



Treaty Series No. 3 (1990)

Exchange of Notes

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

concerning the regulation of the terms of settlement
of the salvaging of the wreck of
HMS Birkenhead

Pretoria, 22 September 1989

[The Agreement entered into force on 22 September 1989]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
January 1990*

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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 SOUTH AFRICA
CONCERNING THE REGULATION OF THE TERMS OF SETTLEMENT OF
THE SALVAGING OF THE WRECK OF HMS *BIRKENHEAD***

No. 1

*Her Majesty's Ambassador at Pretoria to the Minister of Foreign Affairs
of the Republic of South Africa*

*Pretoria
22 September 1989*

Your Excellency

I have the honour to refer to recent discussions between our two Governments about the question of the wreck of the *Birkenhead* and to propose a settlement of all outstanding issues in the following terms:

The wreck of the *Birkenhead* shall, as a military grave, continue to be treated at all stages with respect. In particular, the South African Government shall seek to ensure that the salvors treat reverently and refrain from disturbing or bringing to the surface any human remains which may be discovered at the site of the wreck or in its vicinity. British military historians shall have temporary access for research purposes to salvaged artefacts designated for South African museums.

The South African Government shall as far as possible ensure that representative examples of salvaged artefacts identifiable with a particular British regiment or institution are offered without charge to that regiment (or its successor) or to such institution.

The British Government shall not enter into any salvage contract in respect of the *Birkenhead* and shall not object to the South African Government maintaining its existing salvage arrangements in regard to the wreck under the applicable South African legislation.

If any gold coin (apart from the coins considered to have been in private ownership) were to be recovered, such coin (after deduction of the share due to the salvors in accordance with the existing salvage arrangements) would be shared equally between our two Governments.

In order to facilitate the implementation of these arrangements, consultations shall be held as necessary between representatives of our two Governments, the salvors and other South African institutions concerned.

This settlement is without prejudice to the respective legal positions of our two Governments.

If the above is acceptable to the Government of the Republic of South Africa, I have the honour to propose that this letter and Your Excellency's reply to that effect shall constitute an agreement between our two Governments in this matter which shall enter into force on the date of Your Excellency's reply.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

ROBIN RENWICK

No. 2

*The Minister of Foreign Affairs of the Republic of South Africa to
Her Majesty's Ambassador at Pretoria*

*Pretoria
22 September 1989*

Your Excellency

I have the honour to acknowledge receipt of Your Excellency's letter of 22 September 1989 which reads as follows:

[As in No. 1]

In reply, I wish to confirm that these proposals are acceptable to the Government of the Republic of South Africa who therefore agree that Your Excellency's letter and this reply shall constitute an agreement between our two Governments, which shall enter into force on the date of this letter.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

R F BOTHA