

No. 11865

UNITED STATES OF AMERICA
and
CANADA

Exchange of notes constituting an agreement concerning the establishment of a temporary space tracking facility for the specific purpose of providing telecommunications with manned and unmanned spacecraft in connection with NASA Project Skylab (with annex). Ottawa, 20 December 1971 and 23 February 1972

Authentic texts of notes : English and French.

Authentic text of annex : English.

Registered by the United States of America on 11 July 1972.

ÉTATS-UNIS D'AMÉRIQUE
et
CANADA

Échange de notes constituant un accord relatif à la création d'une installation temporaire de pistage spatial spécialement chargée d'assurer les télécommunications avec des vaisseaux spatiaux habités et non habités dans le cadre du Projet Skylab (avec annexe). Ottawa, 20 décembre 1971 et 23 février 1972

Textes authentiques des notes : anglais et français.

Texte authentique de l'annexe : anglais.

Enregistré par les États-Unis d'Amérique le 11 juillet 1972.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
CANADA CONCERNING THE ESTABLISHMENT OF
A TEMPORARY SPACE TRACKING FACILITY FOR
THE SPECIFIC PURPOSE OF PROVIDING TELECOM-
MUNICATIONS WITH MANNED AND UNMANNED
SPACECRAFT IN CONNECTION WITH NASA PROJECT
SKYLAB

I

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

No. 197

Ottawa, December 20, 1971

Sir :

I have the honor to refer to recent discussions between representatives of our two Governments concerning the establishment of a temporary space tracking facility for the specific purpose of providing telecommunications with manned and unmanned spacecraft in connection with Project Skylab, a manned space flight effort of the United States National Aeronautics and Space Administration (NASA). These discussions have resulted in the understandings set forth in the annex to this note covering the conditions which should govern the establishment and operation of such a facility.

If the Canadian Government concurs, I propose that this note, together with the annex hereto, and your reply to that effect, shall constitute an agreement between our two Governments to enter into force on the date of your reply, and remain in effect for three years and for such future periods as may be mutually agreed, unless terminated at any time by either Government upon ninety days written notice to the other Government.

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

ADOLPH W. SCHMIDT

Enclosure :
Annex.

The Honorable Mitchell Sharp, P.C.
Secretary of State for External Affairs
Ottawa

¹ Came into force on 23 February 1972, the date of the note in reply, in accordance with the provisions of the said notes.

ANNEX

CONDITIONS TO GOVERN THE ESTABLISHMENT AND OPERATION OF
A TEMPORARY MANNED SPACE FLIGHT SUPPORT FACILITY

The cooperation envisaged under this Agreement is to be conducted through a cooperating agency from each Government, which on the part of the United States Government will be the National Aeronautics and Space Administration and on the part of the Canadian Government will be the National Research Council.

1. Sites

The location and size of the facility required in Canada shall be a matter for mutual agreement by the cooperating agencies of the two Governments. The Canadian Government shall ensure, by leasing, or by acquiring title, that all lands required for the facility shall be available for the duration of the project.

2. Liaison Arrangements

The cooperating agencies of both Governments shall consult fully at all stages of facility site selection, construction and operation.

3. Construction

Procedures for accomplishing construction of the facility and for the procurement of construction equipment, construction supplies and related technical services shall be determined by agreement between the cooperating agencies of the two Governments.

4. Financing

(a) The cost of construction of the facility and of the provision and replacement of specialized equipment shall be the responsibility of the United States Government. Following construction of the facility, the operations and maintenance and other costs associated with the operation of the facility shall be borne by the United States Government.

(b) The land to be used by the United States Government for the facility shall be made available by the Canadian Government on a rent-free basis. All other expenses incurred by the Canadian Government prior to, or during construction, operation and termination of the facility shall be reimbursed to the Canadian Government by the United States Government.

5. *Responsibility of the Government of the United States*

(a) The United States Government shall be responsible for the property at the facility site (including land, buildings, chattels and fixtures thereon) and for all matters of liability pertaining thereto related to its position as occupier during the operation of the facility.

(b) The United States Government shall remain responsible for the property including matters of liability as occupier during the period between the discontinuance of operation of the facility and the return of possession of the property to the Canadian Government.

(c) The United States Government shall be responsible for returning the property to its original state following the discontinuance of operation of the facility or to such state as may be otherwise agreed upon by the parties or by their respective cooperating agencies.

6. *Ownership of Movable Property*

The United States Government shall retain ownership of any removable property (including readily demountable structures) it provides. The United States Government shall have the right of removing or disposing of any such property at any time, but in any event shall remove or dispose of all such property as expeditiously as possible after the date upon which the operation of the facility has been discontinued. The disposal of United States excess property in Canada shall be carried out in accordance with the provisions of the Exchange of Notes of August 28, 1961, and September 1, 1961,¹ between the Secretary of State for External Affairs and the United States Ambassador in Ottawa concerning the disposal of excess property.

7. *Staffing*

In view of the temporary nature of this facility and the short time available for the training of highly skilled technicians and engineers not previously experienced in the operation of a facility of this type, the facility will be manned primarily by United States personnel with augmentation as far as practicable by Canadian personnel.

8. *Canadian Law*

Nothing in this Agreement shall derogate from the application of Canadian law in Canada, except that, if in unusual circumstances its application may lead to unreasonable delay or difficulty in the construction of the facility, the United States authorities concerned may request the assistance of Canadian authorities in seeking appropriate alleviation. In order to facilitate the rapid and efficient construction of the facility, Canadian authorities will give sympathetic consideration to any such request submitted by the United States authorities.

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

9. *Frequency Approval and Telecommunications*

The Canadian cooperating agency will be responsible for arranging, through appropriate channels, for the assigning of frequencies and authority to establish the radio systems for the operation of the facility. Commercial communications systems will be used where practical for communication between the facility and appropriate facilities in the United States. The cost of such services will be borne by the United States Government.

10. *Scientific Information*

The United States Government will inform the Canadian Government through the cooperating agencies of the program of scientific experimentation being conducted under the Skylab Project, and scientific data obtained by the station shall in like manner be made available to the Canadian Government on request. The facility can be used for independent scientific activity of the Canadian Government, it being understood that :

- (a) such activities will be conducted so as not to conflict with the primary purpose of the facility, and
- (b) any additional operating costs resulting from such independent activity will be borne by the appropriate Canadian authorities.

11. *Definition of Term “ United States Personnel ”*

For the purpose of this Agreement, the term “ United States Personnel ” shall mean NASA and NASA contractor personnel (including persons who are not United States citizens) engaged in or connected with United States activities at the facility, but excluding Canadian citizens and persons ordinarily resident in Canada.

12. *Canadian Immigration and Customs Regulations*

(a) Except as otherwise agreed, the direct entry of United States personnel from outside Canada shall be in accordance with Canadian customs and immigration procedures which will be administered by local Canadian officials designated by the Canadian Government.

(b) The Canadian Government will take the necessary steps to facilitate the admission into the territory of Canada of such United States personnel as may be assigned to visit or participate in the operation of the facility.

(c) The Canadian Government agrees to facilitate the entry into Canada of the material and equipment necessary in the pursuit of the activities covered by this Agreement.

13. *Taxes*

(a) The Canadian Government shall grant relief to the United States Government from all federal taxes and customs duties on material or equipment that is, or

will become the property of the United States Government, and that is to be used in the construction, maintenance or operation of the support facility, provided that it is administratively and economically possible to determine the amount of taxes and duties applied to such material or equipment. In addition the Canadian Government shall grant remission of customs duties and federal excise taxes on material or equipment imported by or on behalf of the United States Government specifically for its own use at the facility.

(b) The personal effects and goods, including automobiles, 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 Government in Canada shall be deemed not to have been derived in Canada and shall be exempt from taxation in Canada, such income shall be deemed to be income in respect of services rendered in the discharge of governmental functions pursuant to Article VI(1)(a) of the Canada-United States of America Reciprocal Tax Convention.¹ 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 to or by, or transfer to or by, such personnel be exempt from taxation under the laws of Canada relating to estate and gift duty.

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14. *Availability of Funds*

It is understood that the ability of the cooperating agencies to implement this Agreement is subject to the availability of appropriated funds.

15. *Supplementary Arrangements and Administrative Agreements*

Supplementary arrangements or administrative agreements between the cooperating agencies of the two Governments may be made from time to time for purposes of implementing this Agreement.

¹ United Nations, *Treaty Series*, vol. 127, p. 67.

II

DEPARTMENT OF EXTERNAL AFFAIRS
CANADA

No. ECS-27

Ottawa, February 23, 1972

Excellency :

I have the honour to refer to your Note No. 197 of December 20, 1971, concerning the establishment of a temporary space tracking facility in Newfoundland in connection with Project Skylab.

I have the honour to state that the Government of Canada is prepared to accept the proposals set forth in your Note of December 20, 1971 and that your Note and this reply thereto, in both the English and French language, shall constitute an agreement between our two Governments on this matter.

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

MITCHELL SHARP
Secretary of State for External Affairs

His Excellency The Honourable Adolph W. Schmidt
Ambassador of the United States of America
Ottawa
