

DEFENSE

**Agreement between the
UNITED STATES OF AMERICA
and the UNITED KINGDOM OF
GREAT BRITAIN AND
NORTHERN IRELAND**

Signed at Washington October 1, 2003

with

Annex

and

Agreement Amending the Agreement

Effected by Exchange of Notes at
Washington August 15 and September 8, 2008



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND**

Defense

Agreement signed at Washington October 1, 2003;

Entered into force October 1, 2003.

With annex.

And agreement amending the agreement.

Effected by exchange of notes at Washington

August 15 and September 8, 2008;

Entered into force September 8, 2008.

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE
UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND
CONCERNING THE USE OF WIDEAWAKE AIRFIELD ON
ASCENSION ISLAND BY CIVIL AIRCRAFT
NOT ENGAGED IN
SCHEDULED INTERNATIONAL AIR SERVICES

WHEREAS, an agreement was concluded on 25 June 1956 between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the two Governments") concerning the Extension of the Bahamas Long Range Proving Ground by the Establishment of Additional Sites in Ascension Island (such Agreement, as amended in 1967 and as supplemented by Exchanges of Notes in 1959, 1962, 1973 and 1985, being hereinafter referred to as "the Ascension Agreements"); and

WHEREAS, pursuant to the Ascension Agreements, a site has been provided, and an airfield established, on Ascension Island (such airfield being hereinafter referred to as "Wideawake Airfield"); and

WHEREAS, Article XI(3) of the Agreement of 25 June 1956 provides that "commercial aircraft shall not be authorised to operate from any of the Sites (save in case of emergency or for strictly military purposes under the supervision of the Army, Navy or Air Force Departments) except in accordance with the provision of any agreement for the time being in force between the Government of the United States of America and the Government of the United Kingdom"; and

WHEREAS, the two Governments desire to arrange for Wideawake Airfield to be available for use by civil aircraft not engaged in scheduled international air services, subject to the terms of this Agreement and without diminishing or derogating from the rights established in the Ascension Agreements or the military missions of the United States and the United Kingdom on Ascension Island;

NOW THEREFORE, the two Governments have agreed as follows:

Article I

(Civil Use of Wideawake Airfield)

(1) Wideawake Airfield shall be open for use by civil aircraft not engaged in scheduled international air services (hereinafter referred to as "civil aircraft"), in accordance with the provisions of the present Agreement and its Annex, which shall constitute an integral part of this Agreement.

(2) This Agreement shall regulate the use of Wideawake Airfield by civil aircraft and by passengers and crew members travelling on such aircraft.

(3) Activities of the Government of the United States of America related to the use of Wideawake Airfield by civil aircraft shall be subject to the availability of funds and resources and applicable U.S. laws. The USG shall consult the UKG to the extent that is reasonably practicable in the light of any proposed or actual amendment or repeal of such applicable U.S. laws.

(4) Notwithstanding the use of Wideawake Airfield by civil aircraft under this Agreement, the Government of the United States will continue to operate Wideawake Airfield as a military airfield, according to U.S. military standards and requirements, and civil aircraft use of Wideawake Airfield pursuant to this Agreement will be subject to U. S. military operating procedures.

Article II

(General Conditions)

Notwithstanding the provisions of Article IV(2) of the Agreement of 25 June 1956, civil aircraft shall be entitled to use of Wideawake Airfield for traffic purposes and non-traffic purposes, subject to the provisions of the present Agreement and to such regulations, conditions and limitations consistent with the present Agreement as may be imposed by the United Kingdom Government ("UKG") or by the Ascension Island authorities, with prior notice to the United States Government ("USG").

Article III

(Limitation of Civil Use)

(1) Up to four civil aircraft movements (take off or landing) shall be permitted at Wideawake Airfield each week. This number shall be reviewed at least annually and may be adjusted by mutual written agreement of the two Governments. The UKG and/or the Ascension Island authorities shall notify the USG of each incoming flight at least five days in advance.

(2) Recognising that U.S. and U.K. military missions shall have priority, the USG military authorities or the UKG authorities, for military or security reasons, shall have the right, on a case-by-case basis, to limit or suspend civil air operations at Wideawake Airfield or to impose restrictions of a temporary nature or continuing nature on the use of the Airfield by civil aircraft, but shall make every reasonable effort to avoid interruption of civil air operations at the Airfield. Such authorities

will, to the extent practicable, give prior notice of such limitation, suspension or restriction.

(3) Except as provided for in paragraph (2) of the present Article, the authorities exercising administrative and operational control at Wideawake Airfield shall not impose any limitation on the use of the Airfield by civil aircraft in accordance with the provisions of the present Agreement except insofar as may be necessary for reasons of safety or in the light of the capacity of, and the facilities available at, the Airfield. Any such limitation shall be imposed on a fair and non-discriminatory basis.

Article IV

(Administrative and Operational Control and Provision of Main Services)

(1) Except as otherwise specifically provided in the present Agreement, administrative and operational control of the civil aviation aspects of Wideawake Airfield operations shall be exercised by the USG military authorities, the UKG military authorities, and the Ascension Island authorities, in accordance with agreements and arrangements made between the USG and UKG. The USG military authorities, the UKG military authorities and the Ascension Island authorities may each delegate the performance of certain services to civilian agencies. Such delegation shall be without prejudice to the right of the relevant authorities to resume the performance of such services at any time and without delay.

(2) Without prejudice to the military missions of the USG and the UKG, the USG shall provide to the UKG the following services and commodities for civil aviation to the extent that these are established and maintained for U.S. military purposes: airport tower control and approach control, operational communication and air navigation services and airfield fire fighting, and crash and rescue cover. The USG shall give the UKG reasonable prior notice of any change in the availability of such services and commodities.

(3) The meteorological, airfield ground handling and passenger handling facilities and services, and supplementary fire fighting, crash and rescue cover, required by civil aircraft using Wideawake Airfield shall be provided by or under the direction of the UKG.

(4) The USG military authorities shall maintain those areas and facilities at Wideawake Airfield for which they are responsible in operational condition fit for the military missions of the USG, so long as continuance of those military missions is required. The USG military authorities shall notify the UKG authorities of any material changes in the practices and facilities at Wideawake Airfield in order for the UKG to discharge its international obligations with respect to international civil aviation. Subject to applicable U.S. security regulations, the USG military authorities shall grant the UKG and the Ascension Island authorities, at the request of either, access to the areas of Wideawake Airfield necessary to confirm whether there have been any material changes in the practices and facilities at Wideawake Airfield.

(5) (a) The USG shall permit the UKG, the UKG military authorities, the Ascension Island authorities and civilian agencies acting for those entities to establish such facilities as are necessary for civil aviation purposes, subject to the following subparagraph (b).

(5) (b) Where any buildings or other structures are to be built for civil aviation purposes in the vicinity of the Airfield, the USG military authorities shall be consulted to ensure that such buildings or structures do not impede the safe operation of aircraft or the military use of the Airfield. Any buildings or structures to be built on sites provided by the UKG to the USG shall be subject to the agreement of the USG. If the USG withholds its agreement, the USG shall give sympathetic consideration to any request from the UKG or the Ascension Island authorities for reconsideration.

Article V

(Security and Safety Matters)

(1) Requirements for admission to or departure from the Island of passengers, crew or cargo on civil aircraft (including regulations relating to entry, clearance, aviation security, immigration, passports, customs and quarantine, or in the case of mail, postal regulations) shall be the responsibility of the UKG and the Ascension Island authorities.

(2) Unless the Parties agree otherwise, the provisions on aviation security in any air services agreement applied between the USG and the UKG with respect to UK Overseas Territories shall be incorporated by reference into this Agreement. With respect to civil aircraft operations between Wideawake Airfield and third country or UK points, the UKG shall require that effective measures are taken to protect aircraft and to inspect the passengers and crew of such aircraft, and their baggage and carry-on items, as well as cargo and aircraft stores, prior to and during boarding or loading.

(3) The USG will, as necessary, assess the adequacy of security measures to ensure that the use of Wideawake Airfield by civil aircraft does not adversely affect the security of U.S. military operations. If additional security measures are required beyond those that would be undertaken in the absence of civil aircraft use of Wideawake Airfield, the USG will notify the UKG of the costs with the expectation that all such costs are the responsibility of the UKG. After consultations between the USG and UKG, if agreement is not reached to the satisfaction of both Governments, the USG may exercise its rights in accordance with Article III(2).

(4) The Ascension Island authorities shall provide the U.S. commander at Wideawake Airfield a passenger and crew manifest no less than 48 hours in advance of each civil aircraft arrival. The Ascension Island authorities shall also use their best endeavours to obtain from civil aircraft operators the final passenger and crew manifest and to provide that final manifest to the U.S. commander as

early as is reasonably practicable in advance of the aircraft's arrival at Wideawake Airfield. For military or security reasons the USG may exercise its rights, under Article IV(2) of the Agreement of 25 June 1956, to deny consent for access to Wideawake Airfield by particular visitors.

(5) The USG military authorities shall notify the Ascension Island authorities of those U.S. facilities and areas that are off-limits to civil aircraft passengers and crew for safety or security reasons. The Ascension Island authorities shall be responsible for notifying the civil aircraft passengers and crew on their arrival at Wideawake Airfield of those facilities and areas.

(6) Use of Wideawake Airfield by civil aircraft shall be subject to compliance with published U.S. military operating procedures regarding use of Wideawake Airfield and its flying facilities. The USG shall provide such local operating procedures to the UKG for dissemination to the civil aircraft operators.

Article VI

(Costs)

(1) All costs to the USG attributable to or arising from civil aircraft use pursuant to the Agreement shall be borne by the UKG, in accordance with the Annex to this Agreement.

(2) Payments by the UKG to the USG pursuant to paragraph (1) of this Article shall be made in accordance with the Annex to the Agreement.

Article VII

(Liability)

(1) The UKG shall assume all liability that may arise against the USG and its officers, agents, and employees, as well as USG contractors and their officers, agents, and employees, for loss, damage, injury, or death arising out

of the use of Wideawake Airfield by civil aircraft or the presence of civil aircraft passengers or crew at the Airfield under this Agreement, including but not limited to liabilities connected with the provision of services (including fire fighting, crash, and rescue) or commodities under this Agreement and any liabilities for loss in connection with the limitation, suspension, restriction or cancellation of civil air operations for any reason.

(2) (a) The UKG agrees that, at the request of the USG, it shall defend and hold harmless the USG and its officers, agents, and employees, as well as USG contractors and their officers, agents, and employees, against all claims for loss, damage, injury, or death sustained by any individual or corporation or other entity and arising out of the use of Wideawake Airfield by civil aircraft or the presence of civil aircraft passengers or crew at the Airfield under this Agreement, including but not limited to the provision of services (including fire fighting, crash, and rescue) or commodities under this Agreement and the limitation, suspension, restriction or cancellation of civil air operations for any reason. The UKG further agrees that, if the USG does not so request, the UKG shall indemnify the USG and its officers, agents, and employees, as well as USG contractors and their officers, agents, and employees, against all such substantiated claims, as well as the reasonable costs of defending against such claims.

(2) (b) In the event the USG defends against a claim, the USG shall consult the UKG before reaching any agreement with the claimants or paying such claim and throughout any related litigation or claims proceedings. In the event the USG defends against a claim, it shall conduct such defense until the claim is disposed of through settlement, final judgement, or otherwise. In the event the USG requests the UKG to defend against a claim, the UKG shall consult the USG before reaching any agreement with the claimants or paying such claim and throughout any related litigation or claims proceedings.

(3) The USG shall not be liable for any damage to disabled aircraft removed from the runway.

Article VIII

(Consultation)

Either Government may at any time request consultations on the implementation, interpretation, application, operation or amendment of this Agreement. Such consultations shall begin within a period of 60 days from the date the other Government receives a written request, unless otherwise agreed by the two Governments.

Article IX

(Amendments, Implementing Arrangements, Interpretation)

(1) Amendments to this Agreement shall be made by written agreement of the two Governments.

(2) Implementing arrangements may be made from time to time as required.

(3) In case of conflict between this Agreement and any implementing arrangements, this Agreement shall prevail. In case of conflict between the provisions of this Agreement and the Ascension Agreements, the Ascension Agreements shall prevail.

Article X

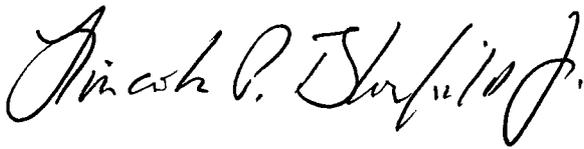
(Entry into Force and Duration)

This Agreement shall enter into force upon the date of its signature by the two Governments. It shall remain in force for a period of five years provided that the Agreement of 25 June 1956 remains in force, and may be extended by agreement of the two Governments. Either Government may terminate this Agreement at any time upon one year's written notice provided to the other Government.

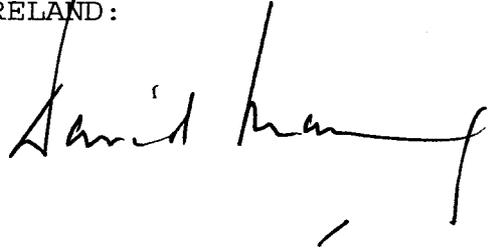
IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Washington this first day of October, 2003.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN
IRELAND:



Cost Annex

This annex is attached to and forms an integral part of the Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning the Use of Wideawake Airfield on Ascension Island by Civil Aircraft Not Engaged in Scheduled International Air Services.

In accordance with the provisions of the said Agreement, the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter the "UKG") agrees to reimburse the Government of the United States of America (hereinafter "the USG") for all costs to the USG attributable to or arising from civil aircraft use at Wideawake Airfield in accordance with the provisions below.

1. The UKG shall pay the USG a fee in the sum of One Thousand U.S. Dollars (\$1,000.00) for each movement (a movement is either a landing or a take-off) at Wideawake Airfield for the purpose of reimbursing USG costs attributable to or arising from the provision of requested services and commodities pursuant to this Agreement. The UKG shall maintain an accounting of all such movements and by the tenth day of the month following each calendar quarter shall pay to the Comptroller, 45th Space Wing, \$1,000.00 for each such movement by civil aircraft at Wideawake Airfield during the previous three months. The per movement fee shall be reviewed six (6) months after the initiation of civil aircraft use of Wideawake Airfield, 12 months after initiation of such use, and annually thereafter, and at such other times as either Government may request. Such review shall determine whether the per movement fee reimburses or exceeds USG costs attributable to or arising from the provision of requested services and commodities pursuant to this Agreement and whether the fee should be increased or decreased accordingly. In the event that agreement cannot be reached between the USG and UKG on the fee amount within forty (40) days after the commencement of discussions pursuant to such a review, the fee proposed by the USG shall apply to the UKG in the

interim without prejudice to the final determination of the fee amount. If the interim fee charged to the UKG by the USG is more than the fee finally determined between the two Governments, the USG shall credit the UKG the difference in amounts. Notwithstanding Article IX(1) of the Agreement, changes to the per movement fee established in this paragraph may be made by such means as may be agreed between the USG and the UKG. Aircraft landings pursuant to this Agreement will be suspended until an agreement on the fee can be reached.

2. The UKG shall reimburse the USG for the proportionate share of the costs of any refurbishment of the runway at Wideawake Airfield in accordance with the following formula:

Between refurbishments, the total amount of All up Weight of landings by civil aircraft divided by the total All up Weight of landings by all aircraft equals the proportion of use against the runway refurbishment costs. "All up Weight" is defined as the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world in the most favourable circumstances in accordance with the Certificate of Airworthiness, or a military equivalent, in force in respect of the aircraft.

The USG shall consult with the UKG before undertaking such refurbishment.

3. The UKG shall reimburse the USG for the repair or replacement of any USG property damaged at Wideawake Airfield that is specifically attributable to or arising from civil aircraft use of Wideawake Airfield, pursuant to this Agreement. The USG shall consult with the UKG before undertaking such repairs, except in the case of bona fide emergency repairs.

4. The USG may, at its option, remove disabled civil aircraft which are obstructing the use of Wideawake Airfield, and the costs incurred in connection with such removal shall be reimbursed by the UKG.

5. The UKG shall reimburse the USG for any other USG costs for services and commodities that are requested by the UKG and provided by the USG, or provided by the USG on an emergency basis for civil aircraft use at Wideawake Airfield, which are not covered in paragraphs 1 to 4.

British Embassy

Washington DC

15 August 2008

NOTE No. 57/2008

Her Britannic Majesty's Embassy presents their compliments to the Department of State of the Government of the United States of America and has the honour to refer to the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America concerning the use of Wideawake Airfield on Ascension Island by Civil Aircraft not engaged in Scheduled International Air Services ("the Agreement"), which was signed and entered into force on 1 October 2003.

The Embassy has the honour to propose, pursuant to Article X, that the Agreement shall continue in force for a further period of five years.

The Embassy has the further honour to propose, following discussions between representatives of our Governments, that our Governments agree that civil aircraft not engaged in scheduled air services which are permitted to designate Wideawake Airfield as an alternative aerodrome for the purposes of flight operations, but which do not actually land at the Airfield, are allowed under the Agreement but do not count towards the four civil aircraft movements provided for in Article III(1) (Limitation of Civil Use) of the Agreement.

If these proposals are acceptable to the Government of the United States of America, the Embassy has the honour to propose that this Note, and the Department of State's reply, shall together constitute an agreement between the Parties which shall enter into force on the day of the Department of State's reply.

The Embassy avail themselves of this opportunity to renew to the Department of State the assurance of their highest consideration.



The Department of State acknowledges receipt of note No. 57/2008 dated August 15, 2008, from the British Embassy relating to the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America concerning the use of Wideawake Airfield on Ascension Island by Civil Aircraft not engaged in Scheduled International Air Services which was signed and entered into force on October 1, 2003, which reads as follows:-

"Her Britannic Majesty's Embassy presents their compliments to the Department of State of the Government of the United States of America and has the honor to refer to the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America concerning the use of Wideawake Airfield on Ascension Island by Civil Aircraft not engaged in Scheduled International Air Services ("the Agreement"), which was signed and entered into force on 1 October 2003.

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If these proposals are acceptable to the Government of the United States of America, the Embassy has the honor to propose that this Note, and the Department of State's reply, shall together constitute an agreement between the Parties which shall enter into force on the day of the Department of State's reply.

The Embassy avail themselves of this opportunity to renew to the Department of State the assurance of their highest consideration."

The Department of State confirms that the Government of the United States of America agrees with the proposals in the Embassy's note and that the Embassy's note and the present note shall together constitute an agreement between the Parties which shall enter into force on the date of this note.

Department of State,



Washington, September 8, 2008.