

AUSTRALIA



Treaty Series No. 22 (1994)

Exchange of Notes

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

concerning the Former United Kingdom Nuclear Test
and Experimental Programme Sites at Maralinga,
the Monte Bello Islands and Emu Field

London, 10 December 1993

[The Agreement entered into force on 10 December 1993]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
April 1994*

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**EXCHANGE OF NOTES
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT
OF AUSTRALIA CONCERNING THE FORMER UNITED KINGDOM
NUCLEAR TEST AND EXPERIMENTAL PROGRAMME SITES AT
MARALINGA, THE MONTE BELLO ISLANDS AND EMU FIELD**

No. 1

*The Minister of State for Foreign and Commonwealth Affairs to the Australian High
Commissioner at London*

*Foreign and Commonwealth Office
London
10 December 1993*

Your Excellency,

I have the honour to refer to the Memorandum of Arrangements of 7 March 1956 between the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") and the Government of Australia concerning the Atomic Weapons Proving Ground at Maralinga¹ (hereinafter referred to as "the 1956 Memorandum") and to the Memorandum of 23 September 1968 between the two Governments regarding the Termination of the 1956 Memorandum² (hereinafter referred to as "the 1968 Memorandum"), and to the discussions between representatives of the two Governments concerning the former United Kingdom nuclear test and experimental programme sites in Australia (that is to say, at Maralinga, at the Monte Bello Islands and at Emu Field; hereinafter referred to as "the sites") and to make the following proposals.

1. The Government of the United Kingdom shall on an *ex gratia* basis pay to the Government of Australia the sum of £20 million (twenty million pounds sterling) in full and final settlement of all claims whatsoever of the kind referred to in paragraph 2 below, the sum to be payable in accordance with the following timetable:

- (1) the sum of £5 million shall be paid on or before 1 January 1994;
- (2) the sum of £4 million shall be paid on 1 October 1994;
- (3) the sum of £3 million shall be paid on 1 October 1995;
- (4) the sum of £3 million shall be paid on 1 October 1996;
- (5) the sum of £3 million shall be paid on 1 October 1997;
- (6) the sum of £2 million shall be paid on 1 October 1998.

2. Subject to paragraph 3 below, the claims referred to in paragraph 1 are any claims whatsoever which the Government of Australia or any person, natural or legal, may have, now or in the future, arising out of any act, matter or thing done or omitted to be done by the United Kingdom or its servants or agents in relation to the carrying out of nuclear tests or experimental programmes by the United Kingdom at the sites in Australia or in relation to the decontamination and clearance of the sites.

3. The Government of the United Kingdom shall indemnify the Government of Australia in respect of all claims which arise out of the death or injury of any person and which—

- (i) are referred to in paragraph (c) of the 1968 Memorandum, or
- (ii) result from nuclear tests or experimental programmes at the Monte Bello Islands in respect of which the cause of action occurred before 27 June 1956.

¹ Not published.

² Not published.

4. The Government of Australia shall indemnify the Government of the United Kingdom against any loss, costs, damages or expenses which the Government of the United Kingdom may incur or be called upon to pay as a result of any such claims by any person, natural or legal, as are referred to in paragraph 2 above.

5. If a claim covered by paragraph 3 or 4 is made, the Government against whom, or against whose representatives, a claim is brought shall inform the other Government of the claim prior to the commencement of proceedings or as soon as possible thereafter. The Governments shall consult at the request of either of them on the conduct of the legal proceedings arising out of the claim and on the manner in which the claim may be settled.

6. In relation to a claim for which the cause of action occurred prior to the date of entry into force of this Agreement, references in paragraphs 2 and 4 above to any person shall not include a person who was at the time when the cause of action occurred a member of HM Forces or a person employed by the Government of the United Kingdom for the purpose of working on the sites. This paragraph has no application to members of the forces of the Commonwealth of Australia.

If the above proposals are acceptable to the Government of Australia, I have the honour to suggest that this Note and your Excellency's reply to that effect shall constitute an Agreement between the two Governments which shall enter into force on the date of your reply.

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

ALASTAIR GOODLAD

No. 2

The Australian High Commissioner at London to the Minister of State for Foreign and Commonwealth Affairs

London
10 December 1993

Your Excellency,

I have the honour to acknowledge receipt of your Note of today's date which reads as follows:

[As in No. 1]

In reply I have the honour to inform your Excellency that the foregoing proposals are acceptable to the Government of Australia, who therefore agree that your Note and this reply shall constitute an Agreement between the two Governments in this matter, which shall enter into force on today's date.

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

RICHARD SMITH