



Treaty Series No. 22 (1932)

## EXCHANGE OF NOTES

BETWEEN

HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM  
AND THE FRENCH GOVERNMENT

AMENDING

THE REGULATIONS APPROVED BY THE  
EXCHANGE OF NOTES OF AUGUST 29, 1907, IN  
REGARD TO THE

# NEW HEBRIDES

Paris, December 15, 1931

*Presented by the Secretary of State for Foreign Affairs  
to Parliament by Command of His Majesty*

LONDON

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EXCHANGE OF NOTES BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE FRENCH GOVERNMENT AMENDING THE REGULATIONS APPROVED BY THE EXCHANGE OF NOTES OF AUGUST 29, 1907, IN REGARD TO THE NEW HEBRIDES.

Paris, December 15, 1931.

No. 1.

Lord Tyrrell to M. Briand.

M. le Président,

Paris, December 15, 1931.

I HAVE the honour, on instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to inform your Excellency that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland consider that the regulations respecting the conditions of service of the members of the Joint Court in the Condominium of the New Hebrides should be revised in the light of experience and in order to include the modifications made therein at different times by the common consent of His Majesty's Government in the United Kingdom and the Government of the Republic. These regulations form Annex I to the notes exchanged in London on the 29th August, 1907,<sup>(1)</sup> between Great Britain and France.

2. His Majesty's Government propose that these regulations should be replaced by the following :—

I.—*Salaries.*

(1) The salary of the President of the Joint Court shall be £900 per annum. The salaries of the British and French Judges, the Public Prosecutor and the Legal Commissioner shall be £800 each per annum. The salary of the Native Advocate shall be £700 per annum. The salary of the Registrar shall be £500 per annum. These officers shall also be entitled to free quarters.

(2) The salaries of the staff of the Joint Court shall be fixed by the President, subject to the approval of the two High Commissioners.

II.—*Passages and Travelling.*

(1) Free passages (first-class) shall be provided, on first appointment, for the President of the Joint Court, the British and French Judges, the Public Prosecutor, the Legal Commissioner, the Native Advocate and the Registrar from their place of residence to the New Hebrides. A passage shall also be provided for the wife of the officer, for male children below the age of majority, and for female children, if

(1) "Treaty Series No. 3 (1908)," Cd. 3876.

unmarried, subject to a maximum of four passages in all, including that of the officer.

(2) They shall further be entitled to half-pay from the date of embarkation, and to full pay from the date of arrival in the New Hebrides. Similar allowances shall be granted on the ultimate return home of these officers, upon termination of their appointments for any other reason than misconduct, provided they have served not less than three years, or return home on the ground of ill-health, duly certified by a Condominium Medical Officer.

(3) When travelling in the Group in the performance of their official duties, transport shall be provided, or expenses incurred in the provision of transport shall be refunded to them.

(4) They shall also receive a subsistence allowance of eight shillings, or fifty francs, for periods of absence of more than twelve hours necessitating board and lodging for the night. This allowance shall be reduced to one-third for periods of from five to twelve hours. No allowance shall be payable in respect of an absence of less than five hours. One-half of the allowance shall be payable if either board or lodging is provided by the Condominium Government. No allowance shall be payable if both board and lodging are provided.

(5) When proceeding to or from the New Hebrides on first appointment, or on termination of appointment, or on furlough or sick leave, the President of the Joint Court shall be entitled to an allowance of £1 10s., or 186 francs, for every twenty-four hours of unavoidable detention at any port other than the port of disembarkation. In the cases of the British and French Judges, the Public Prosecutor, the Legal Commissioner, the Native Advocate and the Registrar, the allowance shall be £1, or 124 francs.

### III.—*Leave.*

(1) The High Commissioners, acting conjointly, and subject to the exigencies of the service, may grant to the officers mentioned in Section II of these Regulations—

- (a) Furlough.
- (b) Sick leave.
- (c) Leave for private affairs.

(2) Grants of furlough or leave for private affairs will be at the discretion of the Condominium Government and will depend upon satisfactory arrangements being made for the proper execution of the duties of the officer while absent.

(3) At the option of the officer, leave may be granted to his country of origin, or to the country from which he was originally appointed.

(4) Furlough will only be granted after three years' resident service in the New Hebrides and may be for a period of six months. For every additional year of resident service, a further two months' furlough may be granted, provided that in no case shall the total leave exceed one year.

(5) Periods of furlough, and the time actually spent in travelling, will be on half-pay.

(6) Furlough will not be granted to a member of the Joint Court at intervals of less than one year, and will be granted in the following order of precedence :—

- (1) The President.
- (2) The Public Prosecutor.
- (3) The Legal Commissioner.
- (4) The Registrar.

Should an officer not desire to avail himself of furlough, his place may be taken by the officer next succeeding him in this order of precedence.

(7) The High Commissioners, acting conjointly, may, on the advice of a Condominium Medical Officer, require an officer who has completed three years' resident service to take such furlough as is due to him.

(8) An officer who, at the expiration of his furlough, does not return to his post, except in the case of *force majeure*, will be considered as having resigned and shall be replaced.

(9) Sick leave on half-pay may be granted up to three months on production of a medical certificate issued by a Condominium Medical Officer, or, where an officer is at the time outside the Condominium, by an approved medical practitioner. Extensions of this period may be granted by the two Governments or their representatives in the New Hebrides upon the production of a supplementary medical certificate.

(10) In no case will such leave exceed one-third of an officer's resident service.

(11) On the expiration of the maximum period laid down, an officer who does not rejoin his post, except in the case of *force majeure*, will be considered as having resigned, and shall be replaced.

(12) Upon application in writing, the High Commissioners, acting conjointly, may grant three months' leave on full pay for urgent private affairs, the nature of which must be stated.

(13) In cases of furlough and sick leave, the passage expenses of the officers mentioned in Section II of these Regulations, as well as of their families, subject to the limits therein stated, will be met from Condominium funds.

(14) The grant of leave on private affairs will not carry with it the right of free passage.

#### IV.—*Age Limit.*

Except in special cases, and with the express consent of the two High Commissioners, retirement shall be compulsory at the age of 60.

#### V.—*Pensions.*

No member or officer of the Joint Court shall be entitled to a pension from the New Hebrides funds.

#### VI.—*Acting Arrangements.*

(1) In the absence or incapacity of the President of the Joint Court, the Legal Commissioner shall act for him.

(2) In the absence or incapacity of the British or French Judge, a substitute shall be appointed by the British or French High Commissioner respectively.

(3) In the absence or incapacity of the Public Prosecutor, the Legal Commissioner shall act for him. In the event of the services of the Legal Commissioner not being available, the Registrar shall act as Public Prosecutor. In view of this provision, the Registrar shall not be either a British subject or a French citizen, and must possess the necessary legal qualifications. In the event of the incapacity, as the result of illness or for any other reason, of the Public Prosecutor, the Legal Commissioner, and the Registrar of the Joint Court, the two High Commissioners will conjointly nominate a substitute of neutral nationality to replace the Public Prosecutor.

(4) In the absence or incapacity of the Native Advocate, his functions will be performed, if necessary, by the Public Prosecutor, in addition to his own functions.

(5) In the absence or incapacity of the Registrar, the President shall appoint a substitute, irrespective of nationality.

(6) The holder of an acting appointment shall be entitled to the emoluments and privileges of the post the duties of which he is performing, but this provision shall not be taken as conferring the right at the same time to the emoluments and privileges of more than one post.

#### VII.—*Business of the Joint Court and Powers of the President.*

(1) All arrangements for the sittings of the Joint Court and the conduct of its business shall be made by the President.

(2) The Registrar and staff of the Joint Court shall be under the control of the President, but their appointment shall not be revocable by him except with the concurrence of the two Resident Commissioners.

#### VIII.—*General.*

Subject to the approval of the two Governments, the High Commissioners shall arrange conjointly for all matters relating to the Joint Court not covered by the preceding Regulations.

3. I have the honour to enquire of your Excellency whether the Government of the Republic agree that the above Regulations should be substituted for those contained in Annex I to the notes exchanged in London on the 29th August, 1907.

I have, &c.  
TYRRELL.

No. 2.

*M. Briand to Lord Tyrrell.*

M. l'Ambassadeur,

*Paris, le 15 décembre 1931.*

J'AI l'honneur de confirmer à Votre Excellence que le Gouvernement de la République Française est d'accord avec le Gouvernement

de Sa Majesté du Royaume-Uni de Grande-Bretagne et de l'Irlande du Nord pour réviser, en tenant compte de l'expérience acquise, le règlement concernant les conditions de service des membres du Tribunal Mixte du Condominium des Nouvelles-Hébrides, en vue d'y faire figurer les modifications qui, d'un commun accord entre les deux Gouvernements, ont à diverses reprises été apportées aux règles existantes. Ces dernières constituent l'Annexe I des notes échangées à Londres entre la Grande-Bretagne et la France le 29 août 1927 [sic].

2. Le Gouvernement français est d'accord avec le Gouvernement Britannique pour que le nouveau règlement soit rédigé ainsi qu'il suit :

I.—*Traitement.*

(1) Le traitement du Président du Tribunal Mixte sera de 900 livres sterling par an. Le traitement des juges français et britanniques, du Magistrat chargé du Ministère Public et du Magistrat-Délégué sera, pour chacun, de 800 livres sterling par an. Le traitement de l'Avocat des Indigènes sera de 700 livres sterling par an. Le traitement du Greffier sera de 500 livres par an. Ces fonctionnaires auront également droit au logement gratuit.

(2) Le traitement du personnel de la Cour Mixte sera fixé par le Président, sous réserve d'approbation par les deux Hauts-Commissaires.

II.—*Passages et Frais de Tournée.*

(1) Le Président du Tribunal Mixte, les Juges français et anglais, le Magistrat chargé de représenter le Ministère Public, le Magistrat-Délégué, l'Avocat des Indigènes et le Greffier auront droit au passage gratuit en première classe pour rejoindre leur poste, du lieu de leur résidence aux Nouvelles-Hébrides. Ce droit est étendu à leur famille réduite à la femme et aux enfants, les enfants du sexe masculin ne bénéficiant de cette mesure que jusqu'à leur majorité et les enfants du sexe féminin jusqu'à leur mariage. Les passages gratuits ainsi accordés ne pourront dépasser le nombre de quatre pour chaque membre du Tribunal.

(2) Ils recevront la moitié de leur solde à partir du jour de leur embarquement et leur solde entière à partir du jour de leur arrivée aux Nouvelles-Hébrides. Ils seront rapatriés aux mêmes conditions lorsqu'ils quitteront définitivement leur poste après cessation de leurs fonctions, sauf le cas de révocation pour mauvaise conduite ; toutefois ces avantages ne leur seront accordés que s'ils ont servi au moins trois ans dans l'Archipel, ou s'ils se retirent pour raison de santé attestée par certificat médical d'un médecin officiel du Condominium.

(3) Lorsque ces membres du Tribunal Mixte se déplaceront dans l'Archipel pour les besoins du service, les moyens de transport leur seront fournis en nature ou, à défaut, ils seront remboursés des dépenses qu'ils auront effectuées à ce titre.

(4) Ils recevront, en outre, une indemnité de route ou de séjour de 50 francs ou 8 schillings pour tous déplacements de plus de douze

heures entraînant l'obligation pour l'intéressé d'assurer au dehors ses repas et son logement durant la nuit. L'indemnité sera réduite au tiers de son taux pour les déplacements d'une durée supérieure à 5 heures et ne dépassant pas douze heures. Il ne sera accordé aucune indemnité pour les déplacements d'une durée inférieure à 5 heures.

Les indemnités prévues au paragraphe ci-dessus seront réduites de moitié si les intéressés reçoivent leur nourriture en nature ou si leur logement est assuré par les soins de l'Administration du Condominium.

Aucune indemnité ne sera payée dans le cas où la nourriture et le logement sont attribués en nature.

(5) Tout membre du Tribunal Mixte qui, au cours de voyage, soit pour se rendre à son poste, soit pour bénéficier d'un congé administratif ou de convalescence, soit par mesure de rapatriement, sera obligé, par suite de transbordement ou pour tout autre cause, de séjourner dans un port autre que celui du débarquement, recevra une indemnité journalière fixée ainsi qu'il suit :

Pour le Président, £1 10s., 186 francs 00.

Pour les autres magistrats, y compris le Magistrat Délégué, l'Avocat des Indigènes et le Greffier, £1, 124 francs 00.

### III.—*Congés.*

(1) Les Hauts-Commissaires pourront, dans la mesure où les exigences du Service le permettront, accorder conjointement aux membres du Tribunal Mixte mentionnés à l'article 2 :

- (a) un congé administratif,
- (b) un congé de convalescence,
- (c) un congé pour affaires personnelles.

(2) Les congés administratifs et pour affaires personnelles sont facultatifs et ne seront accordés qu'autant que l'intérim des fonctions de l'intéressé sera assuré.

(3) Les congés sont accordés au choix du bénéficiaire, soit pour son pays d'origine, soit pour le pays où il a été recruté.

(4) Le congé administratif ne peut être accordé qu'après chaque période de trois années de service effectif aux Nouvelles-Hébrides. Il est fixé à six mois pour cette période de service effectif avec prolongation de deux mois par année de service supplémentaire, sans qu'en aucun cas sa durée puisse être supérieure à une année.

(5) Il donne droit à la demi-solde pendant sa durée et celle des traversées.

(6) Les congés administratifs demandés par plusieurs des membres du Tribunal Mixte désignés ci-après ne pourront être accordés qu'à un intervalle d'au moins un an. Il sera établi un tour de roulement qui s'effectuera dans l'ordre suivant :

- (1°) le Président,
- (2°) le Magistrat chargé de représenter le Ministère Public,
- (3°) le Magistrat Délégué,
- (4°) le Greffier.

Si l'un d'eux renonçait à son congé, cet avantage reviendrait au suivant dans l'ordre indiqué ci-dessus.

(7) Après trois ans de séjour, les Hauts-Commissaires, sur avis du Médecin du Condominium, pourront requérir un magistrat ou fonctionnaire du Tribunal Mixte fatigué de prendre le congé auquel il a droit.

(8) Serait considéré comme démissionnaire et remplacé *ipso facto* (sauf cas de force majeure) tout membre du Tribunal Mixte qui ne rejoindrait pas son poste à l'époque de l'expiration de son congé.

(9) Un congé de convalescence peut être accordé avec demi-solde pour une durée de trois mois sur production d'un certificat du médecin du Condominium en attestant la nécessité, ou d'un certificat émanant d'une autorité médicale officielle si l'intéressé se trouve à ce moment en dehors du Condominium. Des prolongations d'une durée maximum de trois mois avec demi-solde pourront être accordées par les deux Gouvernements ou leurs représentants dans l'Archipel au vu d'un certificat délivré par les autorités médicales officielles du lieu où l'intéressé se trouve en congé.

(10) En aucun cas, la durée totale du congé ne pourra excéder le tiers du temps de séjour accompli aux Nouvelles-Hébrides.

(11) A l'expiration de cette période maximum, et sauf le cas de force majeure, le membre du Tribunal Mixte qui ne rejoindrait pas son poste serait considéré comme démissionnaire et remplacé.

(12) Le congé pour affaires personnelles urgentes est accordé conjointement par les Hauts-Commissaires pour une durée maximum de trois mois avec solde entière et sur la demande écrite et motivée de l'intéressé.

(13) Les frais de voyage des membres du Tribunal Mixte mentionnés à l'article II ainsi que de leur famille, dans les conditions prévues audit article, lorsqu'ils se rendent en congé administratif ou de convalescence, sont à la charge du budget du Condominium des Nouvelles-Hébrides.

(14) L'octroi du congé pour affaires personnelles ne peut en aucun cas donner droit au passage gratuit.

#### IV.—*Limite d'Age.*

Les membres du Tribunal Mixte cesseront obligatoirement leurs fonctions à l'âge de soixante ans, excepté dans des cas spéciaux et avec le consentement exprès des deux Hauts-Commissaires.

#### V.—*Pensions.*

Aucun membre du Tribunal Mixte n'aura droit à pension sur le budget du Condominium des Nouvelles-Hébrides.

#### VI.—*Intérim.*

(1) En cas d'absence ou d'indisponibilité du Président du Tribunal Mixte, le Magistrat Délégué le remplacera dans ses fonctions.

(2) En cas d'absence ou d'indisponibilité des juges français ou anglais, un remplaçant intérimaire sera désigné respectivement par le Haut-Commissaire français ou anglais.



(3) En cas d'absence ou d'indisponibilité du Magistrat chargé de représenter le Ministère Public, le Magistrat Délégué le remplacera dans ses fonctions. En cas d'absence ou d'indisponibilité du Magistrat Délégué, le Greffier remplacera le Ministère public dans ses fonctions. En raison de cette disposition spéciale, le Greffier ne devra être ni citoyen français, ni sujet britannique et devra justifier des connaissances en droit nécessaires.

Au cas d'indisponibilité par suite de maladie, ou pour tout autre cause, du Procureur, du Magistrat-Délégué et du Greffier du Tribunal Mixte, les deux Hauts-Commissaires désigneront conjointement un substitut de nationalité neutre pour remplacer le Magistrat chargé du Ministère public.

(4) En cas d'absence ou d'indisponibilité de l'Avocat des Indigènes, ses fonctions seront, le cas échéant, remplies cumulativement par le Magistrat chargé du Ministère Public (Procureur).

(5) En cas d'absence ou d'incapacité du Greffier, le Président lui désignera un remplaçant intérimaire, sans condition de nationalité.

(6) Les intérimaires auront droit durant leur intérim aux mêmes allocations et avantages alloués aux titulaires des fonctions, sans que cette disposition leur confère le droit de prétendre aux émoluments et aux privilèges de plus d'un poste.

#### VII.—*Service Intérieur du Tribunal Mixte et Pouvoirs du Président.*

(1) Toutes les dispositions concernant les audiences du Tribunal Mixte et son fonctionnement intérieur seront arrêtées par le Président.

(2) Le Greffier et le personnel auxiliaire sont soumis à l'autorité disciplinaire du Président, mais celui-ci ne pourra prononcer la révocation qu'avec l'assentiment des deux Commissaires Résidents.

#### VIII.—*Dispositions générales.*

Sous réserve de l'approbation ultérieure des deux Gouvernements, les deux Hauts-Commissaires régleront conjointement toutes les questions concernant le Tribunal Mixte et non prévues par le présent règlement.

Le Gouvernement de la République est d'accord avec le Gouvernement Britannique pour que ce règlement entre en vigueur à compter de ce jour.

Veuillez agréer, M. l'Ambassadeur, les assurances de ma très haute considération.

Pour le Ministre des Affaires Étrangères  
et par ordre,

Le Ministre Plénipotentiaire, Sous-  
Directeur d'Asie,

E. NAGGIAR.

(Translation.)

M. l'Ambassadeur,

Paris, December 15, 1931.

I HAVE the honour to confirm to your Excellency that the Government of the French Republic finds itself in agreement with His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland on the question of revising, in the light of past experience, the regulation concerning the conditions of service for members of the Mixed Tribunal of the Condominium of the New Hebrides, for the purpose of embodying the modifications which, in agreement between the two Governments, have from time to time been added to the existing rules. These rules are contained in Annex 1 to the notes exchanged in London between Great Britain and France on the 29th August, 1927 [sic].

The French Government agrees with His Majesty's Government that the text of the new regulation should be as follows:—

#### I.—Salaries.

(1) The salary of the President of the Joint Court shall be £900 sterling per annum. The salaries of the British and French Judges, the Public Prosecutor and the Legal Commissioner shall be £800 sterling each per annum. The salary of the Native Advocate shall be £700 sterling per annum. The salary of the Registrar shall be £500 sterling per annum. These officers shall also be entitled to free quarters.

(2) The salaries of the staff of the Joint Court shall be fixed by the President, subject to the approval of the two High Commissioners.

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(2) They shall further be entitled to half-pay from the date of embarkation, and to full pay from the date of arrival in the New Hebrides. Similar allowances shall be granted on the ultimate return home of these officers, upon termination of their appointments for any other reason than misconduct, provided they have served not less than three years, or return home on the ground of ill-health, duly certified by a Condominium Medical Officer.

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hours necessitating board and lodging for the night. This allowance shall be reduced to one-third for periods of from five to twelve hours. No allowance shall be payable in respect of an absence of less than five hours. One-half of the allowance shall be payable if either board or lodging is provided by the Condominium Government. No allowance shall be payable if both board and lodging are provided.

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(4) In the absence or incapacity of the Native Advocate, his functions will be performed, if necessary, by the Public Prosecutor, in addition to his own functions.

(5) In the absence or incapacity of the Registrar, the President shall appoint a substitute, irrespective of nationality.

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(1) All arrangements for the sittings of the Joint Court and the conduct of its business shall be made by the President.

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VIII.—*General.*

Subject to the approval of the two Governments, the High Commissioners shall arrange conjointly for all matters relating to the Joint Court not covered by the preceding Regulations.

The Government of the Republic agrees with His Majesty's Government that this regulation shall enter into force as from to-day.

I have, &c.

for the Minister for Foreign Affairs,

E. NAGGIAR,

*Minister Plenipotentiary, Assistant-Director for Asia.*