



Treaty Series No. 96 (1965)

Agreement

between the Government of the
Commonwealth of Australia, the Government of New Zealand
and the Government of the
United Kingdom of Great Britain and Northern Ireland
relating to the Territory of Nauru

Canberra, 26 November 1965

*Presented to Parliament by the Secretary of State for Commonwealth Relations
by Command of Her Majesty
December 1965*

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AGREEMENT
BETWEEN THE GOVERNMENT OF THE COMMONWEALTH
OF AUSTRALIA, THE GOVERNMENT OF NEW ZEALAND
AND THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND RELATING
TO THE TERRITORY OF NAURU

WHEREAS the Government of the Commonwealth of Australia, the Government of New Zealand and the Government of the United Kingdom of Great Britain and Northern Ireland have, conformably with the Trusteeship Agreement for the Territory of Nauru and after consultation with the Nauruan people, agreed that further provision should be made for the government of the Territory and in particular that there should be established a Legislative Council and an Executive Council in order to enable the Nauruan people to participate more fully in the government of the Territory and for this purpose have agreed to modify the existing Agreements between the three Governments.⁽¹⁾

AND WHEREAS the three Governments have agreed that the modifications so made should have effect until, conformably with the Trusteeship Agreement and after consultation with the Nauruan people, the three Governments otherwise agree:

NOW THEREFORE IT IS AGREED by the Government of the Commonwealth of Australia, the Government of New Zealand and the Government of the United Kingdom of Great Britain and Northern Ireland as follows:—

ARTICLE I

(1) A Legislative Council, a majority of the members of which are to be elected by the Nauruan people, is to be established as from the appointed day.

(2) Without affecting the powers of the Commonwealth Parliament to make laws for the Government of the Territory:

(a) The Legislative Council is to have power to make ordinances for the peace, order and good government of the Territory except ordinances with respect to:

- (i) Defence;
- (ii) External affairs;
- (iii) The phosphate industry (including the operation, ownership and control of that industry);
- (iv) Phosphate royalties;
- (v) The ownership and control of phosphate-bearing land; and

⁽¹⁾ "State Papers", Vol. 113, page 151, and Vol. 135, page 248.

(b) The Governor-General is to have power as from the appointed day to make ordinances for the peace, order and good government of the Territory with respect to:

- (i) Defence, internal security and the maintenance of peace and order;
- (ii) External affairs;
- (iii) The phosphate industry (including the operation, ownership and control of that industry);
- (iv) Phosphate royalties; and
- (v) The ownership and control of phosphate-bearing land.

(3) Ordinances made by the Legislative Council are not to have the force of law until assented to by the Administrator, or, if reserved by the Administrator for the Governor-General's consideration, by the Governor-General.

The Administrator is to have a general discretion to reserve ordinances for the Governor-General's consideration.

The Administrator is, if required by an Act of the Commonwealth Parliament to do so in specified cases, to reserve ordinances for the Governor-General's consideration.

(4) The Governor-General is to have power to disallow an ordinance that has been assented to by the Administrator.

(5) Ordinances made by the Governor-General are to be subject to disallowance by either House of the Commonwealth Parliament as provided by Act of that Parliament.

(6) The application of its own force, in or in relation to the Territory, of an Act of the Commonwealth Parliament, or of a regulation under such an Act, is not to be affected by an ordinance.

ARTICLE 2

(1) An Executive Council is to be established, consisting of—

- (a) The Administrator; and
- (b) Members appointed by the Governor-General.

(2) The members appointed by the Governor-General are to include persons appointed from amongst the members of the Legislative Council elected by the Nauruan people.

A person is not to be appointed as a member of the Executive Council from amongst the members of the Legislative Council elected by the Nauruan people unless he has been nominated for the purpose by a majority of those members of the Legislative Council.

(3) The Executive Council is to have such powers and functions as are conferred on it by law, including the function of tendering advice on any matter referred to it by the Administrator for advice.

ARTICLE 3

Subject to the provisions of this Agreement, the administration of the Territory is, on and after the appointed day, to be vested in an Administrator appointed by the Government of the Commonwealth of Australia.

ARTICLE 4

Upon the expiration of the day last preceding the appointed day, the Administrator is to cease to have power to make ordinances for the peace, order and good government of the Territory, but all ordinances made before the appointed day and not repealed before that day are, subject to laws made on or after the appointed day, to continue in force in the Territory.

ARTICLE 5

(1) A Central Court and a Court of Appeal for the Territory are to be established to replace the existing Central Court and Court of Appeal.

(2) The Central Court and the Court of Appeal are to be constituted as provided by, and are to have such jurisdiction as is conferred by or under, Act of the Commonwealth Parliament.

(3) Subject to any Act of the Commonwealth Parliament and to any ordinance, the District Court exercising jurisdiction in or in relation to the Territory is to continue in existence with the same jurisdiction as it now has.

(4) An appeal is to lie from a judgment of the Court of Appeal to the High Court of Australia by leave of the High Court.

ARTICLE 6

The Government of the Commonwealth of Australia will submit to the Commonwealth Parliament legislation to give effect to this Agreement and to make such other provisions in relation to the Government of the Territory as the Government of the Commonwealth of Australia deems necessary or convenient.

ARTICLE 7

At the commencement of the appointed day, Article 1 of the Agreement concerning Nauru dated the second day of July, 1919 between His Majesty's Government in London, His Majesty's Government of the Commonwealth of Australia and His Majesty's Government of the Dominion of New Zealand and the whole of the supplementary Agreement concerning Nauru dated the thirtieth day of May, 1923 between those Governments will cease to have effect.

ARTICLE 8

For the purposes of this Agreement:

"Administrator" includes a person appointed by the Government of the Commonwealth of Australia to act as Administrator during any illness or absence of the Administrator;

" *The appointed day* " means the day fixed by the Governor-General by Proclamation published in the Commonwealth of Australia Gazette as the appointed day for the purposes of this Agreement;

" *The Commonwealth Parliament* " means the Parliament of the Commonwealth of Australia;

" *The Governor-General* " means the Governor-General of the Commonwealth of Australia, or a person administering the Government of the Commonwealth of Australia, acting, in either case, with the advice of the Federal Executive Council, and includes any person for the time being appointed by the Governor-General or by the person administering the Government of the Commonwealth of Australia to be a deputy of the Governor-General or of that person, as the case may be, so acting;

" *The Territory* " means the Territory of Nauru.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE at Canberra this twenty-sixth day of November, one thousand nine hundred and sixty-five in one original which shall be deposited in the archives of the Commonwealth of Australia.

Certified copies of this Agreement shall be transmitted by the Government of the Commonwealth of Australia to the other two signatory Governments.

For the Government of the Commonwealth of Australia:

C. E. BARNES.

For the Government of New Zealand:

J. LUKE HAZLETT.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

C. H. JOHNSTON.

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