

No. 25490

**AUSTRALIA
and
FEDERAL REPUBLIC OF GERMANY**

**Exchange of notes constituting an agreement on the
launching of sounding rockets. Canberra, 20 August
1987**

Authentic texts: English and German.

Registered by Australia on 10 December 1987.

**AUSTRALIE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Échange de notes constituant un accord relatif au lancement
de fusées-sondes. Canberra, 20 août 1987**

Textes authentiques : anglais et allemand.

Enregistré par l'Australie le 10 décembre 1987.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY ON THE LAUNCHING OF SOUNDING ROCKETS

I

MINISTER FOR SCIENCE AND SMALL BUSINESS
PARLIAMENT HOUSE
CANBERRA

20 August 1987

Sir,

I have the honour to refer to discussions held between representatives of our two Governments concerning a program of co-operation on the use by the Government of the Federal Republic of Germany of facilities in Australia for the launching, tracking and recovery of sounding rockets and their payloads.

In the spirit of the Agreement relating to scientific and technical co-operation between Australia and the Federal Republic of Germany, signed on 24 August 1976,² I have the honour to propose that the program be carried out in accordance with the following provisions:

1. The objective of the program is the launching of sounding rockets carrying payloads from Woomera or other sites for scientific purposes.

2. The program shall be conducted by designated Co-operation Agencies ("the Agencies") of each Government. For the Government of Australia the Co-operating Agency shall be the Department of Industry, Technology and Commerce ("the Department"). For the Government of the Federal Republic of Germany the Co-operating Agency shall be the Deutsche Forschungs- und Versuchsanstalt für Luft- und Raumfahrt ("DFVLR"). The Agencies shall consult and co-operate as necessary in relation to the program.

3. Each operation under this Agreement shall be subject to the prior written approval of the Department. The Government of the Federal Republic of Germany shall provide to the Government of Australia full details in writing of any proposed operations, including details of the involvement of nationals or institutions of third parties.

4. Each Government shall provide to the other such information as may be necessary for the other Government to meet its obligations under this Agreement.

5. The extent of the information required from either Government under paragraphs 3 and 4, and the time and manner of its conveyance, shall be mutually determined by the Agencies.

¹ Came into force on 20 August 1987, the date of the note in reply, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 1074, p. 77.

6. Each Agency shall designate a project manager to be responsible for coordinating the agreed functions and responsibilities of each Agency in the implementation of this Agreement.

7. Within Australia's territorial jurisdiction, all operations shall be conducted in accordance with the laws and regulations of Australia. The Government of Australia shall facilitate compliance by the DFVLR with Australian laws and regulations, in particular those relating to the regulation of sounding rocket flights.

8. The Government of the Federal Republic of Germany shall bear the costs of mutually agreed work performed under this Agreement, including operations or launches which are cancelled, abandoned, aborted or are unsuccessful, and including construction or modification of necessary facilities. However, this shall not include those costs of Australian personnel due to delays resulting from the failure of Australian equipment. Payments shall be made in a manner to be mutually determined by the Co-operating Agencies.

9. The ability of the DFVLR and the Department to carry out these arrangements will be subject to their respective funding procedures and the availability of funds.

10. The following matters shall be mutually agreed on a project-to-project basis:

- The provision of appropriate sounding rockets, ground support equipment and launching services;
- The provision of payloads and associated instrumentation;
- The conduct of sounding rocket operations, including the launching, tracking and recovery of rockets and data retrieval; and
- Transportation to the launch site of equipment and personnel.

11. The [DFVLR] shall use its best efforts to assist the Department to promote scientific programs to enable Australian scientists to carry out sounding rocket based experiments. Such assistance will be detailed in separate project arrangements between the Co-operating Agencies.

12. 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 Federal Republic of Germany or its Co-operating Agency in connection with operations under this Agreement.

13. 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 Federal Republic of Germany in connection with operations 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 Federal Republic of Germany to be imported for use in such operations. These exemptions from duties, taxes or like charges may not be available in respect of commercial operations under this Agreement.

14. The Department shall use its best efforts to:

- (a) Arrange to make available sounding rocket launch facilities;
- (b) Serve as a liaison with other departments of the Government of Australia to assist in obtaining clearances, licences and permits necessary for all sounding

rocket operations undertaken by the DFVLR including aviation clearances, radio frequency clearances, and clearances to possess, use and transport hazardous materials such as explosives and radioactive components;

- (c) Arrange for mutually agreed construction of such facilities and for such modifications to existing facilities (in accordance with mutually acceptable designs) as are required for the program;
- (d) Provide site services and other support as may be mutually determined, including lodging and subsistence, and maintenance of the facilities and equipment between sounding rocket launching campaigns; and
- (e) Assist in the recovery of sounding rockets and payloads.

Where the Department deems it appropriate, these responsibilities may be carried out by other appropriate institutes or authorities in Australia designated by the Department and notified to the DFVLR.

15. The Department, or its agent, shall be responsible for the overall management and safety of the Range, and shall have the authority to stop any launch operation which, in its opinion, represents a hazard to persons or property.

16. (a) The results of studies undertaken by either Co-operating Agency on the basis of data collected under this Agreement shall be made available to the other on condition that, except as might be otherwise specified in separate project arrangements, the Agency receiving these results shall not publish any work based on these results until the principal investigator has published any work based thereon.

(b) The results of studies undertaken by an Agency on the basis of data collected under this Agreement shall also be made available in due course to the scientific community in general.

(c) The terms for exchange between the Agencies of data collected under this Agreement shall be mutually determined in separate project arrangements.

17. The Government of the Federal Republic of Germany shall allow the Government of Australia to verify the scientific nature of activities carried out under this Agreement.

18. Subject to paragraph 16 above, each Co-operation Agency shall have a royalty-free right to reproduce or publish any work or other copyright matter made under this Agreement and concerning the data or results of studies referred to in paragraph 16 for its own purposes where the owner or potential owner of the copyright is either the other Agency or the Government with which that Agency is associated. The DFVLR shall provide to the Department, on request, copies of reports on the sounding rocket operations carried out under this Agreement.

19. Each Co-operating Agency may release to the public information concerning the nature and extent of its role in operations under this Agreement. The Co-operating Agencies shall not, however, make publicly available information on the activities of the other Agency in relation to any operation without first obtaining the agreement of that Agency.

20. (a) The Government of the Federal Republic of Germany shall indemnify the Australian Government in respect of any loss or damage suffered by the Australian Government resulting from activities of the Government of the Federal Republic of Germany in Australia under this Agreement.

(b) The Government of the Federal Republic of Germany 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 the DFVLR, its employees, contractors or subcontractors within or beyond Australia's territorial jurisdiction, resulting from activities of the Government of the Federal Republic of Germany carried out under this Agreement. The Government of Australia recognises that any payment required of the Government of the Federal Republic of Germany shall be contingent upon the appropriation of specific funds for this purpose. 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 shall notify the Government of the Federal Republic of Germany within one calendar month of the receipt thereof. The Government of the Federal Republic of Germany shall be afforded the opportunity to assist the Government of Australia in the defence of any such action by providing information and advice.

21. This Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of Australia within three months of the date of entry into force of this Agreement.

22. (a) 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.

(b) This Agreement shall remain in force for 5 years, unless terminated by either Government on 90 days' notice in writing.

I have the honour to propose that, if the foregoing is acceptable to the Government of the Federal Republic of Germany, this Note and your confirmatory Note in reply shall together constitute an Agreement between the Government of Australia and the Government of the Federal Republic of Germany on the matter, which shall enter into force on the date of your reply.

I avail myself of this opportunity to extend to you the assurances of my highest consideration.

[Signed]

BARRY O. JONES

Chargé d'Affaires a.i.
Embassy of the Federal Republic
of Germany

[TRANSLATION — TRADUCTION]

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY
CANBERRA
CHARGÉ D'AFFAIRES A.I. OF THE FEDERAL REPUBLIC OF GERMANY

Canberra, 20 August 1987

Sir,

I have the honour to acknowledge receipt of your note of 20 August 1987, in which you propose on behalf of your Government an agreement between the Government of Australia and the Government of the Federal Republic of Germany which reads as follows:

[*See note I*]

I have the honour to inform you that my Government agrees to the proposals contained in your note and to confirm that your note and this reply shall constitute an agreement between our two Governments which will enter into force on the date of this reply. The Government of the Federal Republic of Germany assumes that article 20 (liability clause) will be reviewed in the event that further projects are to be implemented within the framework of this Agreement.

Accept, Sir, etc.

[P. KIEWITT]
Chargé d'affaires a.i.

The Honourable B. O. Jones, M.P.
Minister for Science and Small Business
Parliament House
Canberra