

No. 24241

**AUSTRALIA
and
UNITED STATES OF AMERICA**

Exchange of notes constituting an agreement relating to the use of balloon launching facilities for long duration flights beyond Australia for scientific purposes. Canberra, 24 January and 24 July 1985

Authentic text: English.

Registered by Australia on 7 July 1986.

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

Échange de notes constituant un accord concernant l'utilisation d'installations de lancement d'aérostats pour vols de longue durée au-delà de l'Australie à des fins scientifiques. Canberra, 24 janvier et 24 juillet 1985

Texte authentique : anglais.

Enregistré par l'Australie le 7 juillet 1986.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA RELATING TO THE USE OF BALLOON LAUNCHING FACILITIES FOR LONG DURATION FLIGHTS BEYOND AUSTRALIA FOR SCIENTIFIC PURPOSES

I

EMBASSY OF THE UNITED STATES OF AMERICA

Note No. 13

The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs and has the honor to refer to the Agreement between the Government of the United States and the Government of Australia concerning Space Vehicle Tracking and Communications Facilities dated May 29, 1980,² and amended July 21, 1981.³

In accordance with the spirit of cooperation inherent in that Agreement and with particular reference to paragraph 2(3), a Cooperating Agency Arrangement was signed in Washington on June 27, 1984 and in Canberra on July 9, 1984 and was confirmed by an Exchange of Notes completed October 18, 1984⁴ constituting an Agreement between the two Governments. The Arrangement provided for the use by the National Aeronautics and Space Administration (NASA) of the United States of America of balloon launching facilities located in Australia for flights within Australia of balloons for scientific purposes. That Arrangement foreshadowed the need for consultations to determine the arrangements which would apply to the launching of balloons by NASA when it is planned that the balloons will fly beyond Australia. Having regard to these consultations which have now been held on this matter, the Embassy has the honor to propose that the following apply to the use of those facilities by NASA for such long duration balloon flights beyond Australia for scientific purposes.

1. The allocation of technical and operational responsibility with respect to launchings, the financial arrangements in relation to the programs (which arrangements shall be subject to the respective funding procedures of each Party), the provisions of facilities and services for balloon launching, tracking and telemetering of information from each balloon, the recording and sharing of information from each balloon and the publication of information concerning the program shall be as mutually determined by the National Aeronautics and Space Administration, the cooperating agency of the Government of the United States of America, and the Department of Science, the cooperating agency of the Government of Australia, and set out in an implementing arrangement.

¹ Came into force on 24 July 1985, the date of the note in reply, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 1217, p. 237.

³ *Ibid.*, vol. 1368, p. 317.

⁴ *Ibid.*, vol. 1425, No. I-24085.

2. The paragraphs 3 to 12 of the Agreement of May 29, 1980 between the two governments shall apply *mutatis mutandis* with respect to activities conducted under this Agreement.

3. The Government of the United States shall coordinate any necessary support activities with other countries and shall comply with the relevant provisions of Article 8 of the Convention on International Civil Aviation¹ (hereinafter referred to as the Convention), in particular the conditions relating to unmanned free balloon flights which are set out in Appendix D, Annex 2 to the Convention.

4. The Australian Department of Science may, on receiving advice from NASA that all steps required by Article 8 of the Convention have been taken, permit each balloon flight in accordance with the program determined by the cooperating agencies.

5. In the event of the premature termination of a flight in another country, the Government of the United States shall be responsible for recovery of the balloon or its payload. Recovery operations shall be conducted according to the laws and regulations of the country concerned.

6. The Government of the United States shall hold harmless the Government of Australia, with respect to meritorious third party claims for all injury or damage beyond Australia's territorial jurisdiction occasioned by balloon flights under this Agreement. The Government of the United States shall deal with all claims arising in this regard.

7. For all injury or damage within Australia's territorial jurisdiction occasioned by balloon flights under this Agreement the provisions relating to liability in the Exchange of Notes constituting an Agreement between the two Governments and completed on October 18, 1984 shall apply.

The Embassy of the United States has the honor to propose that if the foregoing is acceptable to the Government of Australia this Note, together with the Department's confirmatory reply, shall constitute an Agreement between the Government of the United States of America and the Government of Australia on this matter, which shall enter into force on the date of the Department's reply. The Agreement shall remain in force for five years or until terminated by either Government on the expiration of three months notice in writing to the other Government.

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

Embassy of the United States of America
Canberra, January 24, 1985

¹ United Nations, *Treaty Series*, vol. 15, p. 295. For the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161; vol. 514, p. 209; vol. 740, p. 21; vol. 893, p. 117; vol. 958, p. 217; vol. 1008, p. 213, and vol. 1175, p. 297.

II

1628/30/13
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The Department of Foreign 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. 13 of 24 January 1985, which reads as follows:

[See note I]

The Department has the honour to inform the Embassy that the foregoing is acceptable to the Government of Australia and to confirm that the Embassy's Note and this confirmatory Note in reply shall together constitute and evidence an Agreement on the matter between the Government of Australia and the Government of the United States of America, which shall enter into force on today's date and shall remain in force for five years or until terminated by either Government on the expiration of three months notice in writing to the other Government.

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

Canberra, A.C.T., 2600, 24 July 1985