

No. 15116

**UNITED STATES OF AMERICA
and
CANADA**

Exchange of notes constituting an understanding relating to space research: Rocket launches and similar experiments at Cape Parry, Northwest Territories. Ottawa, 24 and 25 November 1975

Authentic text: English.

Registered by the United States of America on 10 November 1976.

**ÉTATS-UNIS D'AMÉRIQUE
et
CANADA**

Échange de notes constituant un arrangement relatif à la recherche spatiale : lancements de fusées et expériences similaires effectués à Cape Parry, Territoires du Nord-Ouest. Ottawa, 24 et 25 novembre 1975

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 10 novembre 1976.

EXCHANGE OF NOTES CONSTITUTING AN UNDERSTANDING¹
BETWEEN THE UNITED STATES OF AMERICA AND CANADA
RELATING TO SPACE RESEARCH: ROCKET LAUNCHES AND
SIMILAR EXPERIMENTS AT CAPE PARRY, NORTHWEST
TERRITORIES

I

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

Ottawa, November 24, 1975

No. 245

Sir:

I have the honor to refer to the exchange of notes between the Embassy of the United States of America and the Department of External Affairs of Canada dated at Ottawa on October 4 and December 12, 1974, concerning studies of the earth's magnetosphere carried out by launching two Black Brant rockets from the Dew Station at Cape Parry, Northwest Territories, Canada in early January 1975, and to the related exchange of notes between the Embassy and the Department dated at Ottawa on December 31, 1974² on liability for loss or damages from certain rocket launches. The experiments carried out under that program were among the first to probe actively a recently discovered portion of the earth's magnetosphere called the magnetospheric cleft, a region believed to hold many clues to understanding how the sun's energy is transferred to the earth's ionosphere.

As you are aware, scientists from Los Alamos Scientific Laboratory, under United States Energy Research and Development Administration sponsorship, have been engaged in discussions with their colleagues in the National Research Council of Canada concerning an operation in the period November-December 1975. This operation, designated "Periquito", will involve two rocket launchings from Cape Parry, NWT.

On behalf of my Government, I would like to propose that the conduct of these launches and similar experiments through the period ending September 30, 1978, will be subject to the following principles:

1. The Cape Parry rocket launch facilities will be used, together with such support as may be required from ground-based and airborne observation stations, operated by or on behalf of either of the principal cooperating agencies designated herein.

2. The principal cooperating agencies for these experiments will be the United States Energy Research and Development Administration and the National Research Council of Canada, together with such contractor organizations as may be designated by either of the principal cooperating agencies. These principal cooperating agencies may conclude supplementary arrangements of an administrative nature from time to time for the implementation of the program proposed in this note.

¹ Came into force on 25 November 1975, the date of the note in reply, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 992, No. I-14516.

3. The National Research Council of Canada will perform the range safety coordination function for the rocket launching activities dealt with herein, and the operations conducted under the program proposed in this note shall conform to the provisions of NRC range safety regulations.

4. The Government of Canada will expedite transit through Canadian customs and immigration of U.S. personnel and material imported by or on behalf of the United States for use in connection with these experiments, and will also grant exemption of customs duties and federal sales and excise taxes on such goods.

5. The public release of information relating to these experiments will be the responsibility of the principal cooperating agency sponsoring the project, with advance notification to the other principal cooperating agency.

6. Scientific data obtained as a result of any publications arising out of these experiments shall be provided by either principal cooperating agency or its contractors to the other principal cooperating agency or its contractors, as they become available.

7. In the event of loss of life, personal injury, or loss of, or damage to, property resulting from these rocket launches, the Government of the United States of America shall take all necessary measures to comply with its obligations under the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies,¹ and in particular article VII thereof, as well as under the Convention on International Liability for Damage Caused by Space Objects,² and under international law.

8. With respect to loss or damage in Canada which may result from these launches, the United States Atomic Energy Commission, the successor in interest of which is the United States Energy Research and Development Administration, has contracted with the Western Electric Company to indemnify and hold harmless Sandia Corporation or Western Electric Company; that this relationship will continue, under the terms of the relevant contract, through September 30, 1978, for liability, including liability under Canadian law, which may result from any loss or damage arising out of activities undertaken on behalf of the United States Energy Research and Development Administration in connection with these launches.

9. With respect to other loss or damage resulting from these launches, the Government of the United States and the Government of Canada shall consult promptly, and in all cases 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 Canada and the United States, as applicable, except as may be otherwise agreed by the two Governments. These consultations shall take into account the following considerations:

- A) the United States is the State which procures these launches;
- B) the United States is the State which primarily benefits from these launches;
- C) the United States Energy Research and Development Administration is an agency of the Government of the United States;
- D) Sandia Corporation, a subsidiary of the Western Electric Company, will be primarily in control of the actual launches as agent of the United States Energy Research and Development Administration and this relationship will continue, under the contract, through September 30, 1978.

10. 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 refer the settlement of any such issue to a claims commission established as provided in the Convention on International Liability for Damage Caused by Space Objects with a view to arriving at a prompt and equitable settlement.

¹ United Nations, *Treaty Series*, vol. 610, p. 205.

² *Ibid.*, vol. 961, p. 187.

11. It is understood that in the event the Government of the United States and the Government of Canada enter into, before the expiry of the program described herein, a bilateral agreement of general application regarding the liability aspects of the increasing number of joint and/or cooperative scientific experiments involving rocket launches conducted by an agency of the Government of the United States or of the Government of Canada in the territory of the other, provisions of which could be made applicable to any and all future scientific program of such a nature, the provisions contained herein with regard to liability would, for the remainder of the period of applicability of this understanding, be superseded by the terms of such an agreement to the extent of their incompatibility with such terms.

I would like to further propose that our two Governments undertake consultations at an early date with a view to concluding an agreement of general application of the kind referred to in paragraph 11 above so that such agreement may come into force before the termination of validity of this understanding. In the meantime, I am in a position to assure you that, should the National Research Council of Canada wish to conduct rocket-borne experiments from facilities operated by the United States Energy Research and Development Administration, 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 provided for herein.

If the foregoing is acceptable to the Government of Canada, I have the honor to propose that this note and your favorable reply constitute approval for operation "Periquito", and that the principles of this exchange of notes shall apply to future Energy Research and Development Administration projects conducted under the terms of the Sandia Corporation contract referred to in paragraph 8 above, to be carried out at Cape Parry, NWT, through the period ending September 30, 1978, subject to the approval of the Government of Canada as to the date of each proposed experiment. This understanding between our two Governments shall be applicable from the date of your reply until September 30, 1978, unless modified at an earlier date, after appropriate consultation, by a further exchange of notes.

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

WILLIAM M. JOHNSON

The Honorable Allan MacEachen, P.C.
Secretary of State for External Affairs
Ottawa

II

THE SECRETARY OF STATE
FOR EXTERNAL AFFAIRS

SECRÉTAIRE D'ÉTAT
AUX AFFAIRES EXTÉRIEURES

CANADA

Ottawa, November 25, 1975

No. FLA-706

Sir,

I have the honour to refer to your Note No. 245 of November 24, 1975, concerning operation "Periquito" and the principles which are to apply to the conduct of certain rocket launches and related experiments at Cape Parry, Northwest Territories, through the period ending September 30, 1978.

I wish to advise that the Government of Canada accepts the proposals set forth in your Note and agrees that your Note together with this reply constitutes approval for operation "Periquito" and that the principles contained in this Exchange of Notes shall apply to future Energy Research and Development Administration projects conducted under the terms of the Sandia Corporation contract with the Western Electric Company referred to in your Note, to be conducted at Cape Parry, Northwest Territories, through the period ending September 30, 1978, subject to the approval of the Government of Canada as to the date of each proposed experiment.

I further wish to advise that the Government of Canada agrees that our two Governments undertake consultations at an early date with a view to concluding an agreement of general application regarding the liability aspects of joint and/or cooperative scientific experiments involving rocket launches conducted by an agency of the Government of the United States or of the Government of Canada in the territory of the other and the provisions of which would be made applicable to any and all future scientific programs of this nature, so that such agreement may come into force before the termination of the applicability of the Understanding contained in this Exchange of Notes.

The Government of Canada also accepts that this Understanding between our two Governments shall be applicable from the date of this reply until September 30, 1978, unless modified at an earlier date, after appropriate consultations, by a further Exchange of Notes.

Accept, Sir, the assurance of my highest consideration.

[Signed — Signé]¹

Secretary of State for External Affairs

Mr. William M. Johnson
Chargé d'Affaires ad interim
Embassy of the United States of America
Ottawa

¹ Signed by Allan MacEachen — Signé par Allan MacEachen.