

**TREATY OF FRIENDSHIP
BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND AND THE KINGDOM OF TONGA**

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, (hereinafter referred to as "Her Britannic Majesty") and His Majesty The King of Tonga:

Desiring to confirm and strengthen the friendly relations that exist between them, and with this aim to conclude a new Treaty of Friendship to replace the Treaty of Friendship of 26th August 1958;⁽¹⁾

Have appointed for this purpose as their Plenipotentiaries :

Her Britannic Majesty :

For the United Kingdom of Great Britain and Northern Ireland
(hereinafter referred to as "the United Kingdom")

Archibald Cameron Reid Esquire Companion of the Most Distinguished Order of St. Michael and St. George, Her Majesty's Commissioner and Consul in the Kingdom of Tonga;

His Majesty The King of Tonga :

His Royal Highness Prince Tu'ipelehake Honorary Commander of the Most Excellent Order of the British Empire;

Who, having exhibited their respective Full Powers found in good and due form;

Have agreed as follows :

ARTICLE I

There shall be perpetual peace and friendship between Her Britannic Majesty and His Majesty The King of Tonga, and between the peoples of the United Kingdom and its dependencies and the subjects of His Majesty The King of Tonga.

ARTICLE II

(1) The Government of the United Kingdom shall have full and sole responsibility for, and for the conduct of, the external relations of the Kingdom of Tonga—

- (a) with the United Nations;
- (b) with all international organisations of which neither the United Kingdom nor the Kingdom of Tonga is for the time being a member;
- (c) with respect to the accession or adherence by the Kingdom of Tonga to any alliance or political grouping of States;
- (d) with respect to defence;
- (e) with respect to establishment matters, merchant shipping and civil aviation.

⁽¹⁾ "Treaty Series No. 67 (1959)", Cmnd. 848.

except in so far as the Government of the United Kingdom may declare that responsibility for, or responsibility for the conduct of, such relations shall be vested in the Government of His Majesty The King of Tonga (hereinafter referred to as "the Government of Tonga").

(2) The Government of Tonga shall take such steps as appear to the Government of the United Kingdom to be necessary to secure compliance with any obligations for the time being resting on the United Kingdom in respect of the Kingdom of Tonga by virtue of any international agreement or otherwise under international law. To the extent, if any, that such obligations relate to matters which do not fall within the scope of sub-paragraphs (a) to (e) of paragraph (1) of this Article, the Government of the United Kingdom shall, unless it is otherwise agreed, between the Government of the United Kingdom and the Government of Tonga, have responsibility for the conduct of the external relations of the Kingdom of Tonga in respect of matters relating to those obligations.

(3) Where, in accordance with the foregoing provisions of this Article, the Government of the United Kingdom has full and sole responsibility for, or for the conduct of, the external relations of the Kingdom of Tonga, they shall consult with the Government of Tonga regarding the conduct of such external relations and in particular shall consult with the Government of Tonga before entering into any international agreement in respect of the Kingdom of Tonga.

(4) Subject to the foregoing provisions of this Article and to the provisions of paragraphs (2) and (3) of Article IV the external relations of the Kingdom of Tonga shall be the responsibility of, and shall be conducted by, the Government of Tonga, except in so far as the Government of the United Kingdom may, at the request of the Government of Tonga, undertake responsibility for, or responsibility for the conduct of, such relations.

(5) The Government of Tonga shall inform the Government of the United Kingdom of their intention to take any particular action in the field of external affairs and keep the Government of the United Kingdom fully informed of the progress of any negotiations between the Government of Tonga and any third party with respect to external affairs.

ARTICLE III

(1) Her Britannic Majesty shall at all times to the utmost of Her power take whatever steps may appear to the Government of the United Kingdom to be necessary for protecting and defending the Kingdom of Tonga against external aggression; and to that end may obtain the assistance of the Government of any other State: provided that the Government of the United Kingdom shall not, without the agreement of the Government of Tonga, make arrangements under which the armed forces of any such other State would be authorised to enter the Kingdom of Tonga for the purpose of protecting and defending the Kingdom against external aggression.

Tonga shall—

- (a) allow Her Britannic Majesty's armed forces, and the armed forces of any other State in respect of which any such arrangements as are referred to in the proviso to paragraph (1) of this Article are made, to be stationed in His Kingdom;
- (b) allow such forces free access to the waters, harbours and airports of His Kingdom;

(c) allow such forces, free of charge, to use land and harbours in His Kingdom as may appear to the Government of the United Kingdom to be necessary for naval, military and air force purposes;

(d) to the utmost of His power co-operate with and aid such forces,

and shall take, or permit the taking of, such other measures as may appear to the Government of the United Kingdom to be necessary, including the enactment of legislation: provided that, without prejudice to the generality of such other measures, His Majesty The King of Tonga shall cause effect to be given to the provisions of the Annex to the present Treaty in relation to Her Britannic Majesty's armed forces when in the Kingdom of Tonga in pursuance of this Article.

(3) The Government of Tonga shall consult with and obtain the consent of the Government of the United Kingdom before any legislation is enacted in the Kingdom of Tonga with respect to defence.

ARTICLE IV

(1) Her Britannic Majesty and His Majesty The King of Tonga shall each appoint a representative in the other's country, to be styled Commissioner and Consul. Communications between the Government of the United Kingdom and the Government of Tonga shall be effected through such representatives, who shall have equal status as channels of communication between the two Governments.

(2) His Majesty The King of Tonga may, with the agreement of the Government of the United Kingdom—

(a) appoint representatives in other States whose Governments are willing to receive them;

(b) receive representatives in Tonga appointed by other States.

(3) The status and functions of any representative appointed or received in pursuance of paragraph (2) of this Article shall be such as may be agreed between the Government of the United Kingdom and the Government of Tonga prior to his appointment or reception.

ARTICLE V

The surrender of fugitive offenders between the United Kingdom (including its dependencies) and the Kingdom of Tonga shall be governed by the principles governing the surrender of fugitive criminals within the Commonwealth; the detailed application of these principles shall form the subject of consultations between the Government of the United Kingdom and the Government of Tonga as occasion may require.

In the present Treaty—

(a) references to Her Britannic Majesty and to His Majesty The King of Tonga include references to their respective Heirs and Successors;

(b) references to Her Britannic Majesty's armed forces are references to the armed forces of the United Kingdom and to any other armed forces under the command of the United Kingdom and include references to civilians (not being citizens of, nor ordinarily resident in, the Kingdom of Tonga) authorised by the service authorities of the United Kingdom to accompany Her Britannic Majesty's armed forces in Tonga;

- (c) references to defence include (without prejudice to their generality) references to all naval, military and air force matters;
- (d) references to merchant shipping do not include references to ships when engaged on a voyage between ports within the Kingdom of Tonga which does not include a call at any other country and which is not part of a voyage beginning or ending outside the Kingdom of Tonga.

ARTICLE VII

(1) The present Treaty shall be subject to ratification and the instruments of ratification shall be exchanged at Nuku'alofa within twelve months of the date of signature.

(2) The present Treaty shall enter into force upon the exchange of instruments of ratification.^(*)

(3) If at any time the Government of the United Kingdom shall cease to have any responsibility for the external relations of the Kingdom of Tonga the provisions of Articles II, III, IV and V of the present Treaty shall cease to have effect.

(4) The Treaty of Friendship of 26th August 1958 is hereby abrogated except in so far as any provision thereof is regarded as in force between the Kingdom of Tonga and any country for whose international relations the Government of the United Kingdom is no longer responsible.

(5) Any cases pending in Her Britannic Majesty's Courts in pursuance of Article VII of the Treaty of Friendship of 26th August 1958 immediately before this Treaty comes into force may thereafter be continued and concluded as if that Article were still in force.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

DONE in duplicate at Nuku'alofa this thirtieth day of May, nineteen hundred and sixty-eight, in the English and Tongan languages, the English text to prevail in case of doubt.

For Her Britannic Majesty:

For His Majesty The King of
Tonga:

(L.S.) A. C. REID.

(L.S.) TU'IPELEHAKE.

ANNEX

(1) The law of the United Kingdom for the time being in force, whether enacted before or after the entry into force of this Treaty, relating to the administration and discipline of Her Britannic Majesty's United Kingdom armed forces, to the exemption of such forces from the payment of duties or tolls, to deserters and absentees without leave, and to offences relating to naval, military and air force matters and the trial thereof, shall, in so far as its terms may so require, have the force of law in the Kingdom of Tonga.

(2) At times when Her Britannic Majesty's armed forces are stationed in the Kingdom of Tonga by reason of hostilities or for other operations of a warlike nature, the courts of the Kingdom of Tonga shall not have any criminal jurisdiction over members of those forces, and at other times those courts shall have such jurisdiction only in the case of offences other than—

- (a) an offence against the property or security of the United Kingdom or against the property or person of a member of Her Britannic Majesty's armed forces;

(*) The Treaty entered into force on 5 December 1968.

(b) an offence arising out of an act or omission done or made in the course of official duty, provided that the courts of Tonga may exercise jurisdiction over a member of Her Britannic Majesty's armed forces in any particular case or class of cases with the prior consent of the officer commanding these forces.

(3) If the courts of the Kingdom of Tonga are to exercise jurisdiction over a member of Her Britannic Majesty's armed forces, the service authorities of the armed forces of the United Kingdom in the Kingdom of Tonga shall have the right to take custody of such member until he is brought to trial by the courts of the Kingdom of Tonga and in any such case the service authorities of the armed forces of the United Kingdom shall present such member to those courts for investigatory process and trial when required.

(4) The Government of the United Kingdom shall pay just and equitable compensation where, in accordance with the law of the Kingdom of Tonga, there is liability for damage caused by an act or omission in the Kingdom of Tonga of a member of Her Britannic Majesty's armed forces arising out of or in the course of his duties as a member of those forces and a member of those forces shall not be subject to the civil jurisdiction of the courts of the Kingdom of Tonga in respect of any such act or omission.
