

ÉTATS-UNIS D'AMÉRIQUE
ET GRANDE-BRETAGNE
ET IRLANDE DU NORD

Convention relative à la frontière
entre l'Archipel des Philippines et
l'Etat du Bornéo du Nord, signée
à Washington, le 2 janvier 1930,
et échange de notes y relatif,
Washington, les 2 janvier 1930 et
6 juillet 1932.

UNITED STATES OF AMERICA
AND GREAT BRITAIN
AND NORTHERN IRELAND

Convention regarding the Boundary
between the Philippine Archi-
pelago and the State of North
Borneo, signed at Washington,
January 2, 1930, and Exchange of
Notes relating thereto, Wash-
ington, January 2, 1930, and July
6, 1932.

No. 3164. — CONVENTION¹ BETWEEN HIS MAJESTY IN RESPECT OF THE UNITED KINGDOM AND THE PRESIDENT OF THE UNITED STATES OF AMERICA REGARDING THE BOUNDARY BETWEEN THE PHILIPPINE ARCHIPELAGO AND THE STATE OF NORTH BORNEO. SIGNED AT WASHINGTON, JANUARY 2, 1930.

Texte officiel anglais communiqué par le secrétaire d'Etat aux Affaires étrangères de Sa Majesté en Grande-Bretagne. L'enregistrement de cette convention a eu lieu le 20 mars 1933. Cette convention a été transmise au Secrétariat par le « Department of State » du Gouvernement des Etats-Unis d'Amérique, le 25 février 1933.

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, and THE PRESIDENT OF THE UNITED STATES OF AMERICA,

Being desirous of delimiting definitely the boundary between the Philippine Archipelago (the territory acquired by the United States of America by virtue of the Treaties of the 10th December, 1898², and the 7th November, 1900³, with Her Majesty the Queen Regent of Spain) and the State of North Borneo which is under British protection,

Have resolved to conclude a Convention for that purpose and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA :

FOR GREAT BRITAIN AND NORTHERN IRELAND :

The Right Honourable Sir Esme HOWARD, G.C.B., G.C.M.G., C.V.O., His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington ; and

THE PRESIDENT OF THE UNITED STATES OF AMERICA :

Henry L. STIMSON, Secretary of State of the United States ;

Who, having communicated to each other their respective full powers found in good and due form have agreed upon and concluded the following Articles :

Article I.

It is hereby agreed and declared that the line separating the islands belonging to the Philippine Archipelago on the one hand and the islands belonging to the State of North Borneo which is under British protection on the other hand shall be and is hereby established as follows :

From the point of intersection of the parallel of four degrees forty-five minutes (4° 45') north latitude and the meridian of longitude one hundred twenty degrees (120° 0') east

¹ L'échange des ratifications a eu lieu à Washington, le 13 décembre 1932.

² DE MARTENS, *Nouveau Recueil général de Traités*, deuxième série, tome XXXII, page 74.

³ DE MARTENS, *Nouveau Recueil général de Traités*, deuxième série, tome XXXII, page 82.

of Greenwich (being a point on the boundary defined by the Treaty between the United States of America and Spain, signed at Paris, the 10th December, 1898), a line due south along the meridian of longitude one hundred twenty degrees ($120^{\circ} 0'$) east of Greenwich to its point of intersection with the parallel of four degrees twenty-three minutes ($4^{\circ} 23'$) north latitude ;

Thence due west along the parallel of four degrees twenty-three minutes ($4^{\circ} 23'$) north latitude to its intersection with the meridian of longitude one hundred nineteen degrees ($119^{\circ} 0'$) east of Greenwich ;

Thence due north along the meridian of longitude one hundred nineteen degrees ($119^{\circ} 0'$) east of Greenwich to its intersection with the parallel of four degrees forty-two minutes ($4^{\circ} 42'$) north latitude ;

Thence in a straight line approximately $45^{\circ} 54'$ true (N $45^{\circ} 54'$ E) to the intersection of the parallel of six degrees sixteen minutes ($6^{\circ} 16'$) north latitude and the meridian of longitude one hundred nineteen degrees thirty-five minutes ($119^{\circ} 35'$) east of Greenwich ;

Thence in a straight line approximately $314^{\circ} 19'$ true (N $45^{\circ} 41'$ W) to the intersection of the parallel of six degrees ($6^{\circ} 0'$) north latitude and the meridian of longitude one hundred eighteen degrees fifty minutes ($118^{\circ} 50'$) east of Greenwich ;

Thence due west along the parallel of six degrees ($6^{\circ} 0'$) north latitude to its intersection with the meridian of longitude one hundred eighteen degrees twenty minutes ($118^{\circ} 20'$) east of Greenwich ;

Thence in a straight line approximately $307^{\circ} 40'$ true (N $52^{\circ} 20'$ W) passing between Little Bakkungaan Island and Great Bakkungaan Island to the intersection of the parallel of six degrees seventeen minutes ($6^{\circ} 17'$) north latitude and the meridian of longitude one hundred seventeen degrees fifty-eight minutes ($117^{\circ} 58'$) east of Greenwich ;

Thence due north along the meridian of longitude one hundred seventeen degrees fifty-eight minutes ($117^{\circ} 58'$) east of Greenwich to its intersection with the parallel of six degrees fifty-two minutes ($6^{\circ} 52'$) north latitude ;

Thence in a straight line approximately $315^{\circ} 16'$ true (N $44^{\circ} 44'$ W) to the intersection of the parallel of seven degrees twenty-four minutes forty-five seconds ($7^{\circ} 24' 45''$) north latitude with the meridian of longitude one hundred seventeen degrees twenty-five minutes thirty seconds ($117^{\circ} 25' 30''$) east of Greenwich ;

Thence in a straight line approximately $300^{\circ} 56'$ true (N $59^{\circ} 4'$ W) through the Mangsee Channel between Mangsee Great Reef and Mangsee Islands to the intersection of the parallel of seven degrees forty minutes ($7^{\circ} 40'$) north latitude and the meridian of longitude, one hundred seventeen degrees ($117^{\circ} 0'$) east of Greenwich, the latter point being on the boundary defined by the Treaty between the United States of America and Spain, signed at Paris, December 10, 1898.

Article 2.

The line described above has been indicated on Charts Nos. 4707 and 4720, published by the United States Coast and Geodetic Survey, corrected to the 24th July, 1929, portions of both charts so marked being attached to this treaty and made a part thereof. It is agreed that if more accurate surveying and mapping of North Borneo, the Philippine Islands, and intervening islands shall in the future show that the line described above does not pass between Little Bakkungaan and Great Bakkungaan Islands, substantially as indicated on Chart No. 4720, the boundary line shall be understood to be defined in that area as a line passing between Little Bakkungaan and Great Bakkungaan Islands as indicated on the chart, said portion of the line being a straight line approximately $307^{\circ} 40'$ true drawn from a point on the parallel of $6^{\circ} 0'$ north latitude to a point on the meridian of longitude of $117^{\circ} 58'$ east of Greenwich.

It is likewise agreed that if more accurate surveying and mapping shall show that the line described above does not pass between the Mangsee Islands and Mangsee Great Reef as indicated

on Chart No. 4720, the boundary shall be understood to be defined in that area as a straight line drawn from the intersection of the parallel of $7^{\circ} 24' 45''$ north latitude and the meridian of longitude of $117^{\circ} 25' 30''$ east of Greenwich, passing through Mangsee Channel as indicated on attached Chart No. 4720 to a point on the parallel of $7^{\circ} 40'$ north latitude.

Article 3.

All islands to the north and east of the said line and all islands and rocks traversed by the said line, should there be any such, shall belong to the Philippine Archipelago and all islands to the south and west of the said line shall belong to the State of North Borneo.

Article 4.

The provisions of Article 19 of the Treaty¹ between the United States of America, the British Empire, France, Italy and Japan limiting naval armament, signed at Washington on the 6th February, 1922, shall, so long as that Treaty remains in force, apply in respect of all islands in the Turtle and Mangsee Groups which are or may be deemed to be comprised within the territories of the Philippine Archipelago on the one hand and of the State of North Borneo on the other hand in consequence of the establishment of the line fixed by the preceding articles of the present Convention. In the event of either High Contracting Party ceding, selling, leasing or transferring any of the islands in question to a third party provision shall be made for the continued application to such island of the aforementioned Article 19 of the Treaty between the United States of America, the British Empire, France, Italy and Japan limiting naval armament, signed at Washington on the 6th February, 1922, provided that Treaty is still in force at the time of such cession, sale, lease or transfer.

Article 5.

The present Convention shall be ratified by His Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and shall come into force on the exchange of the acts of ratification which shall take place at Washington as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto their respective seals.

Done in duplicate at Washington the second day of January in the year of our Lord one thousand nine hundred and thirty.

(Seal) Esme HOWARD.

(Seal) Henry L. STIMSON.

¹ Vol. XXV, page 201, de ce recueil.

EXCHANGE OF NOTES

I.

SIR ESME HOWARD to MR. STIMSON.

WASHINGTON, January 2, 1930.

SIR,

By the convention concluded between the President of the United States of America and His Britannic Majesty for the purpose of delimiting the boundary between the Philippine Archipelago on the one hand and the State of North Borneo which is under British protection on the other hand, the sovereignty over certain islands which have for many years past been administered by the British North Borneo Company has been definitely recognised as pertaining to the United States of America. These islands which formed the subject of the arrangement effected by an exchange of notes¹ between His Majesty's Government and the United States Government on the 3rd and 10th July, 1907, are :

- (1) Sibaung, Boaan, Lihiman, Langaan, Great Bakkungaan, Taganak, and Baguan in the group of islands known as the Turtle Islands.
- (2) The Mangsee Islands.

His Majesty's Government in the United Kingdom understand that the Government of the United States of America are prepared to conclude an arrangement in regard to these islands, supplementary to the above-mentioned convention, in the following terms :

Firstly. — That the said company be left undisturbed in the administration of the islands in question unless or until the United States Government give notice to His Majesty's Government of their desire that the administration of the islands should be transferred to them. The transfer of administration shall be effected within one year after such notice is given on a day and in a manner to be mutually arranged.

Secondly. — That when the administration of any island is transferred in accordance with the foregoing the said Company will deliver to the United States Government all records relating to administration prior to the date of transfer.

Thirdly. — The United States of America shall not be responsible for the value of any buildings which have been or may be erected or other permanent improvements which have been or may be made in any island the administration of which is subject to transfer but any buildings or improvements erected or made by the administrative authorities prior to the transfer of administration may be removed provided the interests of the United States of America are not thereby injured. In the event, however, of the Island of Taganak being so transferred, the United States Government will give favourable consideration to the question of the compensation to be paid to the said company in respect of the capital expenditure incurred by the company in connection with the lighthouse situated on the island, and the United States Government will provide for the future maintenance of the lighthouse.

Fourthly. — That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company ; and any grant, concession, or licence made by the company shall cease upon the termination of the company's occupation.

The United States Government, however, take note of the desire of His Majesty's Government that the following titles to land in certain of the islands which were in good

¹ See Appendix.

faith granted by the Government of North Borneo prior to the arrangement of 1907, be allowed to stand on the terms on which they were issued by that Government :

PARTICULARS.

| Titles | Date of Alienation | Period | Approximate Total Acreage |
|---|------------------------------|----------------------------|---------------------------|
| | | | Acres |
| <i>Boaan Island</i> — 26 native titles | June 1, 1907 | In perpetuity | 146 |
| <i>Lihiman Island</i> — 7 native titles 1 provisional lease, 2416 | June 1, 1907 June 1, 1907 | In perpetuity 999 years | 37 13 |
| | | | Total 50 |
| <i>Langaan Island</i> — 4 native titles | June 1, 1907 | In perpetuity | 12 |
| <i>Great Bakkunga</i> — 3 provisional leases | September 26, 1903 | 999 years | 118 |

Fifthly. — It is agreed that the United States Government shall be exempt from responsibility in respect of acts done in or from any of the islands in question the administration of which has not been transferred to the United States.

Sixthly. — The stipulations of the extradition treaties between the United States Government and His Majesty's Government shall be applicable within the limits provided for in the exchange of notes¹ which took place in Washington on the 1st to 23rd September, 1913, to the islands in question and the United States Government take note of the importance which, in view of the proximity of the islands to North Borneo, the said company attach to the establishment and maintenance of an adequate police post thereon, in the event of the administration being transferred to the United States Government.

Seventhly. — In the event of the cession, sale, lease or transfer of the islands in question to any third party, the United States Government undertake to use their good offices in commending to the favourable consideration of such third party the desires expressed by His Majesty's Government in the United Kingdom and the British North Borneo Company, as set out in the preceding articles of the present arrangement.

I have the honour under instruction from His Majesty's Principal Secretary of State for Foreign Affairs to request you to be so good as to inform me whether the United States adhere to the terms of the arrangement above described and I shall be glad to receive an assurance from you at the time that this note will be considered by the United States Government as sufficient acceptance of the above arrangement on the part of His Majesty's Government in the United Kingdom.

I have, etc.

Esme HOWARD.

II.

MR. STIMSON TO SIR ESME HOWARD.

DEPARTMENT OF STATE.

WASHINGTON, January 2, 1930.

EXCELLENCY,

In your Excellency's note of to-day's date you stated that His Majesty's Government in the United Kingdom understands that the Government of the United States of America is prepared

¹ DE MARTENS, *Nouveau Recueil général de Traités*, troisième série, tome VIII, page 192.

to conclude an arrangement in the following terms regarding certain islands off the coast of Borneo which have been administered by the British North Borneo Company in accordance with the arrangement effected by an exchange of notes between His Majesty's Government and the Government of the United States of America on the 3rd and 10th July, 1907 :

Firstly. — That the said company be left undisturbed in the administration of the islands in question unless or until the United States Government give notice to His Majesty's Government of its desire that the administration of the islands should be transferred to it. The transfer of administration shall be effected within one year after such notice is given on a day and in a manner to be mutually arranged.

Secondly. — That when the administration of any island is transferred in accordance with the foregoing the said Company will deliver to the United States Government all records relating to administration prior to the date of transfer.

Thirdly. — The United States of America shall not be responsible for the value of any buildings which have been or may be erected or other permanent improvements which have been or may be made in any island the administration of which is subject to transfer but any buildings or improvements erected or made by the administrative authorities prior to the transfer of administration may be removed provided the interests of the United States of America are not thereby injured. In the event, however, of the Island of Taganak being so transferred, the United States Government will give favourable consideration to the question of the compensation to be paid to the said company in respect of the capital expenditure incurred by the company in connection with the lighthouse situated on the island, and the United States Government will provide for the future maintenance of the lighthouse.

Fourthly. — That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company ; and any grant, concession, or licence made by the company shall cease upon the termination of the company's occupation.

The United States Government, however, takes note of the desire of His Majesty's Government that the following titles to land in certain of the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907, be allowed to stand on the terms on which they were issued by that Government :

PARTICULARS.

| Titles | Date of Alienation | Period | Approximate Total Acreage |
|-------------------------------------|--------------------|---------------|------------------------------|
| | | | Acres |
| <i>Boaan Island :</i> | | | |
| 26 native titles | June 1, 1907 | In perpetuity | 146 |
| <i>Lihiman Island :</i> | | | |
| 7 native titles | June 1, 1907 | In perpetuity | 37 |
| 1 provisional lease, 2416 | June 1, 1907 | 999 years | 13 |
| | | Total | 50 |
| <i>Langaan Island :</i> | | | |
| 4 native titles | June 1, 1907 | In perpetuity | 12 |
| <i>Great Bakkungaun :</i> | | | |
| 3 provisional leases | September 26, 1903 | 999 years | 118 |

Fifthly. — It is agreed that the United States Government shall be exempt from responsibility in respect of acts done in or from any of the islands in question the administration of which has not been transferred to the United States.

Sixthly. — The stipulations of the extradition treaties between the United States Government and His Majesty's Government shall be applicable within the limits provided for in the exchange of notes which took place in Washington on the 1st to 23rd September, 1913, to the islands in question and the United States Government takes note of the importance which, in view of the proximity of the islands to North Borneo, the said company attaches to the establishment and maintenance of an adequate police post, thereon, in the event of the administration being transferred to the United States Government.

Seventhly. — In the event of the cession, sale, lease or transfer of the islands in question to any third party, the United States Government undertakes to use its good offices in commending to the favourable consideration of such third party the desires expressed by His Majesty's Government in the United Kingdom and the British North Borneo Company, as set out in the preceding articles of the present arrangement.

In reply to the enquiry made on behalf of your Excellency's Government in the last paragraph of your note of to-day's date, I take pleasure in informing you that the Government of the United States of America adheres to the terms of the arrangement above described, and in assuring you that your note under acknowledgment is considered by the Government of the United States of America as sufficient acceptance of the arrangement on the part of His Majesty's Government in the United Kingdom.

Accept, etc.

Henry L. STIMSON.

III.

SIR R. LINDSAY TO MR. STIMSON.

WASHINGTON, July 6, 1932.

Sir,

In the notes exchanged between the United States Government and His Majesty's Government in the United Kingdom on the 2nd January, 1930, constituting an arrangement regarding certain islands off the coast of Borneo which have been administered by the British North Borneo Company in accordance with the arrangement effected by an exchange of notes between His Majesty's Government and the Government of the United States of America on the 3rd July and the 10th July, 1907, the United States Government took note of the desire of His Majesty's Government that certain titles to land in certain of the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907 be allowed to stand on the terms on which they were issued by that Government.

2. His Majesty's Government regret that the following title was inadvertently omitted from those included in the above arrangement :

| Lihiman Island | Date of Alienation | Period | Area |
|--------------------------------------|--------------------|-----------|-----------------------------------|
| Provisional Lease No. 2417 | 1. VI. 1907 | 999 years | 13 acres 0 roods 24 perches |

3. I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to request you to be so good as to inform me whether the United States Government will agree to regard this title as included in those mentioned in the arrangement concluded on the 2nd January, 1930.

4. Should your Government agree to this extension of the above-mentioned arrangement, I should be glad to receive from you an assurance that this note will be considered by the United States Government as a sufficient confirmation thereof on the part of His Majesty's Government in the United Kingdom.

I have, etc.

R. C. LINDSAY.

IV.

MR. STIMSON TO SIR R. LINDSAY.

DEPARTMENT OF STATE.

WASHINGTON, July 6, 1932.

EXCELLENCY,

I have the honour to acknowledge the receipt of your Excellency's note of this day's date in which your Excellency refers to the fact that in the notes exchanged between the Government of the United States of America and His Majesty's Government in the United Kingdom on the 2nd January, 1930, constituting an arrangement regarding certain islands off the coast of Borneo which have been administered by the British North Borneo Company in accordance with the arrangement effected by an exchange of notes between His Majesty's Government and the Government of the United States on the 3rd July and the 10th July, 1907, the Government of the United States took note of the desire of His Majesty's Government that certain titles to land in certain of the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907 be allowed to stand on the terms on which they were issued by that Government. In relation to this matter, your Excellency states that His Majesty's Government regrets that the following title was inadvertently omitted from the list of land titles included in the above arrangement :

| Lihinan Island | Date of Alienation | Period | Area |
|--------------------------------------|--------------------|-----------|-----------------------------------|
| Provisional Lease No. 2417 | I. VI. 1907 | 999 years | 13 acres 0 roods 24 perches |

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, your Excellency requests that I be so good as to inform you whether the Government of the United States will agree to regard this title as included in those mentioned in the arrangement concluded on the 2nd January, 1930.

In reply, I am pleased to inform your Excellency that the Government of the United States agrees to the extension of the arrangement of the 2nd January, 1930, to include the above-mentioned title, and I take pleasure also in assuring your Excellency that your note under acknowledgment is considered by the Government of the United States as a sufficient confirmation on the part of His Majesty's Government in the United Kingdom of the aforesaid extension.

Accept, etc.

For the Secretary of State :

W. R. CASTLE, Jr.

APPENDIX

EXCHANGE OF NOTES CONCERNING THE ADMINISTRATION AND LEASE OF CERTAIN SMALL ISLANDS ON THE NORTH BORNEAN COAST BY THE BRITISH NORTH BORNEO COMPANY, SIGNED AT INTERVALE, N. H., JULY 3, 1907, AND AT WASHINGTON, JULY 10, 1907.

MR. BRYCE TO MR. ELIHU ROOT.

BRITISH EMBASSY.

INTERVALE, N. H., July 3, 1907.

Sir,

I have the honour to inform you that His Majesty's Government, acting at the request and on behalf of the British North Borneo Company, are prepared to acquiesce in the last proposal stated in your letter to Sir H. M. Durand of the 19th December last, respecting the administration of certain islands on the east coast of Borneo. I am therefore instructed by His Majesty's Principal Secretary of State for Foreign Affairs to place the proposed arrangement formally on record without further delay.

His Majesty's Government understands the terms of the arrangement to be as follows :

Firstly. — That the said company be left undisturbed in the administration of the islands in question without any agreement specifying details, the United States Government simply waiving in favour of the said company the right to such administration in the meantime ; in other words, that the existing status be continued indefinitely at the pleasure of the two Governments concerned.

Secondly. — That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company ; and any grant, concession, or licence made by the company shall cease upon the termination of the company's occupation.

Thirdly. — That the temporary waiver of the right of administration on the part of the United States Government shall cover all the islands to the westward and south-westward of the line traced on the map¹ which accompanied Sir H. M. Durand's memorandum of the 23rd June, 1906, and which is annexed to and to be deemed to form part of this note.

Fourthly. — That the British North Borneo Company, through His Majesty's Government, shall agree to the exception of the United States Government from any claim of allegation that the latter Government has incurred any responsibility in respect of acts done in or from any island within the said line.

Fifthly. — That the understanding shall continue until the said two Governments may by treaty delimit the boundary between their respective domains in that quarter or until the expiry of one year from the date when notice of termination be given by either to the other.

Sixthly. — That in case of denunciation, the United States Government shall not be responsible for the value of any buildings or other permanent improvements which may have been erected or made by the company upon the islands, but permission is hereby given to the company to remove, at its own expense, any buildings or improvements erected by it, provided the interests of the United States be not injured thereby.

¹ Not reproduced.

I have, therefore, the honour to request you to be so good as to inform me whether the United States adhere to the terms of the arrangement above described, and I shall be glad to receive an assurance from you at the same time that this note will be considered by the United States Government as sufficient ratification of the above arrangement on the part of His Majesty's Government.

I have, etc.

James BRYCE.

MR. ELIHU ROOT TO MR. BRYCE.

DEPARTMENT OF STATE.

WASHINGTON, July 10, 1907.

EXCELLENCY,

I have the honour to acknowledge the receipt of your note of the 3rd instant, by which you inform me that His Majesty's Government acting at the request and on behalf of the British North Borneo Company, are prepared to acquiesce in the last proposal stated in the letter of the 19th December, 1906, from the Secretary of State to Sir H. M. Durand, respecting the administration of certain islands on the east coast of Borneo, and that you are therefore instructed by His Majesty's Principal Secretary of State for Foreign Affairs to place the proposed arrangement formally on record without further delay.

The understanding of His Majesty's Government of the terms of the arrangement is stated by you to be as follows :

(Firstly to Sixthly, inclusive — as in the British Note)

The understanding of His Majesty's Government as above recited agreeing with that of the United States, I have the honour formally to announce the adherence of the United States to the arrangement and the acceptance of your note as sufficient ratification of the arrangement on the part of His Majesty's Government.

I have, etc.

Robert BACON,
Acting Secretary.