

No. 6058

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**UNITED STATES OF AMERICA  
and  
CANADA**

**Exchange of notes constituting an agreement replacing the  
Agreement of 11 and 18 April 1951 relating to the dis-  
posal of United States excess property in Canada.  
Ottawa, 28 August and 1 September 1961**

*Official text: English.*

*Registered by the United States of America on 31 January 1962.*

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**ÉTATS-UNIS D'AMÉRIQUE  
et  
CANADA**

**Échange de notes constituant un accord remplaçant l'Accord  
des 11 et 18 avril 1951 relatif à la disposition des biens  
en surplus des États-Unis au Canada. Ottawa, 28 août  
et 1<sup>er</sup> septembre 1961**

*Texte officiel anglais.*

*Enregistré par les États-Unis d'Amérique le 31 janvier 1962.*

No. 6058. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> BETWEEN THE UNITED STATES OF AMERICA AND CANADA REPLACING THE AGREEMENT OF 11 AND 18 APRIL 1951<sup>2</sup> RELATING TO THE DISPOSAL OF UNITED STATES EXCESS PROPERTY IN CANADA. OTTAWA, 28 AUGUST AND 1 SEPTEMBER 1961

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*The Canadian Secretary of State for External Affairs to the American Ambassador*

DEPARTMENT OF EXTERNAL AFFAIRS  
CANADA

No. 140

Excellency,

I have the honour to refer to discussions between officials of our two Governments concerning the disposal of United States excess property in Canada as provided for in the exchange of Notes of April 11 and April 18, 1951.<sup>2</sup> In accordance with Article V thereof, my Government terminated the Agreement as of December 7, 1960. It is mutually desirable that new arrangements be established for the orderly disposal of such property.

Pursuant to these discussions, I have the honour to make the following proposals for the disposal of such United States property in Canada as has been or may be determined to be excess by United States Government agencies, and has been or may be so reported, as provided hereinafter :

1. The Government of the United States may remove from Canada all of its property which it desires to retain to the extent that it is not precluded from doing so by other agreements or arrangements governing defence facilities in Canada.
2. The Government of Canada may arrange through its appropriate governmental agencies for the purchase from the Government of the United States of any remaining property which the Government of Canada may wish to obtain for its own use and dispo-

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<sup>1</sup> Came into force on 1 September 1961 by the exchange of the said notes.

<sup>2</sup> United Nations, *Treaty Series*, Vol. 134, p. 205.

sition, such purchases being made directly by the Canadian Government agencies concerned, and not through Crown Assets Disposal Corporation.

3. All other excess property shall be sold or disposed of by Crown Assets Disposal Corporation (CADC), an agency of the Canadian Government, in accordance with the following procedure ;

- (a) The United States reporting agencies shall provide reports of excess property on CADC designated forms. These reports of excess shall contain details of condition and age of equipment, information in accordance with CADC Equipment and Material Codes, and such other information as may be mutually agreed.
- (b) The United States reporting agencies will on the report of excess transfer all right, title and interest in the property to CADC, which will accept the transfer of such right, title and interest subject to physical inspection. The CADC may, at any time and at its discretion, refuse or defer the sale of any article or any class or kind of article of excess property reported to it if the sale thereof is deemed by it not to be in the Canadian public interest or is in a condition which would make economic disposal impracticable. Prior to exercising this right, CADC shall consult with the United States reporting agency or agencies concerned. Due consideration shall be given by CADC to sale or disposal of the property in question on the condition that it will be exported from Canada. If, after such consultation, it is decided by the CADC not to proceed with the sale, right, title and interest in the article or articles in question shall be returned to the United States reporting agency or agencies concerned which may dispose of such property by abandonment under conditions to be mutually agreed upon, return to the United States, or under arrangements to be agreed upon between CADC and the United States reporting agency or agencies concerned.
- (c) After the property has been accepted for sale by CADC and subject to the provisions of sub-paragraph (b) above, reports of excess shall not be modified, cancelled or withdrawn except by mutual consent of the United States reporting agency and CADC.
- (d) The United States reporting agency shall at its expense assemble excess property at locations to be decided by mutual agreement.
- (e) The United States reporting agencies shall advise CADC of the names of the signing officers entitled to issue reports of excess.
- (f) The United States Government agencies shall retain and be responsible for excess property until they surrender the custody and control thereof to purchasers pursuant to the release order of CADC. In the event that excess property should be lost, stolen, destroyed or become deteriorated after being reported to CADC and prior to its being sold by CADC or being removed by a purchaser under CADC, the United States waives all claims to compensation from CADC for any resulting loss and CADC agrees, through its contracting arrangements with its purchasers, to hold the United States free from liability arising from such eventualities.

- (g) Sales prices shall be determined by CADC after calling for bids and shall normally be deemed to include duties and taxes payable by the purchaser to the Canadian Government. The Canadian Government, however, reserves the right to apply the normal provisions of the Customs Tariff, the Customs Act and the Excise Tax Act to the sale of any article.
- (h) The acceptability of sales prices and the modification of the Equipment and Material Codes under which excess property has been declared by the United States, shall be at the discretion of CADC.
- (i) The manner of accounting for the receipts from sales shall be as follows :
- CADC shall retain and be accountable to the Canadian Government for that amount of the receipts collected on behalf of the Canadian Government as duties and taxes and the amount equal to the remainder of the receipts, less
- (a) appropriate deductions for operational costs, and
- (b) ten percent of the remainder after the above deductions, to cover costs of administration,
- shall be paid to the Treasurer of the United States of America through the appropriate United States reporting agency as proceeds to the United States from sales of property hereunder.
- (j) Settlement between the CADC and each reporting agency of the United States shall be made at such times as may be mutually agreed upon, but at least once every three months. Settlement shall be calculated in Canadian funds, which shall be converted into United States funds at the rate of exchange prevailing at the time of settlement.

4. In the case of excess property arising in remote locations, or involving special difficulties in disposal by CADC, modifications in the arrangements set out above may be made by mutual agreement between the agencies concerned.

5. The terms of the arrangements contained in this Note are not applicable to the disposal of excess contract material originating in Canada arising from the performance or termination of contracts placed in Canada by the United States Government, its contractors or sub-contractors, to the extent that such material is disposed of pursuant to normal contractual provisions contained in such contracts.

6. The terms of the arrangements contained in this Note extend to all United States Government-owned property now or hereafter located in Canada except alcoholic beverages and tobacco products, excess property resulting from the joint exercises of Canadian and United States forces taking place on Canadian territory, property utilized in connection with the Atomic Energy Programme, land or any interest in land, or property of the Government of the United States used in connection with diplomatic or consular functions, or excess property referred to in Paragraph 5 above.

7. All references to the Exchange of Notes of April 11 and 18, 1951, in other agreements between our two Governments shall be deemed to be to the present agreement.

8. This agreement shall be terminable by either Government on thirty days' written notice to the other, with the understanding that in the event of such termination, CADC

will continue with the sale or disposal of the property to which it may then have accepted transfer of right, title and interest.

If the foregoing proposals are acceptable to the United States Government, I have the honour to propose that this Note and Your reply thereto shall constitute an Agreement between our two Governments on this matter to replace the agreement embodied in the Exchange of Notes of April 11 and 18, 1951, which will take effect upon receipt of your reply.

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

H. C. GREEN

Secretary of State for External Affairs

Ottawa, 28 August 1961

His Excellency Livingston T. Merchant  
Ambassador of the United States of America  
Ottawa

## II

*The American Ambassador to the Canadian Secretary of State for External Affairs*

### EMBASSY OF THE UNITED STATES OF AMERICA

No. 52

Ottawa, September 1, 1961

Sir :

I have the honor to acknowledge receipt of your Note No. 140 dated August 28, 1961, outlining provisions for the disposal of excess United States Government property in Canada through the agency of the Crown Assets Disposal Corporation.

The terms of the arrangements are acceptable to my Government and it is agreed that your note under reference and this reply shall be regarded as placing on record the understanding arrived at between our two Governments on this matter. In accepting this note, it is the understanding of my Government that the final phrase of paragraph 3 (b) of your note reading "or under arrangements to be agreed upon..." is not intended to alter the meaning and intent of the wording "or other arrangements to be agreed upon...", which was originally suggested by my Government.

Accept, Sir, the renewed assurances of my most distinguished consideration.

Livingston T. MERCHANT

The Honorable the Secretary of State for External Affairs  
Ottawa