



Treaty Series No. 19 (1946)

Exchange of Notes

between His Majesty's Government in the United Kingdom
of Great Britain and Northern Ireland
and the Belgian Government

concerning Civil Administration and Jurisdiction
in Belgian Territory liberated by an Allied
Expeditionary Force

London, 16th May, 1944

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

LONDON
HIS MAJESTY'S STATIONERY OFFICE

ONE PENNY NET

Cmd. 6875

EXCHANGE OF NOTES BETWEEN HIS MAJESTY'S GOVERNMENT
IN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND THE BELGIAN GOVERNMENT CONCERNING CIVIL
ADMINISTRATION AND JURISDICTION IN BELGIAN TERRITORY
LIBERATED BY AN ALLIED EXPEDITIONARY FORCE.

London, 16th May, 1944.

No. 1.

Mr. Anthony Eden to Monsieur P.-H. Spaak.

*Foreign Office, London,
16th May, 1944.*

Your Excellency,

THE discussions which have taken place between representatives of the United Kingdom and of Belgium concerning the arrangements to be made for civil administration and jurisdiction in Belgian territory liberated by an Allied Expeditionary Force under an Allied Commander-in-Chief have led to agreement upon the broad conclusions set out in the memorandum of agreement annexed hereto.

2. His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland have considered and approved this memorandum.

3. I shall be grateful if your Excellency will inform me whether the Belgian Government likewise approve of the annexed memorandum of agreement, and whether they agree that the present note and your Excellency's reply shall be regarded as constituting an agreement between our two Governments in this matter.

I have, &c.
(Sd.) ANTHONY EDEN.

[Enclosure in No. 1.]

Memorandum of Agreement.

THE agreed arrangements set out below are intended to be essentially temporary and practical and are designed to facilitate as far as possible the task of the Commander-in-Chief and to further our common purpose, namely, the speedy expulsion of the Germans from Belgium and the final victory of the Allies over Germany.

1. In areas affected by military operations it is necessary to contemplate a first or military phase during which the Commander-in-Chief of the Expeditionary Force on land must *de facto* exercise supreme responsibility and authority to the full extent necessitated by the military situation.

2. As soon as, and to such extent as, in the opinion of the Commander-in-Chief the military situation permits the resumption by the Belgian

Government of responsibility for the civil administration, he will notify the appropriate representative of the Belgian Government accordingly. The Belgian Government will thereupon, and to that extent, resume such exercise of responsibility, subject to such special arrangements as may be required in areas of vital importance to the Allied Forces, such as ports, lines of communication and airfields, and without prejudice to the enjoyment by the Allied Forces of such other facilities as may be necessary for the prosecution of the war to its final conclusion.

3.—(a) During the first phase the Commander-in-Chief will make the fullest possible use of the advice and assistance which will be tendered to him through Belgian liaison officers attached to his staff for civil affairs and included in the personnel of a Belgian Military Mission to be appointed by the Belgian Government. He will also make the fullest possible use of loyal Belgian local authorities.

(b) The Belgian liaison officers referred to in sub-paragraph (a) above will, so far as possible, be employed as intermediaries between the Allied military authorities and the Belgian local authorities.

4. During the first phase the Belgian Government will promulgate or pass such legislation as in their opinion may be required after consultation with the Commander-in-Chief.

5.—(a) In order to facilitate the administration of the territory during the first phase the Belgian Government will reorganise or re-establish the Belgian administrative and judicial services, through whose co-operation the Commander-in-Chief can discharge his supreme responsibility. For this purpose the instructions of the Belgian Government will be communicated through the appropriate members of the Belgian Military Mission referred to in sub-paragraph (3) (a) above or the Auditeur Général, Haut-Commissaire à la Sécurité de l'État, as the case may be. However, the appropriate members of the Belgian Mission are authorised to act on the spot in the event that the normal procedure as prescribed in the preceding sentence is impracticable or impossible.

(b) The appointment of the Belgian administrative and judicial services will be effected by the competent Belgian authorities in accordance with Belgian law. If during the first phase conditions should necessitate appointments in the Belgian administrative or judicial services, such appointments will be made after consultation with the Commander-in-Chief, who may request the Belgian authorities to make appointments when he considers it necessary.

6.—(a) Members of the Belgian armed forces serving in Belgian units with the Allied Expeditionary Force in Belgian territory will come under the exclusive jurisdiction of Belgian courts. Other Belgians, who, at the time of entering Belgium as members of the Allied Expeditionary Force, are serving in conditions which render them subject to Allied naval, military or air force law, will not be regarded as members of the Belgian armed forces for this purpose.

(b) Persons who are subject to the exclusive jurisdiction of the Belgian authorities, in the absence of Belgian authorities, may be arrested by the Allied Military Police and detained by them until they can be handed over to competent Belgian authorities.

7. In the exercise of jurisdiction over civilians, the Belgian Government will make the necessary arrangements for ensuring the speedy trial in the vicinity by Belgian courts of such civilians as are alleged to have committed offences against the persons, property, or security of the Allied Forces or against such proclamations of the Commander-in-Chief as fall within the

limits of the jurisdiction which during the " *État de Siège* " can be exercised by Belgian military authorities, without prejudice, however, to the power of the Commander-in-Chief, if military necessity requires, to bring to trial before a military court any person alleged to have committed an offence of this nature.

8. Without prejudice to the provisions of paragraph 15, Allied service courts and authorities will have exclusive jurisdiction over all members of the Allied Forces respectively and over all persons of non-Belgian nationality not belonging to such forces who are employed by or who accompany those forces and are subject to Allied naval, military, or air force law. The question of jurisdiction over such merchant seamen of non-Belgian nationality as are not subject to Allied service law will require special consideration and should form the subject of a separate agreement.

9. Persons thus subject to the exclusive jurisdiction of Allied service courts and authorities may, however, be arrested by the Belgian police for offences against Belgian law and detained until they can be handed over for disposal to the appropriate Allied service authority. A certificate signed by an Allied officer of field rank, or its equivalent, that the person to whom it refers belongs to one of the classes mentioned in paragraph 8, shall be conclusive. The procedure for handing over such persons is a matter for local arrangement.

10. The Allied Commander-in-Chief and the Belgian authorities will take the necessary steps to provide machinery for such mutual assistance as may be required in making investigations, collecting evidence and securing the attendance of witnesses in relation to cases triable under Allied or Belgian jurisdiction.

11. There shall be established by the respective Allies claims commissions to examine and dispose of claims for compensation for damage or injury preferred by Belgian civilians against the Allied Forces, exclusive of claims for damage or injury resulting from enemy action or operations against the enemy.

12. Members of the Allied Forces and organisations and persons employed by or accompanying those Forces, and all property belonging to them or to the Allied Governments, shall be exempt from all Belgian taxation (including customs) except as may be subsequently agreed between the Allied and Belgian Governments. The Allied authorities will take the necessary steps to ensure that such property is not sold to the public in Belgium except in agreement with the Belgian Government.

13. The Commander-in-Chief shall have power to requisition civilian labour, billets and supplies and make use of lands, buildings, transportation and other services for the military needs of his command. Requisitions will be effected where possible through Belgian authorities and in accordance with Belgian law. For this purpose the fullest use will be made of Belgian liaison officers attached to the Staff of the Commander-in-Chief.

14. The immunity from Belgian jurisdiction and taxation resulting from paragraphs 8 and 12 will extend to such selected civilian officials and employees of the Allied Governments present in Belgium on duty in furtherance of the purposes of the Allied Expeditionary Force as may from time to time be notified by the Commander-in-Chief to the competent Belgian authority.

15. Should circumstances in future be such as to require provision to be made for the exercise of jurisdiction in civil matters over non-Belgian members of the Allied Forces present in Belgium, the Allied Governments

concerned and the Belgian Government will consult together as to the measures to be adopted.

16. Other questions arising as a result of the liberation of Belgian territory by an Allied Expeditionary Force (in particular questions relating to finance, currency, the ultimate disposition of booty, the custody of enemy property, and the attribution of the cost of maintaining the civil administration during the first phase) which are not dealt with in this agreement shall be regarded as remaining open and shall be dealt with by further agreement as may be required.

No. 2.

Monsieur P.-H. Spaak to Mr. Anthony Eden.

*Ministère des Affaires Étrangères
et du Commerce Extérieur,
London, 16th May, 1944.*

Your Excellency,

I HAVE the honour to acknowledge the receipt of your note of this day's date regarding arrangements for civil administration and jurisdiction in Belgian territory liberated by an Allied Expeditionary Force under an Allied Commander-in-Chief, and in reply to inform your Excellency that the Belgian Government have likewise considered and approved the memorandum of agreement annexed hereto.

2. I have the honour to inform you that the Belgian Government agree that your Excellency's note and the present reply shall be regarded as constituting an agreement between our two Governments in this matter.

3. My Government attach importance to an official translation (French and Dutch) of the agreement being prepared for the use of their military and civil authorities, and desire this translation to be agreed between our two Governments. I shall accordingly have the honour to submit such a translation to your Department in due course.

I have, &c.
(Sd.) P.-H. SPAAK.

[Enclosure in No. 2, in Terms of Annex to Mr. Eden's Note.]

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