

No. 14516

**UNITED STATES OF AMERICA
and
CANADA**

Exchange of notes constituting an agreement relating to liability for loss or damage from certain rocket launches (with enclosure). Ottawa, 31 December 1974

Authentic text: English.

Registered by the United States of America on 31 December 1975.

**ÉTATS-UNIS D'AMÉRIQUE
et
CANADA**

Échange de notes constituant un accord sur la responsabilité pour les pertes ou dommages causés par certains lancements de fusées (avec pièce jointe). Ottawa, 31 décembre 1974

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 31 décembre 1975.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA RELATING TO LIABILITY FOR LOSS OR DAMAGE FROM CERTAIN ROCKET LAUNCHES

I

The American Embassy to the Canadian Department of External Affairs

No. 247

The Embassy of the United States of America presents its compliments to the Department of External Affairs and has the honor to refer to the Embassy's note No. 202 of October 4, 1974, the Department's note No. ECS-1575 of December 13, 1974, and discussions which have taken place in Washington, D.C. concerning liability for any loss or damage resulting from the launching of two Black Brant rockets from the DEW Station at Cape Parry, Northwest Territory, Canada, in early January 1975.

The Embassy wishes to assure the Department that, in the event of loss of life, personal injury, or damage or loss to property resulting from these rocket launches, the Government of the United States of America intends to take all necessary measures to comply fully with its obligation under the Treaty of principles governing the activities of States in the exploration and use of outer space, including the Moon and other celestial bodies,² in particular Article VII thereof, and international law.

The Embassy has the honor to propose that, in the event of such loss or damage, the Government of the United States and the Government of Canada shall consult promptly, and in any case prior to the settlement of any claim arising out of these launches, with a view to arriving at an expeditious and mutually acceptable disposition of such claim, in accordance with international law and the domestic law of each state. These consultations shall take into account the following considerations:

1. The United States is the state which procures these launches.
2. The United States is the state which primarily benefits from these launches.
3. The United States Atomic Energy Commission is an agency of the Government of the United States.
4. Sandia Corporation, a subsidiary of Western Electric Company, will be primarily in control of the actual launches as agent of the United States Atomic Energy Commission.

With respect to loss or damage in Canada which may result from these launches, the United States Atomic Energy Commission has assured the National Research Council of Canada by means of a letter dated December 19, 1974 of which a copy is attached hereto, that the United States Atomic Energy Commission has contracted with the Western Electric Company to indemnify and hold harmless Sandia Corporation or Western Electric Company for liability under Canadian law which may result from any loss or damage arising out of activities undertaken on behalf of the United States Atomic Energy Commission in connection with these launches.

¹ Came into force on 31 December 1974 by the exchange of the said notes.

² United Nations, *Treaty Series*, vol. 610, p. 205.

In the event that a claim arising out of these launches is not settled expeditiously in a mutually acceptable manner, the Government of the United States and the Government of Canada shall give consideration to the establishment of a Claims Commission such as that provided for in Article XV of the Convention on International Liability for Damage Caused by Space Objects¹ with a view to arriving at a prompt and equitable settlement.

The Embassy wishes to advise the Department that appropriate representatives of the Government of the United States are prepared to enter into discussions with appropriate representatives of the Government of Canada for the purpose of developing a continuing program of scientific cooperation, including rocket-borne experiments, for mutual benefit. In the meantime, the Embassy assures the Department that, should the National Research Council of Canada wish to conduct rocket-borne experiments from facilities operated by the United States Atomic Energy Commission, the Government of the United States will give favorable consideration to such launches and to liability arrangements relating thereto substantially similar to the liability arrangements for the January 1975 launches.

If the foregoing is acceptable to the Government of Canada, the Embassy has the honor to propose that this note and your reply satisfy the condition upon which the approval of the Government of Canada was given to the launches at Cape Parry, Northwest Territory, in the Department's note No. ECS-1575 of December 13, 1974.

The Embassy of the United States of America avails itself of this opportunity to renew to the Department of External Affairs the assurances of its highest consideration.

Embassy of the United States of America

Ottawa, December 31, 1974.

ENCLOSURE

Dear Dr. Schneider:

We have been looking into the matter of reaching a mutually satisfactory understanding with respect to any damage which may arise out of the proposed AEC rocket launches during January 1975 from your facilities at Cape Parry, N.W.T. in connection with our scientific studies of the geomagnetic cusp region (Operation Tordo).

After reviewing the plan of operation, it appears that only representatives of the AEC to be in Canada for the purposes of these launchings will be personnel from our Sandia Laboratories. In view of the AEC's contractual arrangements with Sandia Corporation (including its parent, the Western Electric Company), which operates the laboratories exclusively for the AEC, I am able to assure you that the AEC has contracted to indemnify and hold the contractor harmless against any loss, expense or damage (including personal injuries and death of persons and damage to property) of any kind and for any cause whatsoever arising out of or connected with the activities carried out on behalf of AEC. This will confirm that this indemnity agreement will apply to loss or damage which may arise under Canadian law from the AEC-Sandia activities in Canada for purposes of Operation Tordo.

I further wish to assure you that, if for some reason this indemnity agreement should be modified before completion of those activities, we would obtain the approval of the appropriate Canadian authorities before proceeding further with any such activities in Canada.

¹ United Nations, *Treaty Series*, vol. 961, p. 187.

I trust that, with the foregoing assurances, we can look forward to having our respective scientists move ahead with Operation Tordo.

Sincerely,

[Signed]

ABRAHAM S. FRIEDMAN
Director
Division of International Programs
United States Atomic Energy Commission

Dr. William G. Schneider
President
National Research Council of Canada

II

DEPARTMENT OF EXTERNAL AFFAIRS MINISTÈRE DES AFFAIRES EXTÉRIEURES
CANADA

No. ECS-1599

The Department of External Affairs presents its compliments to the Embassy of the United States of America and has the honour to refer to the Embassy's note No. 247 of December 31, 1974 concerning liability for any loss or damage resulting from the launching of two Black Brant rockets from the DEW Station at Cape Parry, Northwest Territories, Canada, in early January 1975.

The Department wishes to advise the Embassy that the Government of Canada accepts the proposal set forth in the note under reference that that note together with this reply satisfy the condition upon which the approval of the Government of Canada was given to launches at Cape Parry, Northwest Territories, in the Department's note No. ECS-1575 of December 13, 1974.

The department also wishes to advise that it has taken note of the Embassy's assurances that, should the National Research Council of Canada wish to conduct rocket-borne experiments from facilities operated by the United States of America Atomic Energy Commission, the Government of the United States of America will give favourable consideration to such launches and to liability arrangements relating thereto substantially similar to the liability arrangements for the January 1975 launches.

The Department of External Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Ottawa, December 31, 1974.
