

No. 3283

**UNITED STATES OF AMERICA
and
CANADA**

**Exchange of notes constituting an agreement relating to
the St. Lawrence Seaway Project. Washington, 30
June 1952**

**Exchange of notes constituting an agreement modifying
and supplementing the above-mentioned Agreement.
Ottawa, 17 August 1954**

Official text: English.

Registered by the United States of America on 23 April 1956.

**ÉTATS-UNIS D'AMÉRIQUE
et
CANADA**

**Échange de notes constituant un accord relatif au projet
de canalisation du Saint-Laurent. Washington, 30 juin
1952**

**Échange de notes constituant un accord modifiant et
complétant l'Accord susmentionné. Ottawa, 17 août
1954**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 23 avril 1956.

No. 3283. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA RELATING TO THE ST. LAWRENCE SEAWAY PROJECT. WASHINGTON, 30 JUNE 1952

I

The Canadian Ambassador to the Acting Secretary of State

CANADIAN EMBASSY
WASHINGTON, D. C.

447

June 30, 1952

Sir,

I have the honour to refer to our exchange of notes of January 11, 1952, relating to the St. Lawrence Seaway and Power Project. In my note to you, I informed you that the Canadian Government is prepared to proceed with the construction of the seaway as soon as appropriate arrangements can be made for the construction of the power phase of the project as well.

I have been instructed by my Government to inform you that, when all arrangements have been made to ensure the completion of the power phase of the St. Lawrence project, the Canadian Government will construct locks and canals on the Canadian side of the International Boundary to provide for deep-water navigation to the standard specified in the proposed agreement between Canada and the United States for the development of navigation and power in the Great Lakes-St. Lawrence Basin, signed March 19, 1941,² and in accordance with the specifications of the Joint Board of Engineers, dated November 16, 1926, and that such deep-water navigation shall be provided as nearly as possible concurrently with the completion of the power phase of the St. Lawrence project.

The undertaking of the Government of Canada with respect to these deep-water navigation facilities is based on the assumption that it will not be possible

¹ Came into force on 30 June 1952 by the exchange of the said notes.

² Not printed by the Department of State of the United States of America.

in the immediate future to obtain Congressional approval of the Great Lakes-St. Lawrence Basin Agreement of 1941. As it has been determined that power can be developed economically, without the seaway, in the International Rapids Section of the St. Lawrence River and as there has been clear evidence that entities in both Canada and the United States are prepared to develop power on such a basis, the Canadian Government has, with Parliamentary approval, committed itself to provide and maintain whatever additional works may be required to allow uninterrupted 27-foot navigation between Lake Erie and the Port of Montreal, subject to satisfactory arrangements being made to ensure the development of power.

Canada's undertaking to provide the seaway is predicated on the construction and maintenance by suitable entities in Canada and the United States of a sound power project in the International Rapids Section. The features of such a power project are described in section 8 of the applications to be submitted to the International Joint Commission by the Governments of Canada and of the United States. They are also described in the Agreement of December 3, 1951, between the Government of Canada and the Government of Ontario, forming part of the International Rapids Power Development Act, Chapter 13 of the Statutes of Canada, 1951, (Second Session), a copy of which is attached hereto.¹ The Canadian Government wishes to make it clear that, even were the seaway not to be constructed, Canada would not give its approval to any power development scheme in the International Rapids Section of the St. Lawrence River which omitted any of the features so described.

However, in order to ensure that construction of both the power project and the deep waterway may be commenced without any further delay and notwithstanding :

- (a) that the power-developing entities would be required, if power were to be developed alone, to provide for continuance of 14-foot navigation (such provision was indeed made in the 1948 applications by the Province of Ontario and the State of New York), and that the Canadian Government's commitment to provide concurrently a deep waterway between Lake Erie and the Port of Montreal does not alter the basic principle that any entity developing power in boundary waters must make adequate provision for the maintenance of existing navigation facilities, and
- (b) that, in view of the clear priority given to navigation over power by Article VIII of the 1909 Boundary Waters Treaty², provision of channeling to the extent

¹ Not printed by the Department of State of the United States of America.

² De Martens, *Nouveau Recueil général de Traités*, troisième série, tome IV, p. 208.

specified in the Annex to the 1951 Canada-Ontario Agreement referred to above is reasonable and in conformity with Canadian practice,

the Canadian Government is now prepared to agree :

- (a) that the amount to be paid to Canada, as specified in the Agreement of December 3, 1951, between Canada and Ontario, in lieu of the construction by the power-developing entities of facilities required for the continuance of 14-foot navigation, be excluded from the total cost of the power project to be divided between the Canadian and United States power-developing entities, in consideration of the fact that actual replacement of 14-foot navigation facilities will be rendered unnecessary by reason of the concurrent construction of the deep waterway in Canada, and
- (b) that the Authority to be established pursuant to the provisions of the St. Lawrence Seaway Authority Act, Chapter 24 of the Statutes of Canada, 1951 (Second Session), contribute \$15 million towards the cost of the channel enlargement which the power-developing entities must undertake in the St. Lawrence River, as set out in paragraph 4 of the Annex to the Canada-Ontario Agreement of December 3, 1951, and in section 8 of the applications to the International Joint Commission, in consideration of the benefits which will accrue to navigation from such channel enlargement.

I understand that your Government approves the arrangements outlined in this note and that it is further agreed, subject to the modifications outlined in the preceding paragraph, that the Government of Canada and the Government of the United States will request the International Joint Commission to allocate equally between the two power-developing entities the cost of all the features described in section 8 of the applications to the International Joint Commission and in the Agreement of December 3, 1951, between Canada and Ontario.

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

H. H. WRONG

The Honourable David Bruce
Acting Secretary of State of the United States
Washington, D. C.

II

The Acting Secretary of State to the Canadian Ambassador

DEPARTMENT OF STATE
WASHINGTON

June 30, 1952

Excellency :

I have the honor to acknowledge the receipt of your note of June 30, 1952, in which you inform me that your Government, when all arrangements have been made to ensure the completion of the power phase of the St. Lawrence project, will construct locks and canals on the Canadian side of the International Boundary to provide deep-water navigation to the standard specified in the proposed agreement between the United States and Canada for the development of navigation and power in the Great Lakes-St. Lawrence Basin, signed March 19, 1941, and in accordance with the specifications of the Joint Board of Engineers, dated November 16, 1926, and that such deep-water navigation shall be provided as nearly as possible concurrently with the completion of the power phase of the St. Lawrence Project.

My Government approves the arrangements set forth in your note and, subject to the modifications there proposed and outlined below, agrees to request the International Joint Commission to allocate equally between the power-developing entities the cost of all the features described in Section 8 of the applications to the International Joint Commission and in the Agreement of December 3, 1951, between the Governments of Canada and Ontario.

These modifications are :

- (a) the amount to be paid to Canada, as specified by the Agreement of December 3, 1951, between Canada and Ontario, in lieu of the construction by the power-developing entities of facilities required for the continuance of 14-foot navigation, be excluded from the total cost of the power project to be divided between the Canadian and United States power-developing entities, in consideration of the fact that actual replacement of 14-foot navigation facilities will be rendered unnecessary by reason of the concurrent construction of the deep waterway in Canada, and
- (b) that the Authority to be established pursuant to the provisions of the St. Lawrence Seaway Authority Act, chapter 24 of the Statutes of Canada, 1951 (Second Session), contribute \$15 million toward the cost of channel enlargement which the power developing entities must undertake in the St. Lawrence River, as set out in Section 8 of the applications to the International Joint

Commission and in paragraph 4 of the Annex to the Canada-Ontario Agreement of December 3, 1951, in consideration of the benefits which will accrue to navigation from such channel enlargement.

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

David BRUCE
Acting Secretary

His Excellency the Honorable Hume WRONG
Ambassador of Canada

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
CANADA MODIFYING AND SUPPLEMENTING THE
AGREEMENT OF 30 JUNE 1952 RELATING TO THE
ST. LAWRENCE SEAWAY PROJECT. OTTAWA,
17 AUGUST 1954

I

*The Canadian Secretary of State for External Affairs to the American Charge
d'Affaires ad interim*

DEPARTMENT OF EXTERNAL AFFAIRS
CANADA

No. X-214

Ottawa, August 17, 1954

Sir :

1. I have the honour to refer to the Exchange of Notes of June 30, 1952,² between the Canadian Ambassador in Washington and the Acting Secretary of State of the United States, in which it was agreed that the Canadian Government would, when all arrangements had been made to ensure the completion of the power phase of the St. Lawrence Project, construct locks and canals on the Canadian side of the International Boundary to provide for uninterrupted 27-foot navigation between Lake Erie and the Port of Montreal.
2. With the cooperation of the Government of the United States, arrangements were made to ensure the completion of the power phase of the Project by the Power Authority of the State of New York and the Hydro-Electric Power Commission of Ontario. In the meantime, the Congress of the United States enacted and the President approved on May 13, 1954, Public Law 358³ which created the Saint Lawrence Seaway Development Corporation and authorized and directed it to construct 27-foot navigation works on the United States side of the international section of the St. Lawrence River.
3. At the request of the United States Government, representatives of our two governments held meetings in July and August of this year to discuss the need for modification of the Notes exchanged on June 30, 1952, in the light of Public Law 358. Although the Canadian Government is ready and willing to complete the works necessary for 27-foot navigation in the St. Lawrence Seaway on Canadian territory, it understands the desire of the United States to participate in the

¹ Came into force on 17 August 1954 by the exchange of the said notes.

² See p. 200 of this volume.

³ United States of America : 68 Stat. 92.

Seaway Project by constructing certain navigation works on United States territory. Accordingly the Canadian Government is prepared to modify the arrangements set forth in the Notes of June 30, 1952, to the extent that the Canadian Government will be relieved of the obligation towards the United States Government to provide forthwith the navigation works in the general vicinity of Barnhart Island on Canadian territory and in the Thousand Islands section.

4. (a) The Canadian Government wishes to state, however, that it will construct forthwith a canal and lock at Iroquois and that in addition it intends, if and when it considers that parallel facilities are required to accommodate existing or potential traffic, to complete 27-foot navigation works on the Canadian side of the International Rapids Section.

(b) Before undertaking these latter works in the general vicinity of Barnhart Island, the Canadian Government agrees to consult the United States Government and understands that, should the United States Government intend to build on United States territory in the International Rapids Section navigation works in addition to those provided for in Public Law 358, it would similarly consult the Canadian Government.

5. The Canadian Government reserves the right to decide whether and in what manner it will continue 14-foot navigation works through the International Rapids Section but agrees to consult the United States Government on the question of levying tolls in connection with such works.

6. (a) It is recognized that it is of great importance to Canada and the United States that the St. Lawrence Seaway be used to the maximum extent required by the needs of commerce. It is understood therefore that both Governments will use their best endeavours to avoid placing unreasonable restrictions on the transit of passengers, shipping or trade in the international section of the St. Lawrence Seaway.

(b) It is further agreed that each Government will consult the other before it enacts any new law or promulgates any new regulation, applicable in the respective national parts of the international section of the St. Lawrence River, which might affect Canadian or United States shipping, or shipping of third-country registry proceeding to or from Canada or the United States respectively.

(c) Similarly, with respect to any laws or regulations now in force in either country which affect the shipping interests of the other country in the international section of the St. Lawrence River, the Government affected may request consultation concerning such laws or regulations and the other Government shall accede to requests for consultation.

(d) The foregoing undertakings are in addition to the treaty obligations now in force between Canada and the United States affecting shipping in the St. Lawrence River and canals, particularly Article I of the Boundary Waters Treaty of 1909.

7. I should be glad to receive your confirmation that the United States Government agrees with the modification of the Notes of June 30, 1952, proposed in paragraph 3 and with the reciprocal undertakings set forth in paragraphs 4 (b) and 6 of this Note.

8. The Canadian Government looks forward to the fruitful development of this great Seaway Project in constructive and harmonious cooperation with the United States and is confident that this joint enterprise will add to the strength and prosperity of our two countries.

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

L. B. PEARSON

Secretary of State for External Affairs

Don C. Bliss, Esq.
Chargé d'Affaires, a. i.
Embassy of the United States of America
Ottawa

II

The American Chargé d'Affaires ad interim to the Canadian Secretary of State for External Affairs

UNITED STATES EMBASSY

No. 38

Ottawa, August 17, 1954

Sir :

I have the honor to acknowledge the receipt of your Note No. X-214 of August 17, 1954 in which you inform me that the Canadian Government agrees to certain modifications in the arrangements set forth in the Notes of our Governments of June 30, 1952, in the light of the changed circumstances with respect to the St. Lawrence Seaway Project brought about by the enactment by the Congress of the United States of Public Law 358, approved by the President on May 13, 1954.

The United States Government has called the attention of the Canadian Government to the provisions of Public Law 358 authorizing and directing the St. Lawrence Seaway Development Corporation to construct certain canals and locks on the United States side of the International Rapids Section of the

St. Lawrence River as its part of the St. Lawrence Seaway Project. As the Canadian Government has been informed, it is the intention of the United States Government to participate in the St. Lawrence Seaway Project by constructing these navigational facilities.

The United States Government agrees with the requirements of consultation between the two Governments set forth in paragraphs 4 (*b*) and 6 and agrees to relieve Canada of its obligation of June 30, 1952 as referred to in paragraph 3 of your Note No. X-214 of August 17, 1954.

My Government notes the declarations contained in your Note as to the intentions of the Canadian Government with respect to other matters relating to the St. Lawrence Seaway Project.

The United States Government wholeheartedly shares the view expressed by the Government of Canada concerning the benefits to be anticipated from this joint enterprise and welcomes this new opportunity for constructive and harmonious cooperation between our two countries.

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

Don C. BLISS
Chargé d'Affaires ad interim

The Honorable Lester B. Pearson
Secretary of State for External Affairs
Ottawa