

BURMA



Treaty Series No. 16 (1948)

Treaty

between the Government of the United Kingdom and the
Provisional Government of Burma regarding the

Recognition of Burmese Independence and Related Matters

[With Exchange of Notes and Annex]

London, 17th October, 1947

[Ratifications exchanged at Rangoon, 4th January, 1948]

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

LONDON

HIS MAJESTY'S STATIONERY OFFICE

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**TREATY BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM AND THE PROVISIONAL GOVERNMENT OF
BURMA REGARDING THE RECOGNITION OF BURMESE
INDEPENDENCE AND RELATED MATTERS**

London, 17th October, 1947

The Government of the United Kingdom of Great Britain and Northern Ireland, and the Provisional Government of Burma;

Considering that it is the intention of the Government of the United Kingdom of Great Britain and Northern Ireland to invite Parliament to pass legislation at an early date providing that Burma shall become an independent State;

Desiring to define their future relations as the Governments of independent States on the terms of complete freedom, equality and independence and to consolidate and perpetuate the cordial friendship and good understanding which subsist between them; and

Desiring also to provide for certain matters arising from the forthcoming change in the relations between them,

Have decided to conclude a treaty for this purpose and have appointed as their plenipotentiaries:—

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

The Right Hon. Clement Richard Attlee, C.H., M.P., Prime Minister and First Lord of the Treasury.

The Provisional Government of Burma:

The Hon'ble Thakin Nu, Prime Minister.

Who have agreed as follows:—

ARTICLE 1

The Government of the United Kingdom recognise the Republic of the Union of Burma as a fully independent sovereign State.

The contracting Governments agree to the exchange of diplomatic representatives duly accredited

ARTICLE 2

All obligations and responsibilities heretofore devolving on the Government of the United Kingdom which arise from any valid international instrument shall henceforth, in so far as such instrument may be held to have application to Burma, devolve upon the Provisional Government of Burma. The rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Burma shall henceforth be enjoyed by the Provisional Government of Burma.

ARTICLE 3

Any person who at the date of the coming into force of the present Treaty is, by virtue of the Constitution of the Union of Burma, a citizen thereof and who is, or by virtue of a subsequent election is deemed to be, also a British subject, may make a declaration of alienage in the manner prescribed by the law of the Union, and thereupon shall cease to be a citizen of the Union.

The Provisional Government of Burma undertake to introduce in the Parliament of the Union as early as possible, and in any case within a period of one year from the coming into force of the present Treaty, legislation for the purpose of implementing the provisions of this Article.

ARTICLE 4

The relations of the contracting Governments in the sphere of Defence shall be regulated by the Agreement concluded between them on 29th August, 1947, the provisions of which are set out in the Annex hereto and which shall have force and effect as integral parts of the present Treaty.

ARTICLE 5

The Provisional Government of Burma reaffirm their obligation to pay to British subjects domiciled on the date of the coming into force of the present Treaty in any country other than India and Pakistan all pensions, proportionate pensions, gratuities, family pension fund and provident fund payments and contributions, leave salaries and other sums payable to them from the revenues of Burma or other funds under the control of the executive authority of Burma, in virtue of all periods of service prior to that date under the rules applicable immediately prior thereto.

ARTICLE 6

The contracting Governments agree that the following provisions shall constitute a final settlement of the financial questions dealt with in this Article:—

1. The Provisional Government of Burma reaffirm their agreement to pay over in full proceeds of the sale of Army (including Civil Affairs Service (Burma)) stores. The Government of the United Kingdom agree to make no claim on the Provisional Government of Burma for repayment of the cost of the Civil Affairs Administration prior to the restoration of civil government.

2. The Government of the United Kingdom agree to cancel £15 million of the sums advanced towards the deficits on the Ordinary Budget and the Frontier Areas Budget. The balance of the sums will be repaid by Burma in twenty equal yearly instalments beginning not later than 1st April, 1952, no interest being chargeable. The cancellation of this amount of Burma's indebtedness is accepted by the Provisional Government of Burma as a further contribution by the Government of the United Kingdom towards the restoration of Burma's financial position and as a final liquidation of their claim in respect of the cost of supplies and services furnished to the British Military Administration in Burma.

3. The Provisional Government of Burma agree to repay in full the sums advanced by the Government of the United Kingdom towards expenditure on Projects (including Public Utilities, &c.). In accordance with existing agreements, repayment will continue to be made from current receipts in excess of necessary outgoings and working capital and from the proceeds of liquidation, and the balance of advances outstanding will be repaid by the Provisional Government of Burma in twenty equal yearly instalments beginning not later than 1st April, 1952, no interest being chargeable.

4. The Government of the United Kingdom agree to continue to reimburse the Provisional Government of Burma for expenditure in respect of—

- (a) claims for supplies and services rendered to the Burma Army in the Burma campaign of 1942; and
- (b) release benefits payable on demobilisation to Burma Army personnel for war service.

5. Except in so far as they are specifically modified or superseded by the terms of this Agreement and of the Defence Agreement of 29th August, 1947, the provisions of the Financial Agreement of 30th April, 1947,⁽¹⁾ between the Government of the United Kingdom and the Government of Burma remain in force.

ARTICLE 7

(a) All contracts other than contracts for personal service made in the exercise of the executive authority of Burma before the coming into force of the Constitution of the Union of Burma to which any person being a British subject domiciled in the United Kingdom or any Company, wherever registered, which is mainly owned, or which is managed and controlled by British subjects so domiciled, was a party, or under which any such person or company was entitled to any right or benefit, shall as from that date, have effect as if made by the Provisional Government of Burma as constituted on and from that date; and all obligations that were binding on the Provisional Government of Burma immediately prior to the said date, and all liabilities, contractual or otherwise, to which that Government was then subject, shall, in so far as any such person or company as aforesaid is interested, devolve on the Provisional Government of Burma as so constituted.

(b) In so far as any property, or any interest in any property vested in any person or authority in Burma before the coming into force of the Constitution of the Union of Burma, or the benefit of any contract entered into by any such person or authority before that date, is thereafter transferred to, or vested in the Provisional or any successor Government of Burma, it shall be so transferred or vested subject to such rights as may previously have been created and still subsist therein, or in respect thereof, in favour of any person or company of the status or character described in the preceding sub-article.

ARTICLE 8

The contracting Governments being resolved to conclude at the earliest possible date a mutually satisfactory Treaty of Commerce and Navigation have agreed for a period of two years from the date of the coming into force of the present Treaty or until the conclusion of such a Treaty of Commerce and Navigation to conduct their commercial relations in the spirit of Nos. 1-3 of the Exchange of Notes annexed hereto, provided that, at any time after six months from the date of the coming into force of the present Treaty, either party may give three months' notice to terminate the undertaking set out therein.

ARTICLE 9

The contracting Governments agree to maintain postal services, including Air Mail services and Money Order services, on the existing basis, subject to any alteration in matters of detail which may be arranged between their respective Postal Administrations as occasion may arise.

ARTICLE 10

The Provisional Government of Burma agree to negotiate Treaty arrangements in respect of the care and upkeep of war cemeteries and/or war graves of the British Commonwealth and Empire in Burma with the Governments represented on the Imperial War Graves Commission and, pending

⁽¹⁾ *Hansard*, 22nd May, 1947, Cols. 276-7.

negotiation of such arrangements, to recognise the Imperial War Graves Commission as the sole authority responsible for dealing with such war cemeteries and/or war graves and to accord to the Commission the privileges set out in Nos. 4 and 5 of the Exchange of Notes annexed to the present Treaty.

ARTICLE 11

The contracting Governments will accord to each other the same treatment in civil aviation matters as heretofore, pending the conclusion of an Agreement in regard to them, provided that this arrangement may be terminated on six months' notice given by either side.

ARTICLE 12

The contracting Governments agree to conclude at the earliest possible date an agreement for the avoidance of double taxation.

ARTICLE 13

Nothing in the present Treaty is intended to or shall in any way prejudice the rights and obligations which devolve or may devolve upon either of the contracting parties under the Charter of the United Nations or from any special agreements concluded in virtue of Article 43 of the Charter.

ARTICLE 14

Should any difference arise relative to the application or the interpretation of the present Treaty, and should the contracting parties fail to settle such difference by direct negotiations, the difference shall be referred to the International Court of Justice unless the parties agree to another mode of settlement.

ARTICLE 15

The present Treaty shall be ratified and shall come into force immediately upon the exchange of Instruments of Ratification, which shall take place on the day on which Burma becomes independent in accordance with the appropriate legislation to be introduced in the United Kingdom for that purpose.

In witness whereof the above-named plenipotentiaries have signed the present Treaty and have affixed thereto their Seals.

Done in duplicate in London this 17th day of October, 1947

(L.S.) CLEMENT RICHARD ATTLEE.

(L.S.) THAKIN NU.

EXCHANGE OF NOTES

No. 1

Mr. C. R. Attlee to Thakin Nu

10 Downing Street,

London, 17th October, 1947

Sir,

With a view to the most friendly commercial relations with the new independent State of Burma, the Government of the United Kingdom are desirous to conclude a Commercial Treaty with the least possible delay, but realise that the complex nature of such a Treaty makes it impossible to hope to complete negotiations before the coming into force of the Constitution of the Union of Burma. At the same time the Government of the United Kingdom are sure that the Provisional Government of Burma share their view that the commercial relations of the two countries should not be left entirely unregulated in the meantime and that suitable transitional arrangements cannot but help the conclusion of a mutually satisfactory Treaty at as early a date as possible.

2. I have therefore to express the hope that the Provisional Government of Burma will not during this interim period take action which would prejudicially affect existing United Kingdom interests in Burma in the legitimate conduct of the businesses or professions in which they are now engaged, and that if the Provisional Government of Burma, in the formulation of national policy, are convinced that such action must be taken in any particular case they will consult with the Government of the United Kingdom in advance with a view to reaching a mutually satisfactory settlement. For their part the Government of the United Kingdom will be glad to observe the same principles in regard to the treatment of Burman interests in the United Kingdom.

8. If the Provisional Government of Burma agree with the foregoing proposals, I suggest that this letter and your reply should constitute an understanding between our two Governments to that effect.

I have, &c.

(Sd.) C. R. ATTLEE.

No. 2

Thakin Nu to Mr. C. R. Attlee

Sir,

London, 17th October, 1947

I have the honour on behalf of the Provisional Government of Burma to acknowledge receipt of your letter of to-day's date. The Provisional Government of Burma share the view of the Government of the United Kingdom that the commercial relations of the two countries should not be left entirely unregulated during the period which will elapse between the coming into force of the Constitution of the Union of Burma and the conclusion of a mutually satisfactory Treaty of Commerce and Navigation. The Provisional Government of Burma therefore agree, subject to paragraph 2 below, that they will not take action which would prejudicially affect existing United Kingdom interests in Burma in the legitimate conduct of the businesses or professions in which they are now engaged. The Provisional Government of Burma also agree that if convinced of the necessity of such action in any particular case they will consult with the Government of the United Kingdom in advance with a view to reaching a mutually satisfactory settlement, although there may be occasional cases of emergency in which full prior consultation

is impracticable and only short notice can be given to the United Kingdom Ambassador. The Provisional Government of Burma note with satisfaction that the Government of the United Kingdom will observe the same principles in regard to the treatment of Burman interests in the United Kingdom.

2. I have however to explain that the undertaking given in the preceding paragraph must be read as subject to the provisions of the Constitution of the Union of Burma as now adopted, and in particular to the policy of State socialism therein contained to which my Government is committed. If however the implementation of the provisions of Articles 23 (4) and (5), 30, 218, or 219 of the Constitution should involve the expropriation or acquisition in whole or in part of existing United Kingdom interests in Burma, the Provisional Government of Burma will provide equitable compensation to the parties affected.

3. Finally I suggest that, in so far as questions arise which, in the opinion of either Government, do not appropriately fall within the scope of the preceding paragraphs of this letter, these should be discussed by representatives of our two Governments, and decided in accordance with the generally accepted principles of international law and with modern international practice.

I have, &c.
(Sd.) THAKIN NU.

No. 3

Mr. C. R. Attlee to Thakin Nu

10 Downing Street,
London, 17th October, 1947

Sir,

I have the honour, on behalf of the Government of the United Kingdom, to acknowledge receipt of your letter of to-day's date. The Government of the United Kingdom welcome both the Provisional Government of Burma's acceptance of the suggestion contained in my previous letter and their assurance of equitable compensation to United Kingdom interests in the circumstances set out in paragraph 2 of your letter. The Government of the United Kingdom readily accept the suggestion contained in paragraph 3 of your letter.

I have, &c.
(Sd.) C. R. ATTLEE.

No. 4

Thakin Nu to Mr. C. R. Attlee

London, 17th October, 1947

Sir,

In connexion with Article 10 of the Treaty signed by us to-day, I have the honour to inform you that, pending the conclusion of a formal Agreement with the Governments represented on the Commission, the Provisional Government of Burma agree to permit the Imperial War Graves Commission—

- (1) To lay out, construct and maintain the war-cemeteries and/or war graves in accordance with their usual practice.
- (2) To enjoy the use, free of cost, of the sites of such war cemeteries and/or war graves for so long as they are used solely as cemeteries and/or graves.

- (3) To appoint and maintain staff to carry out their work and occupy the accommodation required for the purpose of their operations.
 (4) To import free of duty such materials and implements as may be required for the carrying out of their work.

I have, &c.
 (Sd.) THAKIN NU.

No. 5

Mr. C. R. Attlee to Thakin Nu

10 Downing Street,
 London, 17th October, 1947

Sir,

I have the honour to acknowledge the receipt of your note of to-day's date regarding the treatment which the Provisional Government of Burma propose to accord to the Imperial War Graves Commission pending the conclusion of a formal agreement on the subject, and to state that the arrangements therein recorded have been noted with satisfaction by the Government of the United Kingdom.

I have, &c.
 (Sd.) C. R. ATTLEE.

PROTOCOL OF SIGNATURE

On the signature this day of the Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Provisional Government of Burma the undersigned plenipotentiaries declare as follows:—

Having regard to the close administrative relations which have hitherto existed between them, and the fact that it may not in every appropriate case have proved possible by the appointed date to complete such alternative arrangements as may be needed, the Government of the United Kingdom and the Provisional Government of Burma affirm their intention to co-operate to ensure that, pending the completion of such arrangements, the minimum of administrative inconvenience and disturbance shall be caused to one another.

(Sd.) CLEMENT RICHARD ATTLEE.

(Sd.) THAKIN NU.

17th October, 1947.

ANNEX

DEFENCE AGREEMENT SIGNED ON 29TH AUGUST, 1947, IN RANGOON

General

THIS Defence Agreement between the Government of Burma and the United Kingdom Government has been freely concluded between the two countries and is without prejudice to any Military alliance which may be made in the future between the Government of Burma and the United Kingdom Government. It has been negotiated in relation to the treaty of transfer, the provisions of which in regard to the international obligations of either party, the settlement of disputes and to similar matters will apply in respect of this Agreement subject to the provisions of the treaty.

Evacuation of British Troops

2. Subject to the provisions of this Agreement, the United Kingdom Government will move all United Kingdom troops out of Burma as soon as possible after the date of transfer of power. The margin of time necessary to effect this movement will be a matter for adjustment between the two Governments. The Government of Burma agree to afford all possible help and protection to His Majesty's Forces in the course of this evacuation.

Financial Concessions by the United Kingdom Government

3. The United Kingdom Government agree—

- (a) to forgo the financial claims made upon the Government of Burma in the letter to the Finance and Revenue Department of 22nd February, 1947, in respect of Defence charges in Burma subsequent to 1st April, 1947;
- (b) to make no charge in respect of the transfer of initial equipment for the Burma Army up to the scales agreed;
- (c) to make no charge in respect of the transfer of initial maintenance reserves for the Burma Army up to the agreed scales;
- (d) to transfer to the Government of Burma free of cost fixed assets of the Army and the Royal Air Force remaining in Burma at the date of the transfer of power;

provided that the transfers agreed to in clauses (b), (c) and (d) above shall explicitly exclude all Lend/Lease material.

United Kingdom Service Mission

4. In accordance with the wishes of the Government of Burma the United Kingdom Government agree—

- (i) to provide a Naval, Military and Air Force Mission to Burma;
- (ii) that the Mission will, provided volunteers are available, include instructional and other staff for service with the Burma forces;
- (iii) to provide training facilities in His Majesty's establishments for personnel of the Burma forces.

The functions and composition of the Mission and of instructional and other staff, the terms and conditions of service of United Kingdom personnel and particulars of training facilities to be provided will fall to be negotiated separately between the two Governments.

As a special arrangement to meet the circumstances giving rise to this Agreement, the United Kingdom Government are prepared to waive the cost of the Mission, excluding instructional and other staff under (ii) above, and the cost of training facilities in His Majesty's establishments for a period of three years from the transfer of power. The cost, other than Home effective and non-effective charges, of instructional and other staff for service with the Burma forces will be borne by the Burma Government.

Naval

5. The United Kingdom Government agree to transfer to the Government of Burma free of cost the Naval vessels set out in the Appendix to this Agreement.

Air Provisions

6. Subject to the provisions of this Agreement the United Kingdom Government agree—

- (a) to contribute such portion of the cost of the maintenance of Mingaladon Airfield including the cost of technical personnel as may be agreed between the two Governments;
- (b) to provide necessary technical personnel for the maintenance and operation of this airfield at appropriate standards to be agreed between the two Governments for such period, not exceeding one year, as will enable the Government of Burma to assume this responsibility;
- (c) to contribute for a period of three years a sum not exceeding £40,000 annually to the maintenance at standards to be agreed between the two Governments of the landing grounds at Akyab and Mergui.

Supply of War Material

7. Having regard to the friendly relations signified by the conclusion of this Agreement, the United Kingdom Government agree to give all reasonable facilities for purchase by the Government of Burma of war material.

Undertaking of the Government of Burma

8. The Government of Burma agree—

- (a) to receive a Naval, Military and Air Force Mission from the United Kingdom Government and not from any Government outside the British Commonwealth;
- (b) that, in view of the close association between His Majesty's Navy and the Burma Naval Forces and in accordance with customary peace-time practice with other friendly Powers, ships of either navy shall have the right of entry into the ports of the other party upon notification direct between their respective naval authorities on the spot;
- (c) that, in view of the friendly association between the air forces of the two parties, military aircraft of either party shall have the right in accordance with customary peace-time practice upon notification direct between the respective air authorities, to fly over the territories of the other, and to enjoy staging facilities at airfields to be prescribed from time to time by agreement between the two Governments, including those referred to in Article 6;

- (d) that His Majesty's forces bringing help and support to Burma by agreement with the Government of Burma or to any part of the Commonwealth by agreement with the Government of Burma and with the Government of that part of the Commonwealth shall be afforded all reasonable assistance including facilities of access and entry into Burma by air, land and sea.

Further Negotiations

9. Nothing in this Agreement shall preclude either party from opening fresh negotiations with the other on any matter within the defence sphere, but such negotiations shall not, except by agreement, affect the obligations of either party under this Agreement.

Duration

10. The provisions of this Agreement shall remain in operation in the first instance for three years from the transfer of power and thereafter subject to twelve months' notice on either side.

BO LET YA,
29th August, 1947.

JOHN FREEMAN,
29th August, 1947.

APPENDIX (ARTICLE 5)

Vessels now on loan which His Majesty's Government agree to transfer free of cost to the Government of Burma:—

One Ocean-going Vessel (His Majesty's Government require the frigate *FAL* now on loan but will consider the offer of a corvette in substitution).

Thirteen Harbour Defence Motor Launches.

Three 90-ft. Motor Fishing Vessels.

Two 61½-ft. Motor Fishing Vessels.

One 45-ft. Motor Fishing Vessel.

Five Harbour Launches, Petrol.

Six Fast Motor Boats.

Four Cargo Lighters (viz., two R.C.L., two "Z" craft).

Two Motor Minesweepers.

*Government of Burma,
Defence Department,
Rangoon, 29th August, 1947*

Dear Mr. Freeman,

In connexion with Articles 4 (i) and 8 (a) of our Agreement about the provision of a British Naval, Military and Air Force Mission for Burma, I would like, if you agree, to place on record our expectation that as Burma has agreed to receive no Mission from outside the Commonwealth the United Kingdom Government will do their best to provide qualified advisers and other staff for the Mission in sufficient numbers, but that if this should prove impossible through lack of volunteers or other causes, it may become necessary for the two Governments to take advantage of Article 9 to terminate the provisions relating to the Mission.

Yours sincerely,
(Signed) BO LET YA

J. Freeman, Esq., M.B.E., M.P.,
Chairman, British Defence Mission to Burma.

British Defence Mission to Burma,

My dear Minister of Defence,

Rangoon, 29th August, 1947

Thank you for your letter of 29th August. It is, of course, the intention of the United Kingdom Government, in concluding the Defence Agreement under reference; that it shall be made to work effectively. In the event of the United Kingdom Government being unable to provide a mission capable of carrying out its task effectively, I agree with you that a new situation would arise and both parties could properly re-examine the matter in the light of Clause 9.

Yours sincerely,
(Signed) J. FREEMAN,
Chairman.

British Defence Mission to Burma,

My dear Minister of Defence,

Rangoon, 29th August, 1947

I think it somewhat below the dignity of our two Governments to include in a formal agreement between them the latter part of Article 5 relating to naval vessels in the latest draft of our Defence Agreement. On the other hand, the point relating to the use and disposal of the vessels is of some importance, and I suggest that instead of writing it into the agreement you should let me have an acknowledgement of this present letter, and in it place on record the fact that your Government has agreed that the naval vessels referred to in the Appendix to Clause 5 of the Defence Agreement shall only be employed for Government purposes and shall not be sold for commercial or other uses.

Yours sincerely,
(Signed) JOHN FREEMAN.

To the Hon. Bo Let Ya,
Counsellor for Defence,
Government of Burma,
Rangoon.

My dear Mr. Freeman,

Rangoon, 29th August, 1947

I acknowledge with thanks your note of to-day's date.

The Government of Burma have agreed that the naval vessels referred to in the Appendix to Clause 5 of the Defence Agreement shall only be employed for Government purposes and shall not be sold for commercial or other uses.

Yours sincerely,
(Signed) BO LET YA.

To J. Freeman, Esq., M.B.E., M.P.,
Chairman, British Defence Mission to Burma.

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