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*The Under-Secretary of State for External Affairs to the
Ambassador of the United States of America to Canada*

DEPARTMENT OF EXTERNAL AFFAIRS

OTTAWA, February 20, 1951.

DEAR MR. AMBASSADOR:

The question has arisen as to the meaning of the words "managed and controlled" as used in Paragraph 2 of Article XII of the Convention of March 4, 1942, between Canada and the United States of America, as amended by Article 1 (g) of the Supplementary Convention of June 12, 1950.

I have consulted with our taxation authorities. It is our view, having regard to presently existing judicial decisions, that, so long as the stock control of the corporation is not in Canada, its directors' meetings and shareholders' meetings are not held in Canada and its "management-control" is not in Canada, the corporation is not managed and controlled in Canada. For this purpose the "management-control" of the corporation is not in Canada if the policies governing the operations and supervision of the corporation are not settled in Canada even though its entire operations are carried on, and such supervision is exercised, in Canada.

It is also our view that the term "resident" as used in Article XII as amended does not include a corporation.

Yours sincerely,

A. D. P. HEENEY

JAMES E. WEBB