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AUSTRALIA
and
UNITED STATES OF AMERICA

**Exchange of notes constituting an agreement concerning the
conduct of the Equatorial Mesoscale Experiment. Can-
berra, 5 January 1987**

Authentic text: English.

Registered by Australia on 10 December 1987.

AUSTRALIE
et
ÉTATS-UNIS D'AMÉRIQUE

**Échange de notes constituant un accord relatif aux expérien-
ces dans la mésosphère équatoriale. Canberra, 5 janvier
1987**

Texte authentique : anglais.

Enregistré par l'Australie le 10 décembre 1987.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING THE CONDUCT OF THE EQUATORIAL MESOSCALE EXPERIMENT

I

MINISTER FOR SCIENCE
PARLIAMENT HOUSE
CANBERRA

5 January 1987

Your Excellency,

I have the honour to refer to discussions held between representatives of our two Governments concerning the conduct in northern Australia and adjacent oceanic areas during January and February, 1987, of a program of meteorological experiments known as the Equatorial Mesoscale Experiment (the "Project").

I propose that the project be carried out on the following terms:

1. The objective of the Project is the exclusively meteorological one of collection and analysis of data to define the vertical profile of atmospheric heating produced by cloud clusters in the region.

2. The two Governments, through their competent agencies, shall cooperate as necessary in relation to the Project.

3. The Government of the United States shall provide to the Government of Australia, and to all other countries in whose airspace the aircraft referred to in paragraph 7 will operate, full details of activities under the Project. In addition, the Government of the United States shall provide to the Government of Australia such other information as is necessary for the Government of Australia to meet its obligations under this Agreement.

4. The Government of the United States shall, in accordance with international practice, obtain the necessary overflight clearances from any third State in whose airspace the aircraft referred to in paragraph 7 may operate in carrying out Project experiments.

5. Within Australia's territorial jurisdiction, the Project shall be conducted in accordance with the laws and regulations of Australia. The Government of Australia shall facilitate compliance by the United States competent agencies with Australian laws and regulations.

6. The two Governments shall seek to co-ordinate the Project with the Australian Monsoon Experiment (AMEX) and with other related airborne experiments to be conducted in the same region at the same time, with a view to

¹ Came into force on 5 January 1987, the date of the note in reply, in accordance with the provisions of the said notes.

the generation of large, complementary data sets, each of which can aid the other experiment both in operations and in post-mission analysis.

7. In undertaking the Project, the Government of the United States shall use its best efforts:

- (a) Through the National Science Foundation (NSF) to provide the NSF Electra aircraft; and
- (b) Through the National Oceanic and Atmospheric Administration (NOAA) to provide the NOAA WP-3D aircraft.

Each aircraft shall carry state-of-the-art meteorological instrumentation.

8. The Government of Australia shall use its best efforts to:

- (a) Provide hangar space at the Royal Australian Air Force Base, Darwin, for corrective maintenance to the aircraft referred to in paragraph 7 engaged in the Project and suitable working accommodations for the United States pilots and scientists engaged in the Project;
- (b) Secure, in advance, alternative landing sites for the aircraft referred to in paragraph 7 in the event that it is not possible for these aircraft to land at Darwin;
- (c) Make arrangements with the authorities at the Royal Australian Air Force Base, Darwin, for any special requirements for the deployment of the aircraft referred to in paragraph 7; and
- (d) Protect United States equipment admitted into Australia in connection with activities under this Agreement.

9. The Government of Australia through the Bureau of Meteorology (the Bureau) shall use its best efforts to:

- (a) Assist the competent United States agencies to arrange ground-to-air radio communications for use in transmitting information;
- (b) Provide to the competent United States agencies in real time, data from the Bureau's routine radiosonde network and seven temporary observing sites; and
- (c) Assist the competent United States agencies to acquire data from the Japanese Geostationary Meteorological Satellite.

10. Each Government through its competent agencies shall provide to the other, from the data generated by the Project, such data as the other Government through its competent agencies may request for scientific studies it may wish to carry out.

11. The results of all studies referred to in paragraph 10 above shall be made available without restriction to the competent agencies of both Governments.

12. The data and the results of studies undertaken by NSF, NOAA or the Bureau on the basis of those data shall be made available to the international scientific community in general.

13. Each Government shall have a royalty-free right to reproduce or use the results of the studies referred to in paragraph 10 for its own purposes where the owner or potential owner of the copyright is one of the agencies referred to in paragraph 12 or the Government with which that agency is associated.

14. Each Government may release to the public information concerning the nature and extent of its role in the Project. Neither Government shall, however, release information on the activities of the other Government in relation to the Project without first consulting that Government.

15. Each Government shall bear its own costs in conducting the Project, including costs associated with the support of operating personnel and the movement of equipment. It is understood that the ability of the two Governments to carry out their obligations under this Agreement is subject to their respective funding procedures.

16. The Government of Australia shall, in accordance with its laws, regulations and procedures, facilitate the admission into and exit from Australia of persons not normally resident in Australia employed or engaged as staff, consultants or contractors by the Government of the United States or its competent agencies in connection with the activities under this Agreement.

17. The Government of Australia shall not require that the Government of the United States pay air navigation charges including landing and parking fees for the aircraft referred to in paragraph 7 in connection with the activities under this Agreement.

18. The Government of Australia shall facilitate the admission into Australia of all equipment, materials, supplies and other property provided by or on behalf of the Government of the United States in connection with activities under this Agreement. No duties, taxes or like charges shall be levied on such property of a scientific nature which is certified by the Government of the United States to be imported for use in such activities.

19. (a) Neither the Government of Australia, nor the Government of the United States shall make claims against the other for any injury to, or death of, its employees, its contractors or subcontractors or their employees, or for any damage to its property or the property of its contractors or subcontractors, resulting from activities carried out under this Agreement, whether such injury, death or damage arises through negligence or otherwise.

b) The Government of the United States shall be responsible for and pay or compensate meritorious third party claims, including claims brought against the Government of Australia, for personal injury (including death), or damage to or loss of property caused by its agencies or their employees, contractors or subcontractors beyond or within Australia's territorial jurisdiction resulting from the activities carried out under this Agreement. The Government of Australia recognizes that any payments required of the Government of the United States shall be contingent upon the appropriation of specific funds for this purpose by the Congress of the United States. For the purpose of this sub-paragraph, meritorious claims include judgements awarded by Courts of competent jurisdiction.

c) If any claim, demand, or legal action is brought against the Government of Australia for any death, injury, damage or loss, referred to in sub-paragraph b) of this paragraph, the Government of Australia agrees to notify the Government of the United States within one calendar month of the receipt thereof. The Government of the United States shall be afforded the opportunity to assist the Government of Australia in the defense of any such action by providing information and advice.

20. The Governments shall, at the request of either, consult each other with a view to resolving any difficulties that arise in the implementation of this Agreement and to consider any proposal to amend this Agreement.

I have the honour to propose that, if the foregoing is acceptable to the Government of the United States, this Note and your confirmatory Note in reply shall together constitute an Agreement between the Government of Australia and the Government of the United States of America on the matter, which shall enter into force on the date of your reply and shall remain in force for 10 years.

I avail myself of this opportunity to extend to your Excellency the assurance of my highest consideration.

[Signed]

BARRY O. JONES

II

EMBASSY OF THE UNITED STATES OF AMERICA

January 5, 1987

Sir,

I have the honor to refer to your note of January 4, 1987, which reads as follows:

[See note I]

I have the honor to inform you that the foregoing is acceptable to the Government of the United States of America and to confirm that your Note and this confirmatory Note in reply shall together constitute an Agreement on the matter between the Government of the United States of America and the Government of Australia, which shall enter into force on the date of this reply and shall remain in force for 10 years.

Accept, Sir, the assurance of my highest consideration.

[Signed]

LAURENCE WILLIAM LANE, Jr.
American Ambassador to Australia

The Honorable Barry O. Jones, M.P.
Minister of Science

III

EMBASSY OF THE UNITED STATES OF AMERICA
CANBERRA, AUSTRALIA

January 5, 1987

Dear Mr. Minister:

The Embassy of the United States of America wishes to provide the Government of Australia further information on paragraph 19 of the Agreement relating to the Equatorial Mesoscale Experiment (EMEX). In the event of claims for which the Government of the United States is responsible under paragraph 19(b), settlement is contingent upon the enactment of legislation by the United States Congress to authorize the National Oceanic and Atmospheric Administration (NOAA) and/or the National Science Foundation (NSF), as the case may be, shall make best efforts to obtain the necessary legislation and appropriation when appropriate.

Sincerely yours,

[Signed]

LAURENCE WILLIAM LANE, Jr.
American Ambassador to AustraliaThe Honorable Barry O. Jones, M.P.
Minister of Science