

No. 49182

**France
and
Malaysia**

Agreement between the Government of the French Republic and the Government of Malaysia relating to the transfer of ownership of an Agosta 70 type submarine. Kuala Lumpur, 16 May 2011

Entry into force: *16 May 2011 by signature, in accordance with article 12*

Authentic texts: *English and French*

Registration with the Secretariat of the United Nations: *France, 12 December 2011*

**France
et
Malaisie**

Accord entre le Gouvernement de la République française et le Gouvernement de la Malaisie relatif au transfert de propriété d'un sous-marin type Agosta 70. Kuala Lumpur, 16 mai 2011

Entrée en vigueur : *16 mai 2011 par signature, conformément à l'article 12*

Textes authentiques : *anglais et français*

Enregistrement auprès du Secrétariat des Nations Unies : *France, 12 décembre 2011*

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE FRENCH REPUBLIC

AND

THE GOVERNMENT OF MALAYSIA

RELATING TO

THE TRANSFER OF OWNERSHIP

OF A AGOSTA 70 TYPE SUBMARINE

The Government of the French Republic, as represented by the French Ambassador in Kuala Lumpur, duly authorized,

and

The Government of Malaysia, as represented by the Secretary General for Ministry of Defence Malaysia, duly authorized,

hereinafter collectively referred to as “the Parties”,

CONSIDERING the intention of the Government of the French Republic to transfer the ownership of a conventionally powered AGOSTA 70 type submarine (formerly known as FNS Ouessant), (hereinafter referred to as “the Submarine”) to the Government of Malaysia free of charge,

CONSIDERING the Technical Arrangement between the Ministry of Defence of Malaysia and the Ministry of Defence of the French Republic Concerning a Cooperation in the Field of the Malaysian Submarine Project dated 23rd January 2006,

and

SEEKING to reinforce the Parties ties of friendship and understanding,

HAVE AGREED as follows:

ARTICLE 1

OBJECTIVE

1.1 This Agreement is intended to set out the principles and conditions that enable the Government of the French Republic to transfer the ownership of the Submarine to the Government of Malaysia free of charge (hereinafter referred to as “transfer of ownership”), in safe condition.

1.2 This transfer of ownership shall allow the Government of Malaysia to retain the Submarine and to transform it into a museum.

ARTICLE 2

DESIGNATED AUTHORITIES

The designated authority responsible for the implementation of this Agreement on behalf of the Government of Malaysia shall be the Secretary General of the Ministry of Defence and on behalf of the Government of the French Republic shall be the Director for International Development at the Directorate-General for Armament (*Direction générale de l'armement*).

ARTICLE 3

TRANSFER AND DOCUMENTATION

3.1 The ownership of the Submarine shall be transferred to the Government of Malaysia on "as is" basis.

3.2 Documentation on the Submarine's operational and technical configuration shall be supplied by the Government of the French Republic to the Government of Malaysia in the English and French languages.

3.3 The Parties shall record the condition and the configuration of the Submarine prior to the transfer of ownership. After this information is recorded, the Government of Malaysia is deemed to be fully aware of the Submarine's operational and technical configuration.

ARTICLE 4

TRANSFER PROCEDURES AND EFFECTIVE DATE OF TRANSFER

4.1 The effective date of the transfer of ownership shall be mutually agreed by the Parties in writing. From such effective date, the Submarine shall fly the Malaysian flag and shall be ferried, operated and maintained by the Government of Malaysia.

4.2 The transfer of ownership of the Submarine shall take place in France and shall be made official by the signing in two copies of transfer reports, signed by the designated authorities of both Parties.

ARTICLE 5 COMPENSATION

5.1 Each Party shall waive all its claims against the other Party and against the members of its personnel, for damage, in connection with the application of this Agreement, caused to its personnel or to its property, including in the case of injury or death of a member of its personnel, except in case of serious or willful misconduct committed by a member of the personnel of the other Party.

5.2 Each Party shall be responsible for compensation related to damages, in connection with the application of this Agreement, caused to a third party or its property when the responsibility can be clearly attributed to that Party. When both Parties are held responsible or when it is impossible to attribute responsibility to one of them, the amount of claims shall be distributed equally among the Parties. The responsibility and the amount of the claim shall be determined, by the Parties, by common agreement.

5.3 For the purposes of this Agreement, "serious misconduct" means a gross mistake or gross negligence and "willful misconduct" means a mistake intended to cause damage. The existence of a serious or willful misconduct shall be determined by the Parties by a common agreement.

ARTICLE 6 DISCLOSURE OF INFORMATION

6.1 The Government of the French Republic shall inform the Government of Malaysia of the existence of materials that require specific precautions for use and maintenance of the Submarine. The existence of materials that require specific precautions for use and maintenance shall be stated in detail in a document established to that end and referred to as a green passport.