

No. 252

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Malaysia and has the honor to refer to earlier discussions between representatives of the two Governments regarding grants under the Foreign Assistance Act of 1961, as amended, or successor legislation, and the furnishing of defense articles, defense services and related training, including pursuant to the United States International Military Education and Training Program, from the United States of America to the Government of Malaysia pursuant to the Foreign Assistance Act of 1961, or successor legislation.

In this regard, the Embassy refers to the Agreement relating to eligibility for United States military assistance and training pursuant to International Security Assistance and Arms Export Control Act of 1976, effected by exchange of notes at Kuala Lumpur on February 11 and March 14, 1977.

In accordance with these discussions, it is proposed that the Government of Malaysia agree:

A. that unless the consent of the Government of the United States of America has been first obtained the Government of Malaysia shall not:

(I) Permit any use of such defense articles, related training, including training materials, or other defense services by anyone not an officer, employee or agent of the Government of Malaysia;

(II) Transfer or permit any officer, employee or agent of the Government of Malaysia to transfer such defense articles, related training, including training materials, or other defense services by gift, sale or otherwise; or

(III) Use or permit the use of such defense articles, related training, including training materials, or other defense services for purposes other than those for which provided;

B. That such defense articles, related training, including training materials, or other defense services shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

C. That the net proceeds of sale received by the Government of Malaysia in disposing of, with prior written consent of the Government of the United States of America, any defense article furnished by the Government of the United States of America on a grant basis, including scrap from any such defense article, shall be paid to the Government of the United States of America;

D. That the Government of Malaysia shall maintain the security of such defense articles, related training, including training materials, and other defense services; that it shall provide substantially the same degree of security protection afforded to such articles by the Government of the United States of America; that it shall, as the Government of the United States of America may require, permit continuous observation and review by, and furnish necessary information to, representatives of the Government of the United States of America with regard to the use thereof by the Government of Malaysia; and

E. That the Government of the United States of America may also, from time to time, make the provision of articles, services, and related training furnished under other authority (except the United States Arms Export Control Act) subject to the terms and conditions of the agreement proposed herein. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of the Act and United States regulations applicable to such transfers.)

It is further proposed that this Agreement shall supercede the above-referenced 1977 agreement and that this Agreement shall apply to articles and services to which the superceded 1977 agreement had applied prior to the entry into force of this Agreement.

The Ministry of Foreign Affairs' note stating that the foregoing is acceptable to the Government of Malaysia shall, together with this note, constitute an agreement between the two Governments, which shall enter into force on the date of the Ministry's note.

The Embassy of the United States of America avails itself of the opportunity to renew to the Ministry of Foreign Affairs of Malaysia the assurances of its highest consideration.

Embassy of the United States of America,

Kuala Lumpur, March 3, 2006.





CU 667/06 (AME)

The Ministry of Foreign Affairs of Malaysia presents its compliments to the Embassy of the United States of America and with reference to the latter's note (ref. no. 252) dated 3 March 2006 has the honour to inform that the Government of Malaysia is agreeable to the proposed amendments as stated in the above mentioned note.

The Ministry of Foreign Affairs of Malaysia avails itself of the opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

**Embassy of the United States of America,
KUALA LUMPUR**

18 September 2006

