

CANADA

TREATY SERIES, 1943

No. 2

EXCHANGE OF NOTES

(January 27, 1943)

BETWEEN

CANADA

AND THE

UNITED STATES OF AMERICA

CONSTITUTING AN AGREEMENT

REGARDING THE

POST-WAR DISPOSITION OF DEFENCE PROJECTS
AND INSTALLATIONS CONSTRUCTED IN CANADA
BY THE GOVERNMENT OF THE UNITED STATES

IN FORCE JANUARY 27, 1943



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1943 SERIES 1943

No. 3

EXCHANGE OF NOTES

January 27, 1943

BETWEEN

CANADA

SUMMARY

	PAGE
I. Note, dated January 27, 1943, from the Chargé d'Affaires ad interim of the United States in Canada, to the Secretary of State for External Affairs of Canada.....	3
II. Note, dated January 27, 1943, from the Secretary of State for External Affairs of Canada, to the United States Chargé d'Affaires ad interim in Canada.....	4

**EXCHANGE OF NOTES (JANUARY 27, 1943) BETWEEN CANADA AND
THE UNITED STATES OF AMERICA CONSTITUTING AN
AGREEMENT REGARDING THE POST-WAR DISPOSITION OF
DEFENCE PROJECTS AND INSTALLATIONS CONSTRUCTED
IN CANADA BY THE GOVERNMENT OF THE UNITED STATES**

I

*The Chargé d'Affaires of the United States
to the Secretary of State for External Affairs of Canada*

LEGATION OF THE UNITED STATES OF AMERICA

Ottawa, January 27, 1943.

No. 827

SIR:

Under instructions from my Government, I have the honor to refer to conversations relating to the post-war disposition of various facilities being or to be constructed in Canada by the Government of the United States.

Although in many instances the Governments of the United States of America and of Canada have reached specific agreements covering the post-war disposition of defence projects and installations which, in order more effectively to prosecute the war, the Government of the United States, with the consent and approval of the Canadian Government, has built or is building in Canada, nevertheless there seemed advantage in defining certain general principles which in the absence of special circumstances should serve as a guide to the two Governments in formulating any future agreements covering the post-war disposition of such projects or installations in Canada. The same general principles would of course apply reciprocally in the event of any project or installation being built by the Canadian Government in the United States territory.

The matter was referred to the Permanent Joint Board on Defence which after careful study adopted the following Recommendation on January 13, 1943:

"The Board considered the question of the post-war disposition of the defense projects and installations which the Government of the United States has built or may build in Canada. The Board noted that the two Governments have already reached specific agreements for the post-war disposition of most of the projects and installations thus far undertaken. It considers that such agreements are desirable and should be made whenever possible.

"The Board recommends the approval of the following formula as a general fair and equitable basis to be used by reference whenever appropriate in the making of agreements in the future and to cover such defence projects, if any, the post-war disposition of which has not previously been specifically provided for:

"A: All immovable defence installations built or provided in Canada by the Government of the United States shall within one year after the cessation of hostilities, unless otherwise agreed by the two Governments, be relinquished to the Crown either in the right of Canada or in the right of the province in which the same or any part thereof lies, as may be appropriate under Canadian law.

"B: All movable facilities built or provided in Canada by the Government of the United States shall within one year after the cessation of hostilities, unless otherwise agreed by the two Governments at the option of the United States Government:

- (1) be removed from Canada; or
- (2) be offered for sale to the Government of Canada, or with the approval of the Government of Canada, to the Government of the appropriate Province at a price to be fixed by a Board of two appraisers, one to be chosen by each country and with power to select a third in the case of disagreement.

"C: In the event that the United States Government has foregone its option as described in B(1), and the Canadian Government or the Provincial Government decides to forego its option as described in B(2), the facility under consideration shall be offered for sale in the open market, any sale to be subject to the approval of both Governments.

"D: In the event of no sale being concluded the disposition of such facility shall be referred for recommendation to the Permanent Joint Board on Defence or to such other agency as the two Governments may designate.

"The principles outlined above shall reciprocally apply to any defence projects and installations which may be built in the United States by the Government of Canada.

"All of the foregoing provisions relate to the physical disposition and ownership of projects, installations, and facilities and are without prejudice to any agreement or agreements which may be reached between the Governments of the United States and Canada in regard to the post-war use of any of these projects, installations, and facilities."

I have today been directed to inform you that this Recommendation has been approved by the Government of the United States of America, which would welcome confirmation from you that it has likewise been approved by the Government of Canada.

Accept, Sir, the renewed assurances of my highest consideration.

LEWIS CLARK,
Chargé d'Affaires ad interim.

II

*The Secretary of State for External Affairs, Ottawa,
to the United States Chargé d'Affaires ad Interim*

DEPARTMENT OF EXTERNAL AFFAIRS

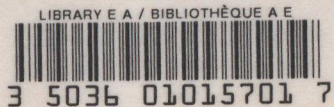
No. 7

Ottawa, January 27, 1943.

SIR,

I have the honour to acknowledge receipt of your Note of January 27, 1943, No. 827, in which you referred to recent discussions relating to the post-war disposition of various defence projects, installations and facilities being or to be constructed in Canada by the Government of the United States with the consent and approval of the Government of Canada.

It is noted with satisfaction that the Government of the United States has approved the Twenty-Eighth Recommendation of the Permanent Joint Board on Defence which dealt with this matter and which read as follows:—



"The Board considered the question of the post-war disposition of the defence projects and installations which the Government of the United States has built or may build in Canada. The Board noted that the two Governments have already reached specific agreements for the post-war disposition of most of the projects and installations thus far undertaken. It considers that such agreements are desirable and should be made whenever possible.

"The Board recommends the approval of the following formula as a generally fair and equitable basis to be used by reference whenever appropriate in the making of agreements in the future and to cover such defence projects, if any, the post-war disposition of which has not previously been specifically provided for:

"A: All immovable defence installations built or provided in Canada by the Government of the United States shall within one year after the cessation of hostilities, unless otherwise agreed by the two Governments, be relinquished to the Crown either in the right of Canada or in the right of the province in which the same or any part thereof lies, as may be appropriate under Canadian law.

"B: All movable facilities built or provided in Canada by the Government of the United States shall within one year after the cessation of hostilities, unless otherwise agreed by the two Governments, at the option of the United States Government:

- (1) be removed from Canada; or
- (2) be offered for sale to the Government of Canada, or with the approval of the Government of Canada, to the Government of the appropriate Province at a price to be fixed by a Board of two appraisers, one to be chosen by each country and with power to select a third in the case of disagreement.

"C: In the event that the United States Government has foregone its option as described in B(1), and the Canadian Government or the Provincial Government decides to forego its option as described in B(2), the facility under consideration shall be offered for sale in the open market, any sale to be subject to the approval of both Governments.

"D: In the event of no sale being concluded the disposition of such facility shall be referred for recommendation to the Permanent Joint Board on Defence or to such other agency as the two Governments may designate.

"The principles outlined above shall reciprocally apply to any defence projects and installations which may be built in the United States by the Government of Canada.

"All of the foregoing provisions relate to the physical disposition and ownership of projects, installations, and facilities and are without prejudice to any agreement or agreements which may be reached between the Governments of the United States and Canada in regard to the post-war use of any of these projects, installations, and facilities."

It gives me pleasure to inform you that the Canadian Government has also approved this Recommendation and has so informed the Permanent Joint Board on Defence.

Accept, Sir, the renewed assurances of my highest consideration.

W. L. MACKENZIE KING,
Secretary of State for External Affairs.

