



Treaty Series No. 35 (2023)

Exchange of Notes

between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland on the Joint Procurement of Works, Supplies and Services to Achieve the Aims of Delivering a Safe, Reliable and Cost-Effective Navigation Service

Dublin, 3 August and 16 August 2023

[The Agreement entered into force 16 August 2023]

*Presented to Parliament
by the Secretary of State for Foreign, Commonwealth and Development Affairs
by Command of His Majesty
September 2023*



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**EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF IRELAND ON THE JOINT
PROCUREMENT OF WORKS, SUPPLIES AND SERVICES TO ACHIEVE
THE AIMS OF DELIVERING A SAFE, RELIABLE AND COST-
EFFECTIVE NAVIGATION SERVICE**

Note No. 1

British Embassy, Dublin to the Department of Foreign Affairs, Dublin

*Dublin
3 August 2023*

NOTE NO: 73/2023

His Britannic Majesty's Embassy presents its compliments to the Department of Foreign Affairs and has the honour to refer to recent discussions between the Department for Transport of the government of the United Kingdom of Great Britain and Northern Ireland and the Department of Transport of the government of Ireland. During these discussions, it was agreed in principle that there should be an agreement between the government of the United Kingdom of Great Britain and Northern Ireland and the government of Ireland for the joint procurement of works, supplies and services to achieve the aim of delivering a safe, reliable and cost-effective navigation service.

In accordance with the decisions reached during those discussions the Embassy has the honour to propose on behalf of the government of the United Kingdom the Agreement set out below.

The Agreement shall enter into force on the date His Britannic Majesty's Embassy in Dublin receives the note of reply from the Department of Foreign Affairs of Ireland and shall remain in force for two years.

BACKGROUND

1. Both Governments are signatories to the International Maritime Organisation's (IMO) Safety of Life at Sea (SOLAS) Convention 1974 as amended, which states (Chapter V Reg 13):

i) "Each Contracting Government undertakes to provide, as it deems practical and necessary, either individually or in co-operation with other Contracting Governments, such aids to navigation as the volume of traffic justifies and the degree of risk requires.

ii) In order to obtain the greatest possible uniformity in aids to navigation, Contracting Governments undertake to take into account the international recommendations and guidelines when establishing such aids.

iii) Contracting Governments undertake to arrange for information relating to aids to navigation to be made available to all concerned."

2. The convention further requires Contracting Governments to take into account recommendations and Guidelines of the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA). IALA's objective is *inter alia* to harmonise Marine Aids to Navigation ("AtoN") on an international basis.

3. In the UK Parliament has given these responsibilities to the General Lighthouse Authorities (GLAs) through the Merchant Shipping Act 1995 Part VIII. In Ireland the corresponding legislation is the Merchant Shipping Act 1894.

4. There are three General Lighthouse Authorities of the United Kingdom and Ireland:

i) Northern Lighthouse Board (NLB) - responsible for Scotland and the Isle of Man

ii) Trinity House (TH) - responsible for England, Wales, The Crown Dependency of the Bailiwick of Guernsey, the Crown Dependency of the Bailiwick of Jersey and Gibraltar

iii) Commissioners of Irish Lights (IL) - responsible for Ireland and Northern Ireland

5. The three GLAs have legal responsibility for the provision of marine AtoNs around the coasts of Great Britain, Northern Ireland and Ireland. Their joint mission is to deliver a reliable, efficient, and cost-effective aid to navigation service for the benefit and safety of all mariners.

6. Both Parties intend that the three lighthouse authorities namely Northern Lighthouse Board, Trinity House and The Commissioners of Irish Lights will continue to carry out, in accordance with this Agreement, a joint procurement of works supplies and services to achieve the aims of delivering a safe, reliable and cost-effective navigation service.

7. Each GLA will therefore be permitted to procure on behalf of all three

authorities and therefore the activity would be cross-border.

8. They will each be permitted to implement jointly, works, supplies or services procurement agreements.

THE PARTIES AGREE THAT:

9. The procurement procedure to be pursued by the GLAs in such circumstances shall be those of the current law of England and Wales at the time this exchange of notes comes into force.

10. In addition to complying with the laws of England and Wales the GLAs shall simultaneously publish a notice of the tender procedure in the Official Journal of the European Union (OJEU) and in the Find a Tender Portal (FTS). Each notice shall reference the fact that the notice is also published on the other portal.

11. This agreement is in accordance with Regulation 9 of the UK Public Contracts Regulations 2015 and also Regulation 9 of the Irish EU (Award of Public Authority Contracts) Regulations 2016. It is also agreed in accordance with Article 9 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

12. The Courts of England & Wales will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the existence, negotiation, validity, termination or enforceability of the procurement procedure and the procurement contracts that are the subject matter of this exchange of notes.

13. Any dispute between the Parties arising from or relating to this Agreement shall be settled through consultations between the Parties.

The Embassy avails itself of this opportunity to renew to the Department of Foreign Affairs the assurance of its highest consideration.

Note No. 2

Department of Foreign Affairs, Ireland to the British Embassy, Dublin

Dublin

16 August 2023

No. 767/23

The Department of Foreign Affairs presents its compliments to the Embassy of Great Britain in Dublin and has the honour to confirm receipt of the Embassy's Note No 73/2023 of 3rd August 2023 containing the following text:

His Britannic Majesty's Embassy presents its compliments to the Department of Foreign Affairs and has the honour to refer to recent discussions between the Department for Transport of the government of the United Kingdom of Great Britain and Northern Ireland and the Department of Transport of the government of Ireland. During these discussions, it was agreed in principle that there should be an agreement between the government of the United Kingdom of Great Britain and Northern Ireland and the government of Ireland for the joint procurement of works, supplies and services to achieve the aim of delivering a safe, reliable and cost-effective navigation service.

In accordance with the decisions reached during those discussions the Embassy has the honour to propose on behalf of the government of the United Kingdom the Agreement set out below.

The Agreement shall enter into force on the date His Britannic Majesty's Embassy in Dublin receives the note of reply from the Department of Foreign Affairs of Ireland and shall remain in force for two years.

BACKGROUND

1. Both Governments are signatories to the International Maritime Organisation's (IMO) Safety of Life at Sea (SOLAS) Convention 1974 as amended, which states (Chapter V Reg 13):

i) "Each Contracting Government undertakes to provide, as it deems practical and necessary, either individually or in co-operation with other Contracting Governments, such aids to navigation as the volume of traffic justifies and the degree of risk requires.

ii) In order to obtain the greatest possible uniformity in aids to navigation, Contracting Governments undertake to take into account the international recommendations and guidelines when establishing such aids.

iii) Contracting Governments undertake to arrange for information relating to aids to navigation to be made available to all concerned."

2. The convention further requires Contracting Governments to take into account recommendations and Guidelines of the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA). IALA's objective is *inter alia* to harmonise Marine Aids to Navigation ("AtoN") on an international basis.

3. In the UK Parliament has given these responsibilities to the General Lighthouse Authorities (GLAs) through the Merchant Shipping Act 1995 Part VIII. In Ireland the corresponding legislation is the Merchant Shipping Act 1894.

4. There are three General Lighthouse Authorities of the United Kingdom and Ireland:

i) Northern Lighthouse Board (NLB) - responsible for Scotland and the Isle of Man

ii) Trinity House (TH) - responsible for England, Wales, The Crown Dependency of the Bailiwick of Guernsey, the Crown Dependency of the Bailiwick of Jersey and Gibraltar

iii) Commissioners of Irish Lights (IL) - responsible for Ireland and Northern Ireland

5. The three GLAs have legal responsibility for the provision of marine AtoNs around the coasts of Great Britain, Northern Ireland and Ireland. Their joint mission is to deliver a reliable, efficient, and cost-effective aid to navigation service for the benefit and safety of all mariners.

6. Both Parties intend that the three lighthouse authorities

namely Northern Lighthouse Board, Trinity House and The Commissioners of Irish Lights will continue to carry out, in accordance with this Agreement, a joint procurement of works supplies and services to achieve the aims of delivering a safe, reliable and cost-effective navigation service.

7. Each GLA will therefore be permitted to procure on behalf of all three authorities and therefore the activity would be cross-border.

8. They will each be permitted to implement jointly, works, supplies or services procurement agreements.

THE PARTIES AGREE THAT:

9. The procurement procedure to be pursued by the GLAs in such circumstances shall be those of the current law of England and Wales at the time this exchange of notes comes into force.

10. In addition to complying with the laws of England and Wales the GLAs shall simultaneously publish a notice of the tender procedure in the Official Journal of the European Union (OJEU) and in the Find a Tender Portal (FTS). Each notice shall reference the fact that the notice is also published on the other portal.

11. This agreement is in accordance with Regulation 9 of the UK Public Contracts Regulations 2015 and also Regulation 9 of the Irish EU (Award of Public Authority Contracts) Regulations 2016. It is also agreed in accordance with Article 9 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

12. The Courts of England & Wales will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the existence, negotiation, validity, termination or enforceability of the procurement procedure and the procurement contracts that are the subject matter of this exchange of notes.

13. Any dispute between the Parties arising from or relating to

this Agreement shall be settled through consultations between the Parties.

The Embassy avails itself of this opportunity to renew to the Department of Foreign Affairs the assurance of its highest consideration.”

In reply, the Department of Foreign Affairs of Ireland has the honour to inform the Embassy that the Government of Ireland accepts the foregoing proposal and confirms that Note No. 73/2023 of the United Kingdom of 3rd August 2023 and this Note in reply shall constitute an Agreement between the two governments, which shall enter into force on the date this Note is received by His Britannic Majesty’s Embassy in Dublin and remain in force for two years.

The Department of Foreign Affairs of Ireland avails itself of this opportunity to renew to the Embassy the assurance of its highest consideration.

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