

No. 21009

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**UNITED STATES OF AMERICA  
and  
CANADA**

**Memorandum of Intent constituting an agreement concerning transboundary air pollution (with annex).  
Signed at Washington on 5 August 1980**

*Authentic texts: English and French.*

*Registered by the United States of America on 15 April 1982.*

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**ÉTATS-UNIS D'AMÉRIQUE  
et  
CANADA**

**Mémoire déclaratif d'intention constituant un accord concernant la pollution atmosphérique transfrontière (avec annexe). Signé à Washington le 5 août 1980**

*Textes authentiques : anglais et français.*

*Enregistré par les États-Unis d'Amérique le 15 avril 1982.*

## MEMORANDUM OF INTENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA CONCERNING TRANSBOUNDARY AIR POLLUTION

The Government of the United States of America and the Government of Canada,

Share a concern about actual and potential damage resulting from transboundary air pollution, (which is the short and long range transport of air pollutants between their countries), including the already serious problem of acid rain;

Recognize this is an important and urgent bilateral problem as it involves the flow of air pollutants in both directions across the international boundary, especially the long range transport of air pollutants;

Share also a common determination to combat transboundary air pollution in keeping with their existing international rights, obligations, commitments and cooperative practices, including those set forth in the 1909 Boundary Waters Treaty,<sup>2</sup> the 1972 Stockholm Declaration on the Human Environment,<sup>3</sup> the 1978 Great Lakes Water Quality Agreement,<sup>4</sup> and the 1979 ECE Convention on Long Range Transboundary Air Pollution;<sup>5</sup>

Undertook in July 1979 to develop a bilateral cooperative agreement on air quality which would deal effectively with transboundary air pollution;

Are resolved as a matter of priority both to improve scientific understanding of the long range transport of air pollutants and its effects and to develop and implement policies, practices and technologies to combat its impact;

Are resolved to protect the environment in harmony with measures to meet energy needs and other national objectives;

Note scientific findings which indicate that continued pollutant loadings will result in extensive acidification in geologically sensitive areas during the coming years, and that increased pollutant loadings will accelerate this process;

Are concerned that environmental stress could be increased if action is not taken to reduce transboundary air pollution;

Are convinced that the best means to protect the environment from the effects of transboundary air pollution is through the achievement of necessary reductions in pollutant loadings;

Are convinced also that this common problem requires cooperative action by both countries;

Intend to increase bilateral cooperative action to deal effectively with transboundary air pollution, including acid rain.

<sup>1</sup> Came into force on 5 August 1980 by signature, in accordance with section 4 (c).

<sup>2</sup> Bevens, *Treaties and Other International Agreements of the United States of America, 1776-1949*, Volume 12 (Department of State publication 8761, 1974), p. 319.

<sup>3</sup> *Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972* (United Nations publication, A/CONF.48/2, Sales No. E.73.II.A.14), p. 2.

<sup>4</sup> United Nations, *Treaty Series*, vol. 1153, No. I-18177.

<sup>5</sup> *Ibid.*, vol. 1302, No. I-21623.

In particular, the Government of the United States of America and the Government of Canada intend:

1. To develop a bilateral agreement which will reflect and further the development of effective domestic control programs and other measures to combat transboundary air pollution;
2. To facilitate the conclusion of such an agreement as soon as possible; and,
3. Pending conclusion of such an agreement, to take interim actions available under current authority to combat transboundary air pollution.

The specific undertakings of both Governments at this time are outlined below.

#### INTERIM ACTIONS

1. *Transboundary Air Pollution Agreement.* Further to their Joint Statement of July 26, 1979, and subsequent bilateral discussions, both Governments shall take all necessary steps forthwith:

- (a) To establish a United States/Canada Coordinating Committee which will undertake preparatory discussions immediately and commence formal negotiations no later than June 1, 1981, of a cooperative agreement on transboundary air pollution; and
- (b) To provide the necessary resources for the Committee to carry out its work, including the working group structure as set forth in the Annex. Members will be appointed to the work groups by each Government as soon as possible.

2. *Control Measures.* To combat transboundary air pollution both Governments shall:

- (a) Develop domestic air pollution control policies and strategies, and as necessary and appropriate, seek legislative or other support to give effect to them;
- (b) Promote vigorous enforcement of existing laws and regulations as they require limitation of emissions from new, substantially modified and existing facilities in a way which is responsive to the problems of transboundary air pollution; and
- (c) Share information and consult on actions being taken pursuant to (a) and (b) above.

3. *Notification and Consultation.* Both Governments shall continue and expand their long-standing practice of advance notification and consultation on proposed actions involving a significant risk or potential risk of causing or increasing transboundary air pollution, including:

- (a) Proposed major industrial development or other actions which may cause significant increases in transboundary air pollution; and
- (b) Proposed changes of policy, regulations or practices which may significantly affect transboundary air pollution.

4. *Scientific Information, Research and Development.* In order to improve understanding of their common problem and to increase their capability for controlling transboundary air pollution both Governments shall:

- (a) Exchange information generated in research programs being undertaken in both countries on the atmospheric aspects of the transport of air pollutants

and on their effects on aquatic and terrestrial ecosystems and on human health and property;

- (b) Maintain and further develop a coordinated program for monitoring and evaluation of the impacts of transboundary air pollution, including the maintenance of a United States/Canada sampling network and exchange of data on current and projected emissions of major air pollutants; and
- (c) Continue to exchange information on research to develop improved technologies for reducing emissions of major air pollutants of concern.

The Memorandum of Intent will become effective on signature and will remain in effect until revised by mutual agreement.

DONE in duplicate at Washington, this fifth day of August, 1980, in the English and French languages, both texts being equally authoritative.

For the Government  
of United States of America:

[Signed]<sup>1</sup>

[Signed]<sup>2</sup>

For the Government  
of Canada:

[Signed]<sup>3</sup>

[Signed]<sup>4</sup>

## A N N E X

### WORK GROUP STRUCTURE FOR NEGOTIATION OF A TRANSBOUNDARY AIR POLLUTION AGREEMENT

#### I. PURPOSE

To establish technical and scientific work groups to assist in preparations for and the conduct of negotiations on a bilateral transboundary air pollution agreement. These groups shall include:

1. Impact Assessment Work Group
2. Atmospheric Modelling Work Group
- 3A. Strategies Development and Implementation Work Group
- 3B. Emissions, Costs and Engineering Assessment Subgroup
4. Legal, Institutional Arrangements and Drafting Work Group

#### II. TERMS OF REFERENCE

##### A. General

1. The Work Groups shall function under the general direction and policy guidance of a United States/Canada Coordinating Committee co-chaired by the Department of External Affairs and the Department of State.

2. The Work Groups shall provide reports assembling and analyzing information and identifying measures as outlined in Part B below, which will provide the basis of proposals for inclusion in a transboundary air pollution agreement. These reports shall be provided by January 1982 and shall be based on available information.

<sup>1</sup> Signed by Edmund S. Muskie.

<sup>2</sup> Signed by Douglas M. Costle.

<sup>3</sup> Signed by P. M. Towe.

<sup>4</sup> Signed by John Roberts.

3. Within one month of the establishment of the Work Groups, they shall submit to the United States/Canada Coordinating Committee a work plan to accomplish the specific tasks outlined in Part B, below. Additionally, each Work Group shall submit an interim report by January 15, 1981.

4. During the course of negotiations and under the general direction and policy guidance of the Coordinating Committee, the Work Groups shall assist the Coordinating Committee as required.

5. Nothing in the foregoing shall preclude subsequent alteration of the tasks of the Work Groups or the establishment of additional Work Groups as may be agreed upon by the Governments.

#### B. *Specific*

The specific tasks of the Work Groups are set forth below.

1. *Impact Assessment Work Group.* The Group will provide information on the current and projected impact of air pollutants on sensitive receptor areas, and prepare proposals for the "Research, Modelling and Monitoring" element of an agreement.

In carrying out this work, the Group will:

- Identify and assess physical and biological consequences possibly related to transboundary air pollution;
- Determine the present status of physical and biological indicators which characterize the ecological stability of each sensitive area identified;
- Review available data bases to establish more accurately historic adverse environmental impacts;
- Determine the current adverse environmental impact within identified sensitive areas—annual, seasonal and episodic;
- Determine the release of residues potentially related to transboundary air pollution, including possible episodic release from snowpack melt in sensitive areas;
- Assess the years remaining before significant ecological changes are sustained within identified sensitive areas;
- Propose reductions in the air pollutant deposition rates—annual, seasonal and episodic—which would be necessary to protect identified sensitive areas; and
- Prepare proposals for the "Research, Modelling and Monitoring" element of an agreement.

2. *Atmospheric Modelling Work Group.* The Group will provide information based on cooperative atmospheric modelling activities leading to an understanding of the transport of air pollutants between source regions and sensitive areas, and prepare proposals for the "Research, Modelling and Monitoring" element of an agreement. As a first priority the Group will by October 1, 1980 provide initial guidance on suitable atmospheric transport models to be used in preliminary assessment activities.

In carrying out its work, the Group will:

- Identify source regions and applicable emission data bases;
- Evaluate and select atmospheric transport models and data bases to be used;
- Relate emissions from the source regions to loadings in each identified sensitive area;
- Calculate emission reductions required from source regions to achieve proposed reductions in air pollutant concentration and deposition rates which would be necessary in order to protect sensitive areas;
- Assess historic trends of emissions, ambient concentrations and atmospheric deposition trends to gain further insights into source receptor relationships for air quality, including deposition; and

—Prepare proposals for the “Research, Modelling and Monitoring” element of an agreement.

3A. *Strategies Development and Implementation Work Group.* The Group will identify, assess and propose options for the “Control” element of an agreement. Subject to the overall direction of the Coordinating Committee, it will be responsible also for coordination of the activities of Work Groups I and II. It will have one subgroup.

In carrying out its work, the Group will:

- Prepare various strategy packages for the Coordinating Committee designed to achieve proposed emission reductions;
- Coordinate with other Work Groups to increase the effectiveness of these packages;
- Identify monitoring requirements for the implementation of any tentatively agreed-upon emission-reduction strategy for each country;
- Propose additional means to further coordinate the air quality programs of the two countries; and
- Prepare proposals relating to the actions each Government would need to take to implement the various strategy options.

3B. *Emissions, Costs and Engineering Assessment Subgroup.* This Subgroup will provide support to the development of the “Control” element of an agreement. It will also prepare proposals for the “Applied Research and Development” element of an agreement.

In carrying out its work, the Subgroup will:

- Identify control technologies, which are available presently or in the near future, and their associated costs;
- Review available data bases in order to establish improved historical emission trends for defined source regions;
- Determine current emission rates from defined source regions;
- Project future emission rates from defined source regions for most probable economic growth and pollution control conditions;
- Project future emission rates resulting from the implementation of proposed strategy packages, and associated costs of implementing the proposed strategy packages; and
- Prepare proposals for the “Applied Research and Development” element of an agreement.

4. *Legal, Institutional and Drafting Work Group.* The Group will:

- Develop the legal elements of an agreement such as notification and consultation, equal access, non-discrimination, liability and compensation;
  - Propose institutional arrangements needed to give effect to an agreement and monitor its implementation; and
  - Review proposals of the Work Groups and refine language of draft provisions of an agreement.
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