

No. 8222

UNITED STATES OF AMERICA
and
CANADA

Exchange of notes (with annex) constituting an agreement
relating to the continued use of upper atmosphere
research facilities at Fort Churchill, Manitoba. Ottawa,
11 June 1965

Official text: English.

Registered by the United States of America on 9 June 1966.

ÉTATS-UNIS D'AMÉRIQUE
et
CANADA

Échange de notes (avec annexe) constituant un accord
relatif au maintien en service des installations de
recherches sur la haute atmosphère à Fort Churchill
(Manitoba). Ottawa, 11 juin 1965

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 9 juin 1966.

No. 8222. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA RELATING TO THE CONTINUED USE OF UPPER ATMOSPHERE RESEARCH FACILITIES AT FORT CHURCHILL, MANITOBA. OTTAWA, 11 JUNE 1965

I

The Canadian Secretary of State for External Affairs to the American Chargé d'Affaires ad interim

DEPARTMENT OF EXTERNAL AFFAIRS
CANADA

No. 60

Ottawa, June 11, 1965

Sir :

I have the honour to refer to discussions which have taken place between representatives of the Governments of Canada and the United States of America concerning new arrangements whereby the Churchill Research Range might continue in operation for a further period following the expiration, in June 1965, of the Agreement of June 14, 1960² Concerning the Utilization of the Existing Upper Atmosphere Research Facilities at Fort Churchill, Manitoba.

These discussions revealed that the mutual interests of Canada and the United States would be advanced by the continuing availability of the Range. I therefore have the honour to propose the conclusion of an Agreement between our two Governments to provide for the operation, maintenance and support and further joint use of the Churchill Research Range in accordance with the terms and conditions set forth in the Annex of this Note. This Agreement would supersede the Agreement signed at Ottawa, on June 14, 1960, as extended,³ which will expire on December 31, 1965.

If this proposal meets with the approval of the Government of the United States, I also have the honour to propose that this Note, together with the

¹ Came into force on 1 January 1966, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, Vol. 377, p. 365.

³ United Nations, *Treaty Series*, Vol. 546, p. 376.

Annex hereto, and your Note in reply to that effect, shall constitute an Agreement on this matter between our two Governments, which shall enter into force on January 1, 1966 and remain in effect until June 30, 1970 and for such additional periods as may be mutually agreed. I further propose that either Government may, after consulting with the other Government, and upon the giving of suitable advance notice in writing of its intention, terminate the Agreement at any time. Each Government agrees that in determining the amount of such advance notice which it gives to the other Government, it shall be guided by consideration of the time required by the other Government to make alternative arrangements for conducting its rocket research programme.

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

Paul MARTIN
Secretary of State for External Affairs

The Honourable Joseph W. Scott
Chargé d'Affaires a.i
Embassy of the United States of America
Ottawa

ANNEX

TERMS AND CONDITIONS GOVERNING THE USE, OPERATION, MAINTENANCE AND SUPPORT OF THE CHURCHILL RESEARCH RANGE AT FORT CHURCHILL, MANITOBA

(Hereinafter, unless the context otherwise requires, "Canada" means the Government of Canada, "United States" means the Government of the United States of America, and "Range" means the Churchill Research Range and related installations).

1. CANADIAN GOVERNMENT RESPONSIBILITY

As of January 1, 1966, the Range shall be operated and maintained by Canada for the joint use of Canada and the United States.

2. CO-OPERATING AGENCIES

Co-operating Agencies shall be designated by each Government to carry out, in consultation, the provisions of this Agreement. For Canada the Co-operating Agency shall be the National Research Council of Canada (hereinafter referred to as NRC). For the United States the Co-operating Agency shall be the National Aeronautics and Space Administration (hereinafter referred to as NASA). Either Govern-

ment may change its Co-operating Agency by means of notice in writing to the other Government.

3. JOINT RANGE POLICY COMMITTEE

A Joint Range Policy Committee (JRPC) shall be established to consist of representatives designated by the Co-operating Agencies. The respective senior representatives of the Co-operating Agencies shall be co-chairmen of the Committee with each presiding at alternate meetings. Decisions of the Committee shall be made by the two co-chairmen after full discussion by all members of the Committee. The Co-operating Agencies in consultation shall have the power to fix the size of this Committee, which shall consist initially of eight representatives, including four persons from each country, to form sub-committees and to determine their terms of reference. The powers and functions of the Committee shall be as follows :

(a) To determine, in conformity with the scientific programs of the respective Co-operating Agencies, the level of activities to be conducted in terms of the number of launchings at and utilization of the Range.

(b) To determine annually the budget for the operation and maintenance of the Range.

(c) To determine, as necessary, adjustments of the respective Governments' financial contributions to the operating budget on an equitable basis.

(d) To determine use of the Range by a third country or its nationals sponsored by a Co-operating Agency, taking into consideration the views of both Governments and the availability of the Range. Any final decision as to whether a particular third country or its nationals may use or have access to the Range shall rest with Canada. However, the United States reserves the right to withhold approval of the use of United States equipment, including the equipment, materials, supplies, goods and other property specified in paragraph 4 (b) herein below, by or on behalf of any such third country.

(e) To determine whether and under what conditions studies other than rocket-borne experiments, such as those referred to in paragraph 4 (f) below, may be carried out at the Range.

(f) To consider and decide on : (i) developments involving expansion of the Range or requiring acquisition of major items of equipment ; (ii) replacements of major items of equipment and facilities ; (iii) modification of any United States equipment or property made available for operation and maintenance of the Range in accordance with provisions of paragraph 4 below ; and (iv) allocation of the financial charges for the foregoing.

(g) By agreement of the co-chairmen, to consider and decide on any other matters relating to the operation of the Range.

4. OPERATION, MAINTENANCE AND USE

(a) The Range shall be operated and maintained by Canada through its Co-operating Agency for the joint use of the United States and Canada to conduct

scientific activities. The operation and maintenance of the Range may be performed by qualified contractors of either country.

(b) The United States will make available for the joint use of the United States and Canada equipment, materials, supplies, goods and other property currently at the Range and necessary for its continued operation, in accordance with an agreed inventory. Modification of any United States equipment or property made available for operation and maintenance of the Range shall require the approval of the JRPC.

(c) Ownership and right of disposal of such equipment, materials, supplies, goods and other property and any other removable property subsequently brought into or purchased in Canada by the United States or by contractors on its behalf, including readily demountable structures, shall remain in the United States. The United States shall have the right to dispose of, or remove, all such property, provided that the removal or disposal shall not impair the operation of any installation the discontinuance of which has not been determined by the JRPC.

(d) The Canadian Co-operating Agency, subject to the provisions of paragraph 5 below, shall be solely responsible for the maintenance, operation, protection and preservation of the Range, including all United States equipment ; for the replacing of parts and supplies arising from normal attrition ; and for minor improvements.

(e) The United States will, to the extent feasible and subject to the provisions of paragraph 5 below, make available through the United States Co-operating Agency parts, supplies and services from United States resources as may be mutually agreed.

(f) Although the primary function of the Range shall be the launching of rocket-borne experiments, the availability of scientific measurement apparatus at the Range will allow other studies including ground-based and balloon-borne experiments. Such studies may be carried out by and for scientists of either country or a third country, subject to decision by the JRPC. The JRPC shall also determine the necessary controls to prevent interference with the primary function of the Range and to apportion or to arrange recovery of the cost of such programme.

(g) The Range shall continue to be made available for launching meteorological rockets furnished by the United States Air Force, provided that these launchings do not significantly affect the costs of operating and maintaining the Range for the purpose described in paragraph 4 (a) above. Also, this use of the Range shall not be taken into account under paragraph 3 (c) above in calculating the relative use made of the Range by the two countries. The Range may be made available for similar use by or on behalf of other weather agencies ; proposals for such use shall be considered by the JRPC in accordance with the provisions of paragraph 3 above.

5. FINANCIAL ARRANGEMENTS

(a) Subject to the availability of funds the costs agreed upon by the JRPC for the operation, maintenance and support of the Range shall be shared on an equitable basis by the United States and Canada, pursuant to detailed financial arrangements concluded between the Co-operating Agencies. It is contemplated that initially these costs will total approximately U.S. \$4,000,000 (four million) annually, and that each Government will contribute half of such costs. It is also contemplated that the financial contributions of the respective Governments to the annual budget may be adjusted periodically as determined by the JRPC in accordance with paragraph 3 (c) above.

(b) Developments involving expansion of the Range or requiring acquisition of major items of equipment or replacement of major items of equipment or facilities shall be separately financed under arrangements to be determined by the JRPC under paragraph 3 above.

6. DEFINITION OF TERM " UNITED STATES PERSONNEL "

For the purpose of this Agreement, the term " United States personnel " shall mean :

- (a) civilian personnel (including persons who are not United States citizens) engaged in or connected with United States activities on the Range but excluding
 - (i) Canadian citizens and persons ordinarily resident in Canada, and
 - (ii) personnel employed by a contractor engaged by the Canadian Co-operating Agency for the operation and maintenance of the Range ; and
- (b) members of the United States " force ", " civilian component " and their " dependents " as defined in Article I of the North Atlantic Treaty Status of Forces Agreement signed on June 19, 1951. ¹

7. CANADIAN IMMIGRATION AND CUSTOMS REGULATIONS

Except as otherwise provided, the direct entry of United States personnel into Canada shall be in accordance with Canadian customs and immigration procedures which shall be administered by local Canadian officials designated by Canada.

Canada shall take the necessary steps to facilitate the admission into, and the departure from, the territory of Canada of United States personnel. The United States, at the request of Canada, will assist in arranging for the departure from Canada of any such personnel without expense to Canada.

¹ United Nations, *Treaty Series*, Vol. 199, p. 67.

8. TAXATION

(a) Canada shall grant relief to the United States from all federal taxes and customs duties on materials and equipment to be used in the construction, maintenance or operation of the Range, provided that it is administratively possible and economical to determine the amount of taxes and duties applied to such equipment and materials. Such relief shall be granted on a proportionate basis either directly or by way of rebate of a part of the United States financial contribution referred to in paragraph 5 (a) above. In addition, Canada shall grant remission of customs duties and federal excise taxes on goods imported by or on behalf of the United States specifically for its own use at the Range and of federal sales and excise taxes on goods purchased by or on behalf of the United States in Canada which are to be used exclusively by the United States at the Range. Canada shall also grant refunds by way of drawback of the customs duty paid on goods imported by Canadian manufacturers specifically for the exclusive use of the United States at the Range.

(b) The personal effects and goods of United States personnel shall be brought into Canada free of import duties and taxes, provided that, except as authorized by the appropriate Canadian authorities, such personal effects and goods may not be disposed of in Canada by way of sale or gift or otherwise.

(c) Income derived by United States personnel from rendering services to the United States in Canada shall be deemed not to have been derived in Canada and shall be exempt from taxation in Canada. Such personnel shall not be subject to Canadian tax in respect of income derived from sources outside of Canada.

(d) Where the legal incidence of any form of taxation in Canada depends upon residence or domicile, periods during which United States personnel are in Canada shall not be considered as periods of residence therein, or as creating a change of residence or domicile for the purposes of such taxation.

(e) Personal property which is situated in Canada solely because the United States personnel are in Canada shall, in respect of the holding by, transfer by reason of death, or transfer to or by such personnel be exempt from taxation under the laws of Canada relating to estate and gift duty.

9. LIABILITY TO THIRD PARTIES IN CASE OF ACCIDENT

In case of an accident arising in connection with the operation of the Range, responsibility to third parties shall be determined in accordance with Canadian law. Where, as a result of such determination, the operator of the Range is found liable, the Canadian Co-operating Agency shall bear the cost thereof.

10. CLAIMS AGAINST THE UNITED STATES

(a) Claims for damage to property or injury to persons arising from acts or omissions of United States civilian personnel, who are employed by or directly connected with NASA, may be considered and settled in accordance with the provi-

sions of Section 203 (b) (13) of the United States National Aeronautics and Space Act (42 U.S.C. Sec. 2473), and as it may be amended.

(b) Claims for damage to property or injury to persons arising from acts or omissions of members of the United States "force" as defined in paragraph 6 (b) above will be considered and settled in accordance with Article VIII of the North Atlantic Treaty Status of Forces Agreement, signed in London on June 19, 1951.

(c) In the case of other claims against the United States arising from activities at the Range, the United States may also offer to settle these in accordance with applicable provisions of United States law. If any such offers are acceptable, the United States may so settle them.

(d) No liability shall attach to either the United States or Canada based solely on title in the equipment and facilities at the Range.

11. STATUS OF FORCES

The United States may assign military personnel to the Range in such numbers as may be agreed upon from time to time by the Co-operating Agencies. In such cases, the North Atlantic Treaty Status of Forces Agreement, signed in London on June 19, 1951, shall apply.

12. SURPLUS PROPERTY

The disposal in Canada of excess equipment, property, materials and supplies to which the United States has retained title shall be carried out in accordance with the provisions of the exchange of notes of August 28 and September 1, 1961,¹ between the Secretary of State for External Affairs and the United States Ambassador in Canada. Where items of equipment or new and additional facilities have been acquired or provided by special agreements, the residual value, if any, of such property, shall be disbursed *pro rata* in accordance with the amounts contributed by each party for its acquisition, unless otherwise agreed.

13. SAFETY

In establishing operational procedures, the utmost precaution shall be taken to ensure that objects launched from the Range do not fall in populated areas and that they do not constitute a hazard to aviation or shipping. Range safety requirements and control measures established by the appropriate Canadian authorities shall be observed.

14. DATA EXCHANGE

The scientific data derived by each Government from the conduct of activities pursuant to this Agreement shall be made available on request within a reasonable period of time to the Co-operating Agency of the other Government, provided that

¹ United Nations, *Treaty Series*, Vol. 421, p. 199.

the normal protection is given to the interests of prime experiments. Scientific data will also be made available to the international scientific community, subject to the protection of the experimenter's rights.

15. INFORMATION

The public release of information relating to operation under this Agreement will, unless otherwise determined by the JRPC, be the subject of prior consultation and agreement by the Co-operating Agencies.

16. SUPPLEMENTARY AGREEMENTS AND ADMINISTRATIVE ARRANGEMENTS

The Co-operating Agencies designated by the two Governments are authorized to conclude supplementary agreements and administrative arrangements from time to time in implementation of this Agreement.

II

*The American Chargé d'Affaires ad interim to the Canadian Secretary of State
for External Affairs*

EMBASSY OF THE UNITED STATES OF AMERICA

No. 258

Ottawa, June 11, 1965

Sir :

I have the honor to acknowledge receipt of your Note No. 60 dated June 11, 1965 and the annex thereto, concerning the future joint use, operation, maintenance and support of the Research Range at Fort Churchill, Manitoba, Canada.

I have the further honor to inform you that the proposed terms and conditions set forth in your Note and the annex thereto concerning the operation, maintenance, support and further joint use of the Range are acceptable to my Government. My reply and your Note and the annex thereto under reference shall together constitute an agreement between our two Governments regarding this matter, which shall enter into force on January 1, 1966 and which shall remain in force until June 30, 1970 in accordance with the terms and conditions concerning duration as stated in your Note.

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

Joseph W. SCOTT
Chargé d'Affaires ad interim

The Honorable Paul Martin
Secretary of State for External Affairs
Ottawa