

No. 4119

**UNITED STATES OF AMERICA
and
CANADA**

**Exchange of notes (with maps) constituting an agreement
relating to navigation improvements of the Great Lakes
Connecting Channels of the Saint Lawrence Seaway.
Ottawa, 30 November 1956, 8 and 9 April 1957**

Official text: English.

Registered by the United States of America on 19 December 1957.

**ÉTATS-UNIS D'AMÉRIQUE
et
CANADA**

**Échange de notes (avec cartes) constituant un accord
concernant les travaux d'amélioration de la navigation
dans les chenaux de communication des Grands Lacs
(voie maritime du Saint-Laurent). Ottawa, 30 no-
vembre 1956, 8 et 9 avril 1957**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 19 décembre 1957.

No. 4119. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA RELATING TO NAVIGATION IMPROVEMENTS OF THE GREAT LAKES CONNECTING CHANNELS OF THE SAINT LAWRENCE SEAWAY. OTTAWA, 30 NOVEMBER 1956, 8 AND 9 APRIL 1957

I

The American Ambassador to the Canadian Secretary of State for External Affairs

No. 143

The Ambassador of the United States of America presents his compliments to the Secretary of State for External Affairs and has the honor to refer to the Embassy's Note No. 26 of July 23, 1956,² in which permission was requested to undertake certain navigation improvements in Canadian waters of the Detroit River Section of the Great Lakes Connecting Channels. The approval of the Canadian Government was conveyed to the Embassy in Note No. 266 of October 26, 1956,² from the Department of External Affairs.

It is now proposed to make navigation improvements in both United States and Canadian waters of the St. Mary's River and the St. Clair River Sections of the Great Lakes Connecting Channels, exclusive of the Southeast Bend of the St. Clair River. The project involves the deepening of existing channels and the disposal of the excavated material. The improvement of the Great Lakes Connecting Channels to provide increased channel dimensions in the interest of the growing needs of commerce on this important waterway was authorized on the United States side by Public Law 434, 84th Congress, approved March 21, 1956.

The features of the work in both rivers are briefly described in the enclosed summary sheets and are shown on the attached maps.³ That portion of the project which is located in Canadian waters is specifically indicated on the maps. The map pertaining to the St. Clair River includes certain work in the vicinity

¹ Came into force on 9 April 1957 by the exchange of the said notes.

² United Nations, *Treaty Series*, Vol. 279, No. 4039.

³ See inserts in a pocket at the end of this volume.

of the Southeast Bend near the southerly end of the St. Clair River, but the present project does not include that part of the work.

Funds for initiating the navigation improvements in the two rivers were provided in the Civil Functions Appropriation Act, Public Law 641, 84th Congress, dated July 2, 1956. The construction program for the current fiscal year, which ends June 30, 1957, includes commencement of work in the St. Mary's River and it is anticipated that work in the St. Clair River can begin in the following fiscal year, that is, after July 1, 1957.

The United States Government would appreciate the consideration of the Canadian Government with a view to extending its approval to the proposed navigation improvements to be undertaken in the Canadian waters of the St. Mary's River and the St. Clair River Sections of the Great Lakes Connecting Channels, exclusive of the Southeast Bend area of the St. Clair River.

In view of the fact that it is hoped to initiate construction in the St. Mary's River at the earliest date practicable in the event the Canadian Government grants its approval, the United States Government suggests that any detailed information required by the Canadian Government in its consideration of the project or concerning the conduct of the proposed operations be subject to informal discussions between the District Engineer, Department of Public Works, London, Ontario, Canada and Colonel Peter C. Hyzer, District Engineer, United States Corps of Engineers, Detroit, Michigan.

Enclosures :

1. One photostatic copy each of "Summary Sheets of Project Features, Great Lakes Connecting Channels—St. Mary's River Section"; "Summary Sheet of Project Features, Great Lakes Connecting Channels—St. Clair River Section".
2. One photostatic copy each of maps showing "Authorized Channel Improvements—St. Mary's River, Michigan"; and "Authorized Channel Improvements, St. Clair River, Michigan".¹

Embassy of the United States of America
Ottawa, November 30, 1956

¹ See footnote 3 on p. 218 of this volume.

SUMMARY SHEETS OF PROJECT FEATURES
GREAT LAKES CONNECTING CHANNELS—ST. MARYS RIVER SECTION

1. *Deepening of the upper St. Marys River:* The section to be deepened extends from Gros Cap Shoals at Lake Superior to the locks at the St. Marys Falls Canal. The improvement depths will vary from 28 to 30 feet, depending on the exposure and nature of the bottom material. Present depths are 26 and 27 feet. The excavated material will be disposed of in deep water in Whitefish Bay.

2. *Deepening of the lower St. Marys River:* The section to be deepened extends from the north end of St. Joseph Island through Middle Neebish Channel to the south end of Neebish Island. The excavated material would be placed in spoil banks along the channel. It will probably be necessary to rehandle the material by dragline to place the material in the shallow water alongside the channel.

3. Deepening of the lower St. Marys River will not affect lake levels as the entire outflow from Lake Superior is controlled by the compensating gates and the power plants at St. Marys Falls.

SUMMARY SHEET OF PROJECT FEATURES
GREAT LAKES CONNECTION CHANNELS—ST. CLAIR RIVER SECTION

1. *Head of St. Clair River.* It is proposed to deepen the channel from its present depth of 26.0 feet to the authorized depth of 30.0 feet below low water datum, in the vicinity of Fort Gratiot Light. The excavated material would be disposed in deep water in the U.S. waters of Lake Huron.

2. *Port Huron to Stag Island.* It is proposed to deepen the channel from its present depth of 25.0 feet to the authorized depth of 27.4 feet. The excavated materials would be disposed in those sections of the river which are 40 feet or deeper or in deep water in Lake Huron.

3. *Stag Island to St. Clair.* It is proposed to deepen the channel from its present depth of 25.0 feet to the authorized depth of 27.3 feet. The excavated material would be disposed as in paragraph 2 above.

4. *Roberts Landing to Southeast Bend.* It is proposed to deepen the channel from its present depth of 25.0 feet to the authorized depth of 27.3 feet. The excavated material would be disposed in the deep water in the North Channel in U.S. waters.

II

*The Canadian Secretary of State for External Affairs to the American Ambassador*DEPARTMENT OF EXTERNAL AFFAIRS
CANADA

No. 81

The Secretary of State for External Affairs presents his compliments to His Excellency the Ambassador of the United States of America and has the honour to refer to the Ambassador's Note No. 143 of November 30, 1956 concerning proposed navigation improvements to be undertaken in both United States and Canadian waters of the St. Marys River and the St. Clair River sections of the Great Lakes connecting channels, exclusive of the Southeast Bend of the St. Clair River.

It is noted that the projects which involve the deepening of existing channels and the disposal of the excavated material are being undertaken to provide increased channel dimensions in the interest of the growing needs of commerce. It is also noted that the construction programme for the current fiscal year which ends June 30, 1957 includes the commencement of work in the St. Marys River and it is anticipated that work in the St. Clair River may begin in the following fiscal year, that is after July 1, 1957.

In a previous request for permission to dredge in the Detroit River, nearly all the work to be done was in Canadian territory and one of the conditions agreed upon was that Canadian contractors should be given an equal opportunity with United States contractors to bid on the work. There was a further provision concerning the employment of Canadian workers. In the work to be done in the St. Marys and St. Clair Rivers it is noted that the percentage of dredging to be done in Canadian waters is small in relation to the entire project and is spread through various sections of the two rivers. Since the Canadian portions of the dredging do not appear appropriate for separate contracts, the Canadian Government does not propose, in so far as the projects outlined in Embassy Note No. 143 of November 30, 1956 are concerned, to request equal opportunities for Canadian contractors to bid or request that Canadians be employed on these portions of the work.

It has been noted, however, that the dredging proposed by the United States Government may have the effect of lowering the levels of water over the sills of the locks at Sault Ste. Marie and that, in addition, it may change the amount of water flowing in certain Canadian channels in the vicinity of St. Marys Falls and the St. Marys River. The effect may be to reduce somewhat the usefulness of the present Canadian lock.

The Canadian Government wishes to facilitate the present undertaking and is, therefore, not disposed to require that compensating works be constructed

to prevent the lowering of water levels. With the expected increase in Great Lakes traffic, however, the Canadian Government may wish at some future date to make improvements to the Canadian lock at Sault Ste. Marie (including access channels). The Canadian Government, in giving approval to the present dredging plans, assumes that the Government of the United States will, for its part, be willing to facilitate in a similar manner the construction by Canada of improvements to the Canadian canal facilities at Sault Ste. Marie if and when Canada considers such work necessary.

Having regard to the foregoing, the Canadian Government is pleased to approve the project as outlined in the Ambassador's Note No. 143, subject to the following conditions :

- (a) That the final plans for the construction of the channels, including plans for spoil disposal areas, shall be approved by the Canadian authorities;
- (b) That drilling, excavations, the deposit of dredged and excavated materials shall not be carried out in Canadian territory by any United States agencies or contractors until such time as the Canadian authorities have made arrangements for the admission of personnel and equipment;
- (c) That the Unemployment Insurance Act of Canada, and regulations thereunder, will apply to any Canadian workmen who may be employed on the project and also to United States workmen employed on this project if they are employed on Canadian territory by a contractor (not by the United States Army Corps of Engineers) and cannot be covered under any employment insurance law of the United States; if any Canadian workmen are employed directly by the United States Army Corps of Engineers the arrangement whereby the United States armed forces will insure Canadian employees from July 1, 1956 will apply;
- (d) That the United States authorities will ensure that the necessary arrangements are made with the authorities of the Province of Ontario concerning the Workmen's Compensation Act of that Province;
- (e) That the United States authorities will ensure, in a manner satisfactory to the Canadian authorities, that the contractor or contractors for this work will as a matter of contract responsibility be required to : (1) perform and complete the work in accordance with the plans and specifications as approved by the Canadian authorities; (2) be responsible for all damages to persons or property that occur as a result of their fault or negligence in connection with the prosecution of the work; (3) carry adequate insurance commensurate with that responsibility; (4) satisfy the requirements of the applicable Canadian law;
- (f) That the work to be carried out in Canadian territory shall be without prejudice to the sovereign rights of Canada;

- (g) That during the progress of the work, and subsequent thereto, such soundings, gaugings and meterings shall be carried out by the United States authorities as the Canadian authorities may require, and the Canadian authorities kept informed of the results obtained; authorized Canadian Government representatives shall be free at all times to inspect the works during progress, and shall be permitted to continue to make such check surveys with soundings, meterings and gaugings, in any part of the St. Marys and St. Clair Rivers as may be considered desirable at any time;
- (h) That any machine, plant, vessel, barge or operators or crews thereof, used on these works, shall not be permitted to tie up, discharge ashes, fuel oil, waste oil, etc. or to commit any other nuisance in a manner prejudicial to the health, well-being and activities of the owners and/or users of land or water areas in Canadian territory during the progress of, or subsequent to, the carrying out of these works; the attention of the United States authorities is also drawn to Section 33 of the Fisheries Act of Canada, and Section 40 of the Regulations under the Migratory Birds Convention Act which refer to the pollution of waters with specific reference to the effect upon fish and migratory birds;
- (i) Supplementary or administrative arrangements concerning this project may be made from time to time between authorized agencies of the two Governments.

The Secretary of State for External Affairs further proposes that the Ambassador's Note No. 143 of November 30, 1956, this Note and the Ambassador's reply to that effect shall constitute a special agreement under Article III of the Boundary Waters Treaty of June 11,¹ 1909.²

Ottawa, April 8 1957

III

The American Ambassador to the Canadian Secretary of State for External Affairs

No. 239

The Ambassador of the United States of America presents his compliments to the Secretary of State for External Affairs and has the honor to refer to Note No. 81 of April 8, 1957 from the Department of External Affairs, approving on behalf of the Canadian Government, subject to certain conditions, the proposed navigation improvements which are to be undertaken in the St. Marys River and the St. Clair River sections of the Great Lakes connecting channels, exclusive of the Southeast Bend of the St. Clair River.

¹ According to the information provided by the United States of America the date should read January 11.

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

The Ambassador has the honor to confirm the acceptance by the Government of the United States of America of the conditions set forth in Note No. 81 and agrees with the proposal made by the Secretary of State for External Affairs that the exchange of notes consisting of the Ambassador's Note No.143, November 30, 1956, the Secretary of State's Note No. 81 and this Note shall constitute a special agreement under Article III of the Boundary Waters Treaty of June 11,¹ 1909.

Embassy of the United States of America
Ottawa, April 9, 1957

¹ According to the information provided by the United States of America the date should read January 11.