into, out of or within Nigeria

12. No restriction shall be placed on the freedom of movement of members of the British Training Team and their dependants into and out of Nigeria. Within Nigeria members of the British Training Team and their dependants shall have the same freedom of movement as is accorded to citizens of Nigeria.

Driving Licences

13. The Nigerian Authorities shall accept as valid United Kingdom or International Driving Licences or Service driving permits issued to members

of the British Training Team and United Kingdom or International Driving Licences issued to their dependants. On production of such licences or permits, a licence valid in Nigeria shall be issued without test or fee.

Pay and allowances

14. The Government of the United Kingdom will, in accordance with United Kingdom Service Regulations, pay members of the British Training Team the pay and emoluments of the rank which they hold during the period of their service with the British Training Team.

Period of service

15. (a) The period of service will be from the day following that upon which the individual ceases to do duty with the Force in which he last served to start embarkation leave before his service with the British Training Team until the day upon which he is taken on to the strength of his next unit.

(b) The period will include—

- (i) embarkation leave before embarking;
- (ii) a tour of duty in Nigeria of one and half years or such shorter or longer tours as may be agreed upon between the Governments of the United Kingdom and Nigeria;
- (iii) 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 British Training Team (excluding 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 British Training Team;
- (iv) any course of instruction agreed to be necessary by both Governments for the performance of the individual's duties with the British Training Team.

Leave

16. (a) The leave entitlement for a member of the British Training Team shall be as follows:

- (i) Embarkation leave—14 days;
- (ii) Annual leave, Compassionate leave and other leave—in accordance with United Kingdom Service Regulations and practice, but in the case of Annual leave one-quarter may be postponed and included in accordance with paragraph 15 (b) (iii);
- (iii) End of Tour leave—calculated in accordance with paragraph 15 (b) (iii);

(b) Married members of the British Training Team not accompanied by their wives will 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 such 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 Nigeria, provided he travels by air.

(c) All leave movements out of Nigeria shall be subject to the prior concurrence of the Nigerian Naval Authorities.

Rank and promotion

17. (a) Should a member of the British Training Team be selected to fill a post in the Forces of Nigeria in a rank higher than his substantive rank he shall be granted a temporary or an acting rank in accordance with United Kingdom Service Regulations and any subsequent relinquishment shall also be in accordance with those Regulations.

(b) A member of the British Training Team shall be eligible for substantive promotion or advancement in accordance with United Kingdom Service Regulations.

Termination of service

18. (a) If a member of the British Training Team neglects or refuses 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 Nigerian Government, after consultation with the Commanding Officer of the British Training Team, may request the termination of the service of the individual.

(b) In the event of an unforeseen reduction in the establishment of the British Training Team or in the requirement of the Nigerian Government for the services of the British Training Team the services of an individual with the British Training Team may be terminated after six months previous notice has been given to the British High Commissioner.

(c) If the Commanding Officer of the British Training 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 services of that individual with the British Training Team will terminate on a date to be agreed upon between the Government of Nigeria and the British High Commissioner.

(d) The United Kingdom Government reserves the right to withdraw the services of any or all members of the British Training Team after consultation with the Government of Nigeria.

Applicability of United Kingdom Service Regulations

19. All members of the British Training Team will 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

20. Members of the British Training Team shall not be employed otherwise than in the capacity for which they were selected, without the concurrence of the appropriate United Kingdom Service Authorities.

Dependants

21. Married members of the British Training Team will normally be accompanied by their dependants.

No. 2

*The Commissioner for Defence of the Federal Republic of Nigeria
to the United Kingdom High Commissioner at Lagos*

*Ministry of Defence,
Lagos.*

My dear High Commissioner,

26 June, 1969.

I acknowledge receipt of your letter of today's date setting out in an Appendix the arrangements which have been agreed in discussion in respect of the British Training Team which it is proposed to establish in Nigeria, which reads as follows:

[As in No. 1]

In reply I confirm that the proposed arrangements are acceptable to the Government of the Federal Republic of Nigeria who therefore agree that your Letter together with its Appendix and this reply shall be regarded as constituting an Agreement between our two Governments which shall enter into force on the 26th June 1969.

Yours sincerely,

Y. GOWON

*Major-General Yakubu Gowon
Commissioner for Defence*