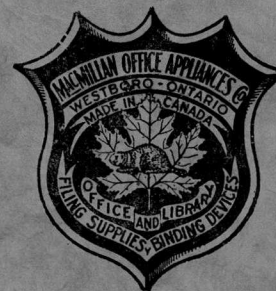


50219 - AK - 40 Vol 3

ACCESS TO INFORMATION
L'ACCES A L'INFORMATION
EXAMINED BY / EXAMINE PAR:
R.E. Reynolds
DATE / DATE:
June 29, 1989

File Folder
No. Sp. 2850A



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File Cover No. Sp. 2970

File No. _____ **Vol.** _____

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MacMillan Office Appliances Co., Ltd.

309 Athlone Ave., OTTAWA, CAN.

**FOR SUBSEQUENT CORRESPONDENCE
SEE NEXT PART OF FILE**

50219-AK-40

CABINET DEFENCE COMMITTEE	
Document No. D.	2-59

SECRET

May 1/59

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

MEMORANDUM TO THE CABINET DEFENCE COMMITTEE *30-04-59*

Agreement between the Government of the United States of America
and the Government of Canada for Cooperation on the Uses of
Atomic Energy for Mutual Defence Purposes

1. In order to take full advantage of the broader terms for the exchange of atomic information permitted by the United States Atomic Energy Act (1954) as amended in 1958, the United States Atomic Energy Commission and the Department of Defense have jointly prepared a new agreement for the exchange of atomic information between the USA and Canada for mutual defence purposes, such agreement, on ratification, to replace the similar agreement of 1955.
2. The US authorities have prepared this new agreement to make provision for the exchange of information concerning the possible provision of the US atomic weapons, related equipment and other military applications of atomic energy for use by Canadian forces. In the preparation of this document the US authorities have gone to the full extent that the United States law permits for the transmission of information and material under the terms of the 1958 amendment to the US Atomic Energy Act of 1954.
3. The Chief improvements over the 1955 Agreement are:
 - (a) The inclusion of sub-sections permitting the transfer of information to enable Canada to attain a knowledge of specific atomic weapons allied with specific delivery vehicles, together with their safety features, so that salvage and recovery operations incident to a weapon accident are possible;
 - (b) The inclusion of a section covering the exchange of information concerning the military application of nuclear reactors, at present contained in the Civil Atomic Information Agreement of 1955;

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- (c) The inclusion of an Article permitting the transfer of non-nuclear parts of atomic weapons systems to Canada;
- (d) Easing of restrictions on the discussion of released information with other countries with whom the United States has Bilateral Agreements; and
- (e) The inclusion of an Article concerning patents.

4. The U.S. draft has been examined in detail within the Department of National Defence by the Joint Special Weapons Policy Committee with representation from the Judge Advocate General and the Joint Security Committee. The comments of the Department of External Affairs, the Justice Department (RCMP), the Atomic Energy Control Board and Atomic Energy of Canada Limited have been considered.

5. The examination of the US draft disclosed that the document is acceptable to the Departments of the Government of Canada concerned with the Agreement. Certain changes in wording are preferred by the Canadian Departments concerned and there are informal indications that most of these changes are acceptable to the United States.

6. It is important, particularly to the Department of National Defence, that this agreement be negotiated in time to allow for approval by Congress during the current session. This involves a 60-day period of waiting, and because Congress is expected to rise about mid July, it will be necessary to reach complete agreement early in May.

7. It is suggested that the draft Agreement and proposed modifications be negotiated by the Ambassador in Washington working towards US acceptance of the Canadian proposals, but being prepared to accept the original US version if this is necessary to obtain agreement in time

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- 3 -

to make the document operative this year. Attached is a draft list of instructions to the Ambassador detailing the Canadian proposals, and recommending the position he should take in the negotiations.

Recommendations

8. The Chiefs of Staff recommend, and I concur, that the Canadian Government express its general approval with the draft "Agreement Between the Government of the United States of America and the Government of Canada for Cooperation on the Uses of Atomic Energy for Mutual Defence Purposes" proposed by the U.S. Government.
9. If general approval is given, I recommend that immediate action be taken to conclude this Agreement with the United States.
10. I further recommend that the Canadian Ambassador to the United States of America be instructed to negotiate the Agreement on behalf of the Government of Canada, within the guide lines contained in the attached draft instructions.

Minister of National Defence

Department of National Defence,
April, 1959.

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APPENDIX TO
DND MEMO TO CABINET
OF APRIL 1959

BILATERAL AGREEMENT - MILITARY USES OF ATOMIC ENERGY

Draft Instructions for Use by the
Canadian Ambassador to the United States of America

1. The Government of the United States of America has proposed a new Bilateral Agreement for the Military Uses of Atomic Energy with the Government of Canada, designed to take full advantage of the 1958 revision of the US Atomic Energy Act of 1954. It is the desire of the Government of Canada to enter into such an Agreement.
2. The original US draft (prepared by the Office of the Secretary of Defense with other US Government Departments assisting) can be considered acceptable to the Government of Canada but it is desired to have certain modifications incorporated.
3. Proposed Canadian modifications to the US draft should be waived if any of these would so delay signing the Agreement that it could not lie with US Congress for the necessary 60 days in its current sitting.
4. Information discussions with the US (attended by Mr. Williamson of your staff) indicated that the US would accept the following modifications as indicated in the draft Agreement:
 - a. Article III lines 2 and 3.
 - b. Article IV lines 2 and 3.
 - c. Article XI line 8.
 - d. Article XII E(1) line 4.
 - e. Article XIII lines 1, 2, 3 and 4.
 - f. Technical Annex Sec I C line 2.
 - g. Technical Annex Sec II D.
 - h. Security Annex Sec I G line 1.
 - i. Security Annex Sec II B 3 line 2.
 - j. Security Annex Sec III C line 2.
 - k. Security Annex Sec VI 2 line 2.
 - l. Security Annex Appendix A para 11 line 3.

APPENDIX - Page 2

5. The United States has informally agreed to clarify the Agreement by:

a. In Article III line 5 - rewording "non-nuclear parts Restricted Data" to ensure that, legally, the latter phrase refers to "parts" and not to "systems".

b. In Article V Title and line 2 - either deleting "Devices" from title or inserting "and devices" in line 2. The latter is considered preferable.

c. In Article XII - adding a definition of the word "parties".
The Canadian Government will be satisfied with any reasonable wording that includes "Atomic Energy of Canada Limited" as a party.

6. A complete revision of Article X was made jointly by United States and Canadian representatives. This revision is much preferred by the Canadian Government.

7. The Canadian Government wishes to have the definition of "military reactors" in Article XII D expanded to include reactors for the propulsion of rockets and astronomical vehicles. This amendment has NOT been agreed to by any US representatives. In particular, this point should not be allowed to delay reaching final agreement.

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EXPLANATION OF REASONS FOR PROPOSED CANADIAN REVISIONS

TO THE DRAFT AGREEMENT

30-04-59

Page 3: Articles III and IV:- Canada suggests replacing the words

"acceptable to the Government of the United States" with the words
"mutually agreed upon between the parties" - in the belief that this
would be more acceptable to the Canadian Government.

Page 4: Article V:- Canada suggests the words "and Devices" be removed
from the title and inserted in the text of the article. The possible
addition of a Section IID to the Technical Annex is considered to be
a factor in favour of this revision.

Page 10: Article XI:- Canada suggests the word "herein" be replaced by
the words "of the present agreement" - on legal advice, to improve
the legality of the document.

Page 10: Article XII:- It is necessary to add the words "ZED Information"
to paragraph B as this represents the correct security nomenclature
which had been omitted in the U.S. draft.

Page 11: Article XII:- Sub-para E(1) - the words "and Atomic Energy of
Canada Limited" should be added to supply the equivalent of the U.S.
Atomic Energy Commission.

Page 11: Article XIII:- Canada suggests deletion of the words "this
agreement shall enter into force on the date on which each Government
shall have received from the other Government written notification
that it has been supplied with all statutory and constitutional
requirements for the entry into force of this agreement" - and
substitution of the words - "this agreement shall be brought into
force through an exchange of notes to that effect between the contracting
parties" - as the words "statutory and constitutional requirements" in
the U.S. draft have no legal meaning in Canada.

Technical Annex: Page 3 - Section 1-C:- Canada suggests the insertion of
the words "such means as", to ensure that the methods set forth in
the draft are not considered to be all-inclusive.

Technical Annex: Section I - D-2:- Insert "ZED Information" as the correct
Canadian term.

- 2 -

Technical Annex - Page 4 - Article II-D:- Canada suggests the addition of this para. to ensure that if restricted data equipment is required

for render-safe operations it will be legally available to Canada.

Security Annex - Page 2 - Article I-G:- Canada suggests the inclusion of the phrase "in each country" - to ensure understanding of the intent that the liaison shall be carried out between agencies within each nation.

Security Annex - Page 3 - Article II-B(3):- Canada suggests the inclusion of the word "the" before "competent authority" and the word "concerned" following this phrase - as legal advisers have stated that it is necessary to define the authority in this manner.

Security Annex - Page 4 - Article III-C:- Canada suggests deletion of the words "approved locations" and the substitution of the words "locations approved by the competent authority concerned" - for the same legal reasons given in the preceding note.

Security Annex - Page 7 - Article VI-2:- Canada suggests the substitution of the words "ZED information" for the words "Atomic Energy" - as the proper Canadian security nomenclature.

Appendix "A" to Security Annex - Page 9 - para 11:- Canada suggests deletion of the words "the parliamentary committee" and the substitution of the words "committee or other competent body" - to ensure that from the Canadian point of view the provisions of this paragraph would apply only to a former American citizen who became a naturalized Canadian subsequent to having appeared before one of the bodies referred to in this paragraph.

SPECIAL NOTE RE ARTICLE XII OF THE AGREEMENT

The CAS has requested that the definition of "military reactor" in Article XII-D (Page 11) be extended to include rockets and astronautical vehicles. At working level conferences the U.S. representatives made it quite clear that they did not wish to do this at this time. It is my opinion that we cannot press for this extension of the definition within the agreed principle of "need-to-know" governing this Agreement. I recommend that we do not seek this change until such time as Canada has a demonstratable "need-to-know" in these fields.

DEPARTMENT OF EXTERNAL AFFAIRS

FILE COPY

Subject Nuclear Weapons-Inquiry as to
Agreement on Storing and Control in Canada.

Date April 30/59 Publication House of Commons Debates

50214-AK-40 vol.3
70

NATIONAL DEFENCE

✓ NUCLEAR WEAPONS—INQUIRY AS TO AGREEMENT
ON STORING AND CONTROL IN CANADA

On the orders of the day:

Hon. L. B. Pearson (Leader of the Opposition): Mr. Speaker, I should like to ask the Prime Minister whether any agreement has been reached with the United States in regard to the storing and control of nuclear weapons on Canadian soil.

Right Hon. J. G. Diefenbaker (Prime Minister): Mr. Speaker, I am glad to welcome the hon. member's return after his enforced absence from the house. I assure him that the whole subject will be dealt with very shortly on an occasion other than on orders of the day.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

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OUTGOING MESSAGE

45 FM: EXTERNAL OTTAWA	DATE	FILE		SECURITY					
	29-4-59	50219-AK-40		CONFED.					
TO: WASHINGTON	70		52		COMCENTRE USE ONLY				
	NUMBER		PRECEDENCE						
	DL-356		OPLIEDIATE						
INFO: CCOS									

Ref.: OUR TEL DL-355 APR 29.

Subject: DRAFT BILATERAL AGREEMENT WITH THE UNITED STATES FOR COOPERATION
IN THE USES OF ATOMIC ENERGY FOR MUTUAL DEFENCE PURPOSES.

FOLLOWING IS THE NEW TEXT OF ARTICLE X:

PATENTS

A. WITH RESPECT TO ANY INVENTION OR DISCOVERY:

1. EITHER EMPLOYING INFORMATION WHICH HAS BEEN COMMUNICATED OR
EXCHANGED PURSUANT TO ARTICLE II, OR DERIVED FROM ANY REACTORS AND/OR
PARTS THEREOF OR MATERIAL OR NON-NUCLEAR PARTS OF ATOMIC WEAPONS
SYSTEMS TRANSFERRED PURSUANT TO ARTICLES III AND IV, AND MADE OR
CONCEIVED AFTER THE DATE OF SUCH COMMUNICATION, EXCHANGE OR TRANSFER
BUT DURING THE PERIOD OF THE AGREEMENT, BY THE RECIPIENT PARTY, OR
ANY AGENCY OR CORPORATION OWNED OR CONTROLLED THEREBY, OR ANY OF
THEIR AGENTS OR CONTRACTORS, OR ANY EMPLOYEE OF ANY OF THE FOREGOING;
OR

2. NOT COVERED IN SUBPARAGRAPH 1 ABOVE AND MADE OR CONCEIVED BY
ANY PERSON REPRESENTING, EMPLOYED BY, OR ACTING FOR OR ON BEHALF OF

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Secretary to the Cabinet

ORIGINATOR	DIVISION	PHONE	APPROVED BY
SIG. F.M. Tovell/ih NAME	D.L. (1)	67509	SIG. JAMES TREMBLAY NAME

000458

-2-

ONE PARTY (HEREINAFTER REFERRED TO AS THE "SPONSORING PARTY") OR ITS CONTRACTOR, WHILE IN THE COUNTRY OF THE OTHER PARTY AND ASSIGNED TO AN INSTALLATION, PLANT, LABORATORY, INSTITUTION OR SIMILAR FACILITY IN THE COUNTRY OF THE OTHER PARTY PURSUANT TO THIS AGREEMENT, THE RECIPIENT OR SPONSORING PARTY (AS THE CASE MAY BE) SHALL:

1'. BE ENTITLED TO ALL RIGHT, TITLE AND INTEREST IN AND TO THE INVENTION OR DISCOVERY, OR PATENT APPLICATION OR PATENT THEREON, IN THE COUNTRY OF THE RECIPIENT OR SPONSORING PARTY (AS THE CASE MAY BE) AND IN THIRD COUNTRIES; AND

2'. OBTAIN, BY APPROPRIATE MEANS, SUFFICIENT RIGHT, TITLE AND INTEREST IN AND TO THE INVENTION OR DISCOVERY, OR PATENT APPLICATION OR PATENT THEREON, AS MAY BE NECESSARY TO FULFILL ITS OBLIGATIONS UNDER THE FOLLOWING TWO SUBPARAGRAPHS; AND

3'. TRANSFER AND ASSIGN TO THE OTHER PARTY ALL RIGHT, TITLE AND INTEREST IN AND TO THE INVENTION OR DISCOVERY, OR PATENT APPLICATION OR PATENT THEREON, IN THE COUNTRY OF THAT OTHER PARTY, SUBJECT TO THE RETENTION BY THE RECIPIENT OR SPONSORING PARTY (AS THE CASE MAY BE) OF A ROYALTY-FREE, NON-EXCLUSIVE, IRREVOCABLE LICENSE, WITH THE RIGHT TO GRANT SUBLICENSES, FOR ALL PURPOSES; AND

4'. GRANT TO THE OTHER PARTY A ROYALTY-FREE, NON-EXCLUSIVE, IRREVOCABLE LICENSE, WITH THE RIGHT TO GRANT SUBLICENSES, FOR ALL PURPOSES IN THE COUNTRY OF THE RECIPIENT OR SPONSORING PARTY (AS THE CASE MAY BE) AND IN THIRD COUNTRIES.

B. 1. EACH PARTY SHALL, TO THE EXTENT OWNED BY IT, OR ANY AGENCY OR CORPORATION OWNED OR CONTROLLED THEREBY, GRANT TO THE OTHER PARTY A ROYALTY-FREE, NON-EXCLUSIVE, IRREVOCABLE LICENSE TO MANUFACTURE AND USE THE SUBJECT MATTER COVERED BY ANY PATENT AND INCORPORATED IN ANY REACTORS AND/OR PARTS THEREOF OR MATERIAL OR NON-NUCLEAR PARTS OF ATOMIC WEAPONS SYSTEMS TRANSFERRED PURSUANT TO ARTICLES III AND IV FOR USE BY THE LICENSED PARTY FOR THE PURPOSES SET FORTH IN PARAGRAPH C OF ARTICLE VI.

2. THE TRANSFERRING PARTY NEITHER WARRANTS NOR REPRESENTS THAT ANY REACTORS AND/OR PARTS THEREOF OR MATERIAL OR NON-NUCLEAR PARTS OF ATOMIC WEAPONS SYSTEMS TRANSFERRED PURSUANT TO ARTICLES III AND IV DO NOT INFRINGE ANY PATENT OWNED OR CONTROLLED BY OTHER PERSONS

-3-

AND ASSUMES NO LIABILITY OR OBLIGATION WITH RESPECT THERETO, AND THE RECIPIENT PARTY AGREES TO INDEMNIFY AND HOLD HARMLESS THE TRANSFERRING PARTY FROM ANY AND ALL LIABILITY ARISING OUT OF ANY INFRINGEMENT OF ANY SUCH PATENT.

C. WITH RESPECT TO ANY INVENTION OR DISCOVERY, OR PATENT APPLICATION OR PATENT THEREON, OR LICENSE OR SUBLICENSE THEREIN COVERED BY PARAGRAPH A OF THIS ARTICLE, EACH PARTY:

1. MAY, TO THE EXTENT OF ITS RIGHT, TITLE AND INTEREST THEREIN, DEAL WITH THE SAME IN ITS OWN AND THIRD COUNTRIES AS IT MAY DESIRE, BUT SHALL IN NO EVENT DISCRIMINATE AGAINST CITIZENS OF THE OTHER PARTY IN RESPECT OF GRANTING ANY LICENSE OR SUBLICENSE UNDER THE PATENTS OWNED BY IT IN ITS OWN OR ANY OTHER COUNTRY;

2. HEREBY WAIVES ANY AND ALL CLAIMS AGAINST THE OTHER PARTY FOR COMPENSATION, ROYALTY OR AWARD, AND HEREBY RELEASES THE OTHER PARTY WITH RESPECT TO ANY AND ALL SUCH CLAIMS.

D. 1. NO PATENT APPLICATION WITH RESPECT TO ANY CLASSIFIED INVENTION OR DISCOVERY EMPLOYING CLASSIFIED INFORMATION WHICH HAS BEEN COMMUNICATED OR EXCHANGED PURSUANT TO ARTICLE II, OR DERIVED FROM THE REACTORS AND/OR PARTS THEREOF OR MATERIAL OR NON-NUCLEAR PARTS OF ATOMIC WEAPONS SYSTEMS TRANSFERRED PURSUANT TO ARTICLES III OR IV, MAY BE FILED:

A. BY EITHER PARTY OR ANY PERSON IN THE COUNTRY OF THE OTHER PARTY EXCEPT IN ACCORDANCE WITH AGREED CONDITIONS AND PROCEDURES; OR

B. IN ANY COUNTRY NOT A PARTY TO THIS AGREEMENT EXCEPT AS MAY BE AGREED AND SUBJECT TO ARTICLES VII AND VIII.

2. APPROPRIATE SECRECY OR PROHIBITION ORDERS SHALL BE ISSUED FOR THE PURPOSE OF GIVING EFFECT TO THIS PARAGRAPH.

E. DETAILED PROCEDURES SHALL BE JOINTLY ESTABLISHED TO EFFECTUATE THE FOREGOING PROVISIONS, AND ALL SITUATIONS NOT SPECIFICALLY COVERED SHALL BE SETTLED BY MUTUAL AGREEMENT GOVERNED BY THE BASIC PRINCIPLE OF EQUIVALENT BENEFITS TO BOTH PARTIES.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

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OUTGOING MESSAGE

FM: 45 EXTERNAL OTTAWA	29-4-59	FILE 50219-AK-40		SECURITY CONFED.		
		70	50	COMCENTRE USE ONLY		
TO: WASHINGTON		NUMBER DL-355	PRECEDENCE OPIMMEDIATE			
INFO: CCOS						

Ref.: YOUR TEL 719 MAR 24

Subject: DRAFT BILATERAL AGREEMENT WITH THE UNITED STATES FOR COOPERATION
IN THE USES OF ATOMIC ENERGY FOR MUTUAL DEFENCE PURPOSES.

THE CHIEFS OF STAFF COMMITTEE AND THE CABINET DEFENCE COMMITTEE
HAVE NOW GIVEN THEIR GENERAL APPROVAL OF THE DRAFT AGREEMENT PROPOSED
TO US BY THE UNITED STATES GOVERNMENT AND THE CABINET, ^{DEFENCE CTE} HAS AUTHORIZED
YOU TO NEGOTIATE THE AGREEMENT ON BEHALF OF THE CANADIAN GOVERNMENT
WITHIN THE GUIDE LINES CONTAINED IN THE FORMAL INSTRUCTIONS GIVEN
BELOW. YOU WILL NOTE THAT THE MODIFICATIONS WE SUGGEST SHOULD NOT BE
INSISTED UPON IF BY SO DOING THERE WOULD BE SUCH DELAY AS TO MAKE IT
IMPOSSIBLE FOR THE JOINT COMMITTEE TO APPROVE THE AGREEMENT BEFORE
THE END OF THE SESSION OF CONGRESS.

2. IN THE INTERESTS OF TIME THE CABINET DEFENCE COMMITTEE DECIDED
THAT YOU SHOULD NOW SEEK U.S. CONCURRENCE IN THE MODIFICATIONS LISTED
BELOW BEFORE FORMAL CABINET APPROVAL IS OBTAINED. AS A CONSEQUENCE
THE AGREEMENT WILL NOT BE SUBMITTED TO THE CABINET UNTIL WE KNOW WHICH
OF THESE MODIFICATIONS THE U.S. AUTHORITIES WILL ACCEPT.

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LOCAL
DISTRIBUTION

Secretary to the Cabinet *dm 711*

ORIGINATOR	DIVISION	PHONE	APPROVED BY
SIG. NAME. F.A. Tovell/ih	D.L. (1)	67509	SIG. NAME. PAUL TREMBLAY

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3. THE INSTRUCTIONS TO YOU, AS APPROVED BY THE CABINET DEFENCE COMMITTEE, READ AS FOLLOWS (WORDS IN BRACKETS HAVE BEEN ADDED BY US FOR REASONS OF GREATER CLARITY. THE REASONS UNDERLYING MOST OF THESE CHANGES WILL BE APPARENT TO YOU FROM OUR TELEGRAM DL 235 OF MAR 18 AND THE OTHERS ARE LARGELY SELF-EXPLANATORY):

- " 1. THE GOVERNMENT OF THE UNITED STATES OF AMERICA HAS PROPOSED A NEW BILATERAL AGREEMENT FOR THE MILITARY USES OF ATOMIC ENERGY WITH THE GOVERNMENT OF CANADA, DESIGNED TO TAKE FULL ADVANTAGE OF THE 1958 REVISION OF THE U.S. ATOMIC ENERGY ACT OF 1954. IT IS THE DESIRE OF THE GOVERNMENT OF CANADA TO ENTER INTO SUCH AN AGREEMENT.
2. THE ORIGINAL U.S. DRAFT (PREPARED BY THE OFFICE OF THE SECRETARY OF DEFENCE WITH OTHER U.S. GOVERNMENT DEPARTMENTS ASSISTING) CAN BE CONSIDERED ACCEPTABLE TO THE GOVERNMENT OF CANADA BUT IT IS DESIRED TO HAVE CERTAIN MODIFICATIONS INCORPORATED.
3. PROPOSED CANADIAN MODIFICATIONS TO THE U.S. DRAFT SHOULD BE WAIVED IF ANY OF THESE WOULD SO DELAY SIGNING THE AGREEMENT THAT IT COULD NOT LIE WITH U.S. CONGRESS FOR THE NECESSARY SIXTY DAYS IN ITS CURRENT SITTING.
4. INFORMAL DISCUSSIONS WITH THE UNITED STATES INDICATED THAT THE UNITED STATES WOULD ACCEPT THE FOLLOWING MODIFICATIONS:
 - A. Article III, lines 2 and 3 (replace "ACCEPTABLE TO THE GOVERNMENT OF THE UNITED STATES" BY "MUTUALLY AGREED UPON BETWEEN THE PARTIES"). //
 - B. ARTICLE IV, LINES 2 AND 3 (REPLACE "ACCEPTABLE TO THE GOVERNMENT OF THE UNITED STATES" WITH "MUTUALLY AGREED UPON BETWEEN THE PARTIES").
 - C. ARTICLE XI, LINE 8 (REPLACE "HEREIN" BY "OF THE PRESENT AGREEMENT").
 - D. ARTICLE XII E(1), LINE 4 (ADD AFTER "UNITED STATES ATOMIC ENERGY COMMISSION" "AND ATOMIC ENERGY OF CANADA LIMITED").
 - E. ARTICLE XIII, LINES 1, 2, 3 AND 4 (REPLACE "THIS AGREEMENT SHALL ENTER INTO FORCE ... OF THIS AGREEMENT" BY "THIS AGREEMENT SHALL BE BROUGHT INTO FORCE THROUGH

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-3-

AN EXCHANGE OF NOTES TO THAT EFFECT BETWEEN THE CONTRACTING PARTIES").

- F. TECHNICAL ANNEX, SEC. I C, LINE 2 (INSERT "SUCH MEANS AS" BETWEEN "THROUGH" AND "COOPERATION").
 - G. TECHNICAL ANNEX, SEC. II D (ADD ADDITIONAL PARAGRAPH WHICH WOULD READ "ATTAINMENT OF AN EFFECTIVE RENDER-SAFE CAPABILITY WITH SPECIFIC ATOMIC WEAPONS AND THEIR SPECIFIC DELIVERY VEHICLES").
 - H. SECURITY ANNEX, SEC. I G, LINE 1 (INSERT "IN EACH COUNTRY" AFTER "MAINTAINED").
 - I. SECURITY ANNEX, SEC. II B 3, LINE 2 (INSERT "THE" BETWEEN "BY" AND "COMPETENT" AND "CONCERNED" AFTER "AUTHORITY").
 - J. SECURITY ANNEX, SEC. III C, LINE 2 (REPLACE "APPROVED LOCATIONS" BY "LOCATIONS APPROVED BY THE COMPETENT AUTHORITY CONCERNED").
 - K. SECURITY ANNEX, SEC. VI 2, LINE 2 (REPLACE " "ATOMIC ENERGY" " BY "ZED INFORMATION").
 - L. SECURITY ANNEX, APPENDIX A, PARA 11, LINE 3 (REPLACE "PARLIAMENTARY COMMITTEE" BY "COMMITTEE OR OTHER COMPETENT BODY").
5. THE UNITED STATES HAS INFORMALLY AGREED TO CLARIFY THE AGREEMENT BY:
- A. IN ARTICLE III, LINE 5 - REWORDING "NON-NUCLEAR PARTS RESTRICTED DATA" TO ENSURE THAT, LEGALLY, THE LATTER PHRASE REFERS TO "PARTS" AND NOT TO "SYSTEMS".
 - B. IN ARTICLE V TITLE AND LINE 2 - EITHER DELETING "DEVICES" FROM TITLE OR INSERTING "AND DEVICES" IN LINE 2. THE LATTER IS CONSIDERED PREFERABLE.
 - C. IN ARTICLE XII - ADDING A DEFINITION OF THE WORD "PARTIES". THE CANADIAN GOVERNMENT WILL BE SATISFIED WITH ANY REASONABLE WORDING THAT INCLUDES "ATOMIC ENERGY OF CANADA LIMITED" AS A PARTY.
6. A COMPLETE REVISION OF ARTICLE X WAS MADE JOINTLY BY THE UNITED STATES AND CANADIAN REPRESENTATIVES. THIS REVISION IS MUCH PREFERRED BY THE CANADIAN GOVERNMENT. (THE NEW TEXT IS CONTAINED IN MY IMMEDIATELY FOLLOWING TELEGRAM.)

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7. THE CANADIAN GOVERNMENT WISHES TO HAVE THE DEFINITION OF "MILITARY REACTORS" IN ARTICLE XII D EXPANDED TO INCLUDE REACTORS FOR THE PROPULSION OF ROCKETS AND ASTRONAUTICAL VEHICLES. (WE SUGGEST ADDING, IN BRACKETS, AFTER "AIRCRAFT" "(ROCKETS, ASTRONAUTICAL)".) THIS AMENDMENT HAS NOT BEEN AGREED TO BY ANY U.S. REPRESENTATIVES. IN PARTICULAR, THIS POINT SHOULD NOT BE ALLOWED TO DELAY ^{REACH} ~~MAKING~~ FINAL AGREEMENT."

4. THESE INSTRUCTIONS OMIT TWO OTHER POINTS. IN ARTICLE XII, PARAGRAPH B, THE WORDS "ZED INFORMATION" SHOULD BE INSERTED IN THE BLANK SPACE. THE SAME WORDS SHOULD BE INSERTED IN THE BLANK SPACE OF PARAGRAPH D 2 OF SECTION I OF THE TECHNICAL ANNEX.

5. WE SHOULD BE GRATEFUL IF, WHEN TAKING UP THESE CHANGES WITH THE STATE DEPARTMENT, YOU COULD FIND OUT FROM THEM THEIR INTENTIONS REGARDING PUBLICATION OF THE AGREEMENT. ARE WE CORRECT IN ASSUMING THAT THE MAIN AGREEMENT WILL BE DECLASSIFIED AS SOON AS THE SIXTY-DAY PERIOD CALLED FOR BY THE UNITED STATES ATOMIC ENERGY ACT HAS EXPIRED AND THAT THE TECHNICAL ANNEX AND THE SECURITY ANNEX WITH ITS TWO APPENDICES WILL REMAIN CLASSIFIED?

6. WE SHOULD ALSO BE GRATEFUL TO KNOW WHETHER THE STATE DEPARTMENT INTEND TO ISSUE ANY PRESS RELEASE AND, IF SO, WHETHER SUCH A RELEASE WOULD BE MADE UPON SIGNATURE, WHEN THE AGREEMENT HAS BEEN APPROVED BY THE JOINT COMMITTEE OR WHEN THE AGREEMENT IS MADE PUBLIC. IN THIS REGARD IT WOULD BE MOST USEFUL TO HAVE, WELL IN ADVANCE, THE TEXT OF ANY RELEASE THEY MAY BE CONSIDERING MAKING IN ORDER THAT ARRANGEMENTS CAN BE MADE HERE FOR A SIMILAR PUBLIC ANNOUNCEMENT IF THAT SHOULD BE CONSIDERED DESIRABLE. IN VIEW OF THE INTEREST WHICH THE PRIME MINISTER HAS SHOWN IN THIS AGREEMENT IT MAY WELL BE THAT HE WOULD WISH TO MAKE A SHORT STATEMENT ON IT IN THE HOUSE OF COMMONS AND AT THE SAME TIME TABLE THE AGREEMENT IF PARLIAMENT IS STILL IN SESSION.

7. IT IS OUR INTENTION THAT YOU SHOULD SIGN THE AGREEMENT ON BEHALF OF THE GOVERNMENT OF CANADA AT THE APPROPRIATE TIME. WE WOULD LIKE TO KNOW IF THE AGREEMENT WOULD BE SIGNED OR MERELY INITIALED BEFORE IT IS SENT TO THE JOINT COMMITTEE. WE WOULD ALSO WISH TO KNOW WHETHER YOU WILL NEED TO HAVE FULL POWERS OR, IF NOT, WHAT

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TYPE OF DOCUMENT THE STATE DEPARTMENT WOULD WISH YOU TO HAVE INSTEAD.

April 29th, 1959.

NOTE FOR FILE:

50219-AK-40	
6/6	

Canada-U.S. atomic energy agreement
for defence

I informed Mr. LePan that, following the recent discussion in the Cabinet Defence Committee on this item, the Prime Minister had now approved this agreement and that it could be returned to the U.S. for negotiation. The burden of the discussions with the U.S. so far has been carried by National Defence. External Affairs are now taking over. When the negotiations are completed, which they expect will not be long, the final agreement will be submitted to Ministers for approval before signature.

W.R.M.

c.c. - Mr. H.B. Robinson ✓

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

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OUTGOING MESSAGE

FILE COPY

FM: EXTERNAL - OTTAWA	DATE	FILE		SECURITY					
	APR. 22 1959	50219-AK-40		UNCLAS					
		70	50						
TO: WASHINGTON, LONDON	NUMBER		PRECEDENCE		COMCENTRE USE ONLY				
	DL-337		OP IMMEDIATE						
INFO:									

Ref.: RAE-TOVELL TELEPHONE CONVERSATION APRIL 21
Subject: US-UK BILATERAL AGREEMENT ON MILITARY USES OF ATOMIC ENERGY

THE FOLLOWING EXCHANGE TOOK PLACE IN THE
HOUSE OF COMMONS YESTERDAY:

(COMMUNICATIONS PLEASE COPY ATTACHED TEXT).

LOCAL DISTRIBUTION No standard.

ORIGINATOR	DIVISION	PHONE	APPROVED BY
SIG. NAME..... F.M. Tovell	D.L. (1)	67509	SIG. NAME..... F. M. TOVELL

000467

CONFIDENTIAL

April 22, 1959.

50219-AK-40	
<i>l/b.</i>	

MEMORANDUM FOR THE PRIME MINISTER

Draft Bilateral Agreement with the United States
on Cooperation on the Uses of Atomic Energy for
Military Defence Purposes

*Seen by Prime Minister
See attached Note for
file from W.R. Martin
H.B.R.
Mar 11/59.*

You asked me for a brief note on the agreement which the United States concluded with the United Kingdom last July for cooperation on the uses of atomic energy for military defence purposes, and the differences between this agreement and the draft which the United States have proposed to us.

In 1955, the United States negotiated separate agreements with the United Kingdom and Canada, designed to enable the United Kingdom and ourselves to take advantage of the extensive revisions made the previous year by the United States Congress to the MacMahon Act. This revision was the first made by Congress since the Act was

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passed in 1945. The agreement concluded between the United States and the United Kingdom last July, a copy of which is attached, was negotiated to take advantage of the further liberalization of the United States Atomic Energy Act undertaken by the United States Congress last July as a result of a good deal of pressure from President Eisenhower. In effect, it supersedes the 1955 agreement.

The purpose underlying the draft which the United States authorities have asked Canada to consider is the same, namely to enable Canada to take advantage of the amendments passed by Congress last summer and to permit more extensive cooperation in the uses of atomic energy for military purposes. If and when concluded, it will supersede our 1955 agreement.

The draft proposed to Canada differs from the agreement with the United Kingdom in two important respects. In the first place,

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Paragraph B of Article II provides for the exchange of classified information concerning atomic weapons. There is no such provision in the proposed agreement with Canada as we, unlike the United Kingdom, are not able to meet the test provided by the United States Act, namely, that such information may only be exchanged with a nation that "has made substantial progress in the development of atomic weapons." Secondly, under Article III, the United Kingdom may purchase from an American firm a complete submarine nuclear propulsion plant, together with spare parts and the fuel elements required to operate this plant. Under the terms of the proposed agreement with Canada, we could obtain, but only by amendment to the agreement, "military reactors and/or parts thereof for military applications" and the necessary special nuclear materials to operate them. If Canada were now in a position to make a firm request

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for a particular type of reactor, as were the United Kingdom at the time of negotiating their agreement, the necessary provision could have been written into the draft. It was made quite clear during the hearings on the amendments last year that neither the Joint Committee nor the Administration would approve any transfer of reactors, for example, until the proposition was firm and stated in precise detail.

Attached as an annex is a more detailed comparison of the two agreements.

We do not have copies of the Technical Annex and the Security Annex of the agreement with the United Kingdom, as they are classified. However, with regard to the Technical Annex, we have no reason to believe that it differs substantially from the draft the United States have submitted to us, except insofar as it takes into account the ability of the United Kingdom to meet the test of "substantial progress."

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As to the Security Annex, we have been assured by the United States authorities that it differs from that proposed to Canada on minor points of drafting only.

No provision is made in either agreement for the transfer of nuclear warheads, nor could any be made because of the prohibition against such transfers contained in the United States Act.

As will be apparent from the foregoing, the extent of cooperation which could immediately be carried out with the United States under the proposed agreement would be somewhat less than that which exists between the United States and the United Kingdom. The principal reason for this is that Canada's policy, as you have yourself stated in Parliament, is not to undertake the production of nuclear weapons and to limit the spread of nuclear weapons at the independent disposal of national governments. Our proposed agreement with the United States is in line with that policy.


N. A. R.

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RECORD OF CABINET DEFENCE COMMITTEE DECISION

123rd meeting, Wednesday, April 22nd, 1959.

50219-AK-10	
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Item 1

Proposed Canada-U.S. agreement on atomic energy
for mutual defence purposes

Memorandum, Minister of National Defence,
April, 1959 - Document D2-59.

The Committee deferred decision on the recommendation of the Minister of National Defence for approval of the draft agreement with the U.S. for co-operation in the uses of atomic energy for mutual defence purposes, pending consideration by the Prime Minister of the provisions of the agreement between the United Kingdom and the United States on the same subject.

(Subsequently, the Prime Minister indicated his approval of the proposal of the Minister of National Defence and negotiations with the United States on this basis were authorized.)

50219-AK-40
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April 21, 1959.

MEMORANDUM FOR THE PRIME MINISTER

both

Mr. Pearson's Office telephoned last night to say that the Leader of the Opposition will follow up in the House today the question asked by Mr. Hellyer on April 17 which read, in part, as follows:

"Will the Minister advise the House whether Canada has received an invitation to attend a meeting to be held in London this week, as reported in the London Times of April 13, to discuss existing and future collaboration under the Anglo-American agreement for co-operation on the use of atomic energy for defence purposes?"

The Department suggests the following reply:

"I am informed that the meeting in London to which the Honourable Member referred last Friday is one being held between officials of the United States and the United Kingdom Governments within the framework of the bilateral agreement for Co-operation

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on the Uses of Atomic Energy for Mutual Defence Purposes signed between those two countries on July 3, last year. The question of Canadian participation does not, therefore, arise."

If you are asked as a supplementary question whether Canada has a similar agreement with the United States, the suggested answer is:

"Canada already has an agreement with the United States for co-operation regarding atomic information for mutual defence purposes, which was signed on June 15, 1955. The question of negotiating a further agreement modifying the 1955 agreement to take advantage of the amendments passed by the United States Congress last July is now under consideration."

Mr. H. B. O. Robinson

FILE COPY

CONFIDENTIAL

April 21, 1959.

Mr. D. V. LePan

50219-AK-40	
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I understand that the Leader of the Opposition will follow up in the House today the question asked by Mr. Hellyer on April 17 which read, in part, as follows:

"Will the minister advise the house whether Canada has received an invitation to attend a meeting to be held in London this week, as reported in the London Times of April 13, to discuss existing and future collaboration under the Anglo-American agreement for cooperation on the use of atomic energy for defence purposes?"

In reply, the Prime Minister might say:

"I am informed that the meeting in London to which the honourable member referred last Friday is one being held between officials of the United States and the United Kingdom Governments within the framework of the bilateral agreement for Cooperation on the Uses of Atomic Energy for Mutual Defence Purposes signed between those two countries on July 3, last year. The question of Canadian participation does not, therefore, arise."

2. If the Prime Minister is asked, as a supplementary question, whether Canada has a similar agreement with the United States, the Prime Minister might say:

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"Canada already has an agreement with the United States for cooperation regarding atomic information for mutual defence purposes, which was signed on June 15, 1955. The question of negotiating a further agreement modifying the 1955 agreement to take advantage of the amendments passed by the United States Congress last July is now under consideration."

3. As I believe you are aware, the United States authorities have submitted a draft of a further agreement to us and Mr. Pearkes is expected to bring it before the Cabinet very shortly. The State Department have been alerted to the fact that a reference to current negotiations might have to be made by the Prime Minister.

D. V. LEPAN

D. V. LePan.

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

TO: Mr. H. B. O. Robinson *for*

Security UNCLASSIFIED

Date April 21, 1959.

FROM: Defence Liaison (1) Division

File No.		
50219-AK-40		
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REFERENCE: *th*

SUBJECT:

The United States-United Kingdom bilateral agreement for Cooperation on the Uses of Atomic Energy for Mutual Defence Purposes, signed in Washington last July, was negotiated in order to permit the United Kingdom to take advantage of the amendments passed by the United States Congress to the United States Atomic Energy Act of 1954 and therefore to expand the extent of cooperation which could take place under the terms of the bilateral agreement of 1955. The areas in which this exchange of information can take place are set out in Article II. In addition, paragraph B of Article II, which provides for the exchange of classified information concerning atomic weapons, was inserted because the United Kingdom was able to meet the test provided by the United States Act, namely that such information may only be given to a nation that "has made substantial progress in the development of atomic weapons." (Canada could not, of course, meet this test.) No provision is made in the agreement, nor, because of the prohibition of the United States Act, could any be made, for the United States to provide the nuclear warheads for such weapons.

2. A second important provision of the agreement, Article III, permits the United Kingdom to purchase from an American firm a complete submarine nuclear propulsion plant, together with spare parts and the fuel elements required to operate this plant for a period of ten years. Classified information for the design and operation of such a plant may also be communicated. An announcement

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was recently made by the United Kingdom Government of a contract entered into between Rolls Royce Limited and the Westinghouse Corporation to implement this Article.

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Defence Liaison (1).

CONFIDENTIAL

COMPARISON OF UNITED STATES - UNITED KINGDOM
AGREEMENT WITH PROPOSED CANADIAN AGREEMENT

The Preambles to both agreements are identical except that paragraph 3 of the Preamble to the United Kingdom agreement is not included in the proposed Canadian agreement, being replaced by a paragraph which reads: "Contemplating that their common defence and security may be advanced by the transfer at some future time of other types of equipment and materials for use therein".

2. The first Articles of both agreements, entitled General Provision, are identical except for the substitution of "Canada" for "the United Kingdom".

3. Paragraph A of Article II of the United Kingdom agreement, which sets out the areas in which classified information may be exchanged, is identical to Article II of the proposed Canadian agreement. Paragraphs A to D and E of the latter are based on Sections 144 b and 144 c (2) respectively of the United States Act.

4. Paragraphs B of Article II of the United Kingdom agreement, which covers atomic weapons information, has no counterpart as Canada cannot meet the test of Section 144 c (1) of the United States Act regarding "substantial progress in the development of atomic weapons" in order to be given such Restricted Data.

5. Article III of the United Kingdom agreement, under which the United Kingdom may purchase a complete submarine nuclear propulsion plant, has no counterpart in the proposed Canadian agreement as Canada is not now in a position to make a firm request for a military reactor. On the other hand we can obtain, under Article III, non-nuclear parts of atomic weapons systems (under Section 91 c (1) of the Act) and under Article IV when in a position to do so, a military reactor and special nuclear materials to operate it (as provided for in Section 91 c (2) of the Act).

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6. Articles IV, V and VI of the United Kingdom agreement, which deal with responsibility for the use of information, material, equipment and devices, conditions and guarantees, are identical to Articles V, VI and VII, respectively, of the proposed Canadian agreement.

7. Article VII of the United Kingdom agreement, concerning dissemination, is substantially the same as Article VIII of the proposed Canadian agreement.

8. Article VIII of the United Kingdom agreement, which covers classification policies, is identical to Article IX of the proposed Canadian agreement.

9. Article IX of the United Kingdom agreement and Article X of the proposed Canadian agreement deal with patents. Paragraph A of the proposed Canadian agreement is substantially the same as the corresponding paragraph in the United Kingdom agreement except that the language is generally more explicit and that as in paragraphs B, C and D, which are otherwise identical to their counterparts, there are differences arising out of the provisions of Article II B and Article III of the United Kingdom agreement. Paragraph E, which we would like to add, is not in the United Kingdom agreement.

10. Article X of the United Kingdom agreement, which deals with previous agreements, and Article XI of the proposed Canadian agreement are identical.

11. Article XI of the United Kingdom agreement, which contains the definitions, is generally identical to Article XII of the proposed Canadian agreement except for changes required to make the agreement applicable to Canada, the addition we would propose to the definition of "military reactor" and paragraph (2) of the definition of "equipment" which does not appear in the United Kingdom agreement. Also, paragraphs G and H of the United Kingdom agreement are not included as they are not applicable to Canada. We would propose an additional paragraph G which would cover the point of paragraph H of the United Kingdom agreement as it would apply to Canada.

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12. Article XII of the United Kingdom agreement, the Duration clause, is identical to the corresponding Article of the proposed Canadian agreement although we would like to have the first phrase altered so that we would better be able to follow Canadian procedures with regard to final approval of the agreement once it has been signed.

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

TO: THE UNDER-SECRETARY *J.R.P.*

Security S E C R E T

Date April 20, 1959.

FROM: DEFENCE LIAISON (1) DIVISION

File No. 50219-AK-40

REFERENCE:

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SUBJECT: Draft Bilateral Agreement with the United States for Co-operation in the uses of Atomic Energy for Mutual Defence Purposes.

You will recall that the Chiefs of Staff Committee at their meeting last week discussed the above agreement and approved a draft Memorandum to the Cabinet on the subject. I have now been informed by the Department of National Defence that General Foulkes has now submitted the Memorandum to Mr. Pearkes who has agreed to it with one or two minor drafting changes and that he is likely to present it to the Cabinet tomorrow.

2. Attached for your initials, if you agree, is a Memorandum for the Prime Minister indicating that we are in agreement with the Submission, and the changes proposed in the U.S. draft.

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Defence Liaison (1) Division.

50219-AK-40	

Seen by Prime Minister April 20/59
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SECRET

April 20, 1959.

MEMORANDUM FOR THE PRIME MINISTER

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Dr.
Draft Bilateral Agreement with the
United States for Co-operation in
the uses of Atomic Energy for Mutual
Defence Purposes.

I understand that Mr. Pearkes will be submitting to the Cabinet a memorandum recommending that the Canadian Government give its approval to a draft bilateral agreement on the above subject which has been proposed to us by the United States and to certain changes which the interested Departments and Agencies of the Government would prefer to have made to this draft. This Department is in agreement with this submission and the changes proposed.

Briefly, the agreement would enable Canada to take advantage of the amendments to the United States Atomic Energy Act of 1954 passed by Congress last June. The core of the agreement will be found in Article II, III, IV and the Technical Annex. Article II widens the areas in which the exchange of certain categories of information can take place. Under Article III Canada would be able for the first time to receive certain non-nuclear parts of atomic weapons systems. Article

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IV will pave the way for Canada to receive, also for the first time, certain military reactors and special nuclear materials; these cannot be acquired except by amendment to the agreement as we are not as yet in a position to make a firm and detailed request for any particular type as is required by the Act.

The main agreement will eventually be declassified, but not before it has been approved on the United States side by the Joint Committee on Atomic Energy of Congress. The Technical Annex and the Security Annex will remain classified. The United States Atomic Energy Act requires a sixty-day period to elapse from the time a draft agreement is submitted to the Joint Committee before the agreement can come into force. Thus, assuming that all our suggestions for amendment can be readily agreed to by United States authorities, we would not expect that the agreement would come into force until about July 15.

I would recommend that the Canadian Ambassador in Washington be authorized to sign the agreement and its two annexes on behalf of the Canadian Government at the appropriate time. If you agree, I will have the

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necessary Submission to Council prepared for your
signature as soon as we learn that the negotiations
have been concluded satisfactorily.

*In. Revised
agreement
HBR.*



N. A. R.

*Extra copies
in Library*

UNITED STATES
ATOMIC ENERGY COMMISSION
Washington 25, D.C.

Tel. ST 8000
Brs: 307, 308

FOR RELEASE UPON DELIVERY AT
APPROXIMATELY 10:00 A.M.(CST)
FRIDAY, APRIL 20, 1951

Remarks by Gordon Dean, Chairman
United States Atomic Energy Commission
before the International Law and Relations Institute
American Bar Association Regional Convention
Dallas, Texas - Friday, April 20, 1951

THE IMPACT OF ATOMIC ENERGY IN THE PRESENT CRISIS

I would like to mention at the outset of these remarks how very happy I am to be here and how satisfying it is to me -- as the head of our domestic atomic energy program -- to be invited to address a group that bears the title of "The International Law and Relations Institute."

As you are unquestionably aware, there is no special segment of international law which governs the relationships between nations in the field of atomic energy. There is no international control organization for atomic energy; there is no international tribunal set up to settle atomic energy disputes; there are no international treaties covering atomic energy; and, for that matter, there are very few precedents in world history upon which a body of international atomic energy law might be founded. The one organization established to set up international control machinery -- the United Nations Atomic Energy Commission -- is currently not functioning and has not functioned since July, 1949, because the members of the Commission seem to have agreed unanimously that they cannot agree unanimously on anything else.

It is because of these very facts that I find it satisfying to be invited to address this group which concerns itself with international relations. I believe my presence here - in spite of the vacuum which exists as far as international atomic energy law is concerned -- is tangible evidence of the tacit recognition that is given the truly international character of atomic energy development and the important ramifications which atomic energy has in the future of the world, both in war and in peace.

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In considering the title which has been assigned to me today -- "The Impact of Atomic Energy in the Present Crisis" -- it has occurred to me that a discussion on this subject might fall logically into two quite separate and distinct parts. One has to do with the direct impact of atomic energy upon the crisis itself, and the other -- perhaps equally important -- has to do with the impact that atomic energy development now taking place in this period of crisis is having and will continue to have on world affairs and international relationships in general.

When I think of the direct impact of atomic energy on the present crisis, I am reminded of a day in August, 1945, when Justice Jackson and a small group of us were gathered together at Church House in London. The occasion was the signing of a charter between the United States, the United Kingdom, France and the USSR to establish an International Tribunal for the trial of the major Nazi war criminals on charges of conspiracy to wage an aggressive war.

About this time another significant event was taking place many thousands of miles away. The city of Hiroshima was levelled by an atomic bomb. From that date there has always been for me an intimate connection between the bomb and aggression; between the atom and peace. I am convinced that while the existence of this weapon clearly made war unthinkable to thinking people, at the same time its possession by the western world has been the largest single factor in staying the hand of any aggressor who doesn't want to lose a third world war.

The Soviet leaders knowing full well the potential impact of the atomic power of the western world have therefore hit upon a device which might be called gradual, controlled and isolated aggressions by satellite countries -- all leading to ultimate control of the world -- but aggressions so local and compartmentalized as not to challenge this power. We have seen it many times in the taking over of the satellites. We have seen it in the nibbling aggression in Greece. We have seen it more recently in Russian blessing of the bolder aggression in Korea.

But this technique of fostering minor aggressions in the hope that, through many of them, the major aggression will become unnecessary, is not new. Hitler, Tojo and Mussolini used it effectively for a while, and we need but call to mind Ethiopia's plea for an early roll-back of the Italian aggression and Secretary Stimson's plea to stop the Japanese conquest of Manchuria before it engulfed all Asia. No, the device of gradual aggression is not new. But the Russians have added a new twist --

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aggressions in which the satellite spills blood for the principal aggressor without identifying the principal aggressor in the local conflict. This new technique of aggression characterizes the present crisis -- in fact it is the present crisis. The present crisis is the possibility of total war, but more specifically it is the Korean war in which Russia has so magnanimously permitted the North Koreans and the Chinese to spill their blood in the cause of total Soviet aggression.

What, then, is the impact of the atom on this crisis? To my mind, atomic energy has determined the character of the crisis. It has made it a relatively limited instead of a major one. I believe it takes no extended dissertation to demonstrate that the outstanding direct impact of atomic energy on the present crisis and during the past few years is the effect which the Western World's possession of the atomic bomb has on the aggressive designs of the Soviet Union.

In my opinion, America's possession of a considerable stockpile of atomic weapons has prevented up to this time a world conflagration. It has not stopped aggression, but it has helped contain it. How long this shall be true depends entirely upon the Soviet analysis of our strength, their willingness to take the risk of defying that strength, and their estimate of what the free world will risk in crushing an early aggressor in the hope of preventing total aggression. This is the most evident impact of atomic energy on the present crisis -- a crisis which as I have already indicated is but an aggravation of and directly related to the series of crises of the past few years.

Now let us turn to the perhaps more subtle but no less important impact that atomic energy development today is having and will continue to have on world affairs in general -- a subject which I believe has special implications for those who are concerned with international law and relations. This impact, while not so directly related to the current crisis as the number of bombs we have, is nevertheless inevitably connected with it, affecting it in some ways and being affected by it in others.

You will recall that at the outset of these remarks I mentioned that there is no special segment of international law which is characterized as atomic energy law. Because the same situation exists in connection with our domestic law, and because I believe some important parallels exist between the domestic and international situation, I would like to repeat briefly a few of the observations I made recently when I had occasion to

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speak on the subject of "The Impact of the Atom on Law." At that time I observed that despite the scope and significance of the atomic energy program, the events which have followed the first splitting of the uranium atom up to now have hardly left a dent on the substantive law of this country, on the procedural law, or, for that matter, on the work habits, interests, business or specialties of the practicing lawyer.

With very few exceptions, if a lawyer is interested in atomic energy today, he is interested not as a lawyer, but only to the same extent that every other citizen is interested -- wondering what it all means to him as a father and a citizen. The enactment of the Federal Communications Act was followed by the formation of a communications bar. We have patent bars, admiralty bars and so forth, but we have no atomic energy bar. And there are fewer articles published in the law journals of the country dealing with atomic energy than articles dealing with artificial rain-making.

This, then, is the situation insofar as our domestic law is concerned. Will this situation ever change? I think it will. Today atomic energy is under Government ownership and control and therefore is removed from the normal channels of commercial intercourse between individuals and corporations and from the legal procedures which govern them. But in spite of the restrictions surrounding it, more and more people are learning about atomic energy and engaging in atomic energy work, and many of them are studying seriously the various ways they might enter the atomic energy business with their own skill and their own capital and with the hope of earning a profit. If and when government controls are relaxed, or government ownership of basic facilities is replaced in whole or in part by government regulation -- and this hinges to a large extent on the crisis we have been talking about -- I believe we will find the roots of atomic energy have been sunk deep into the economic life of this country, a fact which will undoubtedly have a solid impact on our domestic law.

But what about international law and relations? Will the situation here change too? Today the international situation is closely analogous to our domestic situation in that atomic energy, through the action of the various national governments, is almost completely removed from the normal stream of economic and political intercourse between nations. But will this always be true? Again, I think not, and I base this belief on the fact that the atom is not a domesticated animal -- it is truly international in character. Fundamental science knows no

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international boundaries and atomic energy development is based on fundamental science. Many people in many nations are learning about atomic energy and engaging in atomic energy work.

We in the United States are sometimes prone to look upon atomic energy as something that was developed in this country during the war and subsequently developed independently in Russia by means of an all-out research and production effort aided by disloyal people and paid espionage agents. When the average person thinks of atomic energy, he usually thinks of but these two countries -- the United States, with an initial lead, and Russia, closing in fast on that lead. And about there our thinking stops. It isn't very realistic thinking.

To understand the truly international character of atomic energy it is helpful, I believe, to go back to the two basic scientific discoveries which have made possible our atomic energy program as we know it today. These are:

First, the discovery that uranium atoms can be made to split in two and release great quantities of energy in the process,

And second, the discovery that, in the process of splitting, uranium atoms release neutrons which in turn will split other uranium atoms and thus set up a chain reaction.

The story of how these two great discoveries were made begins, not in the United States, but in the laboratories of the two German physicists Hahn and Strassman in Berlin, who, in January, 1939, published an article in a German scientific publication stating that they had produced an isotope of barium through neutron bombardment of uranium. From this experimental evidence the theory of nuclear fission was developed, again not in the United States, but in Copenhagen, Denmark, by two refugees from Hitler's totalitarian regime named Frisch and Meitner.

Word of these important developments in Europe was brought to the United States in the middle of January, 1939, by the Danish physicist, Neils Bohr, who had come to this country to spend several months at Princeton, N.J., to discuss some abstract problems with Professor Albert Einstein -- another great German made unwelcome in his native land by Hitler's shortsighted policies.

Immediately upon his arrival in the United States Professor Bohr communicated Frisch and Meitner's tremendously important ideas about nuclear fission to his colleagues in America,

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notably the Nobel Prize winning Italian physicist, Enrico Fermi, then at Columbia University, and within three weeks laboratory confirmation of fission had been obtained at four different locations in the United States. Meanwhile independent and almost simultaneous researches in Denmark and France produced further confirmation. Within three months after the original announcement of the theory of nuclear fission confirmation had been obtained in so many laboratories throughout the world that the revolutionary new concept was an accepted fact.

The second important discovery -- that a nuclear chain reaction in fissioning uranium was possible -- was made independently and again almost simultaneously in March, 1939, in France and the United States.

This very brief sketch of the history of the important discoveries that made atomic energy development possible serves to make evident the international character of this science. It is made more evident, I feel, when one remembers the long record of research and discovery which made possible full appreciation of Hahn and Strassman's experiment in Berlin. A quick glance at this record reveals as outstanding contributors to scientific progress in atomic energy such figures as Becquerel, Joliot, Curie and Perrin in France; Rutherford, Soddy, Cockroft, Walton and Chadwick in England; Bohr in Denmark; Urey and Lawrence in the United States; and Einstein, Frisch, Meitner and Hahn in Germany.

How, then, was it that the United States -- uniquely among the nations of the world -- got into the bomb business during World War II? I believe this question can be answered most succinctly by quoting directly from a passage in the report, "Atomic Energy for Military Purposes," by Henry DeWolf Smyth, now an Atomic Energy Commissioner. In his famous report, Dr. Smyth said: "(After) the announcement of the hypothesis of fission and its experimental confirmation took place in January, 1939 ... there was immediate interest in the possible military use of the large amounts of energy released in fission. At that time American-born nuclear physicists were so unaccustomed to the idea of using their science for military purposes that they hardly realized what needed to be done. Consequently the early efforts both at restricting publication and at getting government support were stimulated largely by a small group of foreign-born physicists centering on L. Szilard and including E. Wigner, E. Teller, V. F. Weisskopf and E. Fermi."

You can see, then, how even the beginnings of our own domestic program had a predominantly international flavor, a

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flavor that will become even more obvious as we trace these beginnings a little further. After the group led by Szilard interested itself in the military uses of atomic energy, its activities were directed toward two important goals; one, the voluntary restriction of publication of articles on nuclear fission, which was accomplished -- particularly in Britain and the United States -- by April, 1940; and two, a government-sponsored program in the United States to develop a military weapon using atomic energy. In an effort to accomplish the second objective, Szilard and Wigner met with Professor Einstein in July, 1939, and a little later all three approached the New York economist, Alexander Sachs, who had been born in Russia in 1893 and emigrated to the United States when he was 11 years old. In the fall of 1939, the Russian-born Sachs, bearing a letter from the German-born Einstein -- perhaps one of the most fateful messages in all of history -- visited President Roosevelt in Washington on a mission inspired by five foreign-born scientists. As a result of this visit, from which the administrative history of the U.S. atomic energy program must date, President Roosevelt appointed an official three-man "Advisory Committee on Uranium." The functions of this group, enlarged and strengthened, were later taken over by the National Defense Research Council, the Office of Scientific Research and Development, and ultimately in May, 1943, by the Manhattan Engineer District of the U.S. Army.

But even with these developments, the international character of atomic energy development -- including even our own domestic program -- did not end. If anything, it became more evident. From the very beginning of the American atomic energy project, similar problems had been occupying the minds of British scientists. Contact between the two groups was at first maintained by transmission of reports through normal scientific liaison channels and partly by personal visits for other reasons by scientists of both countries. It was soon realized, however, that the best and speediest results would come from a consolidation rather than a compartmentalization of the programs of the U.S. and Britain. Consequently, as early as the beginning of 1943, the slow-neutron research program at Cambridge in England was moved to Montreal, Canada, where a joint British-Canadian research establishment -- later joined by an American team -- was set up to work in close touch with the American group at Chicago. Later the same year cooperation between the United States, Great Britain and Canada was formalized with the establishment of the Combined Policy Committee in Washington, and the British began to move large numbers of their key scientists to this country where they could be integrated into the American program at Berkeley, Oak Ridge and Los Alamos. Shortly after

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the Hiroshima explosion, the British Government in a statement on atomic energy, said: "The effect of these transfers ... was to close down entirely all work in the U.K. on the electro-magnetic process and to reduce to nothing the nuclear physical research. Nevertheless there is no doubt that this was the proper course to follow in the light of the decision which had been taken to give the highest priority to the production, in the shortest time, of an atomic bomb for use in this war."

While this all-out, integrated program was going on among the Allies, and, in fact, one of the reasons why it was going on, the Germans were acquiring considerable quantities of heavy water from captured Norway and were apparently busy on an atomic energy program of their own. Actually, we found out after the war they were far behind the point which we thought they had reached. Nevertheless, they had the scientific talent. And they had definite interests in heavy water and but for the cold water which Hitler poured on their heavy water program, Germany might have caught up with us before the conclusion of the war.

The end of World War II, then, partly because of our great investment in time and money and people, partly because of the assistance of our friends, and partly because of the genius of our own people, found the United States well ahead of the rest of the world in atomic development. The end of the war also witnessed the departure of the scientific missions from England and Canada to their own countries to develop in a largely compartmentalized atmosphere their own programs -- the Canadians to turn to research in heavy water reactors; the British to a completely integrated and extensive developmental program. With the exception of some minor exchanges of information between the three countries, they have worked since the war almost completely separately and apart. But from this we should not get the idea that atomic energy development throughout the world was placed in a state of suspended animation, with the United States well in the lead and the rest of the world perpetually behind. Monopoly of scientific discovery and progress is a virtual impossibility. In addition to the United Kingdom and Canada, which have the great body of scientific knowledge developed during World War II to draw upon, there are many other countries throughout the world who possess the basic ingredients for atomic energy development and who have turned their attention to the intriguing possibilities which research with the atom promises to realize.

Let us examine for a moment these basic ingredients of an effective atomic energy program. To my way of thinking, there

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are three: first, raw materials, notably uranium; second, competent scientists to guide research, and third, technology. How many countries of the world have sufficient resources in these three categories to support an atomic energy program?

Taking up the matter of uranium first, it appears evident that almost any country on the globe, if it is willing to pay the price, may secure uranium. Uranium actually composes about one part in each 250,000 parts of the earth's crust. Although it occurs only rarely in significant concentrations, it nevertheless can be found in low concentrations widely dispersed throughout the world. And these low concentrations can be made to produce if the buyer is willing and able to pay the price. To provide a rough idea of the prevalence of uranium deposits I might mention that in the past uranium ore is known to have been produced in the Belgian Congo, Canada, the United States, Czechoslovakia, England, Portugal, Russia and, to a very small extent, Madagascar. To this list we can certainly add the Union of South Africa, which has definite plans for the production of uranium as a byproduct of the gold mining industry. According to published reports, a number of other countries also have plans for the production of uranium ore, including Sweden, Bulgaria, Australia and India.

Turning to the second ingredient -- scientists capable of inspiring and guiding research programs -- we find here too that no one nation has anything that even approaches a monopoly. Scores of countries can point with pride to their outstanding scientists. For example, a study of the list of Nobel Prize winners in physics and chemistry for the past 50 years -- as good an indication as any of the quality of science in the various nations of the world -- reveals that the following nations are represented in roughly the order named, as far as their production of outstanding scientists is concerned: Germany, England, the United States, France, Denmark, Sweden, Switzerland, Australia, Italy, India, Japan, Hungary and Finland. Given competent scientists, or, for that matter, even mediocre scientists, with the pressure of intellectual curiosity and the desire for possession of the power that is atomic energy, we are deluding ourselves if we believe that these provenly capable people of other lands are to remain quiescent while we pursue our scientific ends in solitude and isolation.

And now the third basic ingredient -- technology. It is in this field particularly that we in the United States have a tendency to be complacent, secure in the belief that we lead the world. But let us be careful not to assume that for all

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our unquestionably great industrial strength we are the world's only masters of technology. Let us not forget the obvious technological qualifications of such peoples as the British, who lead all nations in the development of jet aircraft, or the Germans, who developed and produced revolutionary new guided missiles while engaged in an all-out struggle for survival, or, for that matter, the Russians, whose capacity for producing airplanes, tanks and submarines is becoming all too painfully evident to the free world. There are many nations in the world whose technological capabilities cannot be underestimated. Among them, and I include in this list those which, on a per-capita basis, have proved their capacity to produce on a scale comparable to the world's best, are: Canada, Belgium, Denmark, Holland, France, Germany, Switzerland, Sweden, England, Japan, South Africa and Australia. And this by no means exhausts the list.

If these, then -- raw materials, scientists and technology -- be the basic ingredients of an atomic energy program, we in America cannot long count on a monopoly. In fact -- even leaving Russia aside -- we do not have a monopoly today. It is not generally realized that at least 20 nations in addition to the United States have atomic energy control laws or government orders or decrees of some sort providing for atomic energy development and control. Some of the more important of these are the following:

First, Great Britain: The British Parliament in 1946 -- the same year that our own law was adopted -- passed an Atomic Energy Act providing for the development and control of atomic energy and placed the authority to administer the atomic energy program in the hands of the Ministry of Supply. While their program is not as large as ours in terms of money and people, they have made outstanding progress in the past five years. Britain today has two atomic research piles at its modern Harwell laboratory, one of which is producing radioisotopes available to other nations for research and medical uses. They have also announced a plant for the production of plutonium -- counterpart of our Hanford production facility. And they have revealed they are engaged in the development of atomic weapons.

Second, Canada: Canada also in 1946 passed an Atomic Energy Control Act which established an Atomic Energy Control Board somewhat similar in character to our own Atomic Energy Commission to supervise the development, application and use of atomic energy. Under the guidance of this board Canada's atomic research establishment at Chalk River, Ontario has grown to where

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it has more than 1,000 people employed and an annual budget of about \$7,000,000. There are two research reactors there -- including the famous NRX pile which produces a higher concentration of neutrons than any research reactor we now have in operation -- and a third, capable of producing plutonium, is under construction.

Third, France: An Atomic Energy Commissariat, which is described as "a scientific, technical and industrial establishment, endowed with civil personality and administrative and financial autonomy" was established in France in 1945. Under this body the French in 1948 began atomic experiments at Fort de Chatillon in the Paris suburbs where about 600 people are employed and where there is now in operation a low-power research reactor. France has also recently opened a new atomic research center at Saclay, near Paris, and is building there a second reactor of greater power. A third reactor, large enough to produce plutonium in significant amounts, is also planned for Saclay.

In addition to these three nations, which are perhaps farthest along among our friendly competitors, we might add the names of Norway and the Netherlands, which jointly are building a heavy water reactor near Oslo in Norway with heavy water from Norway and uranium which Netherlands scientists hid during the German occupation; Sweden, which is building a nuclear reactor for industrial power research; and India, Belgium, Denmark, Switzerland, Australia, South Africa, and Argentina, all of which have active nuclear research programs worthy of note and some of which have declared their intention to build research reactors. Among many others, we might also add to this list Western Germany, where a group of scientists have asked for permission to build an atomic reactor for fundamental research.

It is plain from this, I believe, that no matter how static the development of international law and order in atomic energy, there is nothing static about the curiosity and drive of atomic scientists the world over. Atomic energy, on an international scale, is becoming a factor to be reckoned with in world affairs, aside from its utilization as a military weapon.

Why, then, do we not have international control? One of the specific purposes for which our own Atomic Energy Act was designed -- and for which the atomic energy laws of many Western nations have been designed -- was to provide machinery that might fit logically and simply into an international control organization. Beyond this, through the United Nations, we have made what to our minds was a completely fair and unprecedented offer

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to place our vast atomic energy enterprise under international control, on the condition that all other nations would do likewise.

The simplest and most direct answer as to why this has not come to pass is that the Russians, consistently and continually and adamantly, have refused to submit to world control of their atomic energy facilities. They say they will submit to international inspection, but only of declared facilities and at periodic intervals they will know about in advance. We do not think their proposal is very realistic. We believe it is the sort of proposal that would be made by someone who had something to conceal.

The Russians say their atomic energy program is directed toward peaceful ends, and they ask us to take their word for this, and yet the only evidence the world has of Russian atomic development is the explosion of an atomic weapon.

They say they are not interested in developing atomic weapons, and yet we have disloyal people who stand convicted in the free courts of America and Britain of passing secret weapons data into eager Russian hands.

They say they have used atomic energy for the peaceful purposes of moving mountains and changing the courses of rivers, yet they have not shown us these mountains or rivers -- or even pictures of them. They export no isotopes -- tangible evidences of an atomic energy program for peaceful purposes. They have not shown the world any atomic energy power plants.

Behind their iron curtain the Russians remain, working hard on an atomic energy program that has all the earmarks of a purely military one. By their actions they have produced disorder on the international atomic energy scene where there should be order; they have produced rivalry where there should be cooperation; they have produced compartmentalization where there should be consolidation.

This is the situation in which we find ourselves today. It is a situation that is irrevocably related to the present crisis and which stems from the same basic cause. How we handle ourselves in the field of atomic energy will have a direct bearing, not only on the outcome of the crisis, but also on the future of the world.

What, then, should our policies be in such a situation? What can we do, in this period of crisis, to influence the impact

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that atomic energy is having on the crisis itself and on future world progress?

First, we can continue to enlarge and strengthen our own program in all its phases. This includes the acquisition of uranium, for without uranium our program could not exist. It includes the stimulation of basic research, for the day we freeze our program on the basic discoveries already made will be the day we will lose our weapons lead. It includes the enlargement of the industrial base of our production and weapons program, for we are in a production as well as a research and development race with the Communist world. And it includes the stimulation of atomic energy development for peaceful purposes, for it is by this means that we can retain leadership in the world and the respect of the world in atomic science, and at the same time make an important contribution to the welfare of all nations.

Second, we can recognize fully the international character of atomic energy development and cooperate within the limits of security and our capabilities with those of our friends who are striving to build atomic energy programs of their own. In spite of the lack of international control, we do some of this now. We have, for example, a technical cooperation program with the British and Canadians, under which we exchange on a somewhat formal basis certain types of information not having to do with weapons or industrial uses of atomic energy. We also export isotopes to nearly 30 nations in various parts of the world. We have a policy of licensing for export of certain basic research equipment such as particle accelerators and radiation detection instruments. And, perhaps most important, we have a classification policy under which we try to hold the barrier of secrecy only around that part of our program that is really secret, allowing all unclassified information to be published and circulated freely throughout the international scientific community. Under this policy we have recently -- together with the British and Canadians -- declassified the technological information one needs to know to build a low-power research reactor. As you can see, we have some international cooperation now. We could probably do more, and we are now studying ways in which this can be achieved.

In considering this limited international cooperation, I think it is important to remember that it is not a one-way street. Things of value flow in this direction, too. Most of our uranium, for example, comes from outside of our own borders. We import certain isotopes we cannot conveniently produce at home. We have

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the benefit of the unclassified research results of the great scientists who live abroad. We could use more of what the rest of the world has to offer, and we are studying ways in which we can achieve this too.

To sum up, then, let me repeat that I think the impact of atomic energy in the present crisis is two-fold. We have the obvious impact and the subtle one. The obvious impact -- the one which stems from our possession of a stockpile of atomic weapons -- has, I believe, influenced importantly, the nature of the present crisis and has kept it from becoming an all-out war. The subtle impact -- the one which stems from the truly international character of atomic energy -- is no less important, and the Western World's recognition of this international character, as evidenced by its support of international control and its limited cooperation in the absence of international control, adds to its effect. There is traffic in atomic energy in the free world -- in uranium, in isotopes and in information on peaceful applications -- and there will be more. I do not believe we can minimize the effect of this, for it is through it -- and an enlargement of it -- that we can show the people behind the iron curtain that at least on one side of this artificial barrier there are those who sincerely want to work together in peace and for the benefit of all mankind.

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April 17, 1951

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CHIEFS OF STAFF COMMITTEE

Excerpt from Minutes of the 629th Meeting, April 14, 1959

I. BILATERAL AGREEMENT - MILITARY USES OF ATOMIC ENERGY (SECRET) (CSC:1894.2 TD:7 of 10 April 1959)

1. The Committee had for discussion a memorandum in the form of a draft submission to Cabinet Defence Committee for the consideration of the Minister which proposed that the Canadian Government express its general approval of a draft "Agreement Between the Government of the United States of America and the Government of Canada for Cooperation on the Uses of Atomic Energy for Mutual Defence Purposes".
2. The Chairman explained that the proposed Agreement would replace a similar Agreement of 1955 and that because U.S. law required that the Agreement be tabled in the U.S. Congress for at least two months prior to becoming law, it was essential that negotiations with U.S. authorities be completed not later than 15 May if Congressional approval was to be secured this year.
3. It was further explained that the draft Agreement before the Committee had been prepared by U.S. officials and examined in detail within the Department of National Defence by the Joint Special Weapons Policy Committee (JSWPC) with representation from the Judge Advocate General and the Joint Security Committee. The comments of the Department of External Affairs, the Justice Department (RCMP), the Atomic Energy Control Board and Atomic Energy of Canada Limited, had been considered.
4. This examination had disclosed that the document was acceptable to the Departments concerned with the Agreement. Certain changes in wording, however, would be preferred by Canada and there had been informal indications that these changes would be acceptable to the U.S. It was recommended that such changes be negotiated by the Ambassador in Washington on the basis that those which proved unacceptable to the U.S. should be waived and on no account should the negotiations extend to a point which would prevent tabling of the Agreement in Congress later than 15 May 1959.
5. The Committee then proceeded to review the Agreement in conjunction with a digest of revisions recommended by the JSWPC in Appendix "B" to CSC:1894.2 dated 10 April 1959.
6. During the course of this review it was agreed:
 - a) to withdraw revision 2a. (applicable to Article I of the Agreement);
 - b) to delete revision 2m.(1) (applicable to the Security Annex).
7. It was further agreed:
 - a) at the suggestion of the Chief of the Air Staff to include a recommendation that the definition of "military reactor", appearing in Article XII, should be extended to include rockets and astronomical vehicles; and
 - b) to seek the approval of the Minister to submit the draft Agreement directly to Cabinet together with a draft of appropriate instructions to the Ambassador in Washington.

The Under-Secretary

Secret

April 13, 1959

Defence Liaison (1) Division

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Item for the 629th Meeting of the Chiefs of Staff Meeting on April 14 - Draft Bilateral Agreement with the United States for Co-operation on the Uses of Atomic Energy for Mutual Defence Purposes.

Last February we received from the State Department a draft of new bilateral military agreement designed to enable Canada to take advantage of the amendments to the United States Atomic Energy Act of 1954. This draft, when finalized, would, as a consequence, supersede the military agreement of 1955 and paragraph (B) of Article II bis. of the amendment to the Civil Agreement.

General

2. The draft agreement follows very closely the agreement signed between the United States and the United Kingdom last summer and whole paragraphs are identical. The principal difference between the two stems from Article III of the United Kingdom Agreement (and the consequential additions to other paragraphs) providing for the sale to the U.K. of a nuclear submarine propulsion plant. In a number of instances the wording of individual Articles is identical to the relevant sections of the U.S. Atomic Energy Act of 1954, as amended.

Scope

3. The core of the agreement is to be found in Articles II, III and IV of the Technical Annex. Article II provides for the exchange of certain categories of classified information and Article III provides for the transfer of non-nuclear parts of atomic weapons systems. Article IV would pave the way for Canada to obtain a military reactor for the DEW Line, for instance. You will note, however, that such a reactor could only be obtained by an amendment to the agreement. This seemed to us somewhat unsatisfactory in that it would require us to go through again the entire process of drafting, negotiation and the 60 day period before the Joint Committee and thus incur a delay of at least four months (assuming Congress were in session). We therefore asked the United States authorities informally to clarify this point and were told that during the hearings on the amendments last year it had been made quite clear that neither the Joint Committee nor the Administration would approve any transfer of "hardware" or special nuclear materials until the proposition was firm, and stated in precise detail. We have confirmed this as a result of a careful study of the transcript of the hearings. As Canada is not yet in a position to make a firm request (as was the United Kingdom for a submarine), the present wording is the best that can be obtained.

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4. The Technical Annex spells out in detail what we can obtain under the Act. The Department of National Defence has assured us that this Annex as it stands is satisfactory to them and to AECL and that their immediate and foreseeable requirements for atomic energy information within the categories listed in Article II and "hardware" under Article III can be met.

Comments on the Draft

5. The paper before the Chiefs represents the United States draft with amendments which the Department of National Defence, AECL, Department of Defence Production and ourselves would like to have made. The Privy Council and ourselves, however, have some further suggestions for amendment for which National Defence's agreement has not yet been obtained. No doubt Mr. Bryce will mention those of interest to him. The particular changes we would like to have made are all to be found in the Security Annex. Although this Annex follows in general the Security Annex of the 1955 Agreement, it goes into considerably more detail and as a result could create more difficulties than it meets. It is appreciated, however, that the expanded version contains many phrases lifted out of U.S. legislation and agreements with other countries such as the U.K. To seek extensive changes would undoubtedly cause delay, but three changes are, we think, required in our own interest:

- 1) Section IV, para.A. The provision of information regarding the date and place of birth, citizenship and current residence address would enable the FBI, for example, to conduct their own security check. We have never agreed to this before, having always maintained that each security agency should accept the other's assurances at their face value. The other three criteria are satisfactory.
- 2) Section V. This paragraph could be taken to mean that the FBI could enquire into RCMP investigative procedures or request access to RCMP personal security files, but this is probably not the intention of the draft and we would wish to avoid such a right being written into the agreement.
- 3) Appendix A to the Annex, para. 11. This paragraph is clearly for U.S. domestic application inasmuch as the intent is to get at persons who have pleaded the Fifth Amendment in loyalty cases. Inasmuch as Canadian parliamentary committees do not conduct investigations in the same way and for the same purposes as the United States Congressional Committees, we would like to have the words "or parliamentary committee" deleted. The suggestion has been made by the Office of the Judge Advocate General that these words be replaced by "other competent body". Since in Canada the right not to incriminate oneself could only be pleaded in a court of law, we are doubtful whether these additional words are required. Furthermore, the words "or other misconduct" should perhaps be deleted or at least qualified, as they could be open to wide interpretation.

Procedures

6. The Agreement as a whole is for the moment, of course, a classified document, but the intention is that the

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main agreement would eventually become a public document with the Technical Annex and the Security Annex remaining classified. This was the case with the 1955 military agreement and also with the agreement which the U.K. signed with the U.S. last July.

7. In view of Section 123 of the U.S. act which calls for military agreement lying on the table of the Joint Committee on Atomic Energy for a period of 60 days, there is now some urgency for obtaining interdepartmental agreement on outstanding points, submitting the draft to Cabinet and undertaking formal negotiations with the U.S. authorities. On the assumption that Congress might rise as early as July 15, the sixty day period would begin on May 15. The U.S. Department of Defence and the Atomic Energy Commission require two weeks to prepare the final document for submission to the Joint Committee, which means that all points must be agreed with the Americans by May 1 at the latest.

8. We understand that General Foulkes intends to ask the Panel on the Economic Aspects of Defence to consider the U.S. draft and the Canadian suggestions for amendment some time this week. It is also his intention to have Mr. Pearkes clear these with the Cabinet Defence Committee before the Embassy in Washington is asked to take up our amendments with the State Department.

Defence Liaison (1) Division



CANADA

Department of National Defence
CHIEFS OF STAFF COMMITTEE

IN REPLY PLEASE QUOTE

No. CSC:1894.2 TD:7

SECRET

ADDRESS REPLY TO.
SECRETARY
CHIEFS OF STAFF COMMITTEE,
OTTAWA.

10 April 1959

Chairman, Chiefs of Staff
CNS
CAS
CGS
CDRB

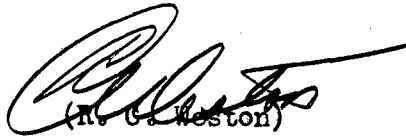
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Draft Bilateral Agreement
Military Uses of Atomic Energy

Attached are documents relating to the above subject which will be discussed at the 629th meeting of the Chiefs of Staff Committee to be held on 14 April 1959 at 0930 hours.


(H. G. Weston)
Group Captain, RCAF,
Secretary

c.c. Deputy Minister
Secretary to the Cabinet
Under-Secretary of State
for External Affairs
Coordinator Joint Staff.

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30-04-59

US (FEB 59) DRAFT OF
AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF CANADA
FOR COOPERATION ON THE USES OF ATOMIC ENERGY
FOR MUTUAL DEFENCE PURPOSES

- A. Canadian proposals for re-wording are enclosed in black brackets and underlined in red, following US wording which has been underlined in black. These proposals have been stated informally to be agreeable to the United States.
- B. Article XII-D has been re-written but has not yet been agreed to by the United States.

CONFIDENTIAL

JAN 14 1959

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF CANADA
FOR COOPERATION ON THE USES OF ATOMIC ENERGY
FOR MUTUAL DEFENSE PURPOSES

The Government of the United States of America and the Government of Canada,

Considering that their mutual security and defense require that they be prepared to meet the contingencies of atomic warfare;

Considering that they are participating together in international arrangements pursuant to which they are making substantial and material contributions to their mutual defense and security;

Recognizing that their common defense and security will be advanced by the exchange of information concerning atomic energy and by the transfer of certain types of equipment;

Believing that such exchange and transfer can be undertaken without risk to the defense and security of either country;

Contemplating that their common defense and security may be advanced by the transfer at some future time of other types of equipment and materials for use therein; and

Taking into consideration that the United States Atomic Energy Act of 1954, as amended, and the Canadian Atomic Energy Control Act and Atomic Energy Regulations were enacted or prepared with these purposes in mind,

Have agreed as follows:

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ARTICLE I

GENERAL PROVISION

While the United States and Canada are participating in an international arrangement for their mutual defense and security and making substantial and material contributions thereto, each Party will communicate to and exchange with the other Party information, and transfer materials and equipment to the other Party, in accordance with the provisions of this Agreement provided that the communicating or transferring Party determines that such cooperation will promote and will not constitute an unreasonable risk to its defense and security.

ARTICLE II

EXCHANGE OF INFORMATION

Each Party will communicate to or exchange with the other Party such classified information as is jointly determined to be necessary to:

- A. the development of defense plans;
- B. the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;
- C. the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy;
- D. the development of delivery systems compatible with the atomic weapons which they carry; and
- E. research, development and design of military reactors to the extent and by such means as may be agreed.

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ARTICLE III

TRANSFER OF NONNUCLEAR PARTS OF ATOMIC WEAPONS SYSTEMS

The Government of the United States will transfer to the Government of Canada subject to terms and conditions acceptable to the Government of the United States (mutually agreed upon between the parties) and all appropriate provisions and requirements of applicable United States laws, nonnuclear parts of atomic weapons systems involving Restricted Data as such parts are jointly determined to be necessary for the purpose of improving Canada's state of training and operational readiness.

ARTICLE IV

TRANSFER OF MILITARY REACTORS AND MATERIALS

The Government of the United States, by amendment to this Agreement and subject to the terms and conditions acceptable to the Government of the United States (mutually agreed upon between the parties).

A. may agree to transfer, or authorize any person to transfer, to the Government of Canada, military reactors and/or parts thereof for military applications; and

B. may agree to transfer to the Government of Canada special nuclear material for research on, development of, production of, and use in military reactors for military applications.

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ARTICLE V

RESPONSIBILITY FOR USE OF INFORMATION, MATERIAL (AND) EQUIPMENT AND DEVICES

The application or use of any information (including design drawings and specifications), material or equipment (and devices) communicated, exchanged or transferred under this Agreement shall be the responsibility of the Party receiving it, and the other Party does not provide any indemnity, and does not warrant the accuracy or completeness of such information and does not warrant the suitability or completeness of such information, material or equipment for any particular use or application.

ARTICLE VI

CONDITIONS

A. Cooperation under this Agreement will be carried out by each of the Parties in accordance with its applicable laws.

B. Under this Agreement there will be no transfer by either Party of atomic weapons.

C. Except as may be otherwise agreed for civil uses, the information communicated or exchanged, or the materials or equipment transferred, by either Party pursuant to this Agreement shall be used by the recipient Party exclusively for the preparation or implementation of defense plans in the mutual interests of the two countries.

D. Nothing in this Agreement shall preclude the communication or exchange of classified information which is transmissible under other arrangements between the Parties.

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ARTICLE VII

GUARANTEES

A. Classified information, materials and equipment communicated or transferred pursuant to this Agreement shall be accorded full security protection under applicable security arrangements between the Parties and applicable national legislation and regulations of the Parties. In no case shall either Party maintain security standards for safeguarding classified information, materials or equipment made available pursuant to this Agreement less restrictive than those set forth in the applicable security arrangements in effect on the date this Agreement comes into force.

B. Classified information communicated or exchanged pursuant to this Agreement will be made available through channels existing or hereafter agreed for the communication or exchange of such information between the Parties.

C. Classified information, communicated or exchanged, and any materials or equipment transferred, pursuant to this Agreement shall not be communicated, exchanged or transferred by the recipient Party or persons under its jurisdiction to any unauthorized persons, or, except as provided in Article VIII of this Agreement, beyond the jurisdiction of that Party. Each Party may stipulate the degree to which any of the information, materials or equipment communicated, exchanged or transferred by it or persons under its jurisdiction pursuant to this Agreement may be disseminated or distributed; may specify the categories of persons who may have access to such information, materials or equipment; and may impose such other restrictions on the dissemination or distribution of such information, materials or equipment as it deems necessary.

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ARTICLE VIII

DISSEMINATION

Nothing in this Agreement shall be interpreted or operate as a bar or restriction to consultation or cooperation in any field of defense by either Party with other nations or international organizations. Neither Party, however, shall communicate classified information or transfer or permit access to or use of materials, or equipment, made available by the other Party pursuant to this Agreement unless:

A. All appropriate provisions and requirements of applicable laws, including authorization by competent bodies of such other Party, have been complied with which would be necessary to authorize such other Party directly so to communicate to, transfer to, permit access to or use by such other nation or international organization; and further that such other Party authorizes the recipient Party so to communicate to, transfer to, permit access to or use by such other nation or international organization; or

B. Such other Party has informed the recipient Party that such other Party has so communicated to, transferred to, permitted access to or use by such other nation or international organization.

ARTICLE IX

CLASSIFICATION POLICIES

Agreed classification policies shall be maintained with respect to all classified information, materials or equipment communicated, exchanged or transferred under this Agreement. The Parties intend to continue the present practice of consultation with each other on the classification of these matters.

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- 7 - (amended)

ARTICLE X

PATENTS

A. With respect to any invention or discovery:

1. either employing information which has been communicated or exchanged pursuant to Article II, or derived from any reactors and/or parts thereof or material or nonnuclear parts of atomic weapons systems transferred pursuant to Articles III and IV, and made or conceived after the date of such communication, exchange or transfer but during the period of the Agreement, by the recipient Party, or any agency or corporation owned or controlled thereby, or any of their agents or contractors, or any employee of any of the foregoing; or

2. not covered in subparagraph 1 above and made or conceived by any person representing, employed by, or acting for or on behalf of one Party (hereinafter referred to as the "sponsoring Party") or its contractor, while in the country of the other Party and assigned to an installation, plant, laboratory, institution or similar facility in the country of the other Party pursuant to this Agreement, the recipient or sponsoring Party (as the case may be) shall:

1°. be entitled to all right, title and interest in and to the invention or discovery, or patent application or patent thereon, in the country of the recipient or sponsoring Party (as the case may be) and in third countries; and

2°. obtain, by appropriate means, sufficient right, title and interest in and to the invention or discovery, or patent application or patent thereon, as may be necessary to fulfill its obligations under the following two subparagraphs; and

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3'. transfer and assign to the other Party all right, title and interest in and to the invention or discovery, or patent application or patent thereon, in the country of that other Party, subject to the retention by the recipient or sponsoring Party (as the case may be) of a royalty-free, non-exclusive, irrevocable license, with the right to grant sublicenses, for all purposes; and

4'. grant to the other Party a royalty-free, non-exclusive, irrevocable license, with the right to grant sublicenses, for all purposes in the country of the recipient or sponsoring Party (as the case may be) and in third countries.

B. 1. Each Party shall, to the extent owned by it, or any agency or corporation owned or controlled thereby, grant to the other Party a royalty-free, non-exclusive, irrevocable license to manufacture and use the subject matter covered by any patent and incorporated in any reactors and/or parts thereof or material or nonnuclear parts of atomic weapons systems transferred pursuant to Articles III and IV for use by the licensed Party for the purposes set forth in paragraph C of Article VI.

2. The transferring Party neither warrants nor represents that any reactors and/or parts thereof or material or nonnuclear parts of atomic weapons systems transferred pursuant to Articles III and IV do not infringe any patent owned or controlled by other persons and assumes no liability or obligation with respect thereto, and the recipient Party agrees to indemnify and hold harmless the transferring Party from any and all liability arising out of any infringement of any such patent.

C. With respect to any invention or discovery, or patent application or patent thereon, or license or sublicense therein covered by paragraph A of this Article, each Party:

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1. may, to the extent of its right, title and interest therein, deal with the same in its own and third countries as it may desire, but shall in no event discriminate against citizens of the other Party in respect of granting any license or sublicense under the patents owned by it in its own or any other country;

2. hereby waives any and all claims against the other Party for compensation, royalty or award, and hereby releases the other Party with respect to any and all such claims.

D. 1. No patent application with respect to any classified invention or discovery employing classified information which has been communicated or exchanged pursuant to Article II, or derived from the reactors and/or parts thereof or material or nonnuclear parts of atomic weapons systems transferred pursuant to Articles III or IV, may be filed:

a. by either Party or any person in the country of the other Party except in accordance with agreed conditions and procedures; or

b. in any country not a party to this Agreement except as may be agreed and subject to Articles VII and VIII.

2. Appropriate secrecy or prohibition orders shall be issued for the purpose of giving effect to this paragraph.

E. Detailed procedures shall be jointly established to effectuate the foregoing provisions, and all situations not specifically covered shall be settled by mutual agreement governed by the basic principle of equivalent benefits to both Parties.

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ARTICLE XI

PREVIOUS AGREEMENTS FOR COOPERATION

Effective from the date on which the present Agreement enters into force, the cooperation between the Parties being carried out under or envisaged by the Agreement for Cooperation Regarding Atomic Information for Mutual Defense Purposes, which was signed at Washington on June 15, 1955, and by paragraph B of Article II bis of the Agreement for Cooperation concerning Civil Uses of Atomic Energy, which was signed at Washington on June 15, 1955, as amended by the Amendment signed at Washington on June 26, 1956, shall be carried out in accordance with the provisions herein (of the present agreement).

ARTICLE XII

DEFINITIONS

For the purposes of this Agreement:

A. "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

B. "Classified information" means information, data, materials, services or any other matter with the security designation of "Confidential" or higher applied under the legislation or regulations of either the United States or Canada, including that designated by the Government of the United States as "Restricted Data" or "Formerly Restricted Data" and that designated by the Government of Canada as "ZED Information".

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CONFIDENTIAL

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- 11 -

C. "Equipment" means:

(1) any instrument, apparatus or facility and includes any facility, except an atomic weapon, capable of making use of or producing special nuclear material, and component parts thereof, and includes reactor and military reactor; and

(2) Nonnuclear parts of atomic weapons systems involving Restricted Data.

D. "Military reactor" means a reactor for the propulsion of naval vessels, aircraft, (rockets, aeronautical) or land vehicles and military package power reactors.

E. "Persons" means:

(1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency or government corporation other than the United States Atomic Energy Commission (and Atomic Energy of Canada Limited); and

(2) any legal successor, representative, agent or agency of the foregoing.

F. "Reactor" means an apparatus, other than an atomic weapon, in which a controlled self-supporting fission chain reaction is maintained by utilizing uranium, plutonium or thorium, or any combination of uranium, plutonium or thorium.

(G. "Parties")

ARTICLE XIII

DURATION

This Agreement shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements.
(This Agreement shall be brought into force through an exchange of notes to that effect between the contracting parties)

CONFIDENTIAL

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CONFIDENTIAL

- 12 -

for the entry into force of this Agreement, and shall remain in force until terminated by agreement of both Parties, except that, if not so terminated, Article II and III may be terminated by agreement of both Parties, or by either Party on one year's notice to the other to take effect at the end of a term of ten years, or thereafter on one year's notice to take effect at the end of any succeeding term of five years.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement.

DONE at Washington this _____ day of _____, in two original texts.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF CANADA:

CONFIDENTIAL

ACCESS SECTION / SECTION DE L'ACCES

DOCUMENT REMOVED FROM FILE / DOCUMENT RETIRE DU DOSSIER

RC 25 Vol. Accession 5957 Box File/ 50219-AK-40 pl. 3
Dossier

Nature of document/ Technical Annex & Security Annex
Description du document
with appendices to the Agreement

No. of Pages/ 17 pgs.
Nbre de pages

Date Jan 14/59

Exempt/Exception, 15(1)
Access To Information Act/
Reason for Removal/ Loi sur l'accès à l'information
Retrait en vertu de

Review Officer/ CB / DPAIT
Agent(e) d'examen

Defence Liaison (2)/J. Timmerman/rjt

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

TO:Defence Liaison (1) Division.....

SecurityS.E.C.R.E.T.....

Date ...April 10, 1959.....

FROM: ...Defence Liaison (2) Division.....

File No.

50219-AK-40

REFERENCE:Your memorandum of March 26, 1959.....

SUBJECT:.....Canada-USA Bilateral Agreement on Atomic Information for Mutual Defence Purposes.....

Washington telegram No. 719 of March 24 indicates that only a few of the points made in the paper of March 18, 1959, entitled "Preliminary Comments on Draft Agreement for Cooperation Regarding Atomic Energy for Mutual Defence Purposes" were taken up with the American authorities. Lt. Col. Todd confirmed this on the telephone and stated that he had discussed the matter with the CCOS who had agreed that the Americans should not be pressed or even requested to accept the remainder. Col. Todd argued, with some justification, that since the current draft is not dissimilar except in unimportant respects to the old agreement, which has worked well for a number of years, we are not in a strong position to press for changes. He argued further that the draft agreement contains many phrases which have been lifted straight out of American legislation on the subject, and moreover conforms to agreements between the U.S.

and other countries on the same subject and that to ask for departures in the Canada-USA Agreement would create difficulties and long delays in having the Canada-USA Agreement ratified or approved by the appropriate Congressional Committee, etc. Two other points made by Lt. Col. Todd are that the security sections of the agreement will be classified and therefore unlikely to attract the attention of those who may be inclined to question or misinterpret some of the wording and that the agreement is a military one which in any case should be of little concern to this Department. He confirmed that a resume of his discussions with the Americans and a clean copy of the draft agreement would be sent to us in a day or so for information and any comment we might have.

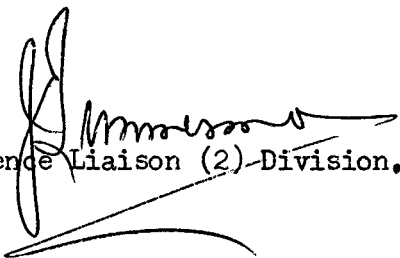
CIRCULATION

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- 2 -

S E C R E T

2. We believe there is something to be said for Colonel Todd's arguments and, while we would prefer to see the agreement amended as we suggest, we think that further efforts to secure changes would meet with little success in the face of NDHQ and American opposition.



Defence Liaison (2) Division.

P. S. Since writing the above we have received from Col. Todd some detailed comments on our paper of March 18. These are attached.

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

SECRET

10 April 1959

MEMORANDUM TO THE CABINET DEFENCE COMMITTEE

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF CANADA
FOR COOPERATION ON THE USES OF ATOMIC ENERGY
FOR MUTUAL DEFENCE PURPOSES

1. In order to take full advantage of the broader terms for the exchange of atomic information permitted by the United States Atomic Energy Act (1954) as amended in 1958, the United States Atomic Energy Commission and the Department of Defence have jointly prepared a new agreement for the exchange of atomic information between the USA and Canada for mutual defence purposes, such agreement, on ratification, to replace the similar agreement of 1955.
2. The US authorities who prepared this new agreement did so on their own initiative, without a request from Canada for such a paper, and in its preparation have gone to the full extent of US Law to permit the transmission of information and materiel under the terms of the 1958 amendment to the Atomic Energy Act of 1954.
3. The chief improvements over the 1955 Agreement are:
 - a. The inclusion of sub-sections permitting the transfer of information to enable Canada to attain a knowledge of specific atomic weapons allied with specific delivery vehicles, together with their safety features, so that salvage and recovery operations incident to a weapon accident are possible;
 - b. The inclusion of a section covering the exchange of information concerning the military application of nuclear reactors, at present contained in the Civil Atomic Information Agreement of 1955;
 - c. The inclusion of an Article permitting the transfer of non-nuclear parts of atomic weapons systems to Canada;
 - d. Easing of restrictions on the discussion of released information with other countries with whom the U.S. has Bilateral Agreements; and
 - e. The inclusion of an Article concerning patents.
4. The U.S. draft has been examined in detail within the Department of National Defence by the Joint Special Weapons Policy Committee with representation from the Judge Advocate General and the Joint Security Committee. The comments of the Department of External Affairs, the Justice Department (RCMP), the Atomic Energy Control Board and Atomic Energy of Canada Limited have been considered.

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5. The examination of the US draft disclosed that the document is acceptable to the Departments of the Government of Canada concerned with the Agreement. Certain changes in wording are preferred by Canada and there are informal indications that these changes are acceptable to the United States. Such proposals can be negotiated by the Ambassador in Washington, on the basis that those which prove to be unacceptable to the United States should be waived.

6. Recommendations

The Chiefs of Staff recommend, and I concur, that the Canadian Government express its general approval with the draft "Agreement Between the Government of the United States of America and the Government of Canada for Cooperation on the Uses of Atomic Energy for Mutual Defence Purposes" proposed by the U.S. Government.

If general approval is given, I recommend that the Canadian Ambassador to the United States be authorized to negotiate the Agreement and ratify it by an exchange of notes with the Government of the United States of America.

Minister of National Defence

Department of National Defence
10 April 1959

SECRET

ACCESS SECTION / SECTION DE L'ACCES

DOCUMENT REMOVED FROM FILE / DOCUMENT RETIRE DU DOSSIER

RC 25 Vol. Accession 5957 Box File/ 50219-AR-40 pt. 3
Dossier

Nature of document/ Security Annex and Appendices
Description du document

Technical Annex to Draft USA-CN Bilateral Agreement
attached to DND letter of April 10/59

No. of Pages/ 15(1) 2 pgs
Nbre de pages

Date April 10/59

Exempt/Exception, 15(1)
Access To Information Act/

Reason for Removal/ Loi sur l'accès à l'information
Retrait en vertu de

Review Officer/ CB. / DFAIT
Agent(e) d'examen

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

TO: ..Defence Liaison (2) Division.....

.....Attention: Mr. J. Timmerman.....

FROM: ..Defence Liaison (1) Division.....

REFERENCE:

.....

SUBJECT: ..Canada-USA Bilateral Agreement Atomic Information for.....
Mutual Defence Purposes

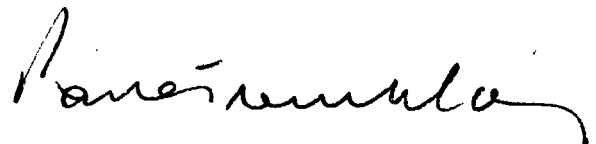
Security ...**SECRET**.....

Date ...**March 26, 1959**.....

File No.

--- Attached is a copy of telegram 719 of March 24 from Washington reporting on an informal meeting between the Canadian members of the Joint Special Weapons Policy Committee with their United States opposite numbers, which was held at the beginning of this week. We only heard about this meeting by chance and were fortunate in being able to have an officer of the Embassy attend. Although this meeting was intended to obtain clarification on certain points of the United States draft, some matters of substance were also discussed, even though it was agreed that anything said on either side would be without prejudice to future formal negotiations.

2. You will note from paragraph 3 that the meeting also discussed the proposed security annex which is of particular interest to your Division. The points which were raised appear to be mainly those of concern to the Department of National Defence and not those additional points which you had made as a result of your first examination of the security annex.



Defence Liaison (1) Division

ACCESS SECTION / SECTION DE L'ACCES

DOCUMENT REMOVED FROM FILE / DOCUMENT RETIRE DU DOSSIER

RC 25 ^{U.S.} Accession 5957 Box _____ File/ 50219-AK-40 pt. 3
Dossier

Nature of document/ Telex # 719 from Washington to
Description du document
External

No. of Pages/ 4 pgs
Nbre de pages

Date March 24/59

Exempt/Exception, 15(1)
Access To Information Act/
Reason for Removal/ Loi sur l'accès à l'information
Retrait en vertu de

Review Officer/ CS / DEAIT
Agent(e) d'examen

S E C R E T

March 20, 1959

50219-AK-40
68 50

Dear Jim:

When Harry Williamson was in my office yesterday, I mentioned to him that a few weeks ago in anticipation of the receipt of a draft of a new agreement on Exchange of Atomic Energy for Mutual Defence Purposes, I had done a brief study of the United States Atomic Energy Act of 1954 as amended. My purpose for doing this was partly to educate myself and partly to know better what we were likely to be able to obtain under the Act and therefore to see whether the draft agreement was adequate in that respect.

2. Harry suggested that this might be useful to both you and to him and asked if I could send down two copies. These are attached.

3. You will note that this is not a study of the Act as a whole but simply of the principal sections which deal with the military aspects. It was also designed to be read in conjunction with a similar study which had been done some time ago, say 1954 but which of course now is much out of date. Even so, I think that the attached is quite understandable when read by itself.

Sincerely,

F. M. Tovell

Mr. J. S. Nutt
The Canadian Embassy
Washington

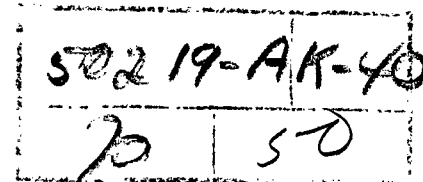
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DL(1) P.M. Toveil/HV

SECRET

March 19, 1959

Chairman, Chiefs of Staff,
Department of National Defence,
O t t a w a.



Canada-US Bilateral Agreement on Atomic
Information for Mutual Defence Purposes

I refer to our letter of February 16 and
to your reply of February 18 on the above subject.

Attached are three copies of this
Department's preliminary comments on the USA draft,
which we promised to send you. It may be that we
will have further comments to offer at the inter-
departmental meeting, which, I understand, your
officers will arrange in the near future, in order
to work out an agreed Canadian position before under-
taking formal negotiations with the United States
authorities.

As we mentioned in our earlier letter,
we would be pleased to have a representative attend
such a meeting and I shall be grateful to learn in
due course of its date and place.

(Signed) PAUL TREMBLAY

Under-Secretary of State
for External Affairs

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

OUTGOING MESSAGE

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FM: EXTERNAL OTT	DATE	FILE		SECURITY	
	MAR 18	50219-AK-40		SECRET	
TO: WASHDC	44	70	58	COMCENTRE USE ONLY	
		NUMBER	PRECEDENCE		
		DL.235	OPIMMEDIATE		
INFO:					

Ref.: OUR TEL NO DL234 OF MAR 18

Subject: CANADA-US BILATERAL AGREEMENT ON ATOMIC INFORMATION FOR MUTUAL DEFENCE PURPOSES

THE FOLLOWING ARE PRELIMINARY COMMENTS ON THE DRAFT CANADA-US BILATERAL AGREEMENT ON ATOMIC INFORMATION FOR MUTUAL DEFENCE PURPOSES:

(COMMUNICATIONS PLEASE COPY ATTACHED TEXT

BEGINS - "I MAIN AGREEMENT

ENDS - RECORDS CHECK?"

LOCAL DISTRIBUTION

ORIGINATOR	DIVISION	PHONE	APPROVED BY
SIG F.M. TOVELL/HV	DL(1)	6-7509	TREMBLAY
NAME			NAME

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

OUTGOING MESSAGE

63

44 FM: EXTERNAL OTT TO: WASHDC	DATE	FILE		SECURITY	
	MAR 18	50219-AK-40 70 5Y		SECRET	
	NUMBER	PRECEDENCE		COMCENTRE USE ONLY	
	DL.234	OPIMMEDIATE			
INFO:					

Ref.: YOURLET 197 OF FEB 9

Subject: CANADA-US BILATERAL AGREEMENT ON ATOMIC INFORMATION FOR MUTUAL
DEFENCE PURPOSES

WE UNDERSTAND THAT THE DEPT OF NATIONAL DEFENCE IS SENDING A TEAM TO WASHINGTON EARLY NEXT WEEK TO DISCUSS WITH THE PENTAGON CERTAIN ASPECTS OF THE DRAFT AGREEMENT UPON WHICH CLARIFICATION APPEARS DESIRABLE BEFORE FORMAL NEGOTIATIONS ARE INITIATED. THE TEAM IS TO CONSIST OF CERTAIN MEMBERS OF THE JOINT SPECIAL WEAPONS POLICY COMMITTEE, ONE OR TWO EXPERTS ON THE SECURITY SIDE AND A REPRESENTATIVE OF THE OFFICE OF THE JAG. IT IS POSSIBLE THAT THE TEAM WILL ALSO INCLUDE WATSON OF AECL. THE OFFICIALS WITH WHOM THEY WILL BE TALKING WILL BE THE USA OPPOSITE NUMBERS OF THE JSWPC.

2. WE HAVE NOT BEEN INVITED TO HAVE A REP ACCOMPANY THIS GROUP TO WASHINGTON NOR DOES THIS APPEAR NECESSARY IN VIEW OF THE FACT THAT DISCUSSIONS ARE TO BE INFORMAL AND EXPLORATORY IN NATURE. YOU MAY WISH, HOWEVER, TO DISCUSS WITH THE CJS(W) WHETHER IT MIGHT BE HELPFUL TO HAVE AN OFFICER OF THE EMBASSY SIT IN ON THE MEETINGS. IN MAKING THIS SUBGESTION (OF WHICH DND ARE AWARE) WE HAVE IN MIND THE FACT THAT ALTHOUGH THE DISCUSSIONS ARE

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ORIGINATOR	DIVISION	PHONE	APPROVED BY
SIG F.M.: TOVELL/HV NAME.....	DL(1)	6-7509	PAUL TREMBLAY SIG..... NAME.....

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ESSENTIALLY TO OBTAIN CLARIFICATION ON CERTAIN POINTS, THEY COULD EASILY GET INTO MATTERS OF SUBSTANCE ON WHICH THERE IS AS YET NO AGREED CANADIAN POSITION. NOR IS IT KNOWN HERE WHETHER THE STATE DEPT WILL BE REPRESENTED. A FURTHER FACTOR IN OUR MINDS IS THAT IN THE EVENT THE FINAL NEGOTIATIONS SHOULD TAKE PLACE IN WASHINGTON, IT MIGHT BE USEFUL TO HAVE AN OFFICER OF THE EMBASSY AS FULLY IN THE PICTURE AS POSSIBLE.

3. IN OUR IMMEDIATELY FOLLOWING TEL WE ARE SENDING YOU OUR PRELIMINARY COMMENTS ON THE USA DRAFT. THESE HAVE NOT BEEN DISCUSSED IN ANY DETAIL WITH OTHER INTERESTED DEPTS SUCH AS NATIONAL DEFENCE, PRIVY COUNCIL AND AECL. THEY ~~REXXXXXX~~ REFLECT OUR THINKING AT THE DIVISIONAL LEVEL ONLY.

AS WE HAVE NO INTENTION TO ENTER INTO NEGOTIATIONS AT THIS TIME, THESE COMMENTS WILL BE ^{ONLY} FOR BACKGROUND IN THE EVENT THAT THE EMBASSY IS REPRESENTED AT THE MEETING NEXT WEEK.

ACCESS SECTION / SECTION DE L'ACCES

DOCUMENT REMOVED FROM FILE / DOCUMENT RETIRE DU DOSSIER

RC 25 Col. Accession 5957 Box _____ File/ 50219-AB-40 pt. 3
Dossier

Nature of document/ Preliminary comments on draft
Description du document
Agreement for Cooperation regarding Atomic Energy for Mutual
Defence Purposes.

No. of Pages/ 5 pgs
Nbre de pages

Date March 18, 1959

Exempt/Exception, 15(1)
Access To Information Act/
Reason for Removal/ Loi sur l'accès à l'information
Retrait en vertu de

Review Officer/ CB / DPAIT
Agent(e) d'examen

ACCESS SECTION / SECTION DE L'ACCES

DOCUMENT REMOVED FROM FILE / DOCUMENT RETIRE DU DOSSIER

RG 25 ^{Vol.} Accession 5957 Box _____ File/ 50219-AK-40 pt. 3
Dossier

Nature of document/ Minutes of the 95th Meeting
Description du document
Joint Security Committee

No. of Pages/ ~~75~~ 4 pgs Date March 14 1959
Nbre de pages

Exempt/Exception, 15(1)
Access To Information Act/
Reason for Removal/ Loi sur l'accès à l'information
Retrait en vertu de

Review Officer/
Agent(e) d'examen



IN REPLY PLEASE QUOTE

NO. CSC 1894-2 TD 5(JSC)

Department of National Defence

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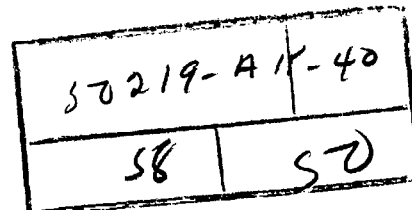
JOINT STAFF

ADDRESS REPLY TO

CHAIRMAN
CHIEFS OF STAFF,
OTTAWA.

12 March, 1959.

DNI
DMI
DAFS
DSI (Mr. C.G. Jones)
DM (Mr. R. Lavergne)



Security Annex - Revision of Atomic Energy Agreement

Reference our letter CSC 1624-1, CSC 1989-2 TD 5 of 11 March, 1959, which advised of the 95th Meeting of JSC to be held on 16 March.

2. Attached are copies of the Reports submitted by the sub-committees. These reports will be discussed at the meeting on Monday.

W.A. Todd
(W.A. Todd) Lt-Col.
Executive Secretary,
Joint Security Committee.

WAT/2-5934/ep

c.c. Department of External Affairs (Mr. Timmerman) ✓
Department of Defence Production (Mr. L.C. Cragg)
Atomic Energy Control Board (Mr. G.M. Jarvis)
Office of the Provost Marshal (Army) (Lt.Col. Scotti)

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Y

M E M O R A N D U M

CONFIDENTIAL

HQ 9425-1(PM)

11 Mar 59

Joint Security Committee

Attn: Executive Secretary

Revision of Atomic Energy Agreement

1. A meeting was held this day and in attendance were the following:

DNI - Lt Bell
DMI - Major Harrison
DAFS - S/L Bridgeman
DWD - Major Buckley
CR - Mr. Cardillo

2. The proposed physical security measures do not vary with the present system in force. It was the unanimous consent of the sub-committee that the proposed measures do not contravene our present system and should be adopted insofar as the Canadian Armed Forces are concerned.

3. The Chairman of the Sub-Committee requested that services notify the Provost Marshal (Army) of the exact room numbers where this type of information is retained in order that steps may be taken to have the supervision of the char staff and workmen, as applicable, carried out by service police at all times.

4. A detailed inspection of the locales where this information is retained will be carried out in the next few days by the Chairman of the Sub-Committee. This report is a preliminary report.

5. As requested.

Signed

(Anthony J. Scotti)
Lieutenant-Colonel,
Chairman
Sub-Committee
Physical Security of NDHQ Bldgs, Ottawa Area
Provost Marshal

AJS/2-3890/nr

MEMORANDUM

CONFIDENTIAL

HQS 9365-1(MI-S)

4 Mar 59

Lt-Col W.A. Todd,
Executive Secretary,
Joint Security Committee

Revision of Atomic Energy Agreement

1. In accordance with JSC direction CSC 1894-2 TD 5 dated 20 Feb 59, the Security of Personnel Sub-Committee met on 3 Mar 59 to consider the effects which the proposed revised Atomic Energy Agreement between United States and Canada will have on the National Defence Security of Personnel Order and to report on what changes will be necessary to that order.

2. The following personnel were in attendance:

<u>Chairman</u> -	Major KG McShane	DMI rep
	S/L SA Bascom	DAFS "
	Lt A Butroid	DNI "
	Mr CG Berry	DRB "

3. The sub-committee made a detailed study of the various sections dealing with security of personnel and report as follows:

- a. Under the proposed revised agreement, civilian personnel may be cleared for access to Top Secret atomic information only on the basis of a satisfactory field investigation. It is therefore recommended that the National Defence Order be brought in line by the addition of the following to para 6(a) -

"(iii) in the case of civilian personnel an indices check and field investigation covering a minimum of ten years are mandatory for access to Top Secret atomic information."

- b. Para 2 of Appendix B to Security Annex permits access to atomic information classified no higher than Confidential on a clearance "based on the results of a national agency check or a check of records held by government departments, agencies or military units". It is considered that this should read "and may include a check of records held, etc" since a records check would not necessarily include an indices (national agency) check.

- c. Para 2 of Appendix B to Security Annex permits military personnel access to Top Secret atomic information "on the basis of a suitable background investigation, including a national agency check". A "background investigation" has not been defined in this agreement and it is therefore impossible to say whether it has the same meaning as that set out in the National Defence Order which defines a background investigation as follows -

"a background investigation, which in addition to an indices check, will include a detailed examination of all federal government records applicable to the individual's service in the federal government covering an uninterrupted period of ten years federal government service. This investigation may also include the taking up of references".

It is therefore recommended that the term "background investigation" as used in the revised agreement be defined.

- d. Para 11 of the Criteria (Appendix A to Security Agreement) refers to refusal to testify before Congressional or Parliamentary committees. It is considered that this paragraph is not applicable to the National Defence Order in that we do not have similar Canadian legislation.

4. With the exception of the points raised in para 3 above, the sub-committee were of the opinion that the National Defence Security of Personnel Order complies with the provisions of the proposed revised agreement on atomic energy.

-2-

CONFIDENTIAL

5. As a result of this study the sub-committee would like to take this opportunity of recommending the following amendment to the National Defence Security of Personnel Order:

"That para 5(c) be amended to read -

"a field investigation which, in addition to sub-paragraph a. above, will provide a minimum of ten years continuous coverage and will include:

(i) place of birth and citizenship, etc."

Signed

(KG McShane) Major
Chairman

Security of Personnel Sub-Committee.



Department of National Defence
JOINT STAFF

IN REPLY PLEASE QUOTE

NO. CSC 1621-1(JSC)
CSC 1894-2 TD 5(JSC)

CONFIDENTIAL

ADDRESS REPLY TO
CHAIRMAN
CHIEFS OF STAFF,
OTTAWA.

11 March, 1959.

DNI
DMI
DAFS
DSI (Mr. C.G. Jones)
DM (Mr. R. Lavergne)

5049-AK-40
58 50


Agenda - 95th Meeting of Joint Security Committee

The 95th Meeting of the Joint Security Committee will be held on Monday 16 March, 1959, at 0930 hours in the Joint Staff Conference Room, 4813 "A" Building.

2. The Agenda will be as follows:

- I. Security Annex - Revised Canada-USA Agreement for Co-operation on the Uses of Atomic Energy for Mutual Defence Purposes
(CSC 1894-2 TD 5 of 20 February, 1959)

3. Sub-Committee Chairmen are requested to attend this meeting.


(M.A. Todd) Lt-Col.,
Executive Secretary,
Joint Security Committee.

WAT/2-5934/ep

- c.c. Department of External Affairs (Mr. Timmerman) ✓
Department of Defence Production (Mr. L.C. Cragg)
Atomic Energy Control Board (Mr. G.M. Jarvis)
Office of the Provost Marshal (Army)(Lt.Col. A.J. Scotti)

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

TO: Defence Liaison (1) Division

Security CONFIDENTIAL

Date March 11, 1959

FROM: Legal Division

File No.		
56219-AK-40		
48	✓	✓

REFERENCE: Your memorandum dated February 19

SUBJECT: Canada-United States Bilateral Agreement on Atomic Information for Mutual Defence Purposes

As surmised in your memorandum under reference, we would wish to be kept informed of the negotiations concerning the proposed agreement mentioned above. Our main concern would be to ensure that the form of the agreement conforms with international law and Canadian practice, including previous agreements on the same subject. We remain, of course, at your disposal for any questions which may arise concerning drafting.

2. We have noted that the first four lines of Article XIII provide that the agreement shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of this agreement, and shall remain... This clause is similar to the one used in Article IV of our Agreement with the U.S.A. of June 26, 1956 (copy attached) amending the Agreement for co-operation in the civil uses of atomic energy signed at Washington June 15, 1955 (copy attached).

3. Mr. Wershof, who was then Legal Adviser, wrote in a memorandum dated June 29, 1956 that he did not think much of this clause. In fact, Canada has no statutory requirement within the meaning of this article. It

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CIRCULATION

- 2 -

would, in the circumstances, be rather difficult to state in accordance with Article XIII of the draft agreement that we have complied with requirements which are non-existent.

4. The constitutional authority in Canada to negotiate and conclude treaties is part of the Royal Prerogative, which in practice is exercised in the name of the Crown by the Governor General in Council on the advice of the Secretary of State for External Affairs. This is done, in practice, by the issuance of an order-in-council authorizing the S.S.E.A. to take some action (signature, ratification, etc.) in respect of an agreement. There is no constitutional requirement related to parliamentary approval as provided for in the U.S. constitution.

5. In any case such a statement as required by Article XIII is, in our opinion, a statement concerning Canadian domestic law which could only be given with authority by the Department of Justice. It would therefore be desirable not to accept this clause without first consulting the Department of Justice.

6. Mr. Wershof suggested in his memorandum referred to above that it would have been better to adopt the wording of Article I of the 1955 Agreement for co-operation concerning civil uses of atomic energy between Canada and the U.S.A.: "This Agreement shall enter into force on the date of receipt by the Government of Canada of a notification from the Government of the U.S.A. that the period of thirty days required by Section 123(c) of the United States Atomic Energy Act of 1954 has elapsed ...".

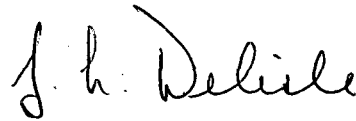
7. Under this clause the Government of Canada would have, of course, no control over the date of entry into force of the Agreement. This might be embarrassing in the event that the Government decided to have the Agreement approved by a joint resolution

... /3

- 3 -

of Parliament before its entry into force or if the Agreement had to be implemented by legislation.

8. Perhaps a satisfactory alternative to the present four lines of Article XIII could be found in a clause along the following lines: This Agreement shall be brought into force through an exchange of notes to that effect between the contracting parties.



Legal Division

DEPARTMENT OF EXTERNAL AFFAIRS

Subject US CANADA NEAR ATOM ARMS PACT

Date MARCH 8-59.

Publication NEW YORK TIMES

U.S., CANADA NEAR ATOM ARMS PACT

Continued From Page 1, Col. 7

launched, ground-to-air weapon.

Its capabilities have so impressed the Canadians that the Ottawa Government abandoned plans to manufacture Canadian-designed manned interceptor planes. Canada will rely on the Bomarc instead and already has begun making many parts of it, under contract with the United States producer.

The Canadian decision in this connection has developed into an important domestic debate. The Government has been charged with neglecting the nation's aircraft industry and placing too much reliance upon United States defense industries.

The contemplated United States-Canadian nuclear weapons agreement is not directly concerned with this domestic debate. The agreement will deal with the simple requirements for arming the Canadian-based missiles and other weapons capable of carrying nuclear warheads.

The latest types of weapons presumably will come into the arsenal of the North American Air Defense Command as they are developed. The command is a joint United States-Canadian venture with headquarters at Colorado Springs, Colo.

The commander is Gen. Earle E. Partridge, who also is head of the United States' Continental Air Defense Command. His deputy is Air Marshal C. Roy Slemmon, who was Chief of the Air Staff of the Royal Canadian Air Force before he joined General Partridge.

Other Weapons Likely

Authorities here indicated that while the nuclear stockpiles for Canada concerned the Bomarc mostly, it was not ruled out that at some future time intercontinental ballistic missiles might be stationed in Canada as well as the United States.

The impending agreement on nuclear weapons and stockpiles of warheads is expected to further solidify the already substantial United States-Canadian defense cooperation.

A joint Cabinet committee to decide and direct Canadian and United States policies for North American defense was formed in Ottawa last July, to supplement three military bodies. There is no record of any meeting since the committee was formed.

U.S., CANADA NEAR ATOM ARMS PACT

Ottawa Will Have an Equal Vote on Use of Weapons Based in Dominion

By JACK RAYMOND

Special to The New York Times.

WASHINGTON, March 7—The United States and Canada have agreed in principle on joint control of nuclear weapons and stockpiles of warheads to be based in Canada.

The preliminary drafts of the agreement are all but completed. An announcement regarding formal diplomatic negotiations is planned by the Canadian Parliament and the White House.

The United States is expected to provide the stockpile of warheads in Canada, under direct control of this country's personnel, as provided in existing laws. However, the contemplated arrangement would give Canadian authorities an equal vote in any decision to use the stockpile in event of hostilities.

The envisioned conditions are similar to the United States agreement on the stationing of 500-mile intermediate range ballistic missiles in Britain.

The United States-Canadian agreement would apply to other weapons, as it is not contemplated that intermediate range ballistic missiles will be set up in Canada.

In Canada, the nuclear warhead stockpiles probably would be used chiefly for Bomarc missiles. The Bomarc, with a range of more than 200 miles—some say as much as 500 miles—is a supersonic rocket.

Continued on Page 33, Column 1

The three previously organized military groups, the Permanent Joint Board on Defense, the Military Study Group and the Military Cooperation Committee. Each has a specific mission in the general area of defense cooperation. They meet regularly.

The Cabinet committee was designed primarily, however, to assure "civilian control" of military policies, apparently with an eye to the problem of decisions involving the use of atomic warheads.

Tactical Defense Command

For the North American Air Defense Command has authority. Because it is designed solely for tactical defense, this command is the only military unit with authority to use nuclear weapons without first obtaining special authority from the White House.

This authority is based on the premise that missiles and manned interceptors of the North American Air Defense Command are to go into action only in response to an attack.

Canadian-United States defense coordination already involves more than 200,000 Americans and Canadians, 2,000 aircraft and hundreds of anti-aircraft weapons, ships and radar warning stations.

It includes three elaborate radar chains, the first of which, the Distant Early Warning line runs from Alaska across the Canadian Arctic and Baffin Island to Greenland.

The planned bilateral agreement with Canada illustrates the increasingly close defense relationship with that country even in the realm of so sensitive a problem as United States nuclear weapons.

Authorities here noted the confidence that the United States has in Canada in contrast with other countries that also are allies. A contrast in the proposed agreement with Canada and the one that President Charles DeGaulle has refused to accept for France also was noted, although different situations are involved.

Requirements Noted

In the proposed United States-French agreement for establishing IRBM bases in France, the French would not have joint control with the United States over the weapons and their nuclear warheads.

France would be required to exercise its authority through the North Atlantic Treaty's Supreme Headquarters for Europe, under Gen. Lauris V. Norstad. That is not the requirement for the British-based IRBM's, but it will be the requirement for the bases in Italy, Greece and Turkey.

This is said to be one of the principle reasons why General De Gaulle has refused, despite prompting some time ago by John Foster Dulles, Secretary of State, to accept IRBM's offered by this country more than a year ago.

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CONFIDENTIAL

March 4, 1959

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Dear Mr. Davies:

Thank you very much for your letter of February 26 in which you were good enough to let me know of the announcement soon to be made in London regarding the arrangements which have been worked out with the United States for the construction of a nuclear submarine in the United Kingdom.

I note that this information is to remain confidential until such time as the announcement is made.

Yours sincerely,

PAUL TREMBLAY
for the

Under-Secretary of State
for External Affairs

Mr. H. E. Davies
Office of the High Commissioner
for the United Kingdom
Earnscliffe
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March 4, 1959.

MEMORANDUM FOR THE MINISTER

CONSTRUCTION OF A NUCLEAR SUBMARINE
IN THE UNITED KINGDOM

Attached is a copy of a letter we have received from the Office of the High Commissioner for the United Kingdom dated February 27, giving us advance notice of an announcement soon to be made in London concerning the arrangements which have been made by the United Kingdom with the United States to build a nuclear submarine. Although the letter points out that the information contained in this letter is confidential until the announcement is made in London, the fact that the United Kingdom have decided to embark on a nuclear submarine construction programme does not come as a surprise. You may recall that last summer, the United States and United Kingdom negotiated a special agreement to make this possible. This agreement was based on the revisions made at the last session of Congress to the United States Atomic Energy Act of 1954.

Related to the foregoing is the interest of the Royal Canadian Navy in obtaining from the United States the necessary information for it to undertake a study to determine the feasibility of constructing in Canada a nuclear anti-submarine submarine. We understand that the Department of National Defence do not intend to make any recommendation to the Government as to whether or not actual construction should be undertaken until after the feasibility study has been completed. As the required information could not be obtained under the terms of either our present civil or military Atomic Energy Agreements which were negotiated with the United States in 1955, it was necessary to work out a special arrangement in the form of a "means and extent" paper which has now been signed by Mr. Gray of

MINISTERS OFFICE	
Mr. C.	Mr. C.
Mr. C.	Mr. C.
MAR 5 1959	

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CONFIDENTIAL

Atomic Energy of Canada Limited and the Director of International Affairs of the United States Atomic Energy Commission.

This paper will be the governing document until such time as we have been able to conclude a new agreement "for co-operation regarding atomic energy for mutual defence purposes", a draft of which the United States authorities have already given us and which is being studied by the Departments concerned. This draft is designed to make it possible for Canada to take advantage of the liberalized provisions of the United States Atomic Energy Act of 1954 as amended by the United States Congress last summer.


N.A.R.

Mr. Fitch
Mr. Stogebrook
Kee + Fitch
RHM

TOP SECRET

Ottawa, March 1, 1950.

MEMORANDUM FOR THE MINISTER

The Hydrogen Bomb

201-AE(1)
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28 RHM

You asked us for a memorandum that would give you enough background information to help you see in perspective the possible development of the hydrogen bomb. What follows is a hasty and patently amateur attempt to put together the bones of the problem and will, if you wish, be followed by something more technical and authoritative. RHM

2. It is, of course, too early to draw any firm military or scientific conclusions as to the possibilities and limitations which the new weapon may have, if it is successfully developed, but from our discussions with Dr. Mackenzie, General McNaughton and others, it is at least possible to discount some of the more exaggerated stories which have been appearing in the press about the world turning into a star with the explosion of the first hydrogen bomb. No informed scientific opinion supports the possibility of a universal chain reaction of the earth's atmosphere being touched off by any conceivable hydrogen bomb explosion, Dr. Allan Munn of Carlton College notwithstanding.

3. Nevertheless, the true possibilities are sufficiently horrible. Professor Einstein has, as you know, warned that hydrogen bombs could poison the earth's atmosphere with radioactivity to such a degree that organic life could not be sustained. Within the past few days, Professor Szilard, whose opinions are also respected and may be more up to date on detail, was quoted as estimating that an explosion or explosions of five hundred tons of hydrogen material would create the poisoning of the atmosphere to which Professor Einstein had referred.

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4. Such spectacular possibilities are, however, most unlikely to be realized for the following reasons:

- (a) The difficulty of making a firing mechanism that will set off a hydrogen reaction.
- (b) The difficulty of manufacturing a really substantial quantity of hydrogen in a form in which fusion is theoretically possible at the temperatures produced at the centre of a uranium-plutonium bomb explosion.
- (c) The military users of any possible hydrogen bomb would, for tactical reasons if for no other, use hydrogen bombs only to the extent that they could be sure that the radioactive clouds created by the explosion would not blow back on their own people; as the world's air currents carry radioactive particles quite rapidly from one continent to another and as the winds can never be exactly predicted, neither side would be so foolish as to risk the use of hydrogen bombs on a really large scale.

5. Until the hydrogen bomb has actually been exploded, no one can be sure whether any one of several ways which are at present considered theoretically possible, will work. All that the scientists know for sure is that hydrogen can be turned into helium: on an experimental scale, that has been done. Scientists are reasonably confident that the sun is an atomic furnace creating energy by the fusion of hydrogen into helium at enormous temperatures (the Bethe theory). The heat generated by a uranium-plutonium explosion may now make it possible for man to trigger a similar hydrogen reaction. Everything beyond is still in the realm of speculation.

6. At present scientific interest centres on the isotopes of hydrogen, deuterium (one proton, one neutron) and tritium (one proton, two neutrons), as they might be fused into helium (two protons, two neutrons) at lower temperatures and pressures than hydrogen itself (one proton). The fact that water is found in nature more commonly than uranium, however, does not mean that it would be much easier to make large quantities of either deuterium or tritium than to make plutonium or uranium 235 in quantity. Both tritium and deuterium can now be

- 3 -

produced by fairly simple processes, but, for tritium especially, very large facilities would be needed to make it by the hundredweight. However, with production facilities of the order of magnitude of Oak Ridge and Hanford turned to the production of tritium or deuterium, five hundred tons could perhaps be made in the course of many years. It is also probable that radioactivity from a single hydrogen bomb might destroy or maim life exposed to it within fifty or one hundred miles radius.

7. The above statements can be made with some authority because our scientists at Chalk River have for some time been interested in the lighter elements, including hydrogen, deuterium and tritium, as part of their programme of basic research in nuclear physics. As it has the highest neutron flux in the world, the Chalk River pile is capable of making tritium in small quantities more readily than any other pile in existence (except, just possibly, in the Soviet Union). The U.S. Atomic Energy Commission have for some months been asking our scientists to use the Chalk River pile for high flux tests to provide the basic information that the Americans need in order to proceed with their new reactor programme. We are also passing on to the Americans the results of our basic research on the lighter elements which are easier to study because of their simpler nuclear structure. The Canadian press has already picked up the passing reference, in a recent N.R.C. press release, to Chalk River research on the lighter elements, and drawn the conclusion, in spite of denials from the National Research Council, that we are in fact doing work that has a bearing on the development in the United States of a hydrogen bomb. Until the United States Atomic Energy Commission completes a high flux pile, such as ours, we are in a unique position and have a corresponding responsibility, even though we may continue to say that we are not building bombs but are only interested in research.

8. As regards the military possibilities of the hydrogen bomb, it is still more difficult to speak with any assurance on the basis of present knowledge, but it seems fair to assume that the explosion created by a combined uranium-plutonium-hydrogen bomb could be from ten to one hundred times greater than that of the Nagasaki type of atom bomb, although the theoretical possibilities of a hydrogen reaction are almost unlimited, for there is no "critical size" as the energy is released not by fission but by fusion. In practice, the size of

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the explosion would be limited severely by the quantities that could be assembled together and held together during the first instants of a uranium-plutonium bomb explosion which would presumably throw off a great deal of hydrogen material before raising its temperature to the point of fusion. The other limiting factor is the complexity of the firing mechanism; according to some theories, it may be necessary to "freeze" tritium at ultra-low temperatures which would require elaborate refrigeration equipment; even if ultra-low temperatures are found to be unnecessary, the mechanism may be too cumbersome to be transported in anything smaller than a ship. If a way is found to carry hydrogen bombs in aircraft, it may be that, as Dr. Vannevar Bush believes, with the development of radar, proximity fuses and other new weapons, the technological pendulum may be swinging in favour of the defensive, thus increasing the problem of deliverability of any type of bomb, especially at inter-continental ranges.

9. As to whether or not the hydrogen bomb can be called a new weapon, opinions differ. If it is foreseen that it may be only ten times more powerful than the present atomic bombs, one might be justified in not calling it a new development, but rather an extension of what we already know. On the other hand, if it is developed to the point where it is a hundred times more powerful, that means that, if it could be carried in any aircraft, one aircraft would be capable of carrying one million times the explosive power of the pay load of a World War II bomber and it would be difficult to say that this was not "new". However, as the practical limitations that we have indicated are likely to apply both to the amount of hydrogen that could be exploded at one time and to the means of transporting it, it seems unlikely that the hydrogen bomb should be regarded as a decisive weapon any more than the atomic bomb is regarded by military opinion as being capable of winning a major war without the use of conventional forces, critical though a surprise attack in force with any type of atomic weapons would undoubtedly be. There is indeed a danger that the United States may become so impressed with the hydrogen bomb that, if it is successfully developed, they may develop a "Maginot Line" mentality and reduce their expenditures on conventional weapons which, in the event that the Russians also developed a hydrogen bomb, might be the only weapons used in a war, because of the overriding fear on both sides of retaliation in kind from atomic or hydrogen bombs.

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10. I think it is fair to say that because of the incredible indiscretion of Senator Johnson on his television broadcast last Fall, President Truman was forced to take a political decision before scientific evidence had reached a point at which the possibilities of the hydrogen bomb could be properly evaluated. The public discussion, ~~in~~ the absence of full scientific data, has blown the whole question completely out of proportion, because it is quite possible that the practical difficulties in the way of creating even a comparatively small hydrogen reaction will prove to be insuperable, or at least that the mechanisms necessary will be so large and elaborate as to preclude the use of airborne hydrogen bombs.

11. It is, of course, assumed that the Soviet Union is attempting or will attempt to make a hydrogen bomb and there is a possibility that with such brilliant physicists as Peter Kapitza, they may be ahead of us. Knowing as they do the difficulties and limitations, the "cold war" effect of the hydrogen bomb discussion may be less acutely felt by the Russians than by the peoples of the West. The dilemma, from the point of view of psychological warfare, is that even if we knew the possibilities more precisely, we might not want to, as it were, "devalue" the hydrogen bomb because the public discussion of it in the West has now built it up as a powerful deterrent of aggression, which indeed it could be, provided a hydrogen bomb monopoly were achieved and retained by the United States. However, there is nothing of a technical nature that would suggest that the Russians would find it any more difficult to match the U.S. achievement of a hydrogen bomb than that of an atomic bomb.

12. The processes by which deuterium or tritium can be made are likely to be simpler and easier to conceal than plutonium or uranium plants. A tritium plant could be hidden in the guise of a chemical plant and hydroelectric installations could easily be adapted for the manufacture of deuterium. Both types of installations would have to be on a large scale and, therefore, be relatively conspicuous, but they would not be as easy to find as plants for making plutonium and uranium which, in addition to their conspicuous features, give off many radioactive waste products which can be detected from aircraft. No such easy clues would be provided inspectors in search of tritium or deuterium plants, which, in addition, would take their raw materials

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from rivers without leaving a trace, whereas uranium requires large scale mining operations. On the other hand, a hydrogen bomb cannot be set off without a uranium-plutonium bomb explosion. The problem of international control and inspection is, therefore, not likely to be radically altered, except that even a small amount of clandestine production of uranium or plutonium would become much more serious if there were the possibility that it might be used to trigger a very much greater hydrogen explosion for which the materials could more readily be manufactured in secret. Obviously, this is a consideration of great importance when possible modifications of the majority plan are being weighed.

13. Nevertheless, the fact remains that there is ample evidence, on the basis of present scientific knowledge of the possibilities of the hydrogen bomb, for striving for some sort of effective international control with all the urgency, ingenuity and determination we can muster.

Mr. Macleod

Mr. Toul

OFFICE OF THE HIGH COMMISSIONER
FOR THE UNITED KINGDOM

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27th February, 1959.

Dear Mr Tremblay

You may have seen reports last summer of the United Kingdom Government's intention to build a nuclear submarine and of consultations which have been taking place between the United Kingdom and United States Governments with a view to allowing the United Kingdom to purchase a nuclear propulsion unit and the associated design information for the United Kingdom prototype submarine, H.M.S. Dreadnought.

2. I have now been asked to let you know that it is intended to announce in the United Kingdom Parliament in the next few days that negotiations have now been satisfactorily concluded between the chosen firms - Rolls Royce Limited and the Westinghouse Corporation; and that the contract has been endorsed by the United States and the United Kingdom Governments.

3. Under the contract a complete set of machinery similar to that being installed in the latest U.S.N. submarines of the Skipjack class will be obtained from Westinghouse. The design of the Dreadnought hull has been modified to take account of the changed dimensions of this machinery.

4. Full design and manufacturing details of the machinery together with safety information will also be made available. Training in manufacturing techniques and inspection will be provided for employees of Rolls Royce and the United Kingdom Admiralty. Vickers Armstrongs, who are building the Dreadnought and installing the machinery, will be able to obtain information and other help from the Electric Boat Company who were responsible for building the Skipjack. The United Kingdom Government will have the right to use all this information and training in manufacturing in the United Kingdom the nuclear machinery which will be used in the prototype of the Dreadnought's successors which is shore based at Dounreay.

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P. Tremblay, Esq.,
Defence Liaison (1) Division,
Department of External Affairs,
Ottawa.

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5. As a result of the contract, the Dreadnought will be much earlier with the British fleet. It is planned to lay her keel this summer. The final cost of production will probably be reduced and the saving the United Kingdom will make in research and development will be considerable.

6. The United Kingdom Senior Naval Liaison Officer in Ottawa has been keeping your Naval authorities informed of the progress made in concluding this contract.

7. I have been asked to stress the confidential nature of this information until the announcement is made in London.

Yours sincerely

H. E. Davies

(H. E. Davies)

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ACCESS SECTION / SECTION DE L'ACCES

DOCUMENT REMOVED FROM FILE / DOCUMENT RETIRE DU DOSSIER

RC 25 Vol. Accession 5957 Box File/ 50214-AK-40 pt. 3
Dossier

Nature of document
Description du document

To Defence Liaison (1) from
Defence Liaison (2)

No. of Pages/
Nbre de pages

4 pgs

Date Feb. 20 / 59.

Exempt/Exception, 15(1)
Access To Information Act/

Reason for Removal/ Loi sur l'accès à l'information
Retrait en vertu de

Review Officer/
Agent(e) d'examen

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DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

TO: Legal Division

Security **SECRET**

Date February 19, 1959

FROM: Defence Liaison (1) Division

File No.

50 219-AB-40
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REFERENCE:
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SUBJECT: Canada-United States Bilateral Agreement on
Atomic Information for Mutual Defence Purposes

The attached is a copy of an Aide-Memoire dated February 7 handed to the Embassy in Washington by the State Department to which is attached a draft agreement on the above subject.

2. In view of the large military interest in this matter, the Chairman Chiefs of Staff has agreed that his Department undertake the collation of the views of those departments and agencies of the Government who would be interested in the agreement and we ourselves will be sending our views to National Defence in due course. The Department of National Defence have also agreed to arrange for a meeting of departmental representatives to discuss the various comments made on the draft and to decide which of them should be conveyed to the United States authorities.

3. The two divisions of this Department principally concerned with this draft agreement are D.L.(2) and ourselves. This division's concern is related primarily to the agreement itself which we assume will be declassified when it comes before the Joint Committee on Atomic Energy of the United States Congress, and the Technical Annex which we assume will remain ~~un~~classified. D.L.(2)'s concern is primarily with the Security Annex and the two Appendices thereto. The various branches of the Department of National Defence are examining this draft as well. Even though the Office of the Judge Advocate General is being consulted by other officials of National Defence, it has occurred to us that

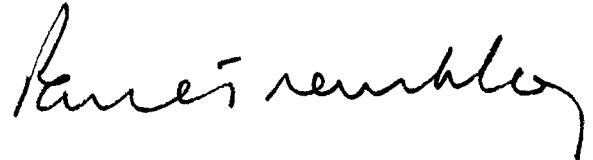
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your division might wish to be kept in the picture as well. On the other hand, it may well be that you would be satisfied to have the JAG look after any legal considerations which the draft raises.

4. Perhaps after examining the draft you would be good enough to let us know if there are any particular comments you would wish to make on this matter.

A handwritten signature in dark ink, appearing to read "Bruce Rumbly". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Defence Liaison (1) Division

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DEPARTMENT OF NATIONAL DEFENCE

OFFICE OF THE CHAIRMAN, CHIEFS OF STAFF
OTTAWA

Mr. Brill
A

18 February 1959.

The Under-Secretary of State
for External Affairs,
East Block,
Ottawa, Ontario.

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Canada - United States Bilateral Agreement on Atomic
Information for Mutual Defence Purposes

1. Reference is made to your memorandum of 16 February 1959, enclosing five copies of an Aide Memoire from the U.S. State Department to which was attached a draft of the proposed new military agreement with annexes.
2. We agree with you that in view of the large military interest in this new bilateral agreement it would be logical for the Department of National Defence to assume responsibility to collate the views of the officials in other branches of the Government who may wish to be consulted before bringing this matter before Cabinet.
3. This agreement is at present being considered by the Joint Special Weapons Policy Committee and as soon as this has been completed this Department will arrange for a meeting of other interested departmental representatives and we will advise you of the proposed date for this meeting.

Charles Foulkes
(Charles Foulkes)
General,
Chairman, Chiefs of Staff.

Defence Liaison (2) Division

50219-AK-40
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SECRET

February 17, 1959

Defence Liaison (1) Division

**Canada-United States Bilateral Agreement on
Atomic Information for Mutual Defence Purposes**

The attached is a copy of an Aide-Memoire dated February 7 handed to the Embassy in Washington by the State Department to which is attached a draft agreement on the above subject.

2. In view of the large military interest in this matter, we are suggesting to the Chairman, Chiefs of Staff that his Department undertake the collation of the views of those departments and agencies in the Government who would be interested in the agreement, and we ourselves shall be sending our views to them in due course. We would like to incorporate in our views any particular comments that you may care to make, not only on the agreement as a whole, but especially on the Security Annex and the two appendices thereto. We assume although we cannot yet be certain that it is not the State Department's intention that this annex would be declassified in time even though the main agreement would be. This was the case with the military agreement now in force; the two annexes to it remain classified.

3. The Security Annex and the two appendices go considerably further than the corresponding Security Annex of the present agreement. For ease of reference, we attach a copy. You may wish to consider whether it would be possible to suggest to the Americans that a more simple Security Annex along these lines could be made part of the new agreement. If this should not prove possible then we would be grateful for any ideas which you may have to make the draft less objectionable from our point of view.

(Signed) PAUL TREMBLAY

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Defence Liaison (1) Division

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February 16, 195

Chairman, Chiefs of Staff
Department of National Defence
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Canada-United States Bilateral Agreement on
Atomic Information for Mutual Defence Purposes

With reference to your letter of February 6 on the above subject, I enclose five copies of an Aide-Memoire dated February 7 handed to our Embassy in Washington by the State Department and to which is attached a draft of the proposed new military agreement with annexes. I regret that I was not able to send you these sooner; as we only received one copy from Washington, it was necessary to have it reproduced.

2. This draft will of course require detailed consideration prior to its submission to the Cabinet. In view of the large military interest in any new bilateral agreement on atomic information for mutual defence purposes, we assume that it will be the responsibility of the Department of National Defence to collate the views of the officials in other branches of the Government who may wish to be consulted and at the appropriate time to bring the matter before Cabinet. The Department of External Affairs would of course assume responsibility for the actual negotiations with the United States authorities. If this course of action is agreeable to you, your Department may find it desirable to arrange for a meeting of interested departmental representatives so that their comments may be reflected in any views it is desired to convey to the United States authorities and in the paper which would eventually go to Cabinet.

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We should be pleased to have a representative attend such a meeting.

3. This Department has already begun to study the United States draft and we shall let you have our comments as soon as possible.

(Signed) PAUL TREMBLAY

Under-Secretary of State
for External Affairs

c.c. (with enclosure)

Secretary to the Cabinet

Mr. J. L. Gray
Atomic Energy of Canada Limited

*Done
Feb 17
P.H.*

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TO EXTERNAL 319 OPINMEDIATE
REF YOURLET DL65 JAN23

10 FEB 1959

CDA-USA BILATERAL AGREEMENT ON ATOMIC INFO FOR MUTUAL DEFENCE
PURPOSES

WE ARE DESPATCHING BY BAG TODAY DRAFT OF AGREEMENT HANDED TO US
ON SAT.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: CANADIAN EMBASSY.....

..... WASHINGTON, D.C.

Reference: Your letter No. DL-65 of January 23, 1959, ..

Subject: ... Canada-United States Bilateral Agreement on

..... Atomic Information for Mutual Defence Purposes.

Security:..... S E C R E T

No:..... 197

Date:..... February 9, 1959.....

Enclosures:..... 1

Air or Surface Mail: ... Courier Bag ...

Post File No:.....

Ottawa File No.	
50219-AK-40	
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References

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Attached is an aide memoire dated ^{February} January 7 and a copy of a draft agreement for cooperation on the uses of atomic energy for mutual defence purposes. We assume that you will want to pass to us in due course any comments you may have on this agreement for consideration by the United States agencies concerned. Thereafter, we take it that any outstanding differences will have to be resolved at a meeting of Canadian and United States officials presumably here in Washington.

A. F. Rau
The Embassy

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JAN 14 1959

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF CANADA
FOR COOPERATION ON THE USES OF ATOMIC ENERGY
FOR MUTUAL DEFENSE PURPOSES

The Government of the United States of America and the Government of
Canada,

Considering that their mutual security and defense require that they be
prepared to meet the contingencies of atomic warfare;

Considering that they are participating together in international arrange-
ments pursuant to which they are making substantial and material contributions
to their mutual defense and security;

Recognizing that their common defense and security will be advanced by
the exchange of information concerning atomic energy and by the transfer of
certain types of equipment;

Believing that such exchange and transfer can be undertaken without risk
to the defense and security of either country;

Contemplating that their common defense and security may be advanced
by the transfer at some future time of other types of equipment and materials
for use therein; and

Taking into consideration that the United States Atomic Energy Act of
1954, as amended, and the Canadian Atomic Energy Control Act and Atomic
Energy Regulations were enacted or prepared with these purposes in mind,

Have agreed as follows:

DRAFT

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ARTICLE I

GENERAL PROVISION

While the United States and Canada are participating in an international arrangement for their mutual defense and security and making substantial and material contributions thereto, each Party will communicate to and exchange with the other Party information, and transfer materials and equipment to the other Party, in accordance with the provisions of this Agreement provided that the communicating or transferring Party determines that such cooperation will promote and will not constitute an unreasonable risk to its defense and security.

ARTICLE II

EXCHANGE OF INFORMATION

Each Party will communicate to or exchange with the other Party such classified information as is jointly determined to be necessary to:

- A. the development of defense plans;
- B. the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;
- C. the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy;
- D. the development of delivery systems compatible with the atomic weapons which they carry; and
- E. research, development and design of military reactors to the extent and by such means as may be agreed.

CONFIDENTIAL

ARTICLE III

TRANSFER OF NONNUCLEAR PARTS OF ATOMIC WEAPONS SYSTEMS

The Government of the United States will transfer to the Government of Canada, subject to terms and conditions acceptable to the Government of the United States and all appropriate provisions and requirements of applicable United States laws, nonnuclear parts of atomic weapons systems involving Restricted Data as such parts are jointly determined to be necessary for the purpose of improving Canada's state of training and operational readiness.

ARTICLE IV

TRANSFER OF MILITARY REACTORS AND MATERIALS

The Government of the United States, by amendment to this Agreement and subject to the terms and conditions acceptable to the Government of the United States,

A. may agree to transfer, or authorize any person to transfer, to the Government of Canada, military reactors and/or parts thereof for military applications; and

B. may agree to transfer to the Government of Canada special nuclear material for research on, development of, production of, and use in military reactors for military applications.

CONFIDENTIAL

CONFIDENTIAL

ARTICLE V

RESPONSIBILITY FOR USE OF INFORMATION, MATERIAL, EQUIPMENT AND DEVICES

The application or use of any information (including design drawings and specifications), material or equipment communicated, exchanged or transferred under this Agreement shall be the responsibility of the Party receiving it, and the other Party does not provide any indemnity, and does not warrant the accuracy or completeness of such information and does not warrant the suitability or completeness of such information, material or equipment for any particular use or application.

ARTICLE VI

CONDITIONS

A. Cooperation under this Agreement will be carried out by each of the Parties in accordance with its applicable laws.

B. Under this Agreement there will be no transfer by either Party of atomic weapons.

C. Except as may be otherwise agreed for civil uses, the information communicated or exchanged, or the materials or equipment transferred, by either Party pursuant to this Agreement shall be used by the recipient Party exclusively for the preparation or implementation of defense plans in the mutual interests of the two countries.

D. Nothing in this Agreement shall preclude the communication or exchange of classified information which is transmissible under other arrangements between the Parties.

CONFIDENTIAL

ARTICLE VII

GUARANTEES

A. Classified information, materials and equipment communicated or transferred pursuant to this Agreement shall be accorded full security protection under applicable security arrangements between the Parties and applicable national legislation and regulations of the Parties. In no case shall either Party maintain security standards for safeguarding classified information, materials or equipment made available pursuant to this Agreement less restrictive than those set forth in the applicable security arrangements in effect on the date this Agreement comes into force.

B. Classified information communicated or exchanged pursuant to this Agreement will be made available through channels existing or hereafter agreed for the communication or exchange of such information between the Parties.

C. Classified information, communicated or exchanged, and any materials or equipment transferred, pursuant to this Agreement shall not be communicated, exchanged or transferred by the recipient Party or persons under its jurisdiction to any unauthorized persons, or, except as provided in Article VIII of this Agreement, beyond the jurisdiction of that Party. Each Party may stipulate the degree to which any of the information, materials or equipment communicated, exchanged or transferred by it or persons under its jurisdiction pursuant to this Agreement may be disseminated or distributed; may specify the categories of persons who may have access to such information, materials or equipment; and may impose such other restrictions on the dissemination or distribution of such information, materials or equipment as it deems necessary.

CONFIDENTIAL

ARTICLE VIII

DISSEMINATION

Nothing in this Agreement shall be interpreted or operate as a bar or restriction to consultation or cooperation in any field of defense by either Party with other nations or international organizations. Neither Party, however, shall communicate classified information or transfer or permit access to or use of materials, or equipment, made available by the other Party pursuant to this Agreement unless:

A. All appropriate provisions and requirements of applicable laws, including authorization by competent bodies of such other Party, have been complied with which would be necessary to authorize such other Party directly so to communicate to, transfer to, permit access to or use by such other nation or international organization; and further that such other Party authorizes the recipient Party so to communicate to, transfer to, permit access to or use by such other nation or international organization; or

B. Such other Party has informed the recipient Party that such other Party has so communicated to, transferred to, permitted access to or use by such other nation or international organization.

ARTICLE IX

CLASSIFICATION POLICIES

Agreed classification policies shall be maintained with respect to all classified information, materials or equipment communicated, exchanged or transferred under this Agreement. The Parties intend to continue the present practice of consultation with each other on the classification of these matters.

CONFIDENTIAL

ARTICLE XPATENTS

A. With respect to any invention or discovery:

1. employing classified information which has been communicated or exchanged pursuant to Article II, or derived from any reactors and/or parts thereof or material or nonnuclear parts of atomic weapons systems transferred pursuant to Articles III and IV, and made or conceived after the date of such communication, exchange or transfer but during the period of this Agreement, by the recipient Party, or any agency or corporation owned or controlled thereby, or any of their agents or contractors, or any employee of any of the foregoing; or

2. not covered in subparagraph 1. above and made or conceived by any person representing or sponsored by one Party (hereinafter referred to as the "sending Party") or its contractor, while in the country of the other Party and assigned to an installation, plant, laboratory, institution or similar facility in the country of the other Party pursuant to this Agreement,

the recipient or sending Party shall:

a. obtain, by appropriate means, sufficient right, title and interest in and to the invention or discovery, or patent application or patent thereon, as may be necessary to fulfill its obligations under the following two subparagraphs:

b. transfer and assign to the other Party all right, title and interest in and to the invention or discovery, or patent application or patent thereon, in the country of that other Party, subject to the retention by the recipient or sending Party of a royalty-free, non-exclusive, irrevocable license, with the right to grant sub-licenses, for all purposes; and

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c. grant to the other Party a royalty-free, non-exclusive, irrevocable license, with the right to grant sublicenses, for all purposes in the country of the recipient or sending Party and in third countries.

B. The transferring Party neither warrants nor represents that any reactors and/or parts thereof or material or non-nuclear parts of atomic weapons systems transferred pursuant to Articles III and IV do not infringe any patent owned or controlled by other persons and assumes no liability or obligation with respect thereto, and the recipient Party agrees to indemnify and hold harmless the transferring Party from any and all liability arising out of any infringement of any such patent.

C. With respect to any invention or discovery, or patent application or patent thereon, or license or sublicense therein, covered by paragraph A of this Article, each Party:

1. may, to the extent of its right, title and interest therein, deal with the same in its own and third countries as it may desire, but shall in no event discriminate against citizens of the other Party in respect of granting any license or sublicense under the patents owned by it in its own or any other country;

2. hereby waives any and all claims against the other Party for compensation, royalty or award, and hereby releases the other Party with respect to any and all such claims.

D. 1. No patent application with respect to any classified invention or discovery employing classified information which has been communicated or exchanged pursuant to Article II, or derived from the reactors and/or parts thereof or material or non-nuclear parts of atomic weapons systems transferred pursuant to Articles III or IV, may be filed:

CONFIDENTIAL

a. by either Party or any person in the country of the other Party except in accordance with agreed conditions and procedures;

or

b. in any country not a party to this Agreement except as may be agreed and subject to Articles VII and VIII.

2. Appropriate secrecy or prohibition orders shall be issued for the purpose of giving effect to this paragraph.

E. Detailed procedures shall be jointly established to effectuate the foregoing provisions, and all situations not specifically covered shall be settled by mutual agreement governed by the basic principle of equivalent benefits to both Parties.

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ARTICLE XI

PREVIOUS AGREEMENTS FOR COOPERATION

Effective from the date on which the present Agreement enters into force, the cooperation between the Parties being carried out under or envisaged by the Agreement for Cooperation Regarding Atomic Information for Mutual Defense Purposes, which was signed at Washington on June 15, 1955, and by paragraph B of Article II bis of the Agreement for Cooperation concerning Civil Uses of Atomic Energy, which was signed at Washington on June 15, 1955, as amended by the Amendment signed at Washington on June 26, 1956, shall be carried out in accordance with the provisions herein.

ARTICLE XII

DEFINITIONS

For the purposes of this Agreement:

A. "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

B. "Classified information" means information, data, materials, services or any other matter with the security designation of "Confidential" or higher applied under the legislation or regulations of either the United States or Canada, including that designated by the Government of the United States as "Restricted Data" or "Formerly Restricted Data" and that designated by the Government of Canada as "_____".

C. "Equipment" means:

(1) any instrument, apparatus or facility and includes any facility, except an atomic weapon, capable of making use of or producing special nuclear material, and component parts thereof, and includes reactor and military reactor; and

(2) nonnuclear parts of atomic weapons systems involving Restricted Data.

D. "Military reactor" means a reactor for the propulsion of naval vessels, aircraft or land vehicles and military package power reactors.

E. "Persons" means:

(1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency or government corporation other than the United States Atomic Energy Commission; and

(2) any legal successor, representative, agent or agency of the foregoing.

F. "Reactor" means an apparatus, other than an atomic weapon, in which a controlled self-supporting fission chain reaction is maintained by utilizing uranium, plutonium or thorium, or any combination of uranium, plutonium or thorium.

ARTICLE XIII

DURATION

This Agreement shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements

CONFIDENTIAL

for the entry into force of this Agreement, and shall remain in force until terminated by agreement of both Parties, except that, if not so terminated, Article II and III may be terminated by agreement of both Parties, or by either Party on one year's notice to the other to take effect at the end of a term of ten years, or thereafter on one year's notice to take effect at the end of any succeeding term of five years.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement.

DONE at Washington this _____ day of _____, in two original texts.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF CANADA:

CONFIDENTIAL

ACCESS SECTION / SECTION DE L'ACCES

DOCUMENT REMOVED FROM FILE / DOCUMENT RETIRE DU DOSSIER

RC 25 Col. Accession 5957 Box File/ 50219-AK-40 pt 3
Dossier

Nature of document/ Security Annex and Appendices
Description du document
and Technical Annex attached with Aide-memoire

No. of Pages/ 18 pgs.
Nbre de pages

Date Feb 7/59

Exempt/Exception, 15(1)
Access To Information Act/
Reason for Removal/ Loi sur l'accès à l'information
Retrait en vertu de

Review Officer/ CS / D'FAIT
Agent(e) d'examen



REPLY TO BE ADDRESSED TO:
SECRETARY, CHIEFS OF STAFF
NATIONAL DEFENCE HEADQUARTERS
OTTAWA, CANADA

OFFICE OF THE CHAIRMAN, CHIEFS OF STAFF
OTTAWA

IN REPLY PLEASE QUOTE

No. CSC 1894.2

~~TOP SECRET~~

50219-AK-462 2
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6 February 1959

Mr. D. V. LePan,
Assistant Under-Secretary of State
for External Affairs,
East Block,
Ottawa, Ontario.

Canada-United States Bilateral Agreement on
Atomic Information for Mutual Defence Purposes

S.V.d.P.
Mr. [unclear]
For all
DOWNGRADED TO SECRET
REBUILT A SECRET
LLS² (M&IR)

FEB 22 1985

Dear Mr. LePan,

Please refer to my letter of 3 December 1958
on this subject.

I understand that events have overtaken the suggestion made in paragraph 3 of your letter of 28 November 1958, and that, in fact, a draft military agreement is presently being processed through the State Department. It appears to me, therefore, that to attempt to introduce Canadian defence requirements into the agreement at this stage of its development would not only prove fruitless, but would seriously hinder its progress.

While our atomic energy requirements are at present being reviewed, I consider it advisable to withhold any suggestions for modification of the agreement until the draft has been studied in detail. On completion of such study, any requirements which have not been covered might be suggested to the Americans for incorporation in the agreement.

Yours sincerely,

Charles Foulkes
(Charles Foulkes)
General

Chairman, Chiefs of Staff

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

TO: Mr. Tremblay

FROM: F. M. Tovell

REFERENCE:

SUBJECT: UNITED STATES ATOMIC ENERGY ACT OF 1954 AS AMENDED

Mr. McCarroll
Mr. [unclear]
Security CONFIDENTIAL
Date February 9, 1959
File No. 150219-AX
58 ✓ ✓

We have now received from the Embassy in Washington a consolidated edition of the Atomic Energy Act of 1954 as amended at the last session of Congress. A copy of this is attached.

The following comments, based on a preliminary study of the new Act, may be of use to you in connection with the forthcoming negotiation of a new agreement on the Exchange of Atomic Information for Mutual Defence Purposes.

General:

The principal changes enacted by Congress of interest to Canada are to be found in Sections 91, 123 and 144. Section 91 deals with cooperation in the field of materials and equipment; Section 123 deals with procedures to be followed for the negotiation, execution and implementation of an agreement; Section 144 deals with exchanges in the field of information.

With regard to materials and equipment, provision has been made for the transfer to friendly nations of special nuclear material for manufacture into atomic weapons or for other military uses by the receiving nation, the transfer to friendly nations for the military applications of utilization facilities (such as nuclear propulsion and power plants), and the necessary nuclear fuels and the transfer to friendly nations of non-nuclear parts of atomic weapons to improve the receiving nation's state of training and operational readiness.

CIRCULATION

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In the field of information, the aim has been to provide for the communication to friendly nations or defence organizations of additional design information necessary to permit essential training and planning, the communication to friendly nations or defence organizations of additional atomic weapons design information necessary to make any delivery systems manufactured by the receiving nation fully compatible with the United States atomic weapons and the exchange with friendly nations (but not defence organizations) of information that will improve the receiving nation's atomic weapon design, development or production capability.

These provisions are conditioned by a number of important provisos as will appear from the following brief analysis of the more important provisions of the Act as amended.

Section 91c:

There was no corresponding subsection in the Atomic Energy Act of 1954. It is this subsection which governs the transfer by "sale, lease or loan" of four categories of materials and equipment for military applications subject to certain conditions, determinations and procedures. These four categories are:

- (A) Non-nuclear parts of atomic weapons (91c(1))
- (B) Utilization facilities for military applications (91c(2))
- (C) Source, by-product or special nuclear material for utilization facilities for military applications (91c(3))
- (D) Source, by-product or special nuclear material for atomic weapons (91c(4))

Under (A), provision is made for the transfer of two distinctly different types of non-nuclear parts. One type, the non-nuclear parts of atomic weapons, relates to the integral components of the weapon itself which could only be transferred to those nations that have made substantial

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- 3 -

progress in the development of atomic weapons. The other type relates to non-nuclear parts of atomic weapons systems which are not integral to the weapon itself but pertain to various kinds of equipment involving restricted data to make possible the operational use and maintenance of the weapon, such as adaptation kits. Non-nuclear parts of atomic weapons may ~~not~~^{only} be transferred to a nation which has made substantial progress in its development of atomic weapons. As the non-nuclear parts of atomic weapons systems are not as sensitive as those in the first category, they may be transferred to a nation provided that the transfer will not contribute significantly to that nation's atomic weapon design, development or fabrication capability and then only for improving training and operational readiness. Utilization facilities (Category B) as defined in the Act would include military reactors and components such as those developed in the naval reactor propulsion programme, the aircraft nuclear propulsion programme or the army package power programme. It would also include spare parts and replacements. Transfers in this category are not subject to the proviso regarding "substantial progress" nor that regarding not contributing significantly to the receiving nation's capability for design, development or fabrication. Items under Category (D) are subject to the restriction that the material must be necessary to improve atomic weapons design, development and fabrication capability and that the receiving nation has made substantial progress in the development of atomic weapons .

Exchanges under these four categories are further restricted by the following conditions:

- (A) Transfers must be in accordance with the terms and conditions of a programme approved by the President.
- (B) The President must make a determination that the transfer will promote and not constitute an unreasonable risk to the common defence and security.

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- 4 -

- (C) The cooperating nation must be a military ally, i.e. a nation participating with the United States in an international arrangement and which is making substantial and material contributions to the mutual defence and security.
- (D) Cooperation must be undertaken pursuant to an agreement entered into in accordance with Section 123.

It is clear that the purpose behind Section 91c(1) is to enable the United States to assist an ally to increase its state of readiness and training and to decrease the number of United States personnel abroad required to maintain and guard non-nuclear components. It is equally clear that the prohibition contained in Section 92 makes it impossible to transfer any nuclear components of an atomic weapon; these must still remain in the custody of United States personnel.

With regard to Section 91c(3), spokesmen for the Atomic Energy Commission made it clear during the hearings that it is their intention to apply the authority granted the Commission cautiously as the United States has no desire "to promote the entry of additional nations into the field of nuclear weapons production". Nor would they interpret this section as authorization to furnish fabricated components of weapons nor to transfer to another nation nuclear components to go with the non-nuclear components transferred under 91c(1). It could be used, however, when an ally is proceeding with the build-up of a nuclear stockpile and to prevent waste of effort and the expenditure of valuable resources.

It should be noted that with regard to the words "substantial progress", Congress intended that the cooperating nation must have achieved considerably more than a mere theoretical knowledge of atomic weapons design or have tested more than a limited number of atomic weapons. The cooperating nation must have achieved a capability on its own of fabricating a variety of atomic weapons and constructed and operated the necessary facilities including weapons research and development laboratories, manufacturing facilities, etc. It was also intended that the Joint

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Committee should be provided with full information as to the basis for any determination in this regard.

Similarly with regard to a receiving nation making a substantial and material contribution to the mutual defence and security, Congress understood that such a nation must be a close military ally and that its contribution must be substantial and real.

Both these understandings would apply equally to exchanges of information under Section 144.

Section 123:

The authority granted under Section 91c was made subject to the proviso that cooperation be undertaken pursuant to an agreement entered into in accordance with Section 123. Such agreements must be submitted to Congress and referred to the Joint Committee and will not become effective if within sixty days Congress passes a concurrent resolution stating that it does not favour the agreement. The first day to be counted is the day the Joint Committee receives the agreement. The same proviso applies to agreements on information negotiated under Section 144b and 144c (civilian uses agreements however only have to be before the Committee for thirty days).

It is to be noted that the requirement of the 1954 Act that the receiving nation must guarantee that materials furnished will not be used for atomic weapons or other military purposes is no longer required for transfers under 91c. It is, however, still required in the case of agreements for transfers under any section other than 91c.

Subsection 123a outlines the form an agreement should take, the need to set out its scope, the objectives to be achieved and the categories of information to be involved. The agreement is also to contain a guarantee regarding security safeguards and a guarantee that any material or information transferred will not be transferred to unauthorized persons or to a third country.

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The sequence of events provided for by this section calls for the President to make two determinations that the proposed agreement will promote and not constitute an unreasonable risk to the common defence and security. The first would be made personally when approving the agreement and authorizing its execution and before submitting it to Congress. The second, which could be delegated, would be required prior to the implementation of the agreement. An executive order would be recommended to the President authorizing transmission when the Department of Defence and the Atomic Energy Commission jointly review the proposal to transmit information or transfer materials and jointly determine that the proposed cooperation would promote and not constitute an unreasonable risk to the common defence and security.

Section 144

Section 144 is the section dealing with exchanges of information for mutual defence purposes.

Subsection a contains only one change from the old Act: The insertion of "civilian" before the words "reactor development". It is, however, an important change as it is thereby made clear that only restricted data pertaining to civilian reactor development may be transmitted under this subsection. Information pertaining to military reactors can only be transmitted under Section 144c(2).

Subsection b is a substantially amended version of the corresponding subsection in the old Act. Under the old Section 144b, it was possible for the United States to communicate certain atomic weapons information as for example the configuration of some atomic weapons, the characteristics of these weapons and certain other aspects to permit the development of joint war plans, plans for defence and information to permit evaluation of potential enemy capabilities. Such information, however, had to be limited to the external characteristics such as size, weight, shape, yield and effects, and systems of delivery and important information regarding design or fabrication of the nuclear components could not be revealed. The addition of the words "including design information" now makes this possible

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to some extent. Also, the addition of the words "and other military applications of atomic energy" in (2) and (3), i.e. other than atomic weapons, substantially broadens the corresponding provisions of the old Act to widen the extent of cooperation between an ally or a regional defence organization for the training of personnel and the evaluation of capabilities of potential enemy. For the first time, authority is provided to pass on restricted data necessary to the development of compatible delivery systems for atomic weapons. The revision does not, however, authorize the communication of weapons information with the objective of promoting the recipient's ability as to research, design, development or fabrication of atomic weapons or research, development or design of military reactors. It is limited to information necessary for training, defence planning, compatibility and the evaluation of enemy capabilities; also, the information communicated must promote and not constitute a risk to the common defence and security and a recipient nation must be making a substantial and material contribution to that common defence and security.

Section 144c, which is new, provides for situations where exchanges of information are warranted in the interest of promoting an ally's atomic weapon design, development or fabrication capability or military reactor research development or design. Exchanges (and there must be an exchange) of information on weapons design for this purpose is subject to two important provisos; that communication of restricted data is necessary to improve atomic weapons design, development and fabrication capability and that the recipient nation has made substantial progress in the development of atomic weapons. Exchanges or transmission of information on military reactors is not subject to these provisos, but cooperation in both respects again must be subject to a presidential determination that cooperation will not constitute an unreasonable risk to the common defence and security and that the receiving nation is making a substantial material contribution to the mutual defence and security.

✓ Implications for Canada

The following appear to be the main implications for Canada and points which would have to be borne in mind when.

- 8 -

negotiating and implementing the new military agreement.

- (A) Canada cannot obtain any of the advantages of the Act as amended either in the field of materials and equipment or in the field of information unless we negotiate a new agreement which takes into account the liberalized revisions of the new Act. There must be an agreement for cooperation and its parties must participate by substantially contributing to the mutual defence and security.
- (B) No significant change has been made in Section 92 which prohibits the transfer of atomic weapons. While the non-nuclear parts of such weapons and the non-nuclear parts of atomic weapons systems may be transferred under certain conditions, as can certain utilization facilities for military applications, the U.S. fabricated nuclear components have to remain in U.S. custody. This means that on the basis of the exact wording of the Act as amended Canada could not be given control of nuclear warheads for air defence weapons to be used in Canada. Such weapons for use in Canada would have to be placed in storage depots under United States control until or unless they are ordered transferred to Canada by the President under his constitutional powers in time of war. The same would apply to nuclear warheads assigned to Canadian forces in Europe.

As far as I can judge, the only way that the prohibition contained in Section 92 could be circumvented would be by a special agreement negotiated under Section 121 which provides for the validity of such an agreement even though it may not be in accordance with the Act. Such an agreement, however, would have to be approved by Congress or if in Treaty form by two-thirds of the Senate. Thus it would have to be an unclassified agreement.

It is relevant to note here that in the course of their testimony during the hearings on the

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amendments to the Act, both Mr. Dulles and Mr. Quarles pointed to the difficulties which they could foresee by proceeding under this article. Mr. Dulles stressed the time factor both with regard to the negotiation of the agreement and possible delay in obtaining Senate certification or congressional approval. There would also be difficulties for the executive branch of the Government in attempting to anticipate what Congress would be likely to approve. Mr. Quarles stressed the point that Congress would probably wish to write in a series of extensive safeguards which would be "at a considerable price in our ability to conduct the military relationships with our allies".

- (C) Canada would not be able to obtain non-nuclear components of atomic weapons as in the absence of a weapons programme, we would not be able to meet the "substantial progress" provision. On the other hand, Canada might be able to get non-nuclear parts of atomic weapons systems as the proviso applying to this category does not imply that we have to have a weapons programme; it says only that the materials so obtained must not contribute significantly to weapon design.
- (D) Canada would be able to obtain under Section 91c by lease, loan or purchase utilization facilities such as military reactors and power reactors (e.g. for the DEW Line) but not the fabricated materials, provided that it can be shown that the receipt of such facilities would not constitute an unreasonable risk to the common defence and security and that we are participating with the U.S. in an international arrangement by substantial and material contributions to the mutual defence and security. Canada could also obtain information on military reactors under Section 144c(2). Such information would not be subject to the same restrictions as weapons design information as set out in Section 144c(1); the only proviso is that there must be a presidential determination

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that the receipt of restricted data will promote and not constitute an unreasonable risk to the common defence and security and that Canada is making a substantial and material contribution to the mutual defence and security.


- (E) In the absence of any weapons programme we cannot obtain information concerning weapons but under Section 144b, we could obtain such restricted data including design information on weapons and other military applications of atomic energy such as reactors as may be considered necessary for training, defence planning, compatibility and evaluation of enemy capabilities provided such information would not promote our ability to design or develop weapons or reactors. Also such information must not constitute an unreasonable risk to the common defence and security and we must be participating with the United States by substantial and material contributions to mutual defence and security. Thus, it would appear possible under this section to obtain further information on the performance, yield, fusing and firing features and loading checks of such atomic weapons as the MB-1, BOMARC, warheads, safety arrangements for A-bombs and H-bombs, the safety factors of the MARK 90 torpedo and advance information on weapons in development in which we might be interested for the above purposes. Such information would also include data regarding salvage, operational difficulties and launcher requirements. In fact, it is probably under this section that we can expect to receive most of the information we would wish to have.
- (F) Section 144b(4) makes it possible for Canada to receive information to help develop delivery systems, including air planes and missiles, which will be compatible with nuclear weapons to be furnished by the United States in the event of war. The only proviso here is that these will promote and not constitute an unreasonable risk to the

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common defence and security and that we will be judged to be making a substantial contribution to the mutual defence and security.

Conclusion:

It is difficult to foresee at this time all that could be obtained in a new military agreement negotiated under the new Act. Those items mentioned above are for the most part examples which were given in the course of the hearings. The picture will only become clear when a more thorough study is made of the new Act and when we have gained some experience with the interpretation United States officials will place on key phrases when actual requests are put forward. In the light of our experience in obtaining information under the old Act and our present military agreement, the evident desire of the United States authorities to cooperate even beyond the exact language of the Act and the assurances we have received from time to time that Canada's needs would be met, give us reason to be optimistic.


F. M. Tovell

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MINISTERIAL COMMITTEE ON JOINT DEFENCE
WILLOUGHBY(DIRECTOR, OFFICE OF BRITISH COMMONWEALTH AND NORTHERN
EUROPEAN AFFAIRS) TODAY HANDED US A LET UNDER DATE JAN28TH SUMMARIZIN
USA VIEWS ON THE POINTS RAISED DURING MR LEPAN'S CALL ON MERCHANT
IN CONNECTION WITH THE TERMS OF THE PROPOSED CDN STATEMENT ON THE
ACQUISITION AND CONTROL OF NUCLEAR WEAPONS. THE TERMS OF THIS LET
ARE AS FOLLOWS: BEGINS

THE APPROPRIATE USA AUTHORITIES HAVE REVIEWED THE COMMENTS OF
YOUR GOVT ON THE REVISIONS WE SUGGESTED TO THE DRAFT STATEMENT
WHICH YOUR GOVT PROPOSES TO MAKE IN PARLIAMENT SHORTLY ON THE
QUESTION OF ACQUISITION AND CONTROL OF NUCLEAR WEAPONS AND SUBMIT
THE FOLLOWING COMMENTS WITH RESPECT TO THE REMAINING POINTS OF
DIFFERENCE:

PARA7: WE CONCUR WITH THE DELETION OF "AND DETERRENT" SUBJECT TO
THE UNDERSTANDING THAT IT WILL NOT RPT NOT AFFECT ADVERSELY THE
ATTAINMENT OF USA STORAGE REQUIREMENTS OF HIGH YIELD STRATEGIC
WEAPONS IN CDA.

PARA10: WE CONCUR WITH THE DELETION OF "IN CDA" AND ADDITION OF
"BY NORAD" WITH THE ASSURANCE THAT YOUR GOVT UNDERSTANDS THAT USA
UNILATERAL ACTION MAY BE TAKEN, IN THE USA AIR SPACE, THROUGH THE USE
OF CONAD FORCES. THE SENTENCE IN QUESTION WOULD THEN READ AS FOLLOWS:
"IN THE EVENT THAT THESE DEFENSIVE WEAPONS ARE MADE AVAILABLE FOR
USE BY NORAD THEY COULD BE USED ONLY IN ACCORDANCE WITH PROCEDURES
GOVERNING NORAD'S OPERATIONS APPROVED IN ADVANCE BY THE TWO GOVTS."

PARA11: WE CONCUR WITH THE WORDS "CUSTODY AND CONTROL" IF THE WORDS
"PROCEDURES CONCERNING" ARE INSERTED BEFORE "CUSTODY AND CONTROL".
THE SENTENCE WOULD THEN READ AS FOLLOWS: "THE PROCEDURES CONCERNING
CUSTODY AND CONTROL OF NUCLEAR WARHEADS FOR USE BY CDN FORCES
OPERATING UNDER SUPREME ALLIED COMMANDERS IN EUROPE AND NORTH
ATLANTIC OCEAN WILL BE SUBJECT TO NEGOTIATIONS WITH APPROPRIATE
NATO PARTNERS AND THE SUPREME ALLIED COMMANDERS."

PARA4: WE ALSO CONCUR WITH THE CHANGES YOU SUGGEST REGARDING THE

PAGE TWO 243

REWORDING OF THE LAST SENTENCE IN PARA4, TO ASSURE THAT ONLY UNCLASSIFIED MATERIAL OR SUCH ASPECTS OF THE ARRANGEMENTS AS ARE AGREED TO BE SUITABLE FOR DISCUSSION IN PUBLIC FORUM, WILL BE USED IN THE HOUSE OF COMMONS. ENDS

2. WE ASSUME THAT PARA3, THE WORDING OF WHICH WAS ALSO DISCUSSED WITH MERCHANT, REMAINS AS IS. ON PARA4, THE PREFERENCE IS EXPRESSED FOR THE ALTERNATIVE WORDING WHICH LEPAN PROPOSED (SEE PARA4, OUR REFTTEL). THE USA AUTHORITIES HAVE ACCEPTED SUBSTANTIALLY THE CDN POINTS ON PARA7 10 AND 11 MADE IN THE COURSE OF OUR DISCUSSION WITH MERCHANT.

3. WE WOULD BE GRATEFUL IF YOU WOULD CONFIRM THE FINAL LANGUAGE OF THE PARAS THAT HAVE BEEN UNDER DISCUSSION SO THAT WE MAY INFORM THE STATE DEPT. WILLOUGHBY SAID THEY WOULD BE GLAD TO HAVE AN INDICATION AS SOON AS POSSIBLE OF THE DATE AND, IF POSSIBLE, THE HOUR OF THE PROPOSED CDN STATEMENT. AS YOU ARE AWARE, ANY STATEMENT MADE IN THE HOUSE ON THIS SUBJECT WILL GIVE RISE TO QUESTIONS HERE AND THE STATE DEPT WOULD LIKE TO BE PREPARED TO DEAL WITH PRESS ENQUIRIES. IT WOULD BE HELPFUL THEREFORE TO HAVE AS MUCH EARLY WARNING AS POSSIBLE ON THE TIMING OF THE CDN STATEMENT.

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3. This matter was also raised at the recent meeting of the Permanent Joint Board on Defence. The following is the relevant extract from the Journal:

"The External Affairs Member said that he understood that the Atomic Energy Commission and the State Department were considering the question of a revised agreement with Canada on the military uses of atomic energy and expressed an interest in knowing where the matter stood. The State Department Member said that a new draft agreement was being processed preparatory to its presentation to the Department of External Affairs. A revised agreement on the military uses of atomic energy would take into account the recent revisions to the U.S. Atomic Energy Act."

4. As at this meeting, we were given to understand that you may shortly expect to receive the draft of a new agreement from the State Department, this letter may be useful to you for background purposes and will enable you to know where the matter now stands.

(Signed) PAUL TREMBLAY


Under-Secretary of State
for External Affairs

MR. TREMBLAY

CONFIDENTIAL

January 9, 1959

F. M. TOVELL

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RCN's Proposed Item for PJBD Re-Implementation of Canada-United States Civil Atomic Energy Agreement

The attached brief which the RCN has drafted outlines the steps taken to date to pave the way for the RCN to obtain the information it requires to carry out a study to determine whether or not a nuclear anti-submarine submarine can be manufactured in Canada.

2. Although the initial history of this matter is well summarized in a RCN's memorandum, the following comments may be added:-

- a) The "scope and means" meeting referred to in paragraph 10 (b) is scheduled to be held in Washington on January 12 and 13 next. The Canadian Delegation will be headed by Mr. Lorne Gray, the President of ALCL, and will include representatives of the Navy and the Department of Transport. An officer of the Embassy in Washington will also attend. A representative of the Department of Transport is being included because of that Department's interest in obtaining information regarding a nuclear propulsion unit for an icebreaker.
- b) It may appear odd at first sight that the Navy should seek to obtain the information it requires on the basis of the civil uses agreement rather than the military agreement. However, the civil uses agreement, as amended, provides for a wider scope of exchange of information

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(including information on reactors of primary military significance) although an even broader basis will be supplied by means of the "scope and means" paper. To obtain the required information under the military agreement would require as a first step either an amendment to it or preferably an entirely new agreement. When making the formal approach to the State Department last August, the U.S. officials concerned suggested to us that it would probably be easier all around if we were to enter into negotiations for a new military agreement as this would be a much simpler way of getting the information the RCN requires. The Navy, however, while not doubting the truth of this point believed (with a good deal of justification) that as the matter was urgent, there would not be sufficient time to negotiate a new military agreement before the Congress ended its Session. The Atomic Energy Act as revised at the last Session of Congress, would not permit any new military agreement to be implemented before March 1959, as any agreement negotiated under its provisions has to lie on the table of the Joint Committee on Atomic Energy matters for sixty days.

- c) When agreeing to drafting and discussing a "scope and means" paper, the Atomic Energy Commission and the State Department made it clear that this was to be considered as a stop gap measure only and that they would much prefer a new military agreement to be negotiated as soon as possible. To this end, they have drafted such an agreement (which we understand is based largely on the recent agreement with the United Kingdom) and we may expect to receive this shortly.

3. The "scope and means" paper drafted in Washington and which will form the basis of discussions next week, will be found in the attached telegram 3122 of December 24, from Washington. The Navy after studying this draft are planning to seek certain amendments which are outlined in telegram ET-16 of January 7, to Washington. Paragraph 5 of this telegram

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outlines certain other points which the Navy wishes to have cleared up and provided a satisfactory response can be obtained they are willing to recommend upon the Delegation's return to Ottawa that the draft be finalized and incorporated in either an exchange of notes or an exchange of letters.

4. The principal point of interest in this paper from this Department's point of view is whether Para A-1 of the U.S. draft is too restrictive. The RCN do not think it is, as they have received oral assurances in which they seem to place a great deal of faith that they will get all the information they require on certain feasibility study. We have already informally pointed out to them, however, that it would be in their own interests to ensure at the Washington meeting that their reading of the paragraph is more optimistic than ours.

5. As you know, we in this Department have long held the view that the negotiation and inclusion of a new military agreement is essential if we are to take advantage of the liberalized provisions of the United States Atomic Energy Act and not deny ourselves information which we could now acquire but cannot be given on the basis of existing agreements. Our most recent letter to National Defence on this point was dated November 28 and a copy is attached. General Foulkes has replied to this letter agreeing with our view; he further stated that he was having "the Canadian Defence requirements reviewed" and promised to let us know when this process has been completed in order that we may pass on the information to the United States authorities to assist them in drafting the new military agreement. I understand, however, that such a new agreement has already been passed by the AEC to the State Department for its comments prior to being handed to us formally. If we receive this draft at an early date, then, of course, the Department of National Defence will have to consider their requirements urgently in order that they be included in whatever suggestions for amendments which we will wish put forward.

(Signed) PAUL TREMBLAY
F.M. 10V

DEFENCE LIAISON (1) DIVISION

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HISTORICAL FILE

C O N F I D E N T I A L

PERMANENT JOINT BOARD ON DEFENCE

CANADA - UNITED STATES

MEETING - JAN. 1959

MEMORANDUM FOR THE PERMANENT JOINT BOARD ON DEFENCE

BRIEF ON THE
IMPLEMENTATION OF THE AMENDMENT TO THE USA - CANADA
AGREEMENT FOR THE CIVIL USES OF ATOMIC ENERGY

Agreements between Canada and the United States of America were signed on June 15, 1955 for:

- (a) Co-operation in Civil Uses of Atomic Energy and
- (b) Information for Mutual Defence Purposes.

2. The Agreement for Co-operation in Civil Uses of Atomic Energy provided for the exchange of information with respect to the application of atomic energy to peaceful uses. This agreement specifically excluded atomic information of primarily military significance.

3. The Agreement for Information for Mutual Defence Purposes provided for the exchange of atomic information for:

- (a) the development of defence plans
- (b) the training of personnel in the employment of and defence against atomic weapons and
- (c) the evaluation of the capabilities of potential enemies in the employment of atomic weapons.

4. On 26 June, 1956, the Agreement for Co-operation in Civil Uses of Atomic Energy was amended to allow the exchange of information on reactors of primarily military significance, the extent and means to be agreed at such time as the amendment should be implemented.

5. On 31 October, 1957, a meeting was held in Washington between Canada and the U.S. to discuss the exchange of information on military reactors. Canada stated her interest in military reactors and U.S. representatives reviewed the current state of development in this field. No requirement to implement the amended Civil Agreement was stated at this time.

6. In May, 1958, the RCN were authorized to study the logistic and procurement problems associated with nuclear powered submarines.

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7. In order that these studies might be based on the best information available, a note was addressed to the U.S. Department of State in August, 1958, stating that the Canadian Government had decided to carry out a feasibility study to determine whether or not a nuclear powered anti-submarine could be manufactured in Canada for the Royal Canadian Navy, bearing in mind time and cost factors. This note further requested that consideration be given to the implementation of the USA - Canada Bilateral Agreement for Co-operation in the Civil Uses of Atomic Energy (as amended). Included with the note were suggested means for exchanging information and annexes outlining the scope of information contemplated by Canada. The annexes dealing with the scope contained the "need to know" of the Navy and the interests of the Army, Air Force, and Defence Research Board in military reactors.
8. In addition, the Department of Transport has subsequently indicated its interest in atomic information in connection with a nuclear icebreaker.
9. In November, 1958, the Canadian note was formally answered by the U.S. State Department stating their willingness to exchange atomic information within the purview of the Civil Agreement and suggesting that a meeting be arranged to conclude a supplementary "scope and means" paper agreed to by the two governments.
10. The present position is:
- (a) feasibility study is now in progress, intended to provide information on the basis of which the RCN will be in a position to recommend to the Government whether Canada should or should not embark on a programme of nuclear powered vessels. Atomic Energy of Canada Limited and DDP are associated with this study.
 - (b) It is anticipated that the USA - Canada "Scope and Means" meeting will be held in January, 1959.
11. It is hoped that the "Scope and Means" agreement will permit exchange of sufficient information to allow the feasibility study to be completed to the point where it will be possible to decide whether it is within the means of the RCN to add nuclear powered submarines to its forces and if so the extent to which eventual construction in Canada is possible, should the Government authorize such a step at some future date.


(E.D. Tisdall)
Rear-Admiral,
CANADIAN NAVAL MEMBER.

O T T A W A ,
31 December, 1958.

C O N F I D E N T I A L

~~TOP SECRET~~



CANADA

DEPARTMENT OF NATIONAL DEFENCE

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REBUILT A SECRET

OFFICE OF THE CHAIRMAN, CHIEFS OF STAFF
OTTAWA

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Mr. D.V. LePan,
Assistant Under-Secretary of State
for External Affairs,
East Block,
Ottawa, Ontario.

Canada - United States Bilateral Agreement on
Atomic Information for Mutual Defence Purposes

Dear Mr. LePan:

I wish to thank you for your letter of 28 November 1958, referring to Telegram 2835 of 19 November 1958, from the Canadian Embassy in Washington on this subject.

I fully share your views for the need of a new agreement to cover the uses of atomic energy for mutual defence purposes, particularly in connection with the salvage, safety and health aspects. It is also appreciated that the U.S. authorities may wish the new agreement to cover the contingency of RCAF fighter aircraft carrying the MB-1 rocket under previously agreed circumstances.

I am accordingly having the Canadian defence requirements reviewed and will advise you further when this has been completed in order that you can pass on informally our suggestions to the U.S. authorities to assist them in drafting the proposed new agreement.

Yours sincerely,

Charles Foulkes
(Charles Foulkes)
General,
Chairman, Chiefs of Staff.

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File # 50219-AK-40 pt 3

52 pgs

EXEMPTION/EXCEPTION 15(1)
ACCESS TO INFORMATION ACT
LOI SUR L'ACCÈS À L'INFORMATION

Canada

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TECHNICAL ANNEX TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA FOR COOPERATION ON THE USES OF ATOMIC ENERGY FOR MUTUAL DEFENSE PURPOSES

The following implementing provisions are agreed between the Government of the United States and the Government of Canada in connection with Articles II, III and IV of the Agreement signed at Washington this day for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes (hereinafter referred to as "the Agreement"), of which this Annex is a part:

SECTION I

With respect to Article II and subject to the terms and conditions of the Agreement:

A. The types of atomic information which will be transferred by either Government shall be limited to the following:

1. Effects related to yield to be expected from the detonation of atomic weapons.
2. Response of structures, equipment and personnel to the effects of atomic weapons, including damage or casualty criteria.
3. Methods and procedures for analysis of the response of structures, equipment and personnel to the effects of atomic weapons.
4. Characteristics of atomic weapons required for attainment of delivery capability with specified atomic weapons.

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5. Information required for attainment of compatibility of specified atomic weapons with specified delivery vehicles.
6. Information regarding delivery systems, including tactics and techniques and duties of maintenance, assembly, delivery and launch crews required for attainment of delivery capability with specified nuclear weapons.
7. Safety features of specified atomic weapons and of the operational systems associated with such weapons, and such information necessary and appropriate for salvage and recovery operations incident to a weapon accident.
8. Planning for, and training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy, including information concerning (a) defense against radiological warfare, (b) military use of isotopes for medical purposes and (c) assembly, maintenance, operation or use of military reactors.
9. Information and estimates, including United States and Canada design information, in order to permit the evaluation of the capabilities of potential enemy nations for atomic warfare and other military applications of atomic energy.
10. Information regarding civil defense against atomic attacks.
11. Information regarding logistic aspects of cooperation between the two countries involving nuclear weapons or

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other military applications of atomic energy, including such information concerning the numbers, location, types, yields and fuzing options of atomic weapons as may be necessary for mutual defense planning and for the storage requirements for such weapons.

B. It is understood that other military applications of atomic energy include military reactors.

C. The exchange of atomic information may be carried out through (such means as) cooperation in tests, trials, exercises, training programs, combined defense operations, staff and operational research studies and intelligence activities.

D. As used in this Technical Annex the term "atomic information" means:

1. so far as concerns information provided by the Government of the United States, information which is designated "Restricted Data" or "Formerly Restricted Data";
2. so far as concerns information provided by the Government of Canada information which is designated "ZED Information".

SECTION II

With respect to Article III and subject to the terms and conditions of the Agreement, the Government of the United States will transfer non-nuclear parts of atomic weapons systems involving atomic information only as such parts are necessary for:

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- A. Attainment of compatibility of specified atomic weapons with specified delivery vehicles; and/or
- B. Attainment of effective delivery capability with specified atomic weapons; and/or
- C. Attainment of an effective operational readiness capability with specified atomic weapons and their specified delivery vehicles.
- (D. Attainment of an effective render-safe capability with specific atomic weapons and their specific delivery vehicles.)

DONE at Washington this _____ day of _____, _____, in two original texts.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF CANADA:

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CONFIDENTIAL

SECURITY ANNEX TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA FOR COOPERATION ON THE USES OF ATOMIC ENERGY FOR MUTUAL DEFENSE PURPOSES

The following are the security arrangements between the Government of the United States and the Government of Canada for the protection of atomic information and materials exchanged pursuant to the Agreement signed at Washington on this date for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes (hereinafter referred to as "The Agreement"), of which this Annex is a part:

I. PERSONNEL SECURITY

A. No individual shall be entitled to access to atomic information solely by virtue of rank, appointment or security clearance. Access to atomic information shall be afforded only to those individuals whose official duties require such access and who have been cleared in accordance with the standards prescribed in this Annex. No individual shall be granted security clearance unless it is affirmatively determined that such clearance will not endanger the national security.

B. Prior to affording access to atomic information, a determination of eligibility (decision to grant security clearance) for each individual to be afforded such access shall be made by a responsible government authority.

C. The decision as to whether the granting of a clearance will not endanger the national security shall be a determination based on all available information. Prior to this determination, an investigation shall be conducted by a responsible government authority and the information thus developed will be reviewed in the light of criteria such as those set forth in Appendix A to this Annex. The Parties agree that these criteria may be revised from time to time by mutual consent as experience and circumstances may make desirable.

D. The minimum scope and extent of such investigation shall be related to the nature and significance of the access to be afforded in accordance with the standards set out in Appendix B to this Annex.

E. When immediate access to atomic information is essential for the individual concerned to carry out his assigned task, and the delay caused by

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awaiting full clearance would be detrimental to the national interest, the responsible authority empowered to grant such clearance may authorize a provisional clearance based on the records immediately available. In each such case, the responsible authority shall institute immediately the procedures necessary to satisfy the full clearance requirements set forth in the above paragraphs.

F. Each establishment handling atomic information shall maintain an appropriate record of the clearance of individuals authorized to have access to such information at that establishment. Each clearance shall be reviewed, as the occasion demands, to insure that it conforms with the current standards applicable to the individual's employment, and shall be re-examined as a matter of priority when new information is received which indicates that continued employment involving access to atomic information may no longer be consistent with the interests of security.

G. Effective liaison shall be maintained (in each country) between the national agencies responsible for national security and the agency responsible for the clearance determination and program execution to assure prompt notification of information with derogatory implications developed subsequently to the grant of security clearance.

II. PHYSICAL SECURITY

A. Atomic information shall be protected physically against espionage, sabotage, unauthorized access or any other hostile activity. Such protection shall be commensurate with the importance of the security interest involved.

B. Programs for physical security of atomic information shall be established so as to assure:

1. Proper protection of properties and materials on hand for immediate use, in storage or in transit.

2. The establishment of security areas, with controlled access, when deemed necessary by reason of the sensitivity, character, volume and use of the classified properties and materials and the

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character and location of the building or buildings involved. Perimeter barriers (natural or structural) shall be established when considered necessary to prevent or impede access by unauthorized individuals because of the particular sensitivity or revealing characteristics of the properties or materials involved.

3. A system of controlled access which shall embody procedures for authorization by (the) competent authority (concerned), accurate methods of personnel identification, and accountability for identification media, and a means of enforcing limitations on movement and access to security areas.

III. CONTROL OF CLASSIFIED INFORMATION

A. Document and information control programs shall be maintained which will have for their basic purposes:

1. Classification in strict accord with the sensitivity of the information involved.
2. Control of access.
3. Ready accountability commensurate with the degree of sensitivity.
4. Continuous review for purposes of downgrading or declassification.
5. Destruction when no longer needed.

B. Information or material shall be classified strictly in accordance with agreed classification policies. The authority to classify atomic information shall be granted to the minimum number of individuals and at the highest administrative levels consistent with operational requirements and such individuals shall be charged with strict compliance with classification standards.

To promote uniformity, the following special rules shall be observed:

1. Documents shall be classified according to content and not necessarily according to relationship to other documents.
2. Classification of a file or group of documents physically connected shall be at least as high as that of the most highly classified document therein.
3. Each document shall bear only one classification, even though separate pages, paragraphs, sections or components thereof may bear different

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classifications and the over-all classification shall be at least as high as the highest classified portion of the document.

4. Documents and material shall be conspicuously marked so that current classifications are clearly visible and readily understandable.

5. When a document is reproduced, all original security markings thereon shall also be reproduced or shown on each reproduction.

C. Except when in authorized transit, the use of atomic information shall be limited to approved locations (locations approved by the competent authority concerned). Except during the periods when such information is in use by authorized personnel, it shall be stored in repositories of approved design and construction.

D. Requirements for intra-nation transmission of atomic information made available by the other government shall be as follows:

1. Top Secret atomic information and material by military, diplomatic or other official courier.

2. Secret and Confidential atomic information by official courier or registered mail within the postal systems of the nation.

3. All atomic information transmitted by electrical means will be encrypted.

E. Top Secret atomic information shall be transmitted between the United States and Canada by means of diplomatic pouch, by military, diplomatic or other official courier.

F. Secret and Confidential atomic information shall be transmitted between the United States and Canada by official courier or by United States and Canadian Registered Mail with registered mail receipts.

G. Accountability procedures shall be established to control dissemination of documents containing Top Secret or Secret atomic information, including the assignment of accountability numbers to documents containing Top Secret atomic information. Top Secret control officers will be designated to maintain accountability registers for the receipt and dispatch of Top Secret documents. Receipts shall be used to evidence transfer of Top Secret, Secret, and, when appropriate, Confidential documents.

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H. Documents containing atomic information, when no longer needed, shall be destroyed by burning, shredding, pulping, or any other method which assures complete destruction of the information contained therein. Work sheets, carbon paper, stenographer notes, imperfect copies and similar material which warrants classification shall be safeguarded and destroyed in the manner prescribed for documents of the same classification. Destruction of Top Secret, Secret, and receipted Confidential documents shall be evidenced by appropriate entries in accountability records.

IV. GENERAL REQUIREMENTS

A. Security Assurances. It is recognized that exchange information shall cause individuals in the United States program to visit Canada and vice versa. In furtherance of this activity, the responsible authority of the sponsoring country shall furnish (in advance) to the responsible authority of the country to be visited, an assurance in writing, that the visitor has been found eligible for access to classified information in the sponsoring country. This assurance shall include the following data:

1. Full name (not initials) of the visitor;
2. Date and place of birth;
3. Citizenship;
4. Current residence address;
5. Official title or description of official position;
6. The kind of security clearance granted the individual and
the scope of investigation upon which the clearance determination
was based.

B. Security of Classified Contracts. Every classified contract, sub-contract, consultant agreement or other arrangement entered into by either Party to the Agreement, and relating to information exchanged under the Agreement, shall contain appropriate clauses imposing obligations to abide by the security arrangements set forth in this Annex.

C. Security Education. Responsibility for maintenance of adequate security shall rest at various executive and administrative levels and each individual

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shall be required to observe proper security measures. To assure that all individuals authorized access to atomic information are properly advised, the Parties to the Agreement agree to maintain an adequate program to inform all persons of their responsibilities under the Agreement, including a specific initial indoctrination and orientation, periodic re-emphasis of individual responsibilities and a termination interview, stressing the continuing responsibilities for protection of atomic information.

D. Loss or Compromise. In event of loss or possible compromise of atomic information exchanged under the Agreement, any individual having knowledge of such loss or compromise is charged with responsibility for promptly reporting such loss or compromise to the appropriate official of his Government. The Government shall undertake an immediate investigation into the circumstances surrounding the incident. The Government which initiated the information shall be notified promptly of the loss or compromise and the findings of the investigation.

E. Reports. Each Government shall from time to time submit such reports as are requested concerning the information transmitted under the Agreement and the dissemination of information on which particular restrictions have been placed by the other Government.

F. Facility Index. Appropriate records of approved non-Government facilities shall be maintained.

V. CONTINUING REVIEW OF SECURITY SYSTEM

It is recognized that effective and prompt implementation of the security policies can be materially advanced through reciprocal visits of security personnel. Accordingly, it is agreed to continue thorough exchange of views relative to security policies, standards and procedures and to permit respective security working groups to examine and view at first hand the implementing procedures of the agencies responsible for the administration of the atomic energy programs, such action to be undertaken with a view to achieving an understanding of adequacy and reasonable comparability of the respective systems.

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VI. DEFINITION

As used in this Annex the term "atomic information" means:

1. so far as concerns information provided by the Government of the United States, information which is designated "Restricted Data" or "Formerly Restricted Data";

2. so far as concerns information provided by the Government of Canada, information which is designated "Atomic Energy". (ZED information.)

Done at Washington this _____ day of _____, 1958.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF CANADA

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**APPENDIX A TO SECURITY ANNEX TO THE AGREEMENT
BETWEEN THE GOVERNMENTS OF THE UNITED STATES
AND CANADA FOR COOPERATION ON THE USES OF
ATOMIC ENERGY FOR MUTUAL DEFENSE PURPOSES**

**CRITERIA USED FOR DETERMINING
ELIGIBILITY FOR SECURITY CLEARANCE**

The acts, activities and associations listed below contain the principal types of derogatory information which create a question as to the individual's eligibility for security clearance. This listing is not all inclusive but may be supplemented from time to time as the occasion warrants.

Concerning the individual or his/her spouse.

1. Commission of any act of sabotage, espionage, treason or sedition, or attempts thereat or preparation therefor, or conspiring with or aiding or abetting another to commit or attempt to commit any act of sabotage, espionage, treason or sedition.
2. Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests are inimical to the interests of the parties, or with any person who advocates the use of force or violence to overthrow the governments of the parties or the alteration of the form of government of the parties by unconstitutional means.
3. Publicly or privately advocated revolution by force or violence to overthrow the governments of the parties or the alteration of the form of government of the parties by unconstitutional means.
4. Held membership in, or affiliation or sympathetic association with any organization or group which has in the United States been declared by the Attorney General, or in Canada has been determined by competent Government authority to be Totalitarian, Fascist, Communist, subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the constitutions of the parties, or as seeking to alter the form of the government of the parties by unconstitutional means, provided the individual did not withdraw from such membership

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when the organization was so identified, or otherwise establish his rejection of its subversive aims; or prior to such declaration or determination, participated in the activities of such an organization in a capacity where he should reasonably have had knowledge as to the subversive aims or purposes of the organization.

5. Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of national security.

Concerning the Individual:

6. Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

7. Any deliberate misrepresentations, falsifications, or omissions of material fact.

8. Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

9. Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the individual with due regard to the transient or continuing effect of the illness and the medical findings in such case.

10. Intentional unauthorized disclosure to any person of classified information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

11. Refused, upon the grounds of constitutional or statutory privilege against self-incrimination, to testify before a court or Congressional or Parliamentary committee (committee or other competent body) regarding charges of his alleged disloyalty or other misconduct.

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APPENDIX "B" TO SECURITY ANNEX TO AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND CANADA FOR COOPERATION ON THE USES OF ATOMIC ENERGY FOR MUTUAL DEFENCE PURPOSES

STANDARDS FOR SCOPE AND EXTENT OF INVESTIGATION

1. Each party may have more than one kind of security clearance for access to atomic information. If more than one kind is established and used, each kind must be identified as to:

- a. Limitations of access; and
- b. Scope of investigation for determining eligibility.

2. Access to atomic information classified no higher than "Confidential" may be afforded an individual following a clearance determination based on the results of a national agency check or a check of records held by governmental departments, agencies, or military units. Additionally, on the basis of a clearance determination of this same kind, visual access to buildings and equipment classified "Secret" may be afforded craft or manual workers, community management or service workers, nurses, medical technicians, cafeteria workers, health and safety workers, purchasing and accounting workers and the like who are employed in classified construction or operations areas. Any other individual afforded access to atomic information classified higher than "Confidential" shall have been granted security clearance following the conduct of a full field investigation. Notwithstanding the foregoing provisions of this paragraph, access to Top Secret atomic information may be afforded to military personnel of the parties on the basis of a suitable background investigation, including a national agency check; and access to Secret atomic information may be afforded to military, civilian, and contractor personnel of the military establishments of the Parties on the basis of a national agency check.

3. Definitions

a. National Agency Check means inquiry relative to an individual's character, associations, loyalty and trustworthiness through:

- (1) check of arrest or criminal records (through medium of fingerprints or other adequate procedure), and

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(2) check of appropriate national agency investigative, criminal intelligence, and subversive files.

b. Full Field Investigation consists of inquiry relative to an individual's character, associations, loyalty and trustworthiness through:

- (1) a national agency check as above described, and
- (2) open inquiry into the background of the individual.

The open inquiry shall be conducted in person and shall include interviews with persons acquainted with the individual's character and where appropriate interviews in the neighborhood in which the individual resides and has resided. The open inquiry shall cover a sufficient period of the life span of the individual and shall develop material facts relative to education; experience; periods of unemployment; self-employment; foreign employment; dismissals from employment; mental and emotional stability (when appropriate), character, habits, morals; arrests and convictions, marital status, citizenship; military service, date and place of birth; and organization membership.

4. In the event that further information is considered necessary, or in the event that derogatory or questionable information is disclosed, the inquiry will be extended as necessary to obtain such additional information as may be required to provide a sound basis for determining whether or not the security clearance should be granted.

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AIDE-MEMOIRE

The Department of State refers to preliminary discussions which have been held between representatives of the Canadian and United States Governments concerning the possible provision of United States atomic weapons, related equipment, and other military applications of atomic energy for use by Canadian forces.

The United States may cooperate with another nation on the use of atomic energy for mutual defense purposes, in accordance with the terms of the Atomic Energy Act of 1954, as amended.

This Act specifies types of United States nuclear materials, utilization facilities, or special information which may be made available or transferred to the other cooperating nation, and conditions upon which this may be done. The cooperation may be carried out pursuant to an agreement entered into with the other nation, as provided in the Act.

With specific

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With specific respect to atomic weapons which may be made available for use by Canadian forces, an essential supplement to the weapons would be the related special information and equipment necessary for their effective employment. Provision for the communication of such information or transfer of equipment could be covered in an agreement as referred to above.

It is proposed, therefore, that the United States and Canadian Governments enter into negotiation of a new agreement for cooperation on the use of atomic energy for mutual defense purposes. Attached is a draft proposed agreement. If agreeable to the Government of Canada, it is proposed that negotiations proceed forthwith, with a view to reaching agreement as early as possible.

Final conclusion of the agreement on the part of the United States Government would be dependent upon its satisfying United States statutory requirements, including its submission to Congress. It would thus become a public document, although, as indicated in the attached draft, classified technical and security annexes would also be required.

Department of State,

Washington, February 7, 1959

SECRET



Department of National Defence
JOINT STAFF

IN REPLY PLEASE QUOTE
No. CSC 1894-2 TD 5 (JSC)
9/4
~~CONFIDENTIAL~~

ADDRESS REPLY TO
CHAIRMAN, CHIEFS OF STAFF
OTTAWA

9 April, 1959.

Mr. Timmerman,
Defence Liaison (2) Division,
Department of External Affairs

Security Annex - Bilateral Agreement
on the Exchange of Atomic Information

I refer to our conversation of yesterday's date concerning the Security Annex to the Bilateral Agreement on the Exchange of Atomic Information.

2. The following deals with the comments on the Security Annex forwarded with your letter of March 19th.

3. Before dealing in detail with the comments, I would like to point out that several of the provisions on which you commented were in our 1955 Agreement and we have had no difficulty with them. In addition, before Atomic Energy Information can be released to Canada, this Annex must be approved by the Joint Congressional Committee on Atomic Energy. The provisions of this Annex are mainly drawn from the original Civilian Agreement.

4. Some of the wording in the Annex perhaps lacks precision but the Congressional Committee has approved this wording in other Bilateral Agreements and to suggest changes which were not absolutely necessary would only confuse the Committee and delay the Agreement.

5. There are no major changes between this Security Annex and the one we signed in 1955. The wording is almost exactly the same as the Annex to the UK/US Bilateral Agreement and is about the same as the Civilian Agreement which was signed by the Atomic Energy Control Board.

6. In view of the above, the Joint Security Committee felt that they should not ask for extensive changes in the Annex.

7. The detailed answers to your comments are as follows:

A (i) and (ii) - This is one of those sentences which is perhaps not clear, which the Congressional Committee has approved before. The American representative did not wish to change the wording and the Joint Security Committee did not consider it important enough to insist.

A (iii) - The requirements for field investigations and records checks are set out in paragraph two of Appendix B to the Annex.

B - The American representative agreed to insert "in each country" between "maintained" and "between" in line one.

C - The American representative agreed to delete the last two words of the first sentence and to add "locations approved by the competent authority concerned". This will restrict the authority to various designated officers in each Service.

D - This point was not raised at the meeting as the Joint Security Committee did not wish to get into discussions of registered mail.

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E - This was not raised as it simply refers to the ZED List procedures which have been in force for four years.

F - The American representative explained the need for the data on visitors as being for identification purposes only. Visitors to establishments remote from Washington quite occasionally arrive without adequate identification. This data is forwarded to the station before the arrival of the visitor and it is used in identifying the individual.

G - We have a letter on file from the Deputy Minister, Department of Defence Production which agrees to apply the provisions of this Annex to any information which is sent to his Department.

H - This provision is in the 1955 Annex and has caused no trouble.

I - We did not ask for any change in this provision. It is unchanged from the 1955 Agreement and has caused no trouble. This is a Bilateral Agreement and if any attempt were made by US officials to examine RCMP Personnel files, we would have the same right with regard to the files of the FBI. No US officer would put himself in such a position. In addition, there would be no agreement without this provision and the one mentioned in H.

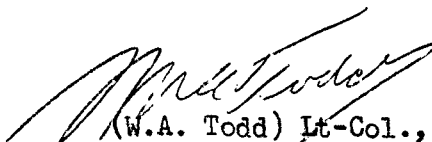
J (i) - We asked for no change here as the wording at the top of the Appendix coupled with the statement in 1(c) which reads as follows "..... information thus developed will be reviewed in the light of criteria such as those set forth in Appendix A" would not, in our opinion, commit us to anything in particular.

J (ii) - The American representative agreed to delete "Parliamentary Committee" and add "other competent body".

J (iii) - This point was not raised as paragraph two of Appendix B clearly sets out the clearances which are required.

8. As the Annex has already been examined by the R.C.M.P., the Department of External Affairs and the Department of Defence Production, we cannot see any value in sending it to the Security Panel. We would anticipate no difficulty in applying the provisions of this Annex in the Department of National Defence.

WAT/2-5934/ep


(W.A. Todd) Lt-Col.,
Executive Secretary,
Joint Security Committee.

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TO EXTERNAL 719 PRIORITY

REF YOURTELS DL234, DL235 MAR19

CDA-USA BILATERAL AGREEMENT ON ATOMIC INFO FOR MUTUAL DEFENCE
PURPOSES

ON MAR23 AN OFFICER OF THE EMBASSY ATTENDED A MEETING OF THE JSWFC
IN WASHDC, WITH APPROPRIATE PENTAGON OFFICIALS PRESENT. THE CDN
CHAIRMAN LIEUT COL BOND STATED THAT THE PURPOSE OF THE MEETING
TO ASSURE OURSELVES THAT THE DRAFT AGREEMENT ENSURED THE MAXIMUM
PRACTICAL EXCHANGE OF INFO FOR DEFENCE PURPOSES. IN THIS CONNECTION
THERE WERE A NUMBER OF POINTS THAT WERE NOT RPT NOT CLEAR TO THE CDN
MEMBERS ON WHICH THEY WANTED CLARIFICATION AND IN OTHER PLACES THE
REASON FOR USA PHRASEOLOGY WAS NOT RPT NOT CLEAR.

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2. HOWEVER, SINCE THE BOUNDARY BETWEEN CLARIFICATION AND NEGOTIATION IS
NOT RPT NOT ALWAYS CLEAR CUT (AS WAS NOTED ONCE OR TWICE DURING THE
MEETING) AT THE END OF THE MEETING, BOTH SIDES OBSERVED THAT THE
OBJECT OF THE MEETING WAS SOLELY CLARIFICATION, THAT GOVERNMENTAL
POSITIONS HAD NOT RPT NOT YET BEEN ESTABLISHED AND THAT NEITHER
SIDE AT THE MEETING HAD POWERS TO NEGOTIATE. IF ANY PARTS OF THE
DISCUSSION INFRINGED THE AREA OF NEGOTIATION SUCH DISCUSSIONS COULD
ONLY BE REGARDED AS INFORMAL EXPLORATORY REMARKS AT DEPARTMENTAL
LEVEL COMPLETELY WITHOUT STATUS AND WITHOUT PREJUDICE TO FUTURE
FORMAL NEGOTIATIONS.

3. SHORTLY AFTER THE MEETING OPENED THE SECURITY OFFICERS AND THE
PATENTS REPS BROKE OFF AND HELD SEPARATE MEETINGS. IN CONSEQUENCE
WE WERE UNABLE TO FOLLOW THESE DISCUSSIONS IN DETAIL. HOWEVER LIEUT
COL TODD, THE CDN SECURITY OFFICER REPORTED TO THE MAIN MEETING THAT
THE FOLLOWING "AMENDMENTS" TO THE SECURITY ANNEX HAD BEEN DISCUSSED:
PARA I G-INSERT-"IN EACH COUNTRY" AFTER "MAINTAINED" AND BEFORE
"BETWEEN" IN FIRST LINE.

PARA II B 3-LINE 2 TO READ "AUTHORIZATION BY THE COMPETENT
AUTHORITY CONCERNED".

PARA III C-DELETE LAST TWO WORDS OF THE FIRST SENTENCE AND ADD
"LOCATIONS APPROVED BY THE COMPETENT AUTHORITY CONCERNED."

ANNEX A PARA 11-DELETE "PARLIAMENTARY COMMITTEE" AND ADD "OTHER

PAGE TWO 719

COMPETENT BODY.

LIEUT COL TODD ADDED THAT OTHER POINTS HAD BEEN CLARIFIED TO THE SATISFACTION OF BOTH SIDES. HE POINTED OUT THAT IT MUST BE REMEMBERED THAT MUCH OF THE TERMINOLOGY IS IN LINE WITH THE WORDING OF USA LEGISLATION AND THE USA REPS CANNOT CHANGE IT. FOR THIS REASON THE ANNEX IN ITS PRESENT FORM WAS SIGNED BY THE UK AND MOST OF IT APPEARS IN OUR CIVILIAN AGREEMENT.

4. WE LEARNED FROM LIEUT COL TODD THAT HE WAS AWARE OF THE CONTENTS OF YOUR TEL DL234 MAR18, BUT THAT HE HAD SOME RESERVATIONS ON CERTAIN POINTS. HE SAID THAT ON RETURN TO OTT HE INTENDED TO PREPARE A PAPER COVERING THE POINTS RAISED IN YOUR MSG, AND YOU WILL NO DOUBT WISH TO DISCUSS THE SECURITY ANNEX IN DETAIL WITH HIM WITHOUT DELAY.

5. THE PATENTS REP MADE A SHORT REPORT WHICH INDICATED THAT THE CDN REPS HAD POINTED OUT THAT THE PATENTS ARTICLE COVERED ONLY FUTURE PATENTS ARISING OUT OF CLASSIFIED INFO AND MADE NO RPT NO PROVISION COVERING PATENTS ALREADY IN EXISTENCE OR ARISING FROM NON-CLASSIFIED INFO. THE USA REP HAD AGREED THAT THIS APPEARED UNSATISFACTORY, BUT THE PATENTS ARTICLE HAD BEEN PREPARED BY AEC (WHICH WAS NOT RPT NOT REPRESENTED AT THE MEETING) AND HE COULD NOT RPT NOT DISCUSS THIS POINT BY HIMSELF. THE MEETING THEN INSTRUCTED THEM TO CONTACT AEC AT ONCE AND EXPLORE THIS MATTER FURTHER. MISGIVINGS WERE EXPRESSED THAT THIS WAS A MAJOR CHANGE AND WITH TIME RUNNING SHORT IT WAS UNCERTAIN WHAT COULD BE ACCOMPLISHED.

6. IN THE MAIN MEETING AT ONE POINT COL CROWSON, THE USA CHAIRMAN, FORMULATED THE FOLLOWING TENTATIVE SCHEDULE: THEY ANTICIPATED THAT NEGOTIATIONS MIGHT BE COMPLETED BY APR20. THEY NEEDED ABOUT TWO WEEKS TO PREPARE THE MATERIAL FOR CONGRESS SO IT MIGHT BE SUBMITTED BY MAY1. IT HAD TO LIE BEFORE THE JOINT COMMITTEE FOR 60 DAYS WHICH WOULD TAKE IT TO JUL1. THEY ANTICIPATED THAT THIS YEAR CONGRESS WOULD LIKELY RISE EARLY RATHER THAN LATE (JUL15 RATHER THAN AROUND AUG15 WHEN THEY ROSE LAST YEAR). CROWSON OBSERVED THAT IF THERE WERE DELAYS AND IT LOOKED AS IF CONGRESS MIGHT RISE BEFORE THE 60 DAYS HAD EXPIRED THERE WAS ALWAYS THE POSSIBILITY THAT THE JOINT COMMITTEE WOULD BE PREPARED TO WAIVE THE REMAINING TIME BUT THAT THIS WAS AN EXPEDIENT TO BE AVOIDED. CROWSON CONTINUED THAT THE AMENDMENTS UNDER ARTICLE IV

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MIGHT BE NEGOTIATED IN THE FALL, SUBMITTED AS SOON AS CONGRESS SAT EARLY IN JAN AND BE PASSED 60 DAYS LATER EARLY IN MAR. ON THIS SCHEDULE THEN THE BASIS FOR HARDWARE PROCUREMENT IS AT LEAST A YEAR AWAY.

7. DURING THIS DISCUSSION LIEUT COL BOND OBSERVED THAT DND EXPECTED TO PASS THEIR PAPER TO EXTERNAL IN ABOUT TWO WEEKS TIME.

8. THE MAIN MEETING WENT FORWARD AND A NUMBER OF POINTS OF DETAIL WERE DISCUSSED. SOME OF THESE POINTS ARE SET OUT BELOW.

9. ART III AND IV. THE PHRASE "ACCEPTABLE TO THE GOVT OF THE USA" WAS DRAFTED TO LOOK MOST ATTRACTIVE TO THE LEAST COOPERATIVE CONGRESSMEN. THE USA SIDE RECOGNIZED THAT THIS VIEWPOINT HAD EQUAL VALIDITY ON BOTH SIDES OF THE BORDER AND THAT A PHRASE LIKE "ACCEPTABLE TO BOTH GOVTS" SEEMED REASONABLE.

10. ART IV-CROWSON WAS MOST EMPHATIC ON WHY THE TRANSFER OF MILITARY REACTORS COULD NOT RPT NOT BE INCLUDED IN THE AGREEMENT BUT HAD TO BE DEALT WITH BY AMENDMENT. IN LAST YEARS EXECUTIVE HEARINGS OF THE JOINT COMMITTEE THE COMMITTEE MADE IT CLEAR THAT THEY HAD NO RPT NO INTENTION OF APPROVING THE TRANSFER OF HARDWARE OR SPECIAL NUCLEAR MATERIAL UNTIL THE PROPOSITION WAS FIRM AND STATED IN PRECISE DETAIL. THIS MEANS THAT CDA MUST REQUEST A SPECIFIC PROPULSION UNIT AND INDICATE THAT THIS IS A FIRM DECISION BY THE CDN GOVT AND THAT THE MONEY FOR IT IS AVAILABLE OR BEING ARRANGED. SINCE CDA IS NOT RPT NOT YET IN APPOSITION TO MAKE THIS FIRM REQUEST THE PRESENT ART IV IS THE BEST THAT COULD BE DRAFTED.

11. CROWSON OBSERVED THAT PARA B REFERS ONLY TO THE SPECIAL NUCLEAR MATERIAL REQUIRED FOR THE REACTORS REFERRED TO IN PARA A AND HAS NO RPT NO APPLICATION TO OTHER AGREEMENTS.

12. ON THE TECHNICAL SIDE IT IS EVIDENT THAT PARA B REFERS TO URANIUM ENRICHED WITH U-235 WHILE IN ART VI PARA A OF THE CIVIL AGREEMENT "SPECIAL NUCLEAR MATERIAL" HAS REF TO PLUTONIUM.

13. ART XI-YOUR COMMENTS ON ART XI IN YOURTEL DL234 MR18 ARE NOT RPT NOT CLEAR. THERE IS NO RPT NO AUTOMATIC TERMINATION OF THE MAENDMENT TO THE CIVIL AGREEMENT. ONLY PARA B OF ART II IS AFFECTED. IT IS NOT RPT NOT TERMINATED BUT IS ESSENTIALLY SUSPENDED IN THE CIVIL AGREEMENT AND CARRIED OUT UNDER THE PROPOSED NEW AGREEMENT. THIS SHOULD

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NOT RPT NOT AFFECT THE PROCUREMENT OF A CIVIL REACTOR.

14. THE USA SIDE AGREED IT WOULD BE MORE ELEGANT TO CONSIDER DELETING THE TERMINAL WORD "HEREIN" AND SUBSTITUTE "OF THIS AGREEMENT". THEY DID NOT RPT NOT LIKE "OF THE PRESENT AGREEMENT" AS THEY HAD RUN INTO TROUBLE IN THE PAST WITH THIS PHRASE WHEN THEY HAD MORE THAN ONE "PRESENT" AGREEMENT WITH A COUNTRY.

15. ART XII E - THE USAEC IS EXCLUDED BY ITS ACT FROM BEING DEFINED AS "PERSONS" IT WAS FELT THAT IT MIGHT BE DESIRABLE TO LIST AECL WITH THE USAEC IN THIS SECTION BUT THAT IT MIGHT NOT RPT NOT BE NECESSARY TO LIST AECS.

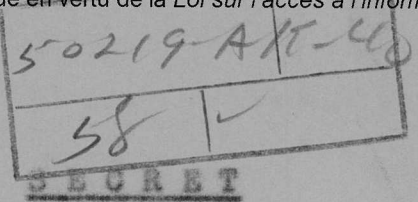
16. WATSON OF AECL SUGGESTED THAT IT MIGHT BE DESIRABLE, SINCE AECL WAS NOT RPT NOT A GOVT DEPT, TO MAKE ITS POSITION QUITE CLEAR BY INCLUDING A DEFINITION OF "PARTY" TO SHOW THAT THIS INCLUDED AECL (AS WAS DONE IN THE DRAFTING OF THE CDA-EURATOM AGREEMENT). THERE WAS NO RPT NO OPPOSITION TO THIS SUGGESTION.

17. ART XIII - THE INAPPROPRIATENESS OF "STATUTORY AND CONSTITUTIONAL REQUIREMENTS" TO CDA WAS EXPLAINED AND THE POSSIBLE ALTERNATIVE WORDING IN YOURTEL DL234 MAR18 WAS MENTIONED. THE USA SIDE THOUGHT THIS LOOKED ACCEPTABLE BUT FELT IT WOULD NEED STUDY.

18. TECHNICAL ANNEX - THE USA SAID THAT THAT IT WAS THE INTENT OF SECT 1 A 9 TO CONTINUE THE COOPERATION FORMERLY INCLUDED UNDER B12, B13 AND B14 OF THE 1955 TECHNICAL ANNEX AND INDEED TO BROADEN IT.

19. UNDER SECTION II THE CDN SIDE WAS INTERESTED IN FINDING OUT IF IT WOULD BE NECESSARY TO ADD A SUBSECTION D TO PROVIDE FOR THE ACQUISITION OF NON-NUCLEAR EQUIPMENT FOR USE IN SALVAGING NUCLEAR BOMBS AND MAKING THEM SAFE. THE USA UNDERTOOK TO SEE IF THERE WAS SUCH EQUIPMENT AND IF A SUBSECTION D WAS NECESSARY.

20. FOR YOUR INFO NEITHER STATE DEPT NOR AEC WERE REPRESENTED AT THIS MEETING.



March 18, 1959

PRELIMINARY COMMENTS ON DRAFT AGREEMENT FOR COOPERATION
REGARDING ATOMIC ENERGY FOR MUTUAL DEFENCE PURPOSES

1 MAIN AGREEMENT

General

This draft agreement follows very closely the agreement signed between the United Kingdom and the United States on July 3, 1958 and whole paragraphs are identical. The principal differences between the two stem from Article III of the United Kingdom agreement and the consequential additions to other paragraphs. In a number of instances, the wording of individual articles or paragraphs is identical to the Atomic Energy Act of 1954 as amended; this fact will no doubt make it rather difficult for the United States to agree to any changes in the Article concerned. These two general observations have been borne in mind in drafting the following comments.

Preamble

This appears satisfactory.

Article I

This is identical to the corresponding paragraph of the United Kingdom agreement and appears satisfactory.

Article II

Subparagraphs A to D are identical to the corresponding paragraphs of the United Kingdom agreement and are taken directly from Section 144b of the Act. Subparagraph E is based on Section 144c.(2) of the Act. This article, therefore, appears satisfactory.

Article III

This is based on Section 91c.(1) of the Act. The precise nature of the information which can be transferred under this Article is spelled out in various paragraphs of the Technical Annex. In order to make this Article appear less one-sided, it might be worth attempting to change the phrase "terms and conditions acceptable to the Government of the United States" to read "acceptable to both Governments".

Article IV

It is not clear why the United States authorities wish to negotiate an amendment to the agreement to transfer the items covered in Paragraphs A and B rather than to provide for their transfer under the terms of the agreement itself. Neither Sections 91c.(2) nor 91c.(3) of the Act on which this article is based ~~does not~~ appear to establish any special

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condition which would make it necessary to proceed in this way. Such a procedure could lead to further delay in obtaining the items covered.

We would wish to insure that Paragraph B does not conflict with that paragraph of Article VI, Paragraph A of the Civil Agreement which reads: "Any special nuclear material transferred by Atomic Energy of Canada Limited to the United States may be re-transferred to Canada on such terms and conditions as may be agreed".

The comment concerning transfers taking place under the terms and conditions agreeable to the Government of the United States for Article III could be applied to this Article as well.

Article V

This is identical to the United Kingdom agreement and appears satisfactory.

Article VI

This is identical to the United Kingdom agreement and appears satisfactory.

Article VII

This is identical to the United Kingdom agreement and appears satisfactory.

Article VIII

In substance this is identical to the corresponding paragraph of the United Kingdom agreement but condition A is spelled out more fully. There does not appear to be any objection to this condition as it stands but the United Kingdom version would appear to be more satisfactory as, though less precise, its language is clearer.

Article IX

This is identical to the United Kingdom agreement and appears satisfactory.

Article X

Paragraph A.1. is the same as in the United Kingdom Agreement. There is no subparagraph corresponding to A.2. in the United Kingdom agreement. The United Kingdom agreement provides for two other situations not covered in the draft agreement: (1) Any invention or discovery in which rights are owned by the recipient party and, (2) any invention or discovery primarily useful in the production or utilization of special nuclear material. In the case of (1), conditions B and C would apply (condition C is slightly modified and condition A is omitted). All three conditions as listed in the draft would apply to the second category. The remainder of the Article with the exception of Section E is identical to the United Kingdom agreement; there is no paragraph corresponding to E in the United Kingdom agreement but it appears satisfactory.

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Article XI

This is identical in purpose to the corresponding article in the United Kingdom agreement but may not be satisfactory to Canada. The automatic termination of the Amendment to the Civil Agreement might preclude the obtaining of a civil reactor by the Department of Northern Affairs for example for a power station in the Northwest Territories. Clarification on this point would be desirable.

The word "herein" at the end of the Article might be altered to read "of the present agreement".

Article XII

The definitions are all identical to the United Kingdom agreement except that relating to "persons". The United Kingdom Atomic Energy Authority is listed after the United States Atomic Energy Commission. It is for consideration whether we should seek to have either the AECB or the AECL or both inserted.

Article XIII

This article provides in part that the agreement shall enter into force on the date on which each government shall have received from the other government written notification that it has complied with all statutory and constitutional requirements for the entry into force of this agreement. Canada has no statutory requirement within the meaning of this article and has no constitutional requirement related to parliamentary approval as provided for in the United States constitution. As a consequence, it would be desirable to seek an alternative wording along the following lines: This agreement shall be brought into force through an exchange of notes to that effect between the contracting parties.

II THE TECHNICAL ANNEX

This appears fairly straightforward although it does not include one or two items which are listed in the corresponding annex of the present agreement. For example, no provision is made for transfer of information regarding the amount and geographical distribution of radioactive debris following nuclear explosions; acoustics, seismic, electromagnetic and other geophysical data from nuclear explosions; and time and location of scheduled nuclear explosions (Items B12, B 13 and B14). Under A.4, no specific provision is made for transfer of information concerning size, weight, shape, yields, fusing options, ballistic accuracy, etc. of atomic weapons. It should be ascertained whether A.4 or A.11 as drafted would include these points. A.5 is less specific than the corresponding paragraph of the present agreement (B.7). A.8 does not appear to provide for attendance of personnel at schools, exercises and tests unless such requests are understood to come under paragraph C. It would seem desirable to know whether the provision for the communication of information or transfer of equipment referred to in Paragraph 3 of the covering Aide-memoire would be considered as coming within the scope of A.11.

III THE SECURITY ANNEX

Although the draft security annex and its appendices include more detail than the security annex of the existing

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Agreement, they appear to contain nothing which could be termed really objectionable. In other words, the intent seems fairly clear and in our opinion is acceptable. However, there are some parts which seem to be deserving of discussion with a view to possible amendment. These are:

(A) Section 1, Paragraph A, last line:

(i) The corresponding line in the annex to the present Agreement reads: "No person will be granted a security clearance unless it is affirmatively determined that such clearance is clearly consistent with national security interests." The new annex reads that: "No person will be granted a security clearance unless it is affirmatively determined that such clearance will not endanger the national security."

(ii) Since we cannot foresee the future we prefer the old wording. However, it may be considered that this sentence in the Agreement is qualified by Paragraph C of the same section, the opening line of which reads: "A decision as to whether the granting of a clearance will not endanger the national security shall be a determination based on all available information."

(iii) We assume that the phrase "affirmatively determined" imposes a requirement for clearances to be based on field investigation rather than records checks in every case.

(B) Section 1, Paragraph G:

This paragraph could be interpreted to mean that a United States agency responsible for national security should maintain effective liaison with a Canadian agency responsible for the clearance determination. This we presume was not intended. We recommend therefore that this paragraph be redrafted, in consultation with the R.C.M.P., the Canadian agency most concerned to make it clear that effective liaison should be maintained within each country between the responsible national security agency and the national agency responsible for the clearance determination and programme execution. It is of course possible that in some cases consultation between the two countries might be necessary before granting a security clearance. Liaison for this purpose, however, should take place in conformity with the present practice, that is, the R.C.M.P. on the one side and the F.B.I. on the other.

(C) Section III, Paragraph C:

This paragraph reads: "Except when in authorized transit, the use of atomic information shall be limited to approved locations." There is nothing to indicate what is and what is not an approved location and we should therefore seek a definition of this term.

(D) Section III, Paragraph F:

This paragraph permits Secret atomic information to be transmitted between the United States and Canada by registered mail. Canadian security regulations allow

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classified material only up to Confidential to be transmitted in this manner. This clause, however, should not involve any difficulty for us since it does not make it mandatory for Canada to forward Secret atomic information by registered mail.

(E) Section III, Paragraph G:

Special accountability procedures will have to be set up for documents containing Top Secret or Secret atomic information if we are to fulfill the requirements of this paragraph. There should be no difficulty about this.

(F) Section IV Paragraph A:

We question the need for including in the assurance such particulars as date and place of birth, citizenship and current residence address.

(G) Section IV, Paragraph B:

This paragraph deals with the security of classified contracts and will undoubtedly elicit comment from the Department of Defence Production.

(H) Section IV Paragraph E:

This paragraph, in our opinion, is open to possible abuse. The type of report which each government may demand might be more clearly specified.

(I) Section V:

It is perhaps not intended but it should be made plain that this paragraph, which deals with the exchange of views relative to security policies, standards and procedures, and the examination at first hand by the security authorities of each nation, the implementing procedures of agencies responsible for the administration of the atomic energy programme, does not authorize the Americans to enquire into such things as R.C.M.P. investigative procedures or to have access to personnel security files.

(J) Appendices "A" and "B" to the Annex:

These seem to conform pretty well in principle to Canadian policies and procedures. However, as they are of particular interest to the Security Panel, who formulate Canadian security policy, and the R.C.M.P. who do the investigations, copies of the annex and appendices should be referred to those bodies for comment. Meanwhile we would suggest that:

(i) It be made clear in the preamble that the criteria listed are to serve merely as a guide.

✓ (ii) Reference in Paragraph II to refusal to testify before a Parliamentary Committee be deleted and this paragraph be made to apply (if the United States insist on retaining it) only to the United States.

✓ (iii) Paragraph 2 of Appendix "B" would seem to be in conflict with the last sentence of Section I Paragraph A of the draft Annex. (See also our comment at (A(iii)) above) How can an "affirmative determination" regarding eligibility for security clearance be based on a records check?

CONFIDENTIAL

JOINT SECURITY COMMITTEE

Minutes of the 95th Meeting held on Monday,
16 March, 1959, at 0930 hours, in the Joint
Staff Conference Room, National Defence HQs

PRESENT

Captain L.L. Atwood (Chairman)
Director of Naval Intelligence,
S/L S.A. Banks,
Representing the Director of Air Force Security,
Major K.G. McShane,
Representing the Director of Military Intelligence,
Mr. C.G. Berry,
Representing the Director of Scientific Intelligence.

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ALSO PRESENT

Mr. G.M. Jarvis,
Atomic Energy Control Board
Mr. J. Timmerman,
Department of External Affairs
Mr. L.C. Cragg,
Department of Defence Production
Lt.Col. A.J. Scotti,
Acting Provost Marshal (Army)
S/L R.G. Warren,
Directorate of Air Force Security

.....

Executive Secretary,
Lt.Col. W.A. Todd

.....

I. SECURITY ANNEX - Revised Canada-USA Agreement for Cooperation
on the Uses of Atomic Energy for Mutual Defence Purposes

1. The Committee had been requested by the JSWFC to study the Security Annex to the Draft Agreement between the Government of the United States of America and the Government of Canada for Cooperation on the Uses of Atomic Energy for Mutual Defence Purposes. The object of the meeting was to provide a brief for the Secretary, Joint Security Committee who will be attending a meeting with United States representatives on Monday, March 23rd. This brief to be approved by the Chairman, Chiefs of Staff if possible before the meeting.

2. When the Agreement was first received three sub-committees were formed as follows:

- (a) Security of Information - under the chairmanship of S/L Warren, DAFS, which was to ascertain whether or not the new Agreement would require any changes to be made in our ZED List regulations and to make any comments on the Security of Information paragraphs in the Security Annex.
- (b) Security of Personnel - under the chairmanship of Major McShane, DMI, which was to ascertain whether any changes would be required in the National Defence Security of Personnel Instruction and to make comments if necessary on the Security of Personnel paragraphs of the Security Annex.
- (c) Physical Security Sub-Committee - under the chairmanship of Lt.Col. Scotti, Acting Provost Marshal, which was to ascertain whether any changes would be required in Physical Security Policies or Procedures

and to make any necessary comments on the Physical Security paragraphs of the Security Annex.

3. After considerable discussion the Committee made the following comments on the Security Annex:

I.A. Last Sentence - Delete the last six words and insert:

"is consistent with the national security"

The purposes is to keep the sentence in the present tense.
The present wording seems to relate to the future.

I.C. First Sentence - Amend the relevant part of the sentence to read:

"granting of a clearance is consistent with the national security".

The purpose is the same as above.

I.G. Insert: "in each country" between "maintained" and "between" in the first line. The present sentence is somewhat unclear and it could be interpreted to mean that security agencies in one country could contact the agency responsible for the security determination in the other country.

II. B.1. Clarification of the word "materials" is required as it cannot be determined whether it means materials, as it says, or the US terminology "materiel".

II. B.3. Line 2 - Line two should read "authorization by the competent authority concerned". The addition of the two words underlined would clarify the sentence.

III.B. Clarify the word "material" in line one.

III.C. Delete the last two words of the first sentence and add:

"locations approved by the competent authority concerned"

This will clarify the meaning of the sentence.

III.D. JSC does not propose to ask for any change in this paragraph nor is it proposed to amend the ZED List regulations which provided for all US Atomic Energy Information in Canadian hands to be transmitted by courier as it is not possible to assure the US that Post Office personnel are cleared. Atomic Energy of Canada Limited have adopted the transmission requirement as stated in this Agreement and also in the Civilian Agreement and intends to use Registered Mail. The Committee feels, however, that there is no need for the Department of National Defence to use Registered Mail and as long as the situation in the Post Office is unchanged it would be preferable to use couriers.

IV.A. The data which is requested on visitors is not understood and it is intended to ask the US representatives what their purpose is. This information on a visitor will not help to identify him but it would provide a minimum for the checking of their own files. The latter would not of course be admitted by US representatives and there is no point in pressing the matter particularly in view of the fact that the Government has already signed the Civilian Agreement which includes the same data.

IV.B. This is the first time that industrial security has been added to the Military Agreement and the Committee is awaiting a letter

from the Deputy Minister, Department of Defence Production saying that he can and will meet the terms of the Security Annex.

VI.2. Delete: "Atomic Energy" and add "ZED Information".

APPENDIX "A" to the Security Annex - Criteria Used in Determining Eligibility for Security Clearance

In the second sentence there is a typographical error. The word "time" has been left out between "from" and "to".

Third sentence now reads: "concerning the individual or his/her spouse".

The Committee wishes to be sure that this wording does not require a full field investigation on both the subject and the spouse and in fact would prefer to delete everything after "individual" as the point appears to be covered in paragraph 5.

Paragraph 11 - Refusal to testify in the US is a valid point of consideration in determining a security clearance. Discussion with a JAG representative brings out that this would only be useful in Canada under very rare conditions. The Government has already agreed to this paragraph in the Civilian Agreement and there is, therefore, no point in insisting that it be amended. However, the Committee prefer not to add it to our own criteria in the Security of Personnel Instruction - Department of National Defence unless the US representatives insist.

The Committee has reviewed all the criteria in this Appendix and have come to the conclusion that while the criteria in the Security of Personnel Instruction - DND, are in different words there is no basic difference between them and would hope to avoid using the criteria in the Security Annex in the Security of Personnel Instruction although there would be no reason for refusal if the US insists.

APPENDIX "B" to the Security Annex - Standards for Scope and Extent of Investigation

Paragraph 2, Third Line - Insert: "and may include" in place of the word "or". If the US wishes to retain it in its present form the Committee does not propose to lower the standards of our own Instruction to this extent.

Paragraph 2, Last Sentence - Military personnel may be cleared to Top Secret on the basis of a suitable Background Investigation. This is provided for in the "Security of Personnel - DND Instructions" and provided the US Background Investigation is the same as the Canadian, there is no problem. The Security Annex defines a National Agency Check and a Field Investigation but does not define a Background Investigation. Background Investigation should be defined in the Appendix or it should be ascertained whether the two definitions are comparable.

Clearance Time-Limit - Clearance to the various classifications in this paragraph does not contain a time-limit. The check of records is useless unless the subject has been in the country for a reasonable period. It is Canadian practice to insist on a ten year period which can be covered by records. Paragraph Two should be amended accordingly.

CHANGES TO THE CANADIAN ORDERS BY VIRTUE OF ACCEPTING THE SECURITY ANNEX

- (a) ZED List Instructions - Only one minor amendment is proposed. A new paragraph on "Security Education" has been added.
- (b) Security of Personnel - DND Instructions - Service personnel can be cleared to Top Secret on the basis of a Background Investigation. The Security Annex states specifically that a Field Investigation is required for civilians. DND Security of Personnel Instructions do

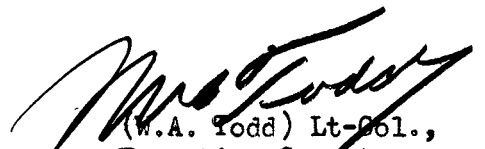
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not differentiate between military and civilian personnel in this regard although in practice it is almost impossible to obtain a Background Investigation on a civilian. It is proposed, therefore, that the following be added to 6(a) to the Security of Personnel - DND Instruction:

"(iii) in the case of civilian personnel an Indices Check and Field Investigation covering a minimum of ten years are mandatory for access to Top Secret atomic information".

It might be necessary to replace the criteria in the Instruction with the criteria in the Security Annex. This will be avoided if possible, but JSC would be prepared to accept it.


(W.A. Todd) Lt-Col.,
Executive Secretary,
Joint Security Committee.

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DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

Mr. T. Pratt

TO: Defence Liaison (1) Division

Security .. S.E.C.R.E.T

FROM: Defence Liaison (2) Division

Date February 20, 1959

REFERENCE: Your Memorandum of February 17, 1959

File No.

50219-AK-46

58

SUBJECT: Canada-United States Bilateral Agreement on Atomic Information.....
for Mutual Defence Purposes

We have examined the draft Bilateral Agreement and our comments on it will be confined to the security annex and the two appendices thereto. Incidentally, we think that the security annex and its appendices should remain classified.

Although the ^{draft} ~~new~~ security annex and its appendices include more detail than the security annex of the existing Agreement, they ^{appear to} contain, as we interpret their rather odd wording in places, nothing which could be termed really objectionable. In other words, the intent seems fairly clear and in our opinion is acceptable. However, there are some parts which seem to us to be deserving of discussion with a view to possible amendment. These are:

(a) Section I, Paragraph A ~~of the Annex~~, last line:

(i) The corresponding line in the annex to the present Agreement reads: "No person will be granted a security clearance unless it is affirmatively determined that such clearance is clearly consistent with national security interests." The new annex reads that: "No person will be granted a security clearance unless it is affirmatively determined that such clearance will not endanger the national security."

← (ii) Since we cannot foresee the future we prefer the old wording. However, it may be considered that this sentence in the Agreement is qualified by paragraph C of the same section, the opening line of

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which reads: "A decision as to whether the granting of a clearance will not endanger the national security shall be a determination based on all available information."

(b) Section I, Paragraph G:

This paragraph could be interpreted to mean that a United States agency responsible for national security should maintain effective liaison with a Canadian agency responsible for the clearance determination. This we presume was not intended. *we recommend*
~~However, it might be redrafted, presumably in~~ *Before that this para be redrafted, in*
consultation with the R.C.M.P., the Canadian agency most concerned, to make it clear ~~that it is a matter of maintaining effective liaison within each country~~ *should be maintained* between the responsible national security agency and the national agency responsible for the clearance determination and programme execution. It is of course possible that in some cases consultation between the two countries might be necessary ~~for~~ *be* granting a security clearance. Liaison for this purpose, however, should take place in conformity with the present practice, that is, the ~~channel should be between the~~ R.C.M.P. on the one side and the F.B.I. on the other.

(c) Section III, Paragraph C:

This paragraph reads: "Except when in authorized transit, the use of atomic information shall be limited to approved locations." There is nothing to indicate what is and what is not an approved location and we should therefore seek a definition of this term.

(d) Section III, Paragraph F:

This paragraph permits Secret atomic information to be transmitted between the United States and Canada by registered mail. Canadian security regulations allow classified material only up to Confidential to be transmitted in this manner. This clause, however, should not involve any difficulty for us since it does

(iii)
We assume that the phrase "affirmatively determined" imposes a requirement for clearances to be based on field investigations rather than records checks in every case.

. . . 3

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not make it mandatory for Canada to forward Secret atomic information by registered mail.

(e) Section III, Paragraph G:

Special accountability procedures will have to be set up for documents containing Top Secret or Secret atomic information if we are to fulfill the requirements of this paragraph.)

There should be no difficulty about this.

(f) Section IV, Paragraph B:

This paragraph deals with the security of classified contracts and will undoubtedly elicit comment from the Department of Defence Production.

(g) Section V:

It is perhaps not intended but it should be made plain that this paragraph, which deals with the exchange of views relative to security policies, standards and procedures, and the examination at first hand by the security authorities of each nation, the implementing procedures of agencies responsible for the administration of the atomic energy programme, does not authorize the Americans to enquire into such things as R.C.M.P. investigative procedures or to have access to personnel security files.

(h) Appendices "A" and "B" to the Annex:

These seem to conform pretty well in principle to Canadian policies and procedures. However, as they are of particular interest to the Security Panel, who formulate Canadian security policy, and the R.C.M.P. who do the investigations, copies of the annex and appendices should be referred to those bodies for comment.

Section IV Paragraph E:

These seem to conform pretty well in principle to Canadian policies and procedures. However, as they are of particular interest to the Security Panel, who formulate Canadian security policy, and the R.C.M.P. who do the investigations, copies of the annex and appendices should be referred to those bodies for comment.

which each government may demand

meanwhile we would suggest

(i) It be made clear in the preamble that the criteria listed are to serve merely as a guide.

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- (ii) ^{in para 11} reference to refusal to testify before a Parliamentary Committee he deleted and this para he made to apply (if the US insist on retaining it) only to the U.S.
- (iii) Para 2 of appendix "B" would seem to be in conflict with the last sentence of section I paragraph A of the draft Annex. (See also our comment at (2)(iii) above) How can an "affirmative" determination regarding eligibility for security clearance be based on a records check?

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3. As we have indicated, the Department of Defence Production, the Security Panel, and the R.C.M.P. should be consulted on the security aspects of the draft Bilateral Agreement and we would assume from your memorandum that the Department of National Defence will ensure that this is done. While you may already be thinking along such lines, it occurs to us that it would be useful to have a round-table discussion on the Agreement by a working group consisting of representatives from the various interested departments and agencies after National Defence have had a good look at the Agreement.



J. K. Starnes
Defence Liaison (2) Division

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This document consists of 4 pages

Copy No. 8 of 35, Series A

TECHNICAL ANNEX TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE
UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA FOR
COOPERATION ON THE USES OF ATOMIC ENERGY FOR MUTUAL
DEFENSE PURPOSES

The following implementing provisions are agreed between the Government of the United States and the Government of Canada in connection with Articles II, III and IV of the Agreement signed at Washington this day for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes (hereinafter referred to as "the Agreement"), of which this Annex is a part:

SECTION I

With respect to Article II and subject to the terms and conditions of the Agreement:

A. The types of atomic information which will be transferred by either Government shall be limited to the following:

1. Effects related to yield to be expected from the detonation of atomic weapons.
2. Response of structures, equipment and personnel to the effects of atomic weapons, including damage or casualty criteria.
3. Methods and procedures for analysis of the response of structures, equipment and personnel to the effects of atomic weapons.
4. Characteristics of atomic weapons required for attainment of delivery capability with specified atomic weapons.

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5. Information required for attainment of compatibility of specified atomic weapons with specified delivery vehicles.
6. Information regarding delivery systems, including tactics and techniques and duties of maintenance, assembly, delivery and launch crews required for attainment of delivery capability with specified nuclear weapons.
7. Safety features of specified atomic weapons and of the operational systems associated with such weapons, and such information necessary and appropriate for salvage and recovery operations incident to a weapon accident.
8. Planning for, and training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy, including information concerning (a) defense against radiological warfare, (b) military use of isotopes for medical purposes and (c) assembly, maintenance, operation or use of military reactors.
9. Information and estimates, including United States and Canada design information, in order to permit the evaluation of the capabilities of potential enemy nations for atomic warfare and other military applications of atomic energy.
10. Information regarding civil defense against atomic attacks.
11. Information regarding logistic aspects of cooperation between the two countries involving nuclear weapons or

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other military applications of atomic energy, including such information concerning the numbers, location, types, yields and fuzing options of atomic weapons as may be necessary for mutual defense planning and for the storage requirements for such weapons.

B. It is understood that other military applications of atomic energy include military reactors.

C. The exchange of atomic information may be carried out through cooperation in tests, trials, exercises, training programs, combined defense operations, staff and operational research studies and intelligence activities.

D. As used in this Technical Annex the term "atomic information" means:

1. so far as concerns information provided by the Government of the United States, information which is designated "Restricted Data" or "Formerly Restricted Data";
2. so far as concerns information provided by the Government of Canada information which is designated
" _____ ".

SECTION II

With respect to Article III and subject to the terms and conditions of the Agreement, the Government of the United States will transfer non-nuclear parts of atomic weapons systems involving atomic information only as such parts are necessary for:

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- A. Attainment of compatibility of specified atomic weapons with specified delivery vehicles; and/or
- B. Attainment of effective delivery capability with specified atomic weapons; and/or
- C. Attainment of an effective operational readiness capability with specified atomic weapons and their specified delivery vehicles.

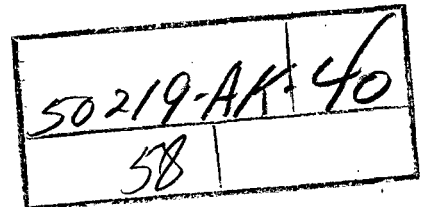
DONE at Washington this _____ day of _____, _____, in two original texts.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF CANADA:

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SECURITY ANNEX TO THE AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF CANADA FOR COOPERATION ON THE USES OF
ATOMIC ENERGY FOR MUTUAL DEFENSE PURPOSES

The following are the security arrangements between the Government of the United States and the Government of Canada for the protection of atomic information and materials exchanged pursuant to the Agreement signed at Washington on this date for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes (hereinafter referred to as "The Agreement"), of which this Annex is a part:

I. PERSONNEL SECURITY

A. No individual shall be entitled to access to atomic information solely by virtue of rank, appointment or security clearance. Access to atomic information shall be afforded only to those individuals whose official duties require such access and who have been cleared in accordance with the standards prescribed in this Annex. No individual shall be granted security clearance unless it is affirmatively determined that such clearance will not endanger the national security.

B. Prior to affording access to atomic information, a determination of eligibility (decision to grant security clearance) for each individual to be afforded such access shall be made by a responsible government authority.

C. The decision as to whether the granting of a clearance will not endanger the national security shall be a determination based on all available information. Prior to this determination, an investigation shall be conducted by a responsible government authority and the information thus developed will be reviewed in the light of criteria such as those set forth in Appendix A to this Annex. The Parties agree that these criteria may be revised from time to time by mutual consent as experience and circumstances may make desirable.

D. The minimum scope and extent of such investigation shall be related to the nature and significance of the access to be afforded in accordance with the standards set out in Appendix B to this Annex.

E. When immediate access to atomic information is essential for the individual concerned to carry out his assigned task, and the delay caused by

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awaiting full clearance would be detrimental to the national interest, the responsible authority empowered to grant such clearance may authorize a provisional clearance based on the records immediately available. In each such case, the responsible authority shall institute immediately the procedures necessary to satisfy the full clearance requirements set forth in the above paragraphs.

F. Each establishment handling atomic information shall maintain an appropriate record of the clearance of individuals authorized to have access to such information at that establishment. Each clearance shall be reviewed, as the occasion demands, to insure that it conforms with the current standards applicable to the individual's employment, and shall be re-examined as a matter of priority when new information is received which indicates that continued employment involving access to atomic information may no longer be consistent with the interests of security.

G. Effective liaison shall be maintained between the national agencies responsible for national security and the agency responsible for the clearance determination and program execution to assure prompt notification of information with derogatory implications developed subsequently to the grant of security clearance.

II. PHYSICAL SECURITY

A. Atomic information shall be protected physically against espionage, sabotage unauthorized access or any other hostile activity. Such protection shall be commensurate with the importance of the security interest involved.

B. Programs for physical security of atomic information shall be established so as to assure:

1. Proper protection of properties and materials on hand for immediate use, in storage or in transit.

2. The establishment of security areas, with controlled access, when deemed necessary by reason of the sensitivity, character, volume and use of the classified properties and materials and the character and

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location of the building or buildings involved. Perimeter barriers (natural or structural) shall be established when considered necessary to prevent or impede access by unauthorized individuals because of the particular sensitivity or revealing characteristics of the properties or materials involved.

3. A system of controlled access which shall embody procedures for authorization by competent authority, accurate methods of personnel identification, and accountability for identification media, and a means of enforcing limitations on movement and access to security areas.

III. CONTROL OF CLASSIFIED INFORMATION

A. Document and information control programs shall be maintained which will have for their basic purposes:

1. Classification in strict accord with the sensitivity of the information involved.
2. Control of access.
3. Ready accountability commensurate with the degree of sensitivity.
4. Continuous review for purposes of downgrading or declassification.
5. Destruction when no longer needed.

B. Information or material shall be classified strictly in accordance with agreed classification policies. The authority to classify atomic information shall be granted to the minimum number of individuals and at the highest administrative levels consistent with operational requirements and such individuals shall be charged with strict compliance with classification standards.

To promote uniformity, the following special rules shall be observed:

1. Documents shall be classified according to content and not necessarily according to relationship to other documents.
2. Classification of a file or group of documents physically connected shall be at least as high as that of the most highly classified document therein.
3. Each document shall bear only one classification, even though separate pages, paragraphs, sections or components thereof may bear different

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classifications and the over-all classification shall be at least as high as the highest classified portion of the document.

4. Documents and material shall be conspicuously marked so that current classifications are clearly visible and readily understandable.

5. When a document is reproduced, all original security markings thereon shall also be reproduced or shown on each reproduction.

C. Except when in authorized transit, the use of atomic information shall be limited to approved locations. Except during the periods when such information is in use by authorized personnel, it shall be stored in repositories of approved design and construction.

D. Requirements for intra-nation transmission of atomic information made available by the other government shall be as follows:

1. Top Secret atomic information and material by military, diplomatic or other official courier.

2. Secret and Confidential atomic information by official courier or registered mail within the postal systems of the nation.

3. All atomic information transmitted by electrical means will be encrypted.

E. Top Secret atomic information shall be transmitted between the United States and Canada by means of diplomatic pouch, by military, diplomatic or other official courier.

F. Secret and Confidential atomic information shall be transmitted between the United States and Canada by official courier or by United States and Canadian Registered Mail with registered mail receipts.

G. Accountability procedures shall be established to control dissemination of documents containing Top Secret or Secret atomic information, including the assignment of accountability numbers to documents containing Top Secret atomic information. Top Secret control officers will be designated to maintain accountability registers for the receipt and dispatch of Top Secret documents. Receipts shall be used to evidence transfer of Top Secret, Secret, and, when appropriate, Confidential documents.

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H. Documents containing atomic information, when no longer needed, shall be destroyed by burning, shredding, pulping, or any other method which assures complete destruction of the information contained therein. Work sheets, carbon paper, stenographer notes, imperfect copies and similar material which warrants classification shall be safeguarded and destroyed in the manner prescribed for documents of the same classification. Destruction of Top Secret, Secret, and receipted Confidential documents shall be evidenced by appropriate entries in accountability records.

IV. GENERAL REQUIREMENTS

A. Security Assurances. It is recognized that exchange information shall cause individuals in the United States program to visit Canada and vice versa. In furtherance of this activity, the responsible authority of the sponsoring country shall furnish (in advance) to the responsible authority of the country to be visited, an assurance in writing, that the visitor has been found eligible for access to classified information in the sponsoring country. This assurance shall include the following data:

1. Full name (not initials) of the visitor;
2. Date and place of birth;
3. Citizenship;
4. Current residence address;
5. Official title or description of official position;
6. The kind of security clearance granted the individual and the scope of investigation upon which the clearance determination was based.

B. Security of Classified Contracts. Every classified contract, sub-contract, consultant agreement or other arrangement entered into by either Party to the Agreement, and relating to information exchanged under the Agreement, shall contain appropriate clauses imposing obligations to abide by the security arrangements set forth in this Annex.

C. Security Education. Responsibility for maintenance of adequate security shall rest at various executive and administrative levels and each individual

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shall be required to observe proper security measures. To assure that all individuals authorized access to atomic information are properly advised, the Parties to the Agreement agree to maintain an adequate program to inform all persons of their responsibilities under the Agreement, including a specific initial indoctrination and orientation, periodic re-emphasis of individual responsibilities and a termination interview, stressing the continuing responsibilities for protection of atomic information.

D. Loss or Compromise. In event of loss or possible compromise of atomic information exchanged under the Agreement, any individual having knowledge of such loss or compromise is charged with responsibility for promptly reporting such loss or compromise to the appropriate official of his Government. The Government shall undertake an immediate investigation into the circumstances surrounding the incident. The Government which initiated the information shall be notified promptly of the loss or compromise and the findings of the investigation.

E. Reports. Each Government shall from time to time submit such reports as are requested concerning the information transmitted under the Agreement and the dissemination of information on which particular restrictions have been placed by the other Government.

F. Facility Index. Appropriate records of approved non-Government facilities shall be maintained.

V. CONTINUING REVIEW OF SECURITY SYSTEM.

It is recognized that effective and prompt implementation of the security policies can be materially advanced through reciprocal visits of security personnel. Accordingly, it is agreed to continue thorough exchange of views relative to security policies, standards and procedures and to permit respective security working groups to examine and view at first hand the implementing procedures of the agencies responsible for the administration of the atomic energy programs, such action to be undertaken with a view to achieving an understanding of adequacy and reasonable comparability of the respective systems.

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VI. DEFINITION

As used in this Annex the term "atomic information" means:

1. so far as concerns information provided by the Government of the United States, information which is designated "Restricted Data" or "Formerly Restricted Data";

2. so far as concerns information provided by the Government of Canada, information which is designated "Atomic Energy".

Done at Washington this _____ day of _____, 1958.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF CANADA

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APPENDIX A TO SECURITY ANNEX TO THE AGREEMENT
BETWEEN THE GOVERNMENTS OF THE UNITED STATES
AND CANADA FOR COOPERATION ON THE USES OF
ATOMIC ENERGY FOR MUTUAL DEFENSE PURPOSES

CRITERIA USED FOR DETERMINING
ELIGIBILITY FOR SECURITY CLEARANCE

The acts, activities and associations listed below contain the principal types of derogatory information which create a question as to the individual's eligibility for security clearance. This listing is not all inclusive but may be supplemented from time to time as the occasion warrants.

Concerning the individual or his/her spouse.

1. Commission of any act of sabotage, espionage, treason or sedition, or attempts thereat or preparation therefor, or conspiring with or aiding or abetting another to commit or attempt to commit any act of sabotage, espionage, treason or sedition.
2. Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests are inimical to the interests of the parties, or with any person who advocates the use of force or violence to overthrow the governments of the parties or the alteration of the form of government of the parties by unconstitutional means.
3. Publicly or privately advocated revolution by force or violence to overthrow the governments of the parties or the alteration of the form of government of the parties by unconstitutional means.
4. Held membership in, or affiliation or sympathetic association with any organization or group which has in the United States been declared by the Attorney General, or in Canada has been determined by competent Government authority to be Totalitarian, Fascist, Communist, subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the constitutions of the parties, or as seeking to alter the form of the government of the parties by unconstitutional means, provided the individual did not withdraw from such membership

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when the organization was so identified, or otherwise establish his rejection of its subversive aims; or prior to such declaration or determination, participated in the activities of such an organization in a capacity where he should reasonably have had knowledge as to the subversive aims or purposes of the organization.

Concerning the Individual:

5. Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of national security.

6. Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

7. Any deliberate misrepresentations, falsifications, or omissions of material fact.

8. Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

9. Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the individual with due regard to the transient or continuing effect of the illness and the medical findings in such case.

10. Intentional unauthorized disclosure to any person of classified information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

11. Refused, upon the grounds of constitutional or statutory privilege against self-incrimination, to testify before a court or Congressional or Parliamentary committee regarding charges of his alleged disloyalty or other misconduct.

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APPENDIX "B" TO SECURITY ANNEX TO AGREEMENT BETWEEN
THE GOVERNMENTS OF THE UNITED STATES AND CANADA
FOR COOPERATION ON THE USES OF ATOMIC ENERGY
FOR MUTUAL DEFENSE PURPOSES

STANDARDS FOR SCOPE AND EXTENT OF INVESTIGATION

1. Each party may have more than one kind of security clearance for access to atomic information. If more than one kind is established and used, each kind must be identified as to:

- a. Limitations of access; and
- b. Scope of investigation for determining eligibility.

2. Access to atomic information classified no higher than "Confidential" may be afforded an individual following a clearance determination based on the results of a national agency check or a check of records held by governmental departments, agencies, or military units. Additionally, on the basis of a clearance determination of this same kind, visual access to buildings and equipment classified "Secret" may be afforded craft or manual workers, community management or service workers, nurses, medical technicians, cafeteria workers, health and safety workers, purchasing and accounting workers and the like who are employed in classified construction or operations areas. Any other individual afforded access to atomic information classified higher than "Confidential" shall have been granted security clearance following the conduct of a full field investigation. Notwithstanding the foregoing provisions of this paragraph, access to Top Secret atomic information may be afforded to military personnel of the parties on the basis of a suitable background investigation, including a national agency check; and access to Secret atomic information may be afforded to military, civilian, and contractor personnel of the military establishments of the Parties on the basis of a national agency check.

3. Definitions

a. National Agency Check means inquiry relative to an individual's character, associations, loyalty and trustworthiness through:

- (1) check of arrest or criminal records (through medium of fingerprints or other adequate procedure), and

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(2) check of appropriate national agency investigative, criminal intelligence, and subversive files.

b. Full Field Investigation consists of inquiry relative to an individual's character, associations, loyalty and trustworthiness through:

- (1) a national agency check as above described, and
- (2) open inquiry into the background of the individual.

The open inquiry shall be conducted in person and shall include interviews with persons acquainted with the individual's character and where appropriate interviews in the neighborhood in which the individual resides and has resided. The open inquiry shall cover a sufficient period of the life span of the individual and shall develop material facts relative to education; experience; periods of unemployment; self-employment; foreign employment; dismissals from employment; mental and emotional stability (when appropriate), character, habits, morals; arrests and convictions; marital status, citizenship; military service, date and place of birth; and organization membership.

4. In the event that further information is considered necessary, or in the event that derogatory or questionable information is disclosed, the inquiry will be extended as necessary to obtain such additional information as may be required to provide a sound basis for determining whether or not the security clearance should be granted.

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The Department of State refers to preliminary discussions which have been held between representatives of the Canadian and United States Governments concerning the possible provision of United States atomic weapons, related equipment, and other military applications of atomic energy for use by Canadian forces.

The United States may cooperate with another nation on the use of atomic energy for mutual defense purposes, in accordance with the terms of the Atomic Energy Act of 1954, as amended. This Act specifies types of United States nuclear materials, utilization facilities, or special information which may be made available or transferred to the other cooperating nation, and conditions upon which this may be done. The cooperation may be carried out pursuant to an agreement entered into with the other nation, as provided in the Act.

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With specific respect to atomic weapons which may be made available for use by Canadian forces, an essential supplement to the weapons would be the related special information and equipment necessary for their effective employment. Provision for the communication of such information or transfer of equipment could be covered in an agreement as referred to above.

It is proposed, therefore, that the United States and Canadian Governments enter into negotiation of a new agreement for cooperation on the use of atomic energy for mutual defense purposes. Attached is a draft proposed agreement. If agreeable to the Government of Canada, it is proposed that negotiations proceed forthwith, with a view to reaching agreement as early as possible.

Final conclusion of the agreement on the part of the United States Government would be dependent upon its satisfying United States statutory requirements, including its submission to Congress. It would thus become a public document, although, as indicated in the attached draft, classified technical and security annexes would also be required.

Department of State,



Washington, February 7, 1959

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