

N° 4745.

ÉTATS-UNIS D'AMÉRIQUE ET CANADA

Echange de notes comportant un accord au sujet de la reconnaissance réciproque des règles relatives aux lignes de charge pour les navires effectuant des voyages internationaux sur les Grands Lacs. Ottawa, les 29 avril, 24 août et 22 octobre 1938, 2 septembre et 18 octobre 1939, 10 janvier et 4 mars 1940.

Texte officiel anglais communiqué par l'envoyé extraordinaire et ministre plénipotentiaire des États-Unis d'Amérique à Berne. L'enregistrement a eu lieu le 20 septembre 1940.

UNITED STATES OF AMERICA AND CANADA

Exchange of Notes constituting an Arrangement relating to the Reciprocal Recognition of Load-line Regulations for Vessels engaged in International Voyages on the Great Lakes. Ottawa, April 29th, August 24th and October 22nd, 1938, September 2nd and October 18th, 1939, January 10th and March 4th, 1940.

English official text communicated by the Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Berne. The registration took place September 20th, 1940.

No. 4745. — EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA CONSTITUTING AN ARRANGEMENT RELATING TO THE RECIPROCAL RECOGNITION OF LOAD-LINE REGULATIONS FOR VESSELS ENGAGED IN INTERNATIONAL VOYAGES ON THE GREAT LAKES. OTTAWA, APRIL 29TH, AUGUST 24TH, AND OCTOBER 22ND, 1938, SEPTEMBER 2ND AND OCTOBER 18TH, 1939, JANUARY 10TH AND MARCH 4TH, 1940.

I.

LEGATION OF THE UNITED STATES OF AMERICA.

No. 686.

SIR,

OTTAWA, CANADA, *April 29th*, 1938.

I have the honor to inform you that the appropriate authorities of my Government have received copies of the *Canada Gazette* of August 28th, 1937, containing an Order-in-Council, P. C. 1903, under date of August 6th, 1937, making effective as of October 1st, 1937, load-line rules for ships making voyages on lakes or rivers.

The Coastwise Load-Line Act, 1935, as amended, of the United States, provides in the U. S. C., title 46, sec. 88 (*d*):

« § 88 (*d*). Foreign vessels; application of sub-chapter. Whenever the Secretary of Commerce shall certify that the laws and regulations in force in any foreign country relating to load lines are equally effective with the regulations established under sections 88 to 88 (*i*) of this title, the Secretary of Commerce may direct, on proof that a vessel of that country has complied with such foreign laws and regulations, that such vessel and her master and owner shall be exempted from compliance with the provisions of sections 88 to 88 (*i*) of this title, except as hereinafter provided: *Provided*, That this section shall not apply to the vessels of any foreign country which does not similarly recognize the load lines established under sections 88 to 88 (*i*) of this title and the regulations made thereunder. (Aug. 27th, 1935, c. 747, § 5, 49 Stat. 889.) »

The American authorities have concluded that, except for subdivision load-lines applicable to passenger vessels, the aforementioned Canadian load-line regulations are as effective as the regulations set forth in Section C of the Load Line Regulations of the United States (Rules and Regulations Series, No. 4, January 1938 edition), of which three copies are enclosed.

The Government of the United States will recognize the Canadian load line regulations as promulgated in the *Canada Gazette* of August 28th, 1937, to be as effective as Section C of the United States Load-line Regulations (January 1938 edition), provided that the Canadian Government will similarly recognize United States load line regulations.

As no provision is made in the Canadian Load-line regulations for subdivision marks for passenger vessels, and as the United States Load-Line Regulations under Section D require passenger vessels to be provided with such marks, I am desired by my Government to inquire whether, in order to prevent Canadian passenger vessels from becoming liable to a penalty when

entering United States ports, the Canadian Great Lakes Load-line Regulations could be extended to give effect to subdivision and other matters pertaining thereto.

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

John FARR SIMMONS,
Chargé d'Affaires a. i.

Enclosure.

The Right Honorable the Secretary of State for External Affairs, Ottawa.

II.

DEPARTMENT OF EXTERNAL AFFAIRS.
CANADA.
No. 125.

SIR,

OTTAWA, 24th August, 1938.

With reference to your note No. 686 of the 29th April, 1938, in the matter of load-line regulations which apply to the Great Lakes, I have the honour to state that this matter was considered by the Canadian authorities concerned.

It is observed that the United States authorities have concluded that, except for subdivision load lines applicable to passenger vessels, the Canadian load-line regulations applicable to ships making voyages on the Great Lakes are as effective as the regulations set forth in Section (C) of the Load-line Regulations of the United States (Rules and Regulations Series No. 4, January 1938 edition), and that the Government of the United States will recognize the Canadian load-line regulations promulgated in the *Canada Gazette* of the 28th August, 1937, that is to say the "Load-line Rules for Ships making Voyages on Lakes or Rivers", approved by Order-in-Council of the 6th August, 1937, provided that the Canadian Government will similarly recognize the United States Load-line Regulations referred to above.

The Canadian authorities consider that the Load-line Regulations of the United States applicable to ships engaged in making voyages on the Great Lakes (Rules and Regulations Series No. 4, January 1938 edition) are as effective as the Canadian regulations, "Load-line Rules for Ships making Voyages on Lakes or Rivers", approved by Order-in-Council of the 6th August, 1937.

The Canadian Government recognize that the United States Load-line Regulations mentioned above are equivalent to the Load-line Rules for Ships making Voyages on Lakes or Rivers approved by Order-in-Council of the 6th August, 1937.

With reference to the last paragraph of your note, the Canadian authorities advise that the Canada Shipping Act, 1934, insofar as it concerns load lines, does not deal with the subdivision of passenger ships, this question being dealt with under the part of the Act which refers to the construction and inspection of ships. General regulations dealing with the construction and inspection of the hulls of steamships are now under consideration, and the matter of subdivision will be dealt with in them.

The Canadian authorities will not be in a position to have these regulations in force before the end of the season of navigation this year for passenger ships employed on the Great Lakes, plying to United States ports. It is understood, however, that there are few such ships, and that their season of navigation ends not later than the 30th of September.

As most of the passenger ships making voyages on the Great Lakes from Canadian to United States ports are old ships, there is doubt in the minds of the Canadian technical officers as to whether it would be reasonable and practicable to have them comply fully with the subdivision regulations laid down by the United States authorities, which are based, generally, on the International Convention for Safety of Life at Sea. The Canadian authorities would appreciate

if information could be obtained as to what action the United States authorities propose to take in the matter of such ships of United States registry.

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

O. D. SKELTON,

For Secretary of State for External Affairs.

John Farr Simmons, Esquire,

Chargé d'Affaires, Legation of the United States of America, Ottawa.

III.

LEGATION OF THE UNITED STATES OF AMERICA.

No. 819.

SIR,

OTTAWA, CANADA, *October 22nd, 1938.*

With reference to Dr. Skelton's note No. 125, dated August 24th, 1938, in the matter of load-line regulations applicable to the Great Lakes, I have the honor to inform you that the American authorities have noted that the Canadian Government recognizes that the load-line regulations of the United States applicable to vessels making voyages on the Great Lakes of North America are equivalent to Canadian "Load-line Rules for Ships making Voyages on Lakes or Rivers", approved by Order-in-Council on the 6th of August, 1937, except as to subdivision load-lines applicable to passenger vessels.

The American authorities have noted also that the Canadian Government will not be in a position to have in force subdivision load-line regulations applicable to vessels of the Great Lakes before the close of navigation this year. In this regard, when the subdivision loadline regulations are issued by the Canadian authorities, the competent American authorities must give consideration to them before accepting them as being equal to the United States subdivision loadline regulations.

The American Government will appreciate, therefore, receiving copies of these subdivision load-line regulations as soon as possible after they are issued.

With regard to the request contained in Dr. Skelton's note under reference for information as to the procedure for marking existing passenger vessels with subdivision loadlines and to what extent such ships are required to comply with the subdivision loadline regulations, the competent American authorities have stated that each existing passenger ship is considered on its merits in relation to its physical compliance with the subdivision load-line requirements. In interpreting the meaning of the words reasonable and practicable, the decisions of the Department of Commerce have resulted in most cases in a one-compartment standard of subdivision.

The American authorities have directed attention to the following slight difference in the scope of the basic load-line laws of the United States and of Canada: The laws of the United States are more general and probably embrace more vessels; for instance, tug boats do not seem to be required to have loadlines under the Canadian law, but are required to have them under the United States law. In the case of such Canadian vessels which are exempt from Canadian load-line regulations and which visit United States ports, it will satisfy the American load-line authorities if such vessels are marked with load-lines under the Canadian loadline regulations, even though Canadian load-line law would not require them to be marked.

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

The Right Honorable The Acting Secretary of State
for External Affairs, Ottawa.

David MCK. KEY,
Chargé d'Affaires a. i.

IV.

DEPARTMENT OF EXTERNAL AFFAIRS,
CANADA.

No. 185.

SIR,

OTTAWA, 2nd September, 1939.

With reference to the despatch No. 819 of the 22nd October, 1938, from the United States Chargé d'Affaires at Ottawa, and previous correspondence, in the matter of Load-line Regulations applicable to the Great Lakes, I have the honour to state that, by Order-in-Council of the 7th July, 1939, P. C. 1790, certain regulations relating to subdivision have been made, bearing the title, "Regulations respecting the Subdivision and Pumping Arrangements of Passenger Steamships employed making Inland Voyages between Canada and the United States of America".

These regulations were published in the *Canada Gazette* of the 12th August, 1939, and I enclose herewith a copy of the *Gazette* so that the competent authorities of the United States Government may be in a position to give consideration to the acceptance of these regulations as being equal to the United States Subdivision Load-line Regulations.

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

O. D. SKELTON,

For Secretary of State for External Affairs.

John Farr Simmons, Esquire,
Chargé d'Affaires,

Légation of the United States of America, Ottawa.

V.

DEPARTMENT OF EXTERNAL AFFAIRS,
CANADA.

No. 217.

SIR,

OTTAWA, 18th October, 1939.

With reference to my note No. 185 of the 2nd September, 1939, advising that certain regulations relating to the subdivision of ships making inland voyages between Canada and the United States of America had been made, and enclosing a copy of the *Canada Gazette* of the 12th August containing these Regulations, I have the honour to state that these Regulations contained two errors and that action was taken to have these errors corrected by Order-in-Council.

An Order-in-Council P. C. 2669, dated September 14th, was issued, amending the errors in question, and was published in the *Canada Gazette* of September 30th, 1939.

I enclose herewith three copies of an extract from the *Canada Gazette* of that date¹, containing the Order-in-Council, and wish to request that a copy of the extract be forwarded to the Government of the United States.

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

O. D. SKELTON,

For Secretary of State for External Affairs.

John Farr Simmons, Esquire,
Chargé d'Affaires, a. i.,

Légation of the United States of America, Ottawa.

VI.

LEGATION OF THE UNITED STATES OF AMERICA.

No. 208.

SIR,

OTTAWA, Canada, *January 10th, 1940.*

I have the honor to refer to your note No. 217 dated October 18th, 1939, and to previous correspondence concerning a proposed arrangement between Canada and the United States for the reciprocal recognition of load-line regulations for vessels engaged in international voyages on the Great Lakes.

I am desired by my Government to advise you that the Canadian regulations set forth by Orders-in-Council of July 7th, 1939, P. C. 1790 and 1791, as published in the *Canada Gazette* of August 12th, 1939, have been examined carefully and compared by the competent American authorities with the similar regulations of the Secretary of Commerce, as set forth in Section D of the Load-line Regulations of the United States, approved September 28th, 1937 (Part 46, Section 46.42 of the Codification of the Load-line Regulations), and have been found, subject to the following comments, to be the equivalent of the said United States regulations :

(a) United States regulations are applicable to all passenger vessels of 150 gross tons and above, whereas Canadian regulations are applicable only to steamships (motorships) of 150 gross tons and above.

(b) A United States passenger vessel on the Great Lakes is one carrying more than 16 passengers, whereas a Canadian passenger vessel is one carrying more than 12 passengers.

(c) Canadian regulation 4, sub-paragraph (2), defines the freeboard as the distance from the subdivision water line to the margin line and it is presumed that when marked on the ship as provided by regulation 49, sub-paragraph (2), that proper allowances will be made.

It is the opinion of the competent American authorities that any differences which may arise with reference to the foregoing comments can be adjusted administratively.

It appears from Canadian regulation No. 2 (P. C. 1790) that these regulations apply only to steel vessels, and that in the case of wooden vessels, if any, the breadth will be taken to the outside of the planking.

The Coastwise Load-line Act, 1935, as amended, of the United States, provides in the U. S. C., title 46, sec. 88 (d) :

“ § 88 (d). Foreign vessels ; application of sub-chapter. Whenever the Secretary of Commerce shall certify that the laws and regulations in force in any foreign country relating to load lines are equally effective with the regulations established under sections 88 to 88 (i) of this title, the Secretary of Commerce may direct, on proof that a vessel of that country has complied with such foreign laws and regulations, that such vessel and her master and owner shall be exempted from compliance with the provisions of sections 88 to 88 (i) of this title, except as hereinafter provided : Provided, that this section shall not apply to the vessels of any foreign country which does not similarly recognize the load lines established under sections 88 to 88 (i) of this title and the regulations made thereunder. (Aug. 27th, 1935, c. 747, § 5. 49 Stat. 889.) ”

The Government of the United States recognizes the Canadian Load-line Regulations, as promulgated in the *Canada Gazette* dated August 12th, 1939, respecting subdivision, pumping arrangements, watertight doors, and other appliances of passenger steamers making inland voyages on the Great Lakes between Canada and the United States, to be as effective as comparable United States regulations applicable to passenger vessels engaged in voyages on the Great Lakes between the United States and Canada, provided that the Canadian Government similarly recognizes the the Subdivision Load-line Regulations of the United States applicable to passenger vessels engaged in voyages on the Great Lakes.

With further reference to your note No. 217 of October 18th, 1939, which stated that an Order-in-Council, P. C. 2669, dated September 14th, 1939, was issued, amending two errors which occurred in the Order-in-Council of July 7th, 1939, P. C. 1790, I am requested to inform you of the receipt by the Secretary of Commerce of the United States of this information.

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

John FARR SIMMONS,
Chargé d'Affaires a. i.

The Right Honorable The Secretary of State for External Affairs,
Ottawa, Canada.

VII.

DEPARTMENT OF EXTERNAL AFFAIRS,
CANADA.
No. 20.

SIR,

OTTAWA, *March 4th, 1940.*

With reference to the note No. 208, of the 10th January, 1940, from the United States Chargé d'Affaires *ad interim*, concerning a proposed arrangement between the United States and Canada for the reciprocal recognition of load-line regulations for vessels engaged in international voyages on the Great Lakes, I have the honour to state that it is noted that the United States Government recognizes the Canadian regulations respecting subdivision, pumping arrangements, watertight doors and other appliances on passenger steamships engaged in making inland voyages on the Great Lakes between Canada and the United States to be as effective as comparable United States regulations applicable to passenger vessels engaged in voyages on the Great Lakes between Canada and the United States, provided that the Canadian Government similarly recognizes the subdivision load-line regulations of the United States applicable to passenger vessels engaged in voyages on the Great Lakes.

I may say that the Canadian Government recognizes the subdivision load-line regulations of the United States applicable to passenger vessels engaged in voyages on the Great Lakes, as set forth in Section D of the Load-line Regulations of the United States, approved September 28th, 1937, as being as effective as the Canadian regulations respecting subdivision, pumping arrangements, watertight doors and other appliances for passenger steamships making inland voyages between Canada and the United States, as set forth in the Regulations respecting Subdivision and Pumping Arrangements of Passenger Steamships employed making Inland Voyages between Canada and the United States, P. C. 1790 of July 7th, 1939, and the Regulations respecting Watertight Doors and Other Appliances, P. C. 1791, of July 7th, 1939, respectively.

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

O. D. SKELTON,

For Secretary of State for External Affairs.

The Minister of the United States to Canada,
United States Legation, Ottawa.

Certified to be a true and complete textual copy of the original arrangement in the sole language in which it was signed.

For the Secretary of State of the United States of America :

P. F. Allen,
Acting Director of Personnel.