

No. 17235

**UNITED STATES OF AMERICA
and
CANADA**

**Exchange of notes constituting an agreement on peaceful
nuclear co-operation concerning civil uses of atomic
energy. Ottawa, 15 November 1977**

Authentic texts: English and French.

Registered by the United States of America on 24 November 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
CANADA**

**Échange de notes constituant un accord sur la coopération
pacifique dans le domaine nucléaire relative à l'emploi
de l'énergie atomique à des fins civiles. Ottawa, 15 no-
vembre 1977**

Textes authentiques : anglais et français.

Enregistré par les États-Unis d'Amérique le 24 novembre 1978.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA ON PEACEFUL NUCLEAR CO-OPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY

ÉCHANGE DE NOTES CONSTITUANT UN ACCORD¹ ENTRE LES ÉTATS-UNIS D'AMÉRIQUE ET LE CANADA SUR LA COOPÉRATION PACIFIQUE DANS LE DOMAINE NUCLÉAIRE RELATIVE À L'EMPLOI DE L'ÉNERGIE ATOMIQUE À DES FINS CIVILES

I

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

Ottawa, November 15, 1977

No. 297

Sir:

I refer the Minister of External Affairs to the Agreement for co-operation concerning civil uses of atomic energy between the Government of the United States of America and the Government of Canada, signed on June 15, 1955,² as amended,³ hereinafter referred to as the 1955 Cooperation Agreement.

I wish to acknowledge Canada's leadership role in the field of preventing nuclear proliferation. Both Canada and the United States are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.⁴ Both countries have committed themselves to ensure that any source materials, special nuclear materials, equipment or heavy water transferred pursuant to the 1955 Cooperation Agreement, including all materials transferred pursuant to the Agreement embodied in the Exchange of Notes which entered into force on March 25, 1976,⁵ and including such items subsequently retransferred pursuant to agreements for cooperation between the United States and other nations, and any special nuclear materials produced therefrom, including subsequent generations derived from the above-mentioned special nuclear materials shall not be used for research on or development of any nuclear explosive device or for any other military purpose. They have also committed themselves to ensure that such materials and equipment are subject to the application of IAEA safeguards. While such materials and equipment are within the United States, the United States intends to implement this commitment pursuant to an agreement with the International Atomic Energy Agency for the application of safeguards in the United States. Further, both have committed themselves to ensure that adequate physical protection is

¹ Came into force on 15 November 1977, the date of the note in reply, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 235, p. 175.

³ *Ibid.*, vol. 279, p. 318; vol. 377, p. 412, and vol. 453, p. 362.

⁴ *Ibid.*, vol. 729, p. 161.

⁵ See "Exchange of notes constituting an interim arrangement relating to atomic energy: application of safeguards to uranium from Canada, Ottawa, 18 and 25 March 1976", *ibid.*, vol. 1039, p. 309.

¹ Entré en vigueur le 15 novembre 1977, date de la note de réponse, conformément aux dispositions desdites notes.

applied to all such materials or equipment, taking into account the measures set forth in INFCIRC/225 (revised). These are enduring commitments.

The United States is prepared to begin renegotiation of the 1955 Cooperation Agreement with Canada immediately, with a view to prompt conclusion of a new agreement. The United States proposes that the Agreement embodied in the Exchange of Notes between the United States and Canada, which entered into force on March 25, 1976, as complemented by this Exchange of Notes, remains in force until the renegotiated agreement for cooperation enters into force. During this period, source materials and special nuclear materials transferred pursuant to the 1955 Cooperation Agreement, including all materials transferred pursuant to the Agreement embodied in the Exchange of Notes which entered into force on March 25, 1976, and any special nuclear material produced therefrom, including subsequent generations derived from such special nuclear materials, may be transferred only to fuel fabrication, conversion, reactor and spent fuel storage facilities in the United States, provided that such material shall not be transferred beyond the jurisdiction of the United States nor shall any such materials be reprocessed, unless the Parties agree to such retransfer or reprocessing. While such material is held at such facilities, arrangements of a mutually satisfactory nature shall be made between Canada and the United States to ensure compliance with the provisions of these Exchanges of Notes.

Pending the entry into force of a renegotiated agreement for cooperation, the United States proposes the following understandings, in addition to the agreements set forth in the 1955 Cooperation Agreement and that which came into force on March 25, 1976, pursuant to the Exchange of Notes:

(1) Source materials, special nuclear materials, production facilities, utilization facilities, equipment and devices, and heavy water, hereafter transferred pursuant to the 1955 Cooperation Agreement, and all materials transferred pursuant to the Agreement embodied in the Exchange of Notes which entered into force on March 25, 1976, or as may otherwise be agreed and any special nuclear materials produced therefrom including subsequent generations derived from such special nuclear materials shall not be transferred to unauthorized persons and shall not be transferred beyond the jurisdiction of either Party to the Agreement, unless the prior approval of the other Party is obtained.

(2) The United States shall not exercise any rights it has to approve the further retransfer or enrichment of such materials, equipment, and heavy water and shall not exercise any rights it has to approve the further retransfer, reprocessing or other alteration in form or content, of irradiated fuel elements containing special nuclear materials produced through the use of such materials, equipment, and heavy water so transferred beyond its jurisdiction including subsequent generations derived from such special nuclear materials, unless Canadian approval is obtained in advance. This applies only where the country requesting approval has notified the United States that Canada has this right or its equivalent. In the event that the United States is not so notified, the United States shall consult with Canada prior to granting such approval.

(3) Source materials and special nuclear materials transferred hereafter pursuant to the 1955 Cooperation Agreement, and all materials transferred pursuant to the Agreement embodied in the Exchange of Notes which entered into force on March 25, 1976, or as may otherwise be agreed, and special nuclear materials produced through the use of such materials shall not be reprocessed, and irradiated fuel elements containing the foregoing special nuclear materials removed from a reactor shall not be altered in form or in content by either Party, unless the prior approval of the other Party is obtained for such reprocessing or alteration.

In addition to the foregoing, it is the understanding of the United States that neither Party shall enrich materials referred to above after transfer to greater than twenty percent in the uranium isotope 235 or 233 unless prior approval of the other Party is obtained.

The United States is aware that, in addition to the sensitive technologies subject to the guidelines of the Nuclear Suppliers Group to which both countries have subscribed, the Canadian Government will not export from Canada nuclear reactor and certain other technologies and certain items of equipment without safeguards and controls and that appropriate provisions dealing with such technology and equipment will accordingly form part of the negotiation of the new Agreement for Cooperation between Canada and the United States.

I have the honor to propose that this Note and your reply confirming the foregoing, which complements the Agreement embodied in the Exchange of Notes which entered into force on March 25, 1976 (copy attached), shall constitute an agreement between our two Governments and shall enter into force on the date of your reply and shall remain in force thereafter until a new agreement for cooperation concerning civil uses of atomic energy enters into force.

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

Attachment:

Exchange of Notes which entered into force March 25,
1976 (Embassy Note No. 59 and External Affairs Note
No. ECT-551)

THOMAS O. ENDERS

The Honorable Donald C. Jamieson, P.C., M.P.
Secretary of State for External Affairs
Ottawa

[TRADUCTION — TRANSLATION]

*L'Ambassadeur des Etats-Unis d'Amérique au Secrétaire d'Etat
aux affaires extérieures du Canada*

Ottawa, le 15 novembre 1977

N° 297

Excellence,

[*Voir note II*]

Veillez agréer, Excellence, etc.

Pièces jointes :

Echange de notes qui est entré en vigueur le 25 mars
1976 (note de l'Ambassade n° 59 et note des affaires
extérieures n° ECT-551)

THOMAS O. ENDERS

Monsieur Donald C. Jamieson, P.C. M.P.
Secrétaire d'Etat aux affaires extérieures
Ottawa

II

Ottawa, November 15, 1977

No. ECW-817

Excellency,

I have the honour to refer to Your Excellency's Note No. 297 of November 15, 1977, which states:

[See note I]

The Canadian Government confirms the understandings set out in Your Excellency's Note, in addition to the agreements set forth in the 1955 Cooperation Agreement and that in the Exchange of Notes of March 18 and 25, 1976. (A copy of the Exchange of Notes is attached.)

The Canadian Government accepts your proposal that Your Excellency's Note, which is authentic in English, and this reply, which is authentic in English and French, shall constitute an agreement between our two Governments and shall enter into force on the date of this reply and shall remain in force thereafter until a new agreement for cooperation concerning civil uses for atomic energy enters into force.

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

[Signed]¹
Secretary of State
for External Affairs

His Excellency Thomas O. Enders
Ambassador of the United States of America
Ottawa

Ottawa, le 15 novembre 1977

N° ECW-817

Excellence,

J'ai l'honneur de me référer à votre Note n° 297 du 15 novembre 1977, qui se lit comme suit :

«Je réfère le Secrétaire d'Etat aux affaires extérieures à l'Accord de coopération concernant les emplois civils de l'énergie atomique entre le Gouvernement des Etats-Unis d'Amérique et le Gouvernement du Canada, signé le 15 juin 1955², tel qu'amendé³, ci-après appelé Accord de coopération de 1955.

«Je tiens à reconnaître le rôle de chef de file du Canada en matière de prévention de la prolifération nucléaire. Le Canada et les Etats-Unis sont tous deux Parties au Traité sur la non-prolifération des armes nucléaires⁴. Les deux pays ont pris l'engagement de veiller à ce que les matières brutes, les produits fissiles spéciaux, le matériel ou l'eau lourde transférés conformément à l'Accord de coopération de 1955, y compris toutes les matières transférées conformément à l'accord consacré par l'Echange de notes entré en vigueur le 25 mars 1976⁵, y compris les articles qui ont fait l'objet d'un retransfert ultérieur conformément aux accords de coopération entre

¹ Signed by Don C. Jamieson.

² Nations Unies, *Recueil des Traités*, vol. 235, p. 175.

³ *Ibid.*, vol. 279, p. 318; vol. 377, p. 412, et vol. 453, p. 362.

⁴ *Ibid.*, vol. 729, p. 161.

⁵ Voir «Echange de notes constituant un arrangement intérimaire relatif à l'énergie atomique : application de garanties à l'uranium d'origine canadienne, Ottawa, 18 et 25 mars 1976», *ibid.*, vol. 1039, p. 309.