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Exchange of Notes

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 (Air Links and Alternate Aerodrome Agreement)

Washington, 6 June 2016

[The Exchange of Notes entered into force on 6 June 2016]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
July 2016*



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**EXCHANGE OF NOTES 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 (AIR LINKS AND ALTERNATE
AERODROME AGREEMENT)**

Note No. 1

*The Department of State of the United States of America to the British Embassy,
Washington.*

6 June 2016

The Department of State refers the British Embassy to 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 Extension of the Bahamas Long Range Proving Ground by the Establishment of Additional Sites in Ascension Island, done on June 25, 1956, as amended in 1967 and supplemented by Exchanges of Notes in 1959, 1962, 1973 and 1985.

On behalf of the Government of the United States of America, the Department of State, following discussions between representatives of our two Governments, proposes an 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 (Air Links and Alternate Aerodrome Agreement), in the terms set out in the attachment to this Note.

If this proposal is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, the Department of State further proposes that this Note, with its attachment, and the Embassy's affirmative reply, shall together constitute an agreement between the two Governments, which shall enter into force on the date of the Embassy's Note, with effect from September 30, 2014, shall remain in force for a period of seven years, and may be terminated at any time by either Government upon one year's written notice provided to the other Government.

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 (AIR LINKS AND ALTERNATE AERODROME AGREEMENT)

WHEREAS, an agreement was concluded on June 25, 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 June 25, 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 certain civil aircraft, 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) (a) In accordance with the provisions of this Agreement and its Annex, which shall constitute an integral part of this Agreement, Wideawake Airfield shall be open for use by civil aircraft engaged in the following air services:
 - (i) Scheduled and non-scheduled domestic commercial air services between Ascension and St. Helena, as defined in sub-paragraph (1)(b); and
 - (ii) Scheduled international and non-scheduled international air services departing from or destined for St. Helena, if it is either impossible or inadvisable for the aircraft in question to proceed to or land at the aerodrome of intended landing and the operator of the aircraft has in advance selected Wideawake Airfield as an alternate aerodrome for the purposes of flight operations.
- (1) (b) “Commercial air services” means air services provided by a carrier that transports passengers, cargo, or mail for remuneration or hire and offers its services to the general public.
- (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 (USG) 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 United Kingdom Government (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 USG 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 shall be subject to U.S. military operating procedures.

ARTICLE II

(General Conditions)

Notwithstanding the provisions of Article IV(2) of the Agreement of June 25, 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 UKG or by the Ascension Island authorities, with prior notice to the USG.

ARTICLE III

(Limitation of Civil Use)

- (1) (a) Up to four civil aircraft movements (takeoff 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. UKG and/or the Ascension Island authorities shall notify the USG of each incoming flight and each flight for which Wideawake Airfield is selected as an alternate aerodrome at least five days in advance.
- (1) (b) Civil aircraft for which Wideawake Airfield is selected as an alternate aerodrome for the purposes of flight operations under this Agreement but which do not actually land at the Airfield do not count towards the four civil aircraft movements provided for in sub-paragraph (1)(a).
- (2) Recognising that USG and UKG military missions shall have priority, USG military authorities or 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 shall, 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 this Agreement except insofar as may be necessary for reasons of safety or security, 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 this Agreement, administrative and operational control of the civil aviation aspects of Wideawake Airfield operations shall be exercised by USG military authorities, UKG military authorities, and the Ascension Island authorities, in accordance with agreements and arrangements made between the USG and UKG. USG military authorities, 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 UKG, the USG shall provide to UKG the following services and commodities for civil aircraft 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 firefighting, and crash and rescue cover. The USG shall give 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 firefighting and crash and rescue cover required by civil aircraft using Wideawake Airfield shall be provided by or under the direction of UKG.
- (4) 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. USG military authorities shall notify UKG authorities of any material changes in the practices and facilities at Wideawake Airfield in order for UKG to discharge its international obligations with respect to international civil aviation. Subject to applicable U.S. security regulations, USG military authorities shall grant 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 UKG, UKG military authorities, the Ascension Island authorities, and civilian agencies acting for those entities to establish such facilities as are necessary for civil aircraft, subject to the following sub-paragraph (5)(b).

- (5) (b) Where any buildings or other structures are to be built for civil aircraft in the vicinity of the Airfield, 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 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 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 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 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, 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, in accordance with UKG's obligations under relevant international treaties, in particular the Convention on International Civil Aviation, done at Chicago December 7, 1944 (the "Convention"), and shall act in conformity with the aviation security standards and appropriate recommended practices established by the International Civil Aviation Organization and designated as Annexes to the Convention.

(3) The USG shall, 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 shall notify UKG of the costs with the expectation that all such costs are the responsibility of 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 the expected arrival of each civil aircraft destined for Ascension Island and as soon as any flight for which Wideawake Airfield is selected as an alternate aerodrome departs from its point of origin. The Ascension Island authorities shall also use their best efforts 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 June 25, 1956, to deny consent for access to Wideawake Airfield by particular visitors.

(5) 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 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 this Agreement shall be borne by UKG, in accordance with the Annex to this Agreement.

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

ARTICLE VII

(Liability)

- (1) 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 firefighting, 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) 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 firefighting, crash, and rescue) or commodities under this Agreement and the limitation, suspension, restriction, or cancellation of civil air operations for any reason. UKG further agrees that, if the USG does not so request, 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.
 - (b) In the event the USG defends against a claim, the USG shall consult 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 judgment, or otherwise. In the event the USG requests that UKG defend against a claim, 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, except as provided in Article II of this Agreement.

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 Island Concerning the Use of Wideawake Airfield on Ascension Island by Civil Aircraft (this Agreement).

In accordance with the provisions of this Agreement, the Government of the United Kingdom of Great Britain and Northern Island (hereinafter "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. UKG shall pay the USG a fee in the sum of One Thousand Nine Hundred U.S. Dollars (\$1,900.00) 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. 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 controller, 45th space wing, \$1,900.00 for each such movement by civil aircraft at Wideawake Airfield during the previous three months. The per movement fee shall be revised six (6) months after the 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 UKG in the interim without prejudice to the final determination of the fee amount. If the interim fee charged to UKG by the USG is more than the fee finally determined between the two Governments, the USG shall credit UKG the difference in amounts. Notwithstanding Article IX(1) of this 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 UKG. Aircraft landings pursuant to this Agreement will be suspended until an agreement on the fee can be reached.

2. 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 UKG before undertaking such refurbishment.

3. UKG shall reimburse the USG for the repair or replacement of any USG property damaged at Wideawake Airfield that is specifically attributed to or arising from civil aircraft use of Wideawake Airfield, pursuant to this Agreement. The USG shall consult with 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 that are obstructing the use of Wideawake Airfield, and the costs incurred in connection with such removal shall be reimbursed by UKG.

5. UKG shall reimburse the USG for any other USG costs for services and commodities that are requested by 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.

Note No. 2

British Embassy, Washington to the Department of State of the United States of America.

6 June 2016

The Embassy of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the United States Department of State, and has the honour to acknowledge receipt of the Department's Note number 071, dated 6 June 2016, proposing an 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 (Air Links and Alternate Aerodrome Agreement), which reads as follows :

[As in No. 1]

The Embassy has the honour to confirm that the abovementioned proposal is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland and that the Department's Note, with its attachment, and this Note in reply shall together constitute an agreement between the two Governments, which shall enter into force on the date of this Note, with effect from September 30, 2014, shall remain in force for a period of seven years, and may be terminated at any time by either Government upon one year's written notice provided to the other Government.

The Embassy of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the United States Department of State the assurances of its highest consideration.

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