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THE FUTURE OF EAST AFRICA HIGH COMMISSION SERVICES

Report of the London Discussions, June, 1961

*Presented to Parliament by the Secretary of State for the Colonies
by Command of Her Majesty
July, 1961*

LONDON
HER MAJESTY'S STATIONERY OFFICE
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The Future of East Africa

High Commission Services

I. INTRODUCTION

The East Africa High Commission was established on the 1st January, 1948, by the East Africa (High Commission) Order in Council, 1947.* It consists of the Governors of Kenya, Tanganyika and Uganda. There are a number of principal executive officers who are charged with the exercise and performance of the powers, duties and functions of the High Commission.

2. In addition, there is a Central Legislative Assembly, which consists of the principal executive officers of the High Commission, together with a number of nominated and unofficial members, drawn in the main from the legislatures of the three territories. The High Commission legislates, with the advice and consent of the Assembly, for the matters within its sphere of responsibility. This legislation has effect throughout Kenya, Tanganyika and Uganda.

3. The primary responsibility of the East Africa High Commission is the administration, on an East African basis, of a number of common services. These services include railways and harbours, posts and telecommunications, civil aviation, air transport, meteorology, central research, statistics and income tax and customs and excise collection (but not the determination of income tax and customs and excise rates, which are a territorial responsibility).

4. The East African Railways and Harbours Administration and the East African Posts and Telecommunications Administration are self-financing (i.e., their cost is met by charges levied on the users of the services) and are described as the self-contained services. The remaining services, usually, described as the non-self-contained services, are financed in the main by contributions voted by the territorial legislatures from their revenues and by contributions from Her Majesty's Government, but, with effect from the 1st July, 1961, the territorial legislatures will cease to vote annual financial provision for the majority of these services. Instead, they will be financed from a Distributable Pool of revenue, administered by the High Commission and derived from a proportion of the income tax on the profits of certain types of companies, and from a proportion of customs and excise revenue.

5. The Government of Zanzibar is not represented on the High Commission but participates in a number of the common services and is represented on some of the advisory bodies. The Government of Zanzibar pays an appropriate share of the cost of the services which it uses.

* S. R. & O. 1947 No. 2863

II. THE MARCH CONFERENCE IN DAR ES SALAAM

6. A Constitutional Conference* was held in Dar es Salaam between the 27th and 29th March, 1961, and was attended by delegates from the Government of Tanganyika and the United Kingdom Government. The Conference had been convened to discuss the achievement of full internal self-government and the attainment of independence by Tanganyika. The Conference agreed that the date for independence for Tanganyika would be the 28th December, 1961. In the final communiqué, which was issued at the conclusion of the Conference, reference was made in the following terms to a number of matters which remained to be settled before independence :—

“The Government of Tanganyika expressed its desire to continue participation in the Common Services provided by the East Africa High Commission and is considering ways in which this can be done in a manner compatible with the country's sovereignty. Opportunity was taken to review a number of other matters which would have to be covered in the independence constitution, as well as financial matters and the Defence Forces. It was agreed that further discussions on those topics would take place in London in the second half of June. High Commission matters would be discussed at the same time if this were acceptable to the other Governments concerned.”

7. The Secretary of State for the Colonies therefore invited delegations from Tanganyika, Kenya, Uganda and the East Africa High Commission, and an observer from Zanzibar, to attend the discussions on High Commission matters mentioned in the communiqué.

III. THE LONDON DISCUSSIONS

8. The discussions about the future of the East Africa High Commission took place in London between the 19th and 27th June. Those participating were delegations from the United Kingdom, Tanganyika, Kenya, Uganda and the High Commission, and an observer from Zanzibar. A full list of those who attended the discussions is set out in Annex A.

9. The delegates agreed that it would be in the interests of all the territories to ensure that whatever constitutional changes might take place in the future in East Africa, common services at present provided by the East Africa High Commission should continue to be provided on an East African basis. They further agreed that the arrangements to be made for continuing the services when Tanganyika became independent must be fully compatible with the sovereignty of Tanganyika. The arrangements proposed by the delegates

* Report published as Cmnd. 1360



are set out in this Report, and the delegates agreed to recommend to the United Kingdom Government and to the Government of Tanganyika that at the appropriate time the necessary measures should be taken to put them into effect in accordance with the proposals described in paragraphs 40 to 43. They agreed that the Organisation which would be responsible for the common services should be entitled the "East African Common Services Organisation".

IV. THE EAST AFRICAN COMMON SERVICES ORGANISATION

10. The delegates agreed that the success of the new arrangements would depend on genuine and popular support from the East African people ; and that, so far as was compatible with their differing constitutional positions, the territories of Tanganyika, Kenya and Uganda should participate as equal partners in the control of the new Organisation.

11. Responsibility for the policy of the Organisation will rest with a group consisting of the principal elected Minister responsible to the legislature in each of the three territories and having full authority in the appropriate fields. This group will be entitled the "East African Common Services Authority". Its decisions must be unanimous. It will determine its own procedure, including arrangements for meetings and for electing its Chairman.

12. The Authority will be supported by four groups, each consisting of one Minister from each territory. Each group will be responsible for formulating policy in a specified field as set out in paragraph 15. For convenience, these groups are described as "triumvirates."

13. There will also be a legislative body competent to pass measures relating to the matters for which the Organisation will be responsible. The composition of this body is described in paragraph 23, and the matters with respect to which it will be empowered to pass measures are set out in paragraph 26. The body will be entitled the "Central Legislative Assembly".

14. There will be a principal executive officer of the Organisation who will be responsible for the arrangements for giving effect to the decisions of the Authority. He will attend meetings of the Authority, and be a member of the Assembly. He will be entitled the "Secretary-General." Each of the triumvirates will be attended by an executive officer or officers of the Organisation, who will be responsible for giving effect to their decisions.

V. THE SYSTEM OF TRIUMVIRATES

15. The fields of responsibility of the triumvirates will be as follows :—

- (i) *Communications*, including Railways and Harbours, Posts and Telecommunications, Civil Aviation and Meteorological services. The triumvirate will consist of the Minister responsible for communications in each territory. The Chairman of the East African Airways Corporation, the General Manager of the Railways and Harbours Administration and the Postmaster-General will be invited to attend meetings of the triumvirate as appropriate and will have the right to refer any point of disagreement in matters affecting the East African Airways Corporation, the Railways and Harbours Administration and the Posts and Telecommunications Administration, respectively, to the Authority for final decision.
- (ii) *Finance*, including responsibility for income tax and customs and excise administration and for the finances of the non-self-contained services of the Organisation. The triumvirate will consist of the Minister responsible for finance in each territory.
- (iii) *Commercial and Industrial Co-ordination*. The triumvirate will consist of the Ministers responsible for commerce and industry in each territory.
- (iv) *Social and Research Services*. Each territory will determine which of its Ministers should be appointed to this triumvirate.

16. Unless otherwise decided by the Authority, each triumvirate will determine its own place and time of meeting, and the chairmanship will rotate among all the members approximately three times a year—an arrangement intended to correspond with the ordinary meetings of the triumvirates.

17. A matter requiring Ministerial decision when a triumvirate is not meeting will be referred in the first instance to the Chairman of the triumvirate.

18. On matters of policy, decisions of the triumvirates must be unanimous. In the event of disagreement a Minister will have the right to have the matter referred to the Authority for a decision. On questions of procedure, the majority decision will prevail.

19. To secure adequate co-ordination of the activities of the Organisation there should be regular meetings of the triumvirates sitting together. If one Minister from a particular territory serves on more than one triumvirate, the territory will have the right to nominate an additional political representative to attend the joint meetings.

20. If a Minister cannot attend a meeting of a triumvirate, his Government will have the right to nominate an alternate.

Research

21. The delegates agreed that a body, consisting of one representative each from Tanganyika, Kenya and Uganda, and two United Kingdom experts (one of whom would act as chairman), should be appointed to advise the four Governments on the most suitable structure for the management, direction and financing of research on an East African basis.

VI. THE CENTRAL LEGISLATIVE ASSEMBLY

Composition

22. The delegates agreed that, in order to secure the greatest possible popular support for the Organisation in East Africa, the Ministers composing the triumvirates should be Members of the Central Legislative Assembly, and the number of official Members kept to a minimum. The official Members will be the Secretary-General and the Legal Secretary, and provision will be made for summoning any person to the Assembly when the business before the Assembly renders his presence desirable.

23. The Assembly will therefore consist of :—

- (i) twelve Ministers, i.e., the members of the four triumvirates. A territorial government will have the right to nominate additional political representatives to make its number up to four if one of its Ministers serves on more than one triumvirate ;
- (ii) nine Members from each territory elected by the territorial legislature ;
- (iii) the Secretary-General of the Organisation ;
- (iv) the Legal Secretary of the Organisation.

Elections

24. In each territory the method of election to the Central Legislative Assembly should be designed to secure as far as possible that the relative strengths of the parties in the territorial legislature are reflected in the territorial representation in the Assembly. The Members should be persons qualified for election to their respective territorial legislatures, but not necessarily Members of the legislatures. They will be elected by the Members of each territorial legislature sitting as an electoral college. In the view of the Kenya and Uganda delegates the *Ex Officio* and Nominated Members in the legislatures of their countries should not be eligible to participate in the election of Members of the Central Legislative Assembly.

25. When the new Organisation has been established, each territorial legislature will elect nine Members to the Assembly. They will remain as Members of the Assembly until a new legislature is elected for their territory ; the new legislature will then hold fresh elections for membership of the Assembly.

Legislative Powers

26. The Assembly will have power to pass measures with respect to the following matters :—

- (a) Appropriation, providing for the expenditure of the Organisation, of the Assembly and of the services the administration of which has been taken over by the Organisation, and provision for the audit of such services.
- (b) Civil Aviation.
- (c) Customs and Excise—administrative and general provisions (but not including tariff rates).
- (d) Income Tax—administrative and general provisions (but not including the rates of tax and allowances).

- (e) Interpretation and General Clauses measures for the construction of measures of the Central Legislative Assembly.
- (f) Inter-territorial Research.
- (g) The University College of East Africa, Makerere ; the University College, Dar es Salaam ; the Royal College, Nairobi ; and other university institutions.
- (h) Meteorological services.
- (i) Pensions, Widows' and Orphans' Pensions, Provident Fund and other matters affecting the staff of the services administered by the Organisation.
- (j) Posts and Telegraphs, Telephones and Radio-communications.
- (k) Railways, Harbours and Inland Water Transport.
- (l) Loans.
- (m) Statistics.
- (n) Merchant shipping.
- (o) Legal proceedings by and against the Organisation, including the extent to which the Organisation shall be capable of suing and being sued.
- (p) Allocations from the Distributable Pool. (See paragraph 4.)
- (q) Public service Commissions.

27. When any such measure has been duly passed by the Assembly, it will be submitted by the Authority for assent to the Governor-General of Tanganyika, the Governor of Kenya and the Governor of Uganda. The legislatures of the three territories will, at the inception of the new Organisation, have already enacted legislation under which measures of the Assembly will, upon their being duly assented to, have the force of law in their respective territories. A measure of the Assembly would not, of course, have effect in any territory if it were repugnant to the Constitution of that territory.

28. The defence and internal security of Kenya and Uganda are matters for the sovereign power and will be outside the competence of the Organisation ; and similar considerations will apply to independent Tanganyika in relation to her sovereignty. If an occasion should arise in which the Organisation sought to take executive or legislative measures impinging on these subjects, there will be special provision for consultation between the Authority and the United Kingdom Government with a view to resolving the difficulties, and for such intended measures to be deferred until that consultation had taken place ; and if after six months no agreement to the contrary had been reached, the measures in question would take effect.

29. In deciding whether to assent to any measure, the Governor-General and the Governors will act in accordance with the advice of the Authority, subject to the qualification that the Governor of Kenya or the Governor of Uganda (so long as either retains discretionary powers) will be able, in his discretion, to withhold his assent on the ground that the proposed measure would be in conflict with the obligations of the United Kingdom Government under any treaty, agreement or other binding undertaking. In this event the withholding of assent would also lead on to immediate consultation between the Authority and the Government of the United Kingdom to resolve the difficulty.

30. The new Organisation will be bound, in the same way as the High Commission and any other organisation are bound at present, by the laws in force in the respective territories, and the territorial legislatures will have a concurrent power to deal with matters within the competence of the Organisation. Suitable provision will be made by those legislatures to ensure that a measure of the Assembly which has been duly assented to will prevail over existing territorial legislation on the same subject.

Financial Procedure

31. It is proposed that each of the triumvirates should assign to one of its members primary responsibility for presenting its estimates and appropriations to the Central Legislative Assembly. Where necessary, he will be assisted, during detailed discussion of the estimates, by the other members. Thus one of the members of the Communications triumvirate would present the estimates and appropriation legislation for the Railways and Harbours and Post and Telecommunications Administrations. Similarly, one of the members of the triumvirate of Finance Ministers would be responsible for presenting estimates of revenue and expenditure for the non-self-contained services Fund.

VII. THE APPOINTMENT OF THE SECRETARY-GENERAL AND OTHER SERVANTS OF THE ORGANISATION, AND THE POSITION OF THE PUBLIC SERVICE

32. On the setting up of the new Organisation all officers in the service of the High Commission will be transferred to the service of the new Organisation on the same conditions of service as apply immediately before the change of employer.

33. Immediately on the initiation of the new Organisation, executive public service Commissions will be set up. The services, and the spheres of responsibility within those services, to be covered by these Commissions will be for future discussion between the United Kingdom Government, the High Commission, and the Governments of Tanganyika, Kenya and Uganda. Appointments to the Commissions will be made by the Authority. Future appointments of officers in the public service will be made on the advice of these Commissions, subject to the following exceptions. The Secretary-General will be appointed under the procedure in paragraph 34. The General Manager of the Railways, the Postmaster-General, and the Legal and Financial Secretaries of the Organisation will be appointed by the Authority on the advice of the appropriate public service Commission acting after consultation with the Secretary-General.

34. The Secretary-General will be appointed by the Authority from a panel of names agreed between the Government of Tanganyika and the United Kingdom Government.

35. The organisation will assume in appropriate public forms all the existing liabilities for staff matters, including the pension liabilities of the present High Commission.

36. Overseas officers selected by the Secretary of State or under his authority will in accordance with the normal procedure at this constitutional stage become entitled to compensation for loss of career. Under the Overseas Service Aid

Scheme Her Majesty's Government in the United Kingdom will share the cost of compensation with the Organisation. The form of such a compensation scheme will be a matter for negotiation between Her Majesty's Government in the United Kingdom, the High Commission and the Governments of Tanganyika, Kenya and Uganda. The staff associations concerned will be brought into consultation.

37. An Agreement will be entered into between Her Majesty's Government in the United Kingdom, the new Organisation and the Governments of Tanganyika, Kenya and Uganda regarding the conditions of service and pensions of these overseas officers.

38. Consideration will also be given to appropriate measures to meet the position of other officers with overseas leave privileges at present in the service of the High Commission.

39. Annex B contains the text of a statement which the Secretary of State for the Colonies made to the delegates about the implications for the staff of the High Commission of the arrangements set out in this Report.

VIII. THE METHOD OF ESTABLISHING THE NEW ORGANISATION

40. The new Organisation will be established by an Agreement to be concluded in the following manner. When the terms of the Agreement have been settled, the draft will be initialled by representatives of the Governments of Tanganyika, Kenya and Uganda. The three Governments will then introduce into their respective legislatures bills designed to give the force of law, to such extent as may be necessary, to the terms of the Agreement in their respective territories. These bills will have suspended operation and will be expressed to come into operation upon the execution of the Agreement. It is envisaged that this legislation will be enacted before Tanganyika achieves independence, and that the execution of the Agreement will take place in Tanganyika as soon as is practicable after Tanganyika achieves independence.

41. The parties to the Agreement will be the Government of independent Tanganyika and the Governments of Kenya and Uganda. In order to permit the Governments of Kenya and Uganda to execute the Agreement, they will be entrusted with the necessary authority by means of a despatch from the United Kingdom Government.

42. The parties to the Agreement and (so long as it remains responsible for Kenya or Uganda) the United Kingdom Government will each reserve the right to terminate the Agreement by giving reasonable notice, and this will be stated in the Agreement. Any future amendment of the Agreement which may be required would be effected by the same procedure as that used for making the original Agreement.

43. The United Kingdom Government will submit to Her Majesty before Tanganyika's independence an Order in Council to revoke the existing High Commission Orders and make any necessary transitional and incidental provisions involved in the transfer of responsibility from the present High Commission to the new Organisation. Existing legislation of the High Commission will continue in force until repealed or amended by competent authority.

IX. ZANZIBAR

44. The delegates agreed that services of the new Organisation could be provided to Zanzibar on an agency basis if the Government of Zanzibar so requested ; and that if the Government of Zanzibar wished to participate fully in the new Organisation, their Governments would be pleased to consider, in consultation with the Government of Zanzibar, the basis on which such participation might be arranged.

At the conclusion of the discussions the delegates agreed to record their appreciation of the work of the Secretariat and supporting staff.

Secretary of State for the Colonies

Minister of State

Tanganyika Delegation

Kenya Delegation

Uganda Delegation

B. C. Cubbon,

Secretary-General

10, Carlton House Terrace,

London, S.W.1.

27th June, 1961.

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JULIUS K. NYERERE

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A. Z. NSILO SWAI

AMIR JAMAL

A. S. FUNDIKIRA

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C. DE N. HILL

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F. CRAWFORD

J. B. KIWANUKA

C. G. MELMOTH

A. MILTON OBOTE

A. K. BALINDA

G. S. IBINGIRA

ANNEX A

Those Taking Part in the Discussions

TANGANYIKA DELEGATION

Sir Richard Turnbull, K.C.M.G.	-	-	-	Governor
The Hon. J. K. Nyerere	-	-	-	Prime Minister
Chief A. S. Fundikira	-	-	-	Minister for Legal Affairs
The Hon. A. H. Jamal	-	-	-	Minister for Communications, Power and Works
The Hon. O. S. Kambona	-	-	-	Minister for Education
The Hon. A. Z. N. Swai	-	-	-	Minister for Commerce and Industry
Sir Ernest Vasey, K.B.E., C.M.G.	-	-	-	Minister for Finance
Mr. Roland Brown	-	-	-	Attorney-General
Mr. C. de N. Hill, O.B.E.	-	-	-	Permanent Secretary to the Treasury
Mr. C. I. Meek	-	-	-	Secretary to the Cabinet

KENYA DELEGATION

Sir Patrick Renison, K.C.M.G.	-	-	-	Governor
The Hon. R. G. Ngala	-	-	-	Minister for Education and Leader of Government Business
The Hon. W. B. Havelock	-	-	-	Minister for Local Government and Lands
The Hon. M. Muliro	-	-	-	Minister for Commerce, Industry and Communications
The Hon. B. Mate	-	-	-	Minister for Health and Social Affairs
The Hon. A. M. F. Webb	-	-	-	Temporary Minister for Legal Affairs
The Hon. J. S. Gichuru	-	-	-	Member of Legislative Council, Leader of the Opposition
The Hon. T. J. Mboya	-	-	-	Member of Legislative Council
The Hon. Kariuki Njiiri	-	-	-	Member of Legislative Council
The Hon. J. H. Butter, M.B.E.	-	-	-	Permanent Secretary to the Treasury
Mr. R. E. Luyt, C.M.G., D.C.M.	-	-	-	Secretary to the Cabinet

UGANDA DELEGATION

Sir Frederick Crawford, K.C.M.G., O.B.E.	-	-	-	Governor
The Hon. B. Kiwanuka	-	-	-	Minister without Portfolio and Leader of Legislative Council

The Hon. R. L. E. Dreschfield, C.M.G.	-	Minister for Legal Affairs
The Hon. C. C. G. F. Melmoth, C.M.G.	-	Minister for Finance
The Hon. A. M. Obote	- - -	Member of Legislative Council and Leader of the Opposition
The Hon. A. K. Balinda	- - -	Member of Legislative Council
The Hon. G. S. Ibingira	- - -	Member of Legislative Council
Mr. C. P. S. Allen, M.V.O., O.B.E.	-	Administrative Secretary

EAST AFRICA HIGH COMMISSION DELEGATION

Sir Edgeworth David, K.B.E., C.M.G.	-	Administrator
Mr. G. P. C. Mackay	- - -	General Manager, East African Railways and Harbours Ad- ministration
Mr. H. O. Ellis, C.M.G., O.B.E.	- - -	Postmaster-General
Mr. H. J. Hinchey, C.B.E.	- - -	Financial Secretary
Mr. J. C. Summerfield, O.B.E.	- - -	Acting Legal Secretary
Sir James Farquharson, K.B.E.	- - -	Formerly General Manager, East African Railways and Harbours Administration

ZANZIBAR (OBSERVER)

The Hon. P. M. Dalton	- - -	Attorney-General
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UNITED KINGDOM DELEGATION

The Rt. Hon. Iain Macleod, M.P.	- - -	Secretary of State for the Colonies
The Rt. Hon. The Earl of Perth	- - -	Minister of State for Colonial Affairs
The Hon. Hugh Fraser, M.B.E., M.P.	-	Parliamentary Under Secretary of State
Sir John Martin, K.C.M.G., C.B., C.V.O.	-	Deputy Under Secretary of State, Colonial Office.
Sir William Gorell Barnes, K.C.M.G., C.B.	-	Deputy Under Secretary of State, Colonial Office.
Mr. W. L. Dale, C.M.G.	- - -	Legal Adviser, Commonwealth Relations Office
Mr. W. B. L. Monson, C.M.G.	- - -	Assistant Under Secretary of State, Colonial Office
Mr. P. Rogers, C.M.G.	- - -	Assistant Under Secretary of State, Colonial Office.
Mr. G. W. St. J. Chadwick, C.M.G.	- - -	Assistant Under Secretary of State, Commonwealth Relations Office
Mr. N. Pritchard, C.M.G.	- - -	Assistant Under Secretary of State, Commonwealth Relations Office
Mr. J. C. Morgan	- - -	Assistant Secretary, Colonial Office
Mr. F. D. Webber, C.M.G., M.C., T.D.	-	Assistant Secretary, Colonial Office

Mr. A. H. Sheffield	-	-	-	-	Assistant Secretary, Colonial Office
Mr. T. C. Jerrom	-	-	-	-	Assistant Secretary, Colonial Office
Mr. A. R. Rushford	-	-	-	-	Assistant Legal Adviser to Secretary of State, Colonial Office
Mrs. M. B. Chitty	-	-	-	-	Principal, Commonwealth Relations Office
Mr. B. E. Rolfe	-	-	-	-	Principal, Colonial Office
Mr. M. G. de Winton, C.B.E., M.C.	-	-	-	-	Senior Legal Assistant, Colonial Office

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Mr. B. C. Cubbon	-	-	-	-	Secretary-General
Mr. P. J. Kitcatt	-	-	-	-	Assistant Secretary-General
Mr. E. A. C. Bents	-	-	-	-	Assistant Secretary
Miss M. R. Orde-Browne	-	-	-	-	" "
Mr. J. W. Roberts	-	-	-	-	" "
Mr. E. T. Barnes	-	-	-	-	" "

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ANNEX B

The Staff of the East Africa High Commission : Statement by the Secretary of State for the Colonies.

You will understand that the agreement we have reached in the course of these talks about the future of the High Commission has important implications for the staff. At present I am ultimately responsible through the Administrator and the High Commission for the conditions of service of officers serving the High Commission. Once the new Organisation is established after Tanganyika has become independent it will no longer be practicable for me to retain this responsibility. It will fall to the new Organisation to assume in appropriate public forms all the existing liabilities for staff matters, including the pension liabilities of the present High Commission, and it will be necessary to make the present advisory Public Service Commission directly responsible for individual staff matters including appointments, promotions and dismissals.

The staff includes about 2,000 overseas officers selected for appointment by me or under my authority. In accordance with generally accepted principles when my responsibility is surrendered these officers will become entitled to compensation for loss of career. Under the Overseas Service Aid Scheme, which I am glad to know that you have all accepted, the United Kingdom Government will be prepared to share the cost of compensation with you and I would propose, although I am pledged to discuss these matters with the staff associations, that payment should be spread over a number of years.

Again it is in accordance with normal principle that when my responsibility for staff matters is surrendered an agreement should be drawn up between the United Kingdom Government and the Governments participating in this new Organisation safeguarding the conditions of service and pensions of these overseas officers. This agreement which is a valuable reassurance to the officers it covers we call a Public Officers' Agreement.

We shall also have to consider together the effect of setting up the new Organisation on the careers of other, mainly Asian, Officers with overseas leave privileges who serve the High Commission.

I will take these matters up with you in detail later. Meanwhile I should like us to record that we accept that these proper steps should be taken in recognition of what will be a major change in the terms of service of these officers.

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