

**No. 31532**

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**CANADA  
and  
UNITED STATES OF AMERICA**

**Agreement on air quality (with annexes). Signed at Ottawa on  
13 March 1991**

*Authentic texts: English and French.*

*Registered by Canada on 27 January 1995.*

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**CANADA  
et  
ÉTATS-UNIS D'AMÉRIQUE**

**Accord sur la qualité de l'air (avec annexes). Signé à Ottawa  
le 13 mars 1991**

*Textes authentiques : anglais et français.*

*Enregistré par le Canada le 27 janvier 1995.*

## AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA ON AIR QUALITY

The Government of Canada and the Government of the United States of America, hereinafter referred to as "the Parties",

Convinced that transboundary air pollution can cause significant harm to natural resources of vital environmental, cultural and economic importance, and to human health in both countries;

Desiring that emissions of air pollutants from sources within their countries not result in significant transboundary air pollution;

Convinced that transboundary air pollution can effectively be reduced through cooperative or coordinated action providing for controlling emissions of air pollutants in both countries;

Recalling the efforts they have made to control air pollution and the improved air quality that has resulted from such efforts in both countries;

Intending to address air-related issues of a global nature, such as climate change and stratospheric ozone depletion, in other fora;

Reaffirming Principle 21 of the Stockholm Declaration,<sup>2</sup> which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction";

Noting their tradition of environmental cooperation as reflected in the Boundary Waters Treaty of 1909, the Trail Smelter Arbitration of 1941, the Great Lakes Water Quality Agreement of 1978,<sup>3</sup> as amended,<sup>4</sup> the Memorandum of Intent Concerning Transboundary Air Pollution of 1980,<sup>5</sup> the 1986 Joint Report of the Special Envoys on Acid Rain, as well as the ECE Convention on Long-Range Transboundary Air Pollution of 1979;<sup>6</sup>

<sup>1</sup> Came into force on 13 March 1991 by signature, in accordance with article XVI (1).

<sup>2</sup> United Nations, *Report of the United Nations Conference on the Human Environment*, Stockholm, 5-16 June 1972, A/CONF.48.14/Rev.1 (1973).

<sup>3</sup> United Nations, *Treaty Series*, vol. 1153, p. 187.

<sup>4</sup> *Ibid.*, vol. 1468, p. 411.

<sup>5</sup> *Ibid.*, vol. 1274, p. 235.

<sup>6</sup> *Ibid.*, vol. 1302, No. I-21623.

Convinced that a healthy environment is essential to assure the well-being of present and future generations in Canada and the United States, as well as of the global community;

Have agreed as follows:

## Article I

### Definitions

For the purposes of this Agreement:

1. "Air pollution" means the introduction by man, directly or indirectly, of substances into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment, and "air pollutants" shall be construed accordingly;
2. "Transboundary air pollution" means air pollution whose physical origin is situated wholly or in part within the area under the jurisdiction of one Party and which has adverse effects, other than effects of a global nature, in the area under the jurisdiction of the other Party;
3. "Boundary Waters Treaty" means the Treaty Relating to Boundary Waters and Questions Arising along the Boundary between Canada and the United States, signed at Washington on January 11, 1909;
4. "International Joint Commission" means the International Joint Commission established by the Boundary Waters Treaty.

## Article II

### Purpose

The purpose of the Parties is to establish, by this Agreement, a practical and effective instrument to address shared concerns regarding transboundary air pollution.

## Article III

### General Air Quality Objective

1. The general objective of the Parties is to control transboundary air pollution between the two countries.
2. To this end, the Parties shall:
  - (a) in accordance with Article IV, establish specific objectives for emissions limitations or reductions of

air pollutants and adopt the necessary programs and other measures to implement such specific objectives;

- (b) in accordance with Article V, undertake environmental impact assessment, prior notification, and, as appropriate, mitigation measures;
- (c) carry out coordinated or cooperative scientific and technical activities, and economic research, in accordance with Article VI, and exchange information, in accordance with Article VII;
- (d) establish institutional arrangements, in accordance with Articles VIII and IX; and
- (e) review and assess progress, consult, address issues of concern, and settle disputes, in accordance with Articles X, XI, XII and XIII.

#### Article IV

##### Specific Air Quality Objectives

- 1. Each Party shall establish specific objectives, which it undertakes to achieve, for emissions limitations or reductions of such air pollutants as the Parties agree to address. Such specific objectives will be set forth in annexes to this Agreement.
- 2. Each Party's specific objectives for emissions limitations or reductions of sulphur dioxide and nitrogen oxides, which will reduce transboundary flows of these acidic deposition precursors, are set forth in Annex 1. Specific objectives for such other air pollutants as the Parties agree to address should take into account, as appropriate, the activities undertaken pursuant to Article VI.
- 3. Each Party shall adopt the programs and other measures necessary to implement its specific objectives set forth in any annexes.
- 4. If either Party has concerns about the programs or other measures of the other Party referred to in paragraph 3, it may request consultations in accordance with Article XI.

#### Article V

##### Assessment, Notification, and Mitigation

- 1. Each Party shall, as appropriate and as required by its laws, regulations and policies, assess those proposed actions, activities and projects within the area under its jurisdiction that, if carried out, would be likely to cause

- significant transboundary air pollution, including consideration of appropriate mitigation measures.
2. Each Party shall notify the other Party concerning a proposed action, activity or project subject to assessment under paragraph 1 as early as practicable in advance of a decision concerning such action, activity or project and shall consult with the other Party at its request in accordance with Article XI.
  3. In addition, each Party shall, at the request of the other Party, consult in accordance with Article XI concerning any continuing actions, activities or projects that may be causing significant transboundary air pollution, as well as concerning changes to its laws, regulations or policies that, if carried out, would be likely to affect significantly transboundary air pollution.
  4. Consultations pursuant to paragraphs 2 and 3 concerning actions, activities or projects that would be likely to cause or may be causing significant transboundary air pollution shall include consideration of appropriate mitigation measures.
  5. Each Party shall, as appropriate, take measures to avoid or mitigate the potential risk posed by actions, activities or projects that would be likely to cause or may be causing significant transboundary air pollution.
  6. If either Party becomes aware of an air pollution problem that is of joint concern and requires an immediate response, it shall notify and consult the other Party forthwith.

#### Article VI

##### Scientific and Technical Activities and Economic Research

1. The Parties shall carry out scientific and technical activities, and economic research, as set forth in Annex 2, in order to improve their understanding of transboundary air pollution concerns and to increase their capability to control such pollution.
2. In implementing this Article, the Parties may seek the advice of the International Joint Commission regarding the conduct of monitoring activities.

#### Article VII

##### Exchange of Information

1. The Parties agree to exchange, on a regular basis and through the Air Quality Committee established under Article VIII, information on:
  - (a) monitoring;