

International Law Studies—Volume 51

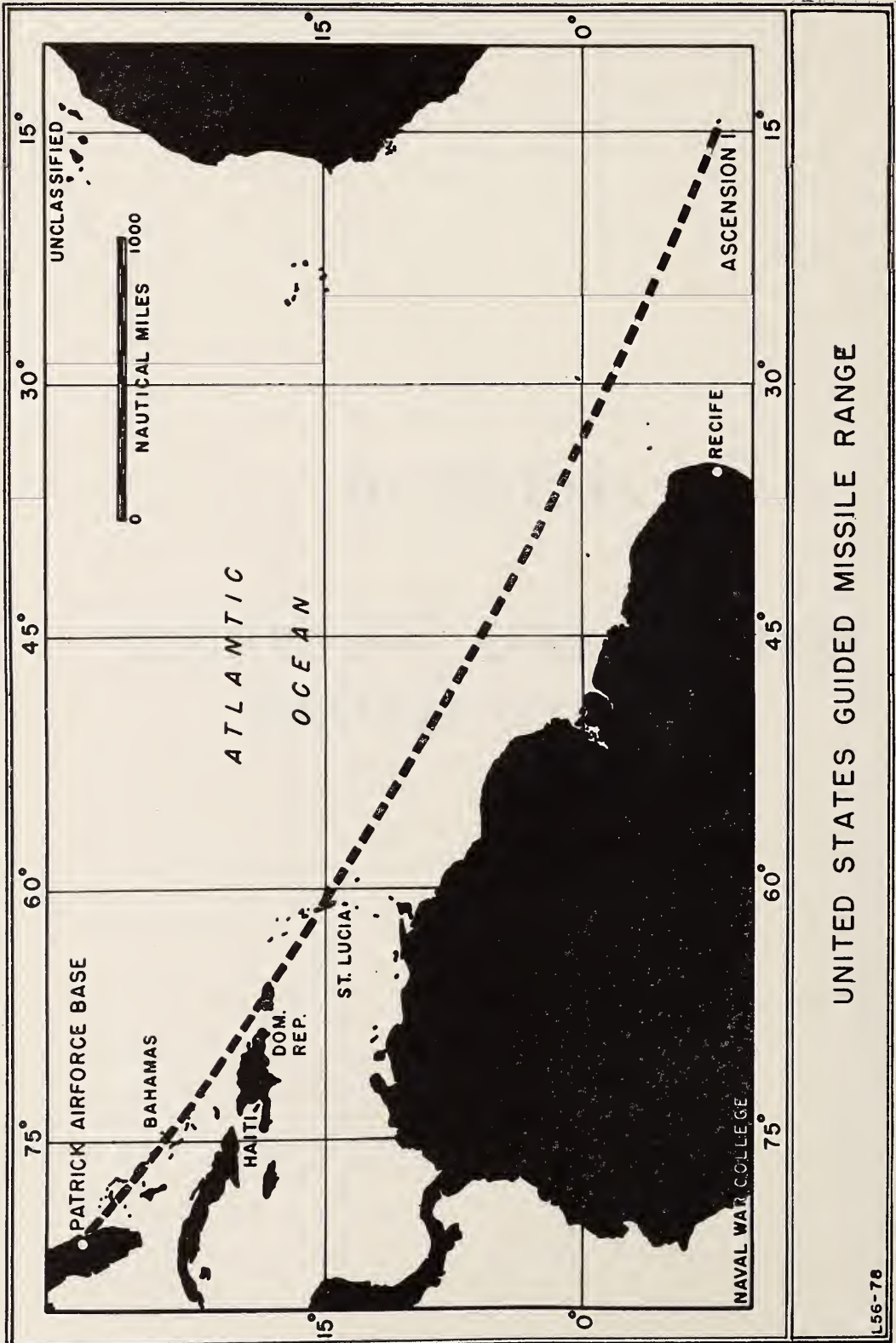
Situation, Documents, and Commentary on Recent Developments in the International Law of the
Sea

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The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. Government,
the U.S. Department of the Navy or the Naval War College.

SECTION III

**TESTING AREAS FOR MODERN
WEAPONS SYSTEMS**



UNITED STATES GUIDED MISSILE RANGE

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Figure 6.

SECTION III

TESTING AREAS FOR MODERN WEAPONS SYSTEMS

A. Long Range Proving Ground for Guided Missiles

1. NOTE. In the process of developing the inter-continental ballistic missile, as with the atomic and hydrogen bombs, the United States has sought the use of extensive areas necessary for the testing of these weapons. The first nuclear tests outside the continental United States were conducted at Bikini in the Pacific in July 1946. This and the subsequent larger nuclear testing areas in the Marshall Islands were designated as warning zones or danger areas by the United States during the various testing periods. See Danger Areas for Nuclear Weapons Tests, *infra*. With the long range guided missile, however, the difference in the type of weapon and tests involved necessitated the establishment of a flight range area, range sites and tracking stations within the territory of other countries in the Atlantic and over an area even greater than that covered by the Pacific nuclear experiments.

The first agreement creating a long range proving ground for guided missiles was concluded between the United Kingdom and the United States on 21 July 1950. This agreement established a flight testing area, referred to as "The Bahamas Long Range Proving Ground," extending approximately 675 miles from the launching site located at Cape Canaveral, Florida, to a point north of the Caicos Islands. *TIAS* 2099; 1 *UST* 545; 97 *UNTS* 261; *Cmd.* 8109. On 26 November 1951, arrangements were made with the Dominican Republic whereby proving ground sites and stations were set up on the northeast coast of the island. *TIAS* 2425; 3 *UST* 2569; 150 *UNTS* 227. Similar sites and posts were established in Puerto Rico at about the same time. By a second agreement between the United Kingdom and the United States on 15 January 1952 the Bahamas Long Range Proving Ground was extended to the Turks and Caicos Islands. *TIAS* 2426; 3 *UST* 2594; 127 *UNTS* 3; *Cmd.* 8485. In 1952, a treaty with Haiti provided for the temporary establishment of a Short-Range-Aid-to-Navigation (SHORAN) Ground Station for the tracking of guided missiles on Haitian territory. *TIAS* 2701; 3 *UST* 5105. As of 31 October 1956, the Treaty is no longer in force. *Treaties in Force*, Publication 6427, page 68. With a view toward developing counter-measures against guided missiles, a High Altitude Interceptor Range was created in certain areas north and south of Grand Bahamas Island by an agreement with the United Kingdom in 1953. *TIAS* 2789; 4 *UST* 429; *Cmd.* 8881. Recently two separate agreements between the United Kingdom and the United States have further extended the Long Range Proving Ground out into the Atlantic to Saint Lucia in the Windward Islands (*TIAS* 3595) and to Ascension Island (*TIAS* 3603). These agreements entered into force on 25 June 1956, and increased the guided missile range from 1000 miles to 5000 miles. By an Exchange of Notes, effective 21 January 1957, Brazil agreed to

the establishment of a guided missile station on the Brazilian Island of Fernando de Noronha (*TIAS 3744*). Effective 1 April 1957, the United Kingdom agreed to extend the Flight Testing Range to include an additional area to the southeast, as shown on map annexed to the Agreement (*TIAS 3803*).

So far as could be determined, there have been no objections or protests made by other nations against the establishment or operation of the long range proving ground, and there have been no reported incidents involving foreign vessels or aircraft. Although the long range proving ground extends over areas that include some of the air and shipping routes in the Caribbean and Atlantic, it is believed that the missile flights are at such high altitudes that they do not interfere with air or sea navigation. Moreover, every effort is made by the authorities responsible for testing to make sure that the range area is clear before any missiles are launched. In addition, the testing areas are announced in the United States Radio Facilities Charts, *Notices to Airmen* and *Notices to Mariners* well in advance of any tests.

The 1950 agreement establishing the Bahamas Long Range Proving Ground, reproduced below, is similar to the numerous succeeding agreements and extensions of the proving grounds which have been entered into by the United States. Paragraph 3 of Article XI of this original agreement was amended by an exchange of notes in 1955. *TIAS 3379*; *Cmd. 9565*. The Amendment provided that "certain facilities at the Sites at Governor's Harbour (Eleuthera), Mayaguana, and San Salvador shall be open for regular use by civil aircraft" in accordance with certain provisions and regulations. A similar Amendment, providing for extension of civil air services to the Turks and Caicos Islands and Jamaica, became effective 4 January 1957 (*TIAS 3727*).

2. Agreement Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning a Long Range Proving Ground for Guided Missiles to be Known as "The Bahamas Long Range Proving Ground" (1950)

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, with the concurrence of the Government of the Bahama Islands,

Considering that it is the intention of the Government of the United States of America to establish a Long Range Proving Ground consisting of a Main Base and Launching Area which shall be in the vicinity of Cape Canaveral, Florida, United States of America, and of a Flight Testing Range, as defined in this Agreement, which shall extend to the south-east from the Launching Area through the Bahama Islands and the waters adjacent thereto,

Having decided that the said Proving Ground should be used by the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for testing the flight of guided missiles and associated

equipment and for training with such missiles and equipment, and

Desiring that this Agreement shall be fulfilled in a spirit of good neighborliness between the Governments concerned, and that details of its practical application shall be arranged by friendly cooperation,

Have agreed as follows:

ARTICLE I DEFINITIONS

For the purposes of this Agreement:

(1) "Range Area" means that part of the Flight Testing Range which lies within the territory of the Bahama Islands (including the territorial waters thereof).

(2) "United States authorities" means the authority or authorities from time to time authorized or designated, by the Government of the United States of America, for the purpose of exercising the powers in relation to which the expression is used.

(3) "United States Forces" means the armed forces of the United States of America, and "member of the United States Forces" means a member of those forces who is entitled to wear the uniform thereof.

(4) "Flight Testing Range" means the area within the red and hatched line drawn on the attached map. [Map not reprinted.]

(5) "National of the United States" means a citizen of the United States or a person who, though not a citizen of the United States, owes allegiance to the United States.

(6) "British national" means any British subject or Commonwealth person or any British protected person, but shall not include a person who is both a British national and a member of the United States Forces.

(7) "Local alien" means a person, not being a British national, a member of the United States Forces or a national of the United States, who is ordinarily resident in the Bahama Islands.

(8) "Sites" means the sites provided under Article IV of this Agreement so long as they are so provided.

ARTICLE II GENERAL DESCRIPTION OF RIGHTS

(1) Subject to the provisions of this Article, the Government of the United States of America shall have the right in the Range Area:

- (a) to launch, fly and land guided missiles;
- (b) to establish, maintain and use an instrumentation and a

communications system including radar, radio, land lines and submarine cables for operational purposes in connection with the Flight Testing Range;

(c) to operate such vessels and aircraft as may be necessary for purposes connected directly with the operation of the Flight Testing Range.

(2) No wireless station, submarine cable, land line or other installation shall be established within the Range Area except at such place or places as may be agreed between the Contracting Governments, provided that such agreement shall not be required in respect of any wireless station, submarine cable, land line or other installation to be established within a Site.

(3) No wireless station shall be established or used in the Range Area otherwise than for the purpose of operating the Flight Testing Range.

(4) When submarine cables established in accordance with paragraph (1) of this Article are no longer required for the purposes of this Agreement, their disposal or further use shall be subject to consultation between the Contracting Governments and, in the absence of agreement, they shall be removed by and at the expense of the Government of the United States of America.

(5) The use of radio frequencies, powers and band widths, for radio services (including radar), under any of the provisions of this Agreement, shall be subject to the prior concurrence of the Senior Member of the British Armed Forces posted to the Bahamas Long Range Proving Ground.

(6) The Contracting Governments shall, in consultation with the Government of the Bahama Islands, take all reasonable precautions against possible danger and damage resulting from operations under this Agreement in the Flight Testing Range.

(7) The rights granted to the Government of the United States of America by this Article shall not be exercised unreasonably or so as to interfere with or to prejudice the safety of navigation, aviation or communication within the Flight Testing Range and the rights so granted shall be exercised in the spirit of the last paragraph of the Preamble.

ARTICLE III RIGHTS OF WAY

The Government of the United Kingdom of Great Britain and Northern Ireland shall, after consultation with the Government of the Bahama Islands, provide to the Government of the United States of America such rights of way as may be agreed to be necessary for the operation of the Flight Testing Range.

ARTICLE IV
PROVISION OF SITES

(1) The Government of the United Kingdom shall, after consultation with the Government of the Bahama Islands, provide so long as this Agreement remains in force such Sites for the purpose of the operation of the Flight Testing Range as may be agreed between the Contracting Governments to be necessary for that purpose. When it is agreed between the Contracting Governments that any Site provided under this Article is no longer necessary for the purpose of the operation of the Flight Testing Range, the Government of the United Kingdom shall be entitled to cease to provide the Site for that purpose.

(2) Access to the Sites shall not be permitted to persons not officially connected with the Bahamas Long Range Proving Ground except with the consent of the Senior Member of the British Armed Forces posted to the Bahamas Long Range Proving Ground and the Senior Member of the United States Armed Forces detailed to the said Proving Ground.

ARTICLE V
JURISDICTION

(1) The Government of the United States of America shall have the right to exercise the following jurisdiction over offenses committed in the Bahama Islands:

(a) Where the accused is a member of the United States Forces,

(i) if a state of war exists, exclusive jurisdiction over all offenses wherever committed;

(ii) if a state of war does not exist, exclusive jurisdiction over security offenses wherever committed and United States interest offenses committed inside the Sites; concurrent jurisdiction over all other offenses wherever committed.

(b) Where the accused is a British national or a local alien and a civil court of the United States is sitting in the Bahama Islands, exclusive jurisdiction over security offenses committed inside the Sites.

(c) Where the accused is not a member of the United States Forces, a British national or a local alien, but is a person subject to United States military or naval law,

(i) if a state of war exists, exclusive jurisdiction over security offenses committed inside the Sites and United States interest offenses committed inside the Sites; concurrent jurisdiction over all other offenses wherever committed;

(ii) if a state of war does not exist and there is no civil

court of the United States sitting in the Bahama Islands, exclusive jurisdiction over security offenses which are not punishable under the law of the Bahama Islands; concurrent jurisdiction over all other offenses committed inside the Sites;

(iii) if a state of war does not exist and a civil court of the United States is sitting in the Bahama Islands, exclusive jurisdiction over security offenses committed inside the Sites; concurrent jurisdiction over all other offenses wherever committed.

(d) Where the accused is not a member of the United States Forces, a British national or a local alien, and is not a person subject to United States military or naval law, and a civil court of the United States is sitting in the Bahama Islands, exclusive jurisdiction over security offenses committed inside the Sites; concurrent jurisdiction over all other offenses committed inside the Sites and, if a state of war exists, over security offenses committed outside the Sites.

(2) Wherever, under paragraph (1) of this Article, the Government of the United States of America has the right to exercise exclusive jurisdiction over security offenses committed inside the Sites, such right shall extend to security offenses committed outside the Sites which are not punishable under the law of the Bahama Islands.

(3) In every case in which under this Article the Government of the United States of America has the right to exercise jurisdiction and the accused is a British national, a local alien or, being neither a British national nor a local alien, is not a person subject to United States military or naval law, such jurisdiction shall be exercisable only by a civil court of the United States sitting in the Bahama Islands.

(4) In every case in which under this Article the Government of the United States of America has the right to exercise exclusive jurisdiction, the following provisions shall have effect:

(a) The United States authorities shall inform the Government of the Bahama Islands as soon as is practicable whether or not they elect to exercise such jurisdiction over any alleged offenses which may be brought to their attention by the competent authorities of the Bahama Islands or in any other case in which the United States authorities are requested by the competent authorities of the Bahama Islands to furnish such information.

(b) If the United States authorities elect to exercise such jurisdiction, the accused shall be brought to trial accordingly, and the courts of the Bahama Islands shall not exercise jurisdiction except in aid of a court or authority of the United States, as required or permitted by the law of the Bahama Islands.

(c) If the United States authorities elect not to exercise such jurisdiction, and if it shall be agreed between the Government of the Bahama Islands and the United States authorities that the alleged offender shall be brought to trial, nothing in this Article shall affect the exercise of jurisdiction by the courts of the Bahama Islands in the case.

(5) In every case in which under this Article the Government of the United States of America has the right to exercise concurrent jurisdiction, the following provisions shall have effect:

(a) The case shall be tried by such court as may be arranged between the Government of the Bahama Islands and the United States authorities.

(b) Where an offense is within the jurisdiction of a civil court of the Bahama Islands and of a United States military or naval court, conviction or acquittal of the accused by one such court shall not exclude subsequent trial by the other, but in the event of such subsequent trial the court in awarding punishment shall have regard to any punishment awarded in the previous proceedings.

(c) Where the offense is within the jurisdiction of a civil court of the Bahama Islands and of a civil court of the United States, trial by one shall exclude trial by the other.

(6) Notwithstanding anything contained elsewhere in this Article, when a state of war exists in which the Government of the United Kingdom is, and the Government of the United States of America is not, engaged, then in any case in which the Government of the United States of America would, but for this paragraph, have exclusive jurisdiction, that jurisdiction shall be concurrent in respect of any of the following offenses against any part of His Majesty's dominions committed outside the Sites or, if not punishable by the Government of the United States of America in the Bahama Islands, inside the Sites:

(a) treason;

(b) any offense of the nature of sabotage or espionage or against any law relating to official secrets;

(c) any other offense relating to operations in the Bahama Islands of the Government of any part of His Majesty's dominions, or to the safety of His Majesty's naval, military or air bases or establishments or any part thereof or of any equipment or other property of any such Government in the Bahama Islands.

(7) Nothing in this Article shall give the Government of the United States of America the right to exercise jurisdiction over a member of a United Kingdom, Dominion or Colonial armed force, except that, if a civil court of the United States is sitting in the

Bahama Islands and a state of war does not exist, or a state of war exists in which the Government of the United States of America is, and the Government of the United Kingdom is not, engaged, the Government of the United States of America shall have the right, where the accused is a member of any such force, to exercise concurrent jurisdiction over security offenses committed inside the Sites.

(8) Nothing in this Article shall affect the jurisdiction of a civil court of the Bahama Islands except as expressly provided in this Article.

(9) In this Article the following expressions shall have the meanings hereby assigned to them:

(a) "Security offense" means any of the following offenses against the Government of the United States of America and punishable under the law of the United States of America:

(i) treason;

(ii) any offense of the nature of sabotage or espionage or against any law relating to official secrets;

(iii) any other offense relating to operations, in the Bahama Islands, of the Government of the United States of America, or to the safety of any equipment or other property of the Government of the United States of America in the Bahama Islands.

(b) "State of war" means a state of actual hostilities in which either the Government of the United States of America or the Government of the United Kingdom is engaged and which has not been formally terminated, as by surrender.

(c) "United States interest offense" means an offense which (excluding the general interest of the Government of the Bahama Islands in the maintenance of law and order therein) is solely against the interests of the Government of the United States of America or against any person (not being a British national or local alien) or property (not being property of a British national or local alien) present in the Bahama Islands by reason only of service or employment in connection with the construction, maintenance, operation or defense of the Flight Testing Range.

ARTICLE VI

SECURITY LEGISLATION

The Government of the Bahama Islands will take such steps as may from time to time be agreed to be necessary with a view to the enactment of legislation to ensure the adequate security and protection of the Sites and United States equipment and other property, and the operations of the United States under this Agreement and the punishment of persons who may contravene any laws

or regulations made for that purpose. The Government of the Bahama Islands will also from time to time consult with the United States authorities in order that the laws and regulations of the United States of America and of the Bahama Islands in relation to such matters may, so far as circumstances permit, be similar in character.

ARTICLE VII

ARREST AND SERVICE OF PROCESS

(1) No arrest of a person who is a member of the United States Forces or who is a national of the United States subject to United States military law shall be made and no process, civil or criminal, shall be served on any such person within any Site except with the permission of the Commanding Officer in charge of the United States Forces in such Site; but should the Commanding Officer refuse to grant such permission he shall (except where, under Article V, jurisdiction is to be exercised by the United States or is not exercisable by the courts of the Bahama Islands) forthwith take the necessary steps to arrest the person charged and surrender him to the appropriate authority of the Bahama Islands or to serve such process, as the case may be, and to provide for the attendance of the server of such process before the appropriate court of the Bahama Islands or procure such server to make the necessary affidavit or declaration to prove such service.

(2) In cases where the courts of the United States have jurisdiction under Article V, the Government of the Bahama Islands will on request give reciprocal facilities as regards the service of process and the arrest and surrender of persons charged.

(3) In this Article the expression "process" includes any process by way of summons, subpoena, warrant, writ or other judicial document for securing the attendance of a witness, or for the production of any documents or exhibits, required in any proceedings, civil or criminal.

ARTICLE VIII

RIGHT OF AUDIENCE FOR UNITED STATES COUNSEL

In cases in which a member of the United States Forces shall be a party to civil or criminal proceedings in any court of the Bahama Islands by reason of some alleged act or omission arising out of or in the course of his official duty, United States counsel (authorized to practice before the courts of the United States) shall have the right of audience, provided that such counsel is in the service of the Government of the United States of America

and appointed for that purpose either generally or specially by the appropriate authority.

ARTICLE IX

SURRENDER OF PERSONS CHARGED

Where a person charged with an offense which falls to be dealt with by the courts of the Bahama Islands is in a Site, or a person charged with an offense which falls under Article V to be dealt with by courts of the United States is in the Bahama Islands but outside the Sites, such person shall be surrendered to the Government of the Bahama Islands, or to the United States authorities, as the case may be, in accordance with special arrangements made between the Government and those authorities.

ARTICLE X

PUBLIC SERVICES

The Government of the United States of America shall have the right to employ and use all utilities, services and facilities, harbours, roads, highways, bridges, viaducts, canals and similar channels of transportation belonging to or controlled or regulated by the Government of the Bahama Islands or the Government of the United Kingdom on such conditions as shall be agreed between the Contracting Governments.

ARTICLE XI

SHIPPING AND AVIATION

(1) The Government of the United States of America may place or establish in the Sites and the territorial waters adjacent thereto, or in the vicinity thereof, lights and other aids to navigation of vessels and aircraft necessary for the operation of the Flight Testing Range. Such lights and other aids shall conform to the system in use in the Bahama Islands. The position, characteristics and any alterations thereof shall be determined in consultation with the appropriate authority in the Bahama Islands and the Senior Member of the British Armed Forces posted to the Bahamas Long Range Proving Ground.

(2) United States public vessels operated by the Army, Navy, Air Force, Coast Guard or the Coast and Geodetic Survey bound to or departing from a Site shall not be subject to compulsory pilotage in the Bahama Islands. If a pilot is taken pilotage shall be paid for at appropriate rates. Such United States public vessels shall have such exemption from light and harbor dues in the Bahama Islands as shall be agreed between the Contracting Governments.

(3) Commercial aircraft shall not be authorized to operate from any of the Sites (save in case of emergency or for strictly military purposes under supervision of the Army, Navy or Air Force Departments) except by agreement between the Government of the United States of America and the Government of the United Kingdom.

ARTICLE XII

IMMIGRATION

(1) The immigration laws of the Bahama Islands shall not operate or apply so as to prevent admission into the Bahama Islands, for the purposes of this Agreement, of any member of the United States Forces posted to a Site or any person (not being a national of a Power at war with His Majesty The King) employed by, or under a contract with, the Government of the United States of America in connection with the establishment, maintenance, or use of the Flight Testing Range; but suitable arrangements shall be made by the United States to enable such persons to be readily identified and their status to be established.

(2) If the status of any person within the Bahama Islands and admitted thereto under the foregoing paragraph shall be altered so that he would no longer be entitled to such admission, the United States authorities shall notify the Government of the Bahama Islands and shall, if such person be required to leave the Bahama Islands by that Government, be responsible for providing him with a passage from the Bahama Islands within a reasonable time, and shall in the meantime prevent his becoming a public responsibility of the Bahama Islands.

ARTICLE XIII

MOTOR VEHICLE TAXES

No tax or fee shall be payable in respect of registration or licensing for use in the Bahama Islands of motor vehicles belonging to the Government of the United States of America and used for purposes connected directly with the establishment, maintenance or use of the Flight Testing Range.

ARTICLE XIV

CUSTOMS DUTIES AND OTHER TAXES ON GOODS

(1) No import, excise, consumption or other tax, duty or impost shall be charged on:

(a) material, equipment, supplies or goods for use in the establishment, maintenance, or use of the Flight Testing Range

consigned to, or destined for, the United States authorities or a contractor;

(b) goods for use or consumption aboard United States public vessels or aircraft of the Army, Navy, Air Force, Coast Guard or Coast and Geodetic Survey;

(c) goods consigned to the United States authorities for the use of institutions under Government control known as Post Exchanges, Ships' Service Stores, Commissary Stores or Service Clubs, or for sale thereat to members of the United States Forces, or civilian employees of the United States being nationals of the United States and employed in connection with the Flight Testing Range, or members of their families resident with them and not engaged in any business or occupation in the Bahama Islands;

(d) the personal belongings or household effects of persons referred to in sub-paragraph (c) of this Article and of contractors and their employees being nationals of the United States employed in the establishment, maintenance, or use of the Flight Testing Range and present in the Bahama Islands by reason only of such employment.

(2) No export tax shall be charged on the material equipment, supplies or goods mentioned in paragraph (1) in the event of re-shipment from the Bahama Islands.

(3) This Article shall apply notwithstanding that the material, equipment, supplies or goods pass through other parts of the Bahama Islands enroute to or from a Site.

(4) Administrative measures shall be taken by the United States authorities to prevent the resale of goods which are sold under paragraph (1) (c), or imported under paragraph (1) (d) of this Article, to persons not entitled to buy goods at such Post Exchanges, Ships' Service Stores, Commissary Stores or Service Clubs, or not entitled to free importation under the said paragraph (1) (d); and generally to prevent abuse of the customs privileges granted under this Article. There shall be cooperation between such authorities and the Government of the Bahama Islands to this end.

(5) The understanding with respect to paragraph (1) (d) of Article XIV of the Agreement for the Use and Operation of Certain Bases, signed March 27, 1941¹ embodied in the notes exchanged by the Contracting Governments at Washington on January 18, 1946 and February 21, 1946, the texts of which are annexed hereto,² is hereby made applicable to this Article.

¹ Executive Agreement Series 235; 55 Stat. 1560. [Not reprinted herein.]

² *Post*, p. 17; printed also as Treaties and Other International Acts Series 1592; 61 Stat., Pt. 3, p. 2637. [Not reprinted herein.]

ARTICLE XV

TAXATION

(1) No member of the United States Forces or national of the United States, serving or employed in the Bahama Islands in connection with the establishment, maintenance or use of the Flight Testing Range, and residing in the Bahama Islands by reason only of such employment, or his wife or minor children, shall be liable to pay income tax in the Bahama Islands except in respect of income derived from the Bahama Islands.

(2) No such person shall be liable to pay in the Bahama Islands any poll tax or similar tax on his person, or any tax on ownership or use of property which is within a Site, or situated outside the Bahama Islands.

(3) No person ordinarily resident in the United States shall be liable to pay income tax in the Bahama Islands in respect of any profits derived under a contract made in the United States with the Government of the United States of America in connection with the establishment, maintenance or use of the Flight Testing Range, or any tax in the nature of a license in respect of any service or work for the Government of the United States of America in connection with the establishment, maintenance or use of the Flight Testing Range.

ARTICLE XVI

POSTAL FACILITIES

The Government of the United States of America shall have the right to establish United States Military Post Offices in the Sites for the exclusive use of the United States Forces, and civilian personnel (including contractors and their employees) who are nationals of the United States and employed in connection with the establishment, maintenance or use of the Flight Testing Range and the families of such persons, for domestic use between United States Military Post Offices in the Sites and between such Post Offices and other United States Post Offices and Post Offices in the Panama Canal Zone and the Philippine Islands.

ARTICLE XVII

HEALTH MEASURES IN THE VICINITY OF THE SITES

The Government of the United States of America shall have the right, in collaboration with the Government of the Bahama Islands, and, where necessary, with the local authority concerned, to exercise, without other consideration than adequate and effective compensation to be paid by the Government of the United

States of America to private owners or occupiers, if any, such powers as such Government and local authority may possess of entering upon any property in the vicinity of the Sites for the purpose of inspection, and of taking any necessary measures to improve sanitation and protect health.

ARTICLE XVIII
REMOVAL OF PROPERTY

(1) The title to any property placed on the Sites (including property affixed to the realty) and provided by the Government of the United States of America for the purposes of this Agreement, shall remain in the Government of the United States of America.

(2) At any time before the termination of this Agreement or within a reasonable time thereafter, such property may, at the discretion of the Government of the United States of America be

(a) relocated within the Sites, or

(b) removed therefrom, or

(c) disposed of while on a Site on the condition (unless otherwise agreed between the Government of the Bahama Islands and the United States authorities) that it shall forthwith be removed therefrom.

(3) Any ground from which such property is so removed, shall be restored, as far as possible, to its present condition by the Government of the United States of America.

(4) The Government of the United States of America will not, in the Bahama Islands, dispose of any such property

(a) without the consent of the Government of the Bahama Islands, or

(b) without offering the property for sale to that Government, if such offer is consistent with laws of the United States of America then in effect, or

(c) before the expiration of such period, not being less than 120 days after the date of such offer, as may be reasonable in the circumstances.

(5) Such property may be exported by the United States authorities free from any license, export tax, duty, or impost.

(6) Any such property not removed or disposed of as aforesaid within a reasonable time after the termination of this Agreement, shall become the property of the Government of the Bahama Islands.

ARTICLE XIX

RIGHTS TO BE RESTRICTED TO THE PURPOSES OF THE AGREEMENT

The Government of the United States of America shall not

exercise any rights granted by this Agreement, or permit the exercise thereof, except for the purposes specified in this Agreement.

ARTICLE XX

RIGHTS NOT TO BE ASSIGNED

The Government of the United States of America shall not assign or part with any of the rights granted by this Agreement.

ARTICLE XXI

LIAISON

The Senior Member of the British Armed Forces posted to the Bahamas Long Range Proving Ground and the Senior Member of the United States Armed Forces detailed to the said Proving Ground shall jointly decide the details of the execution of this Agreement in its application to specific situations, in the best interests of all concerned. The said Senior Member of the British Armed Forces shall be responsible for undertaking negotiations with the Government of the Bahama Islands in this connection.

ARTICLE XXII

CLAIMS FOR COMPENSATION

(1) The Government of the United States of America undertakes to pay adequate and effective compensation, which shall not be less than the sum payable under the laws of the Bahama Islands, and to indemnify the Governments of the United Kingdom and of the Bahama Islands and all other authorities, corporations and persons in respect of valid claims arising out of:

(a) the death or injury of any person, except persons employed by the Government of the United Kingdom in connection with the Bahamas Long Range Proving Ground, resulting from the establishment, maintenance or use by the Government of the United States of America of the Flight Testing Range;

(b) damage to property resulting from any action of the Government of the United States of America in connection with the establishment, maintenance or use of the Flight Testing Range;

(c) the acquisition of private property, or of rights affecting private property, to enable the Sites, or any rights of the Government of the United States of America under this Agreement, to be provided.

(2) Compensation payable under sub-paragraph (1)(c) of this Article shall be assessed in accordance with the laws of the Bahama Islands.

(3) For the purposes of this Article the laws of the Bahama Islands shall be the laws in force at the time of the signature of this Agreement, provided that any subsequent alteration of the said laws shall have effect if the Contracting Governments so agree.

ARTICLE XXIII

FREEDOM FROM RENTS AND CHARGES

Except as provided in Articles XVII and XXII the Sites shall be provided, and the rights of the Government of the United States of America under this Agreement shall be made available, free from all rent and charges to the Government of the United States of America.

ARTICLE XXIV

MODIFICATION OF THE AGREEMENT

Modification of this Agreement shall be considered by the Contracting Governments in the light of any modification of the Agreement between the Governments of the United States of America and the United Kingdom relating to the Bases leased to the United States of America dated the 27th March, 1941, which may be made under Article XXVIII of that Agreement.

ARTICLE XXV

IMPLEMENTATION OF THE AGREEMENT

(1) The Government of the United States of America and the Government of the Bahama Islands respectively will do all in their power to assist each other in giving full effect to the provisions of this Agreement according to its tenor and will take all appropriate steps to that end.

(2) During the period for which this Agreement remains in force, no laws of the Bahama Islands which would derogate from or prejudice any of the rights conferred on the Government of the United States of America by this Agreement shall be applicable within the Range Area, save with the concurrence of the Government of the United States.

ARTICLE XXVI

FINAL PROVISIONS

This Agreement shall come into force on the date of signature and shall continue in force for a period of twenty-five years and thereafter until one year from the day on which either Contracting Government shall give notice to the other of its intention to terminate the Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Washington this 21st day of July, 1950.

[Signatures omitted.]

[Annex and attached map not reproduced.]

B. Danger Areas for Nuclear Weapons Tests

1. NOTE. Since 1946, several nuclear bomb test series have been conducted in the Pacific by the United States. The legal problems involved in establishing danger areas, which extend over large portions of the high seas, for these experiments, have caused considerable comment among some writers in the field of international law. McDougal and Schlei have argued persuasively that the tests are lawful and reasonable measures for national security in an article, "The Hydrogen Bomb Tests in Perspective: Lawful Measures for Security," 64 *Yale Law Journal* (1955), pp. 648-710. A condensed version by McDougal will be found in 49 *AJIL* 356 (1955). For an opposing view, see Margolis, "The Hydrogen Bomb Experiments and International Law," 64 *Yale Law Journal* (1955), pp. 629-647.

The nuclear testing areas in question have been established as danger areas, warning all vessels and aircraft to stay clear, but not prohibiting them from entering the hazard area. The danger areas have been promulgated internationally by the Notices to Mariners, which are published by the U.S. Navy Hydrographic Office under the authority of the Secretary of the Navy in accordance with Title 5 of the United States Code, Section 457.

The announcements as published in Notices to Mariners concerning all the tests in the Pacific have been essentially the same, except for the size of the area included in the danger zone. The excerpts reprinted below are taken from the Notices to Mariners, and relate to the latest hydrogen bomb test series conducted in the Pacific in May 1956.

2. Closed Areas Effective January 7, 1956

(29) NORTH PACIFIC OCEAN—Marshall Islands—Eniwetok and Bikini Atolls—Closed areas.—The following are closed areas and all vessels and aircraft are prohibited from entrance without specific clearance:

(a) The area of Eniwetok Atoll including the land areas of the atoll and the water areas of the lagoon within three (3) miles to the seaward side of the periphery of the land areas.

(b) The area of Bikini Atoll including the land areas of the atoll, the water areas of the lagoon and adjacent ocean waters within three (3) miles to the seaward side of the periphery of the land areas.

(N.M. 1, Jan. 7, 1956)

3. Danger Area Effective April 20, 1956.

* (1298) NORTH PACIFIC OCEAN—Marshall Islands—Eniwetok and Bikini Atolls—Danger Area—Information.—Effective April 20, 1956, a danger area, dangerous to all ships, aircraft and personnel entering its limits, is established. The danger area is bounded by a line joining the following positions:

- (a) 18° 30' N., 158° 00' E.
- (b) 18° 30' N., 172° 00' E.
- (c) 11° 30' N., 172° 00' E.
- (d) 11° 30' N., 166° 16' E.
- (e) 10° 15' N., 166° 16' E.
- (f) 10° 15' N., 158° 00' E.

Grave hazards, as a consequence of tests of military weapons, will exist in the area and all mariners and airmen are cautioned to keep clear.

All possible precautions will be taken to insure against the incidence of injuries to human life or to property within the area. It is not anticipated that there will be any such hazards outside the area. In the unlikely event that these test activities create such hazards outside the area, appropriate warning will be given.

(N.M. 11, Mar. 17, 1956)

(H.O. Doc. A5, Mar. 5, 1956)

H.O. Charts 5413, 5415, 5203, 0528, 5950, 5800, 5799, 5590.

H.O. Pub. 165A, 1952, page 247.

This same notice is repeated in Notices to Mariners Nos. 12–15 of 1956.

4. Discontinuance, August 25, 1956, of Danger Area

(4070) NORTH PACIFIC OCEAN—Marshall Islands—Eniwetok and Bikini Atolls—Danger area discontinued—Closed areas remain in effect.—1. The danger area, bounded by a line joining the following positions, has been discontinued:

- (a) 18° 30' N., 158° 00' E.
- (b) 18° 30' N., 172° 00' E.
- (c) 11° 30' N., 172° 00' E.
- (d) 11° 30' N., 166° 16' E.
- (e) 10° 15' N., 166° 16' E.
- (f) 10° 15' N., 158° 00' E.

(Supersedes N.M. 12 (1416) and 11 (1298) of 1956.)

* Indicates Notice to Mariners based on original information.

2. The closed areas around Eniwetok and Bikini Atolls remain in effect.

(See N.M. 1 (29) of 1956.)

(N.M. 34, Aug. 25, 1956.)

(Hydrolant 1252.)

H.O. Charts 5413, 5415, 5203, 0528, 5950, 5800, 5799, 5590.

H.O. Pub. 165A, 1952, page 247.