

No. 172

CANADA
and
UNITED STATES OF AMERICA

Supplementary Exchange of Notes regarding the disposal of the Canol Project. Ottawa, 7 November and 30 December 1946, and 5 and 6 March 1947

English official text and French translation communicated by the Secretary of State for External Affairs of Canada. The registration took place on 15 December 1947.

CANADA
et
ETATS-UNIS D'AMERIQUE

Echange de notes supplémentaire concernant la liquidation de l'entreprise Canol. Ottawa, 7 novembre et 30 décembre 1946, et 5 et 6 mars 1947

Texte officiel anglais et traduction française communiqués par le Secrétaire d'Etat aux affaires extérieures du Canada. L'enregistrement a eu lieu le 15 décembre 1947.

No. 172. SUPPLEMENTARY EXCHANGE OF NOTES¹
BETWEEN CANADA AND THE UNITED STATES OF
AMERICA REGARDING THE DISPOSAL OF THE CANOL
PROJECT. OTTAWA, 7 NOVEMBER AND 30 DECEMBER
1946, AND 5 AND 6 MARCH 1947

I

*The Ambassador of the United States of America to Canada
to the Secretary of State for External Affairs*

EMBASSY OF THE UNITED STATES OF AMERICA

Ottawa, November 7, 1946

No. 593

Sir:

I have the honor to refer to your note No. 83, dated August 31, 1945, and to my note No. 366, dated September 6, 1945, in regard to the crude oil pipeline from Norman Wells, Northwest Territories, to Whitehorse, Yukon Territory, and the refinery at Whitehorse, which together with equipment pertaining thereto, have been referred to as the crude oil facilities of the Canol Project. My reply of September 6 confirmed the understanding that the United States would at a later date submit to the Canadian Government plans for the disposition of these facilities.

In accordance with the understanding referred to, there are set forth in this note proposed plans for disposal which, it is hoped, will prove acceptable to your Government. These proposals have been drawn up to give effect to the underlying principle, that, as military considerations are no longer paramount, disposal should be accomplished in a manner designed to recover the fair monetary value of facilities.

It will be recalled that in the exchange of notes of June 27-29, 1942, the two Governments agreed that if neither the Canadian Government nor any private company desired to purchase the crude oil pipeline and refinery, the disposition of both facilities should be referred to the Permanent Joint Board on Defense for consideration and recommendation. It was further agreed in the same exchange of notes that the two Governments would not themselves order

¹ Came into force on 1 March 1947, by the exchange, and according to the terms, of the said notes.

or allow the dismantling of either the pipeline or the refinery unless and until approval for dismantlement should be recommended by the Permanent Joint Board on Defense.

In the foregoing connection I understand that it is the view of the competent military authorities of our two countries that the crude oil facilities of the Canol Project no longer have defense value. Accordingly, it seems apparent that the above referred to provisions relating to the Permanent Joint Board are now unnecessary and should be annulled in order that the disposal authorities may have maximum freedom of action. My Government hopes that the Canadian Government will concur in this view and will agree to the annulment of those provisions, thereby permitting dismantlement of the facilities if that course should be desired by the United States authorities or its successors in interest. In the event that the Canadian Government concurs in the foregoing, my Government further desires to propose the following plans to cover the disposition of the crude oil facilities of the Canol Project:

1. It is proposed to advertise the sale of the crude oil facilities in the press of both Canada and the United States. The following general principles will be observed in selling and disposing of the facilities.

A. (i) The United States Government may, if it so desires, transfer the crude oil facilities of the Canol Project, or any part thereof, to private ownership, subject to the laws of Canada and the territory or territories in which such facilities are situate. Such transfer shall be exempted from import duties and excise taxes.

(ii) The land, rights of way, riparian rights and other easements, supplied by and owned by the Canadian Government and required for the satisfactory utilization of the facilities, may be leased or acquired by the purchaser or purchasers on equitable terms from the Canadian Government under the laws of Canada and the territory or territories concerned.

(iii) The land, rights of way, riparian rights and other easements, supplied by but not owned by the Canadian Government and required for the satisfactory utilization of the facilities, will be acquired by the Canadian Government and transferred to the purchaser or purchasers at his or their expense if such purchaser or purchasers are unable to lease or acquire such land, rights of way, riparian rights and easements on equitable terms from the owners.

(iv) Subject to the foregoing clauses (ii) and (iii) of this paragraph, the purchaser or purchasers shall enjoy the rights set forth in paragraph 3 (b) of my note of June 7, 1944, as interpreted by section 4 of the same note.

(v) The facilities, together with the land, rights of way, riparian rights and other easements leased or acquired by the new owner or owners shall be held and, if operated, shall be operated under the laws of Canada and the territory or territories in which they are situate. No owner, however, would be obligated to operate the facilities.

B. If the United States Government does not dispose of any or all of the facilities under the terms of paragraph A above, the Government, its agents, or its successors in interest may remove from Canada such of the facilities as they may elect to remove for use in the United States or elsewhere. It is understood that if the United States, its agents, or its successors in interest do elect to remove any or all of the facilities, the Canadian Government will facilitate such operations by providing for continuance of the rights referred to under paragraph 4 (b) and 4 (d) of the American note of June 27, 1942. It is not intended to give either A or B above precedence or priority over the other since the governing factor will be the amount bid.

C. The Government of Canada may purchase from the United States through the appropriate governmental agencies such of the facilities not disposed of under A or B as that Government may desire to obtain for its own use or disposition.

D. Any of the facilities not disposed of under paragraphs A, B, and C above, after a period of two years from the date of this agreement, shall, at the option of the United States, either be removed from Canada by the United States authorities or shall be left *in situ* and regarded as of no value unless put to beneficial use. The principle is recognized that if any such property should thereafter be put to beneficial use the United States Government should receive fair compensation.

2. In view of certain provisions of the Surplus Property Act of 1944, it is proposed that the provisions of this note and your reply agreeing thereto constitute an arrangement between our two Governments effective at a date mutually to be agreed upon, such date to be not less than thirty days from the date of your reply. It is further proposed that the arrangement shall be effective only if neither Government has, before the date referred to in the preceding sentence, expressed a desire for any change in the lettered paragraphs A through D above.

Accept, Sir, the renewed assurances of my highest consideration.

Ray ATHERTON

II

*The Secretary of State for External Affairs
to the Ambassador of the United States of America*

DEPARTMENT OF EXTERNAL AFFAIRS

Ottawa, December 30, 1946

No. 168
Excellency,

I have the honour to acknowledge the receipt of your note No. 593 of November 7 in which you make certain proposals with regard to the disposal of the Canol Project.

2. The proposals made in your note under reference have been examined by the appropriate authorities of the Canadian Government and it gives me pleasure to inform you that those proposals are accepted. It is therefore agreed that the provisions of your note and this reply constitute an agreement between our two Governments which shall be effective at a date mutually to be agreed upon, such date to be not before January 29, 1947, thirty days from the date of this note. It is further agreed that the arrangement shall be effective only if neither Government has, before the effective date of this arrangement, expressed a desire for any change in the lettered paragraphs A through D of your note No. 593.

Accept, Excellency, the renewed assurances of my highest consideration.

R. M. MACDONNELL
For the Secretary of State for External Affairs

III

*The Acting Under Secretary of State for External Affairs
to the Ambassador of the United States of America*

DEPARTMENT OF EXTERNAL AFFAIRS

Ottawa, December 30, 1946

Dear Mr. Atherton,

May I refer to the exchange of notes dated November 7 and December 30, 1946, which provides for the disposal of the Canol crude oil facilities, and particularly to section 1D of your note No. 593.

It is the understanding of the Canadian Government that neither Section 1D nor any other provision of your note under reference imposes on Canada any responsibility for the custody of any of the Canol facilities at any time in the future. Further, it is our understanding that the Canadian Government does not accept responsibility for the payment of fair compensation to the United States Government should, at any time after the two-year period, it be brought to our attention that any of the Canol facilities are being put to beneficial use by private interests.

I should be grateful if you would confirm that this is the interpretation which has been placed on this agreement by your Government.

Yours sincerely,

R. M. MACDONNELL
Acting Under Secretary of State for External Affairs

IV

*The Ambassador of the United States of America
to the Acting Under Secretary of State for External Affairs*

EMBASSY OF THE UNITED STATES OF AMERICA

Ottawa, December 30, 1946

Dear Mr. Macdonnell:

I have received your letter of December 30, 1946, referring to the exchange of notes dated November 7 and December 30, 1946, which provides for the disposal of the Canol crude oil facilities and particularly to section 1D of my note, and setting forth the interpretation which has been placed on this agreement by your Government.

I am pleased to inform you that my Government is in agreement with the interpretation of this agreement as set forth in your letter under reference.

Yours sincerely,

Ray ATHERTON

V

*The Ambassador of the United States of America
to the Secretary of State for External Affairs*

EMBASSY OF THE UNITED STATES OF AMERICA

Ottawa, March 5, 1947

No. 656

Sir:

I have the honor to refer to your Note No. 168 of December 30, 1946, in which you informed me that the Canadian Government was agreeable to certain proposals which had been made by the United States Government with regard to the disposition of the crude oil facilities of the Canol project, which had been transmitted to you by my Note No. 593 of November 7, 1946. In the exchange of notes in question it was provided that the agreement thus arrived at should become effective at a date mutually to be agreed upon.

I have now been instructed to inform you that the United States Government suggests March 1, 1947 as the effective date of the agreement. If this date is agreeable to the Canadian Government, it is proposed that this note and your reply thereto in that sense shall fix March 1, 1947 as the effective date of the agreement between the Canadian and American Governments relative to the disposal of the Canol crude oil facilities.

Accept, Sir, the renewed assurances of my highest consideration.

Ray ATHERTON

VI

*The Secretary of State for External Affairs
to the Ambassador of the United States of America*

DEPARTMENT OF EXTERNAL AFFAIRS

Ottawa, March 6, 1947

No. 30

Excellency,

I have the honour to refer to your Note No. 656 of March 5 and to inform you that the Canadian Government concurs in the suggestion of the United States Government that March 1, 1947, be designated as the effective date of the agreement between Canada and the United States set forth in the

supplementary Exchange of Notes regarding the disposal of the crude oil facilities of the Canol project signed at Ottawa, November 7 and December 30, 1946.

It is agreed that your Note and this reply shall fix March 1, 1947, as the effective date of the agreement between the two Governments relative to the disposal of th Canol crude oil facilities.

Accept, Excellency, the renewed assurances of my highest consideration.

L. B. PEARSON
For the Secretary of State for External Affairs