

No. 9759

UNITED STATES OF AMERICA
and
CANADA

Exchange of notes constituting an agreement concerning arrangements for co-ordination of pilotage services on the Great Lakes and the St. Lawrence Seaway (with Memorandum of Arrangements). Washington, 13 April 1967

Authentic texts of exchange of notes : English and French.

Authentic text of Memorandum of Arrangements : English.

Registered by the United States of America on 6 August 1969.

ÉTATS-UNIS D'AMÉRIQUE
et
CANADA

Échange de notes constituant un accord concernant la coordination des services de pilotage dans les eaux du bassin des Grands Lacs et la voie maritime du Saint-Laurent (avec Mémoire d'accord). Washington, 13 avril 1967

Textes authentiques de l'échange de notes : anglais et français.

Texte authentique du Mémoire d'accord : anglais.

Enregistré par les États-Unis d'Amérique le 6 août 1969.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
CANADA CONCERNING ARRANGEMENTS FOR CO-ORDI-
NATION OF PILOTAGE SERVICES ON THE GREAT
LAKES AND THE ST. LAWRENCE SEAWAY

I

CANADIAN EMBASSY
AMBASSADE DU CANADA

No. 107

Washington, D.C., April 13, 1967

Sir,

I have the honour to refer to the exchange of Notes of May 5, 1961² as amended by the exchange of Notes of October 23, 1962 and February 21, 1963,³ by the exchange of Notes of August 23, 1963 and September 10, 1963⁴ and by a further exchange of Notes of November 19, 1963 and December 4, 1963,⁵ constituting an agreement between the Government of Canada and the Government of the United States concerning arrangements for co-ordination of pilotage services to be provided in Canadian waters and United States waters of the Great Lakes and the St. Lawrence Seaway as far east as St. Regis. These arrangements were originally set forth in the memorandum signed by the Secretary of Commerce of the United States and the Minister of Transport of Canada on April 28, 1961 and May 1, 1961 and as subsequently amended.

On the instructions of my Government, I have the honour to propose that the existing arrangements shall be replaced by the attached memorandum which was signed on June 27, 1966 by the Minister of Transport of Canada and on June 29, 1966 by the Secretary of Commerce of the United States and which shall govern the co-ordination of pilotage service with effects as of June 29, 1966.

If this proposal meets with the approval of the Government of the United States, I have the honour to propose that this Note, which is authentic in English and French, and your reply shall constitute an agreement

¹ Came into force on 13 April 1967 with retroactive effect from 29 June 1966, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 419, p. 9.

³ *Ibid.*, vol. 474, p. 350.

⁴ *Ibid.*, vol. 493, p. 328.

⁵ *Ibid.*, vol. 493, p. 334.

between our two Governments which shall enter into force on the date of your reply Note. This agreement shall supersede that of May 5, 1961 as amended.

Please accept, Sir, renewed assurances of my highest consideration.

A. E. RITCHIE
Ambassador
[SEAL]

The Honourable Dean Rusk
Secretary of State
Washington, D.C.

MEMORANDUM OF ARRANGEMENTS BETWEEN THE SECRETARY OF
COMMERCE OF THE UNITED STATES OF AMERICA AND THE MINIS-
TER OF TRANSPORT OF CANADA RESPECTING PILOTAGE ON THE
GREAT LAKES

Pursuant to the authority vested in him by the Great Lakes Pilotage Act of 1960 (74 Stat. 259, 46 U.S.C. 216), the President of the United States by Proclamations dated December 22, 1960, designated the following United States waters of the Great Lakes as those in which registered vessels of the United States and foreign vessels will be required to have in their service a United States registered pilot or a Canadian registered pilot to direct the navigation of the vessel, subject to the customary authority of the master:

- (1) *District 1.* All United States waters of the St. Lawrence River between the international boundary at St. Regis and a line at the head of the river running (at approximately 127° True) between Carruthers Point Light and South Side Light extended to the New York shore.
- (2) *District 2.* All United States waters of Lake Erie westward of a line running (at approximately 026° True) from Sandusky Pierhead Light at Cedar Point to Southeast Shoal Light; all waters contained within the arc of a circle of one mile radius eastward of Sandusky Pierhead Light; the Detroit River; Lake St. Clair; the St. Clair River, and Northern approaches thereto south of latitude 43° 05'03" N.
- (3) *District 3.* All United States waters of the St. Marys River, Sault Sainte Marie Lock and approaches thereto between latitude 45°57' N at the Southern approach and a line running (at approximately 020° True) from Point Iroquois Light to the westward tangent of Jackson Island.

Registered vessels of the United States and foreign vessels navigating United States waters of the Great Lakes which are not designated by the President by Proclamation are required by the Act to have on board a United States registered pilot or a Canadian registered pilot or other officer qualified for the waters concerned who will be available to direct the navigation of the vessel in such undesignated waters at the discretion of and subject to the customary authority of the master.

The Secretary of Commerce of the United States is responsible for carrying out those provisions of the Act relating to the registration of United States pilots, the formation of pools by voluntary associations of United States registered pilots, and the establishment of the rates, charges, and other conditions or terms for services performed by registered pilots.

In carrying out these responsibilities, the Secretary is authorized by the Act to enter into arrangements with an appropriate agency of Canada for equitable participation by United States registered pilots with Canadian registered pilots in the pilotage services required by the United States and Canada for vessels navigating the Great Lakes, and for the number of pilots who shall be registered in each country. The Secretary is also authorized to require that pools formed by voluntary associations of United States registered pilots for the rendering of pilotage services required under the Act be coordinated on a reciprocal basis with similar arrangements established by the appropriate agency of Canada. The Secretary is further authorized to arrange with Canada for the establishment of joint or identical rate, charges, and any other conditions or terms for services by registered pilots in the waters of the Great Lakes.

The Canada Shipping Act was amended by the addition thereto of Part VI.A, entitled "Great Lakes Pilotage," by an Act to amend the Canada Shipping Act, being Ch. 40 of the statutes of Canada, assented to August 1, 1960.

The said Part VI.A provides, *inter alia*, for the following:

The designation of those portions of the Canadian waters of the Great Lakes Basin within which vessels of 250 gross tons or over shall not be operated unless the vessel is piloted by a registered pilot.

The definition of "registered pilot" as being a person not belonging to a ship who has the conduct thereof and who is registered as pilot either by the Secretary of Commerce of the United States of America or pursuant to regulations made by the Governor in Council.

Pilotage requirements in respect of other than designated waters.

The authority given to U.S. registered pilots or persons holding licenses issued by the Government of the United States in respect of the Canadian waters of the Great Lakes Basin to extend only so long as similar authority is given by the Government of the United States to Canadian registered pilots or other qualified officers in respect of the U.S. waters of the Great Lakes Basin.

Certain exemptions in respect of the said pilotage requirements.

The Governor in Council to make regulations, *inter alia*, designating portions of the Canadian waters of the Great Lakes Basin as designated waters.

The Governor in Council has by Regulation designated the following Canadian waters of the Great Lakes Basin as designated waters:

- (1) The Canadian waters of the River St. Lawrence from the boundary between the United States and Canada where it crosses the navigable channel of the River St. Lawrence near St. Regis in the Province of Quebec to a line drawn from Carruthers Point Light in Kingston Harbour, Ontario, on a true bearing of 127° through Wolfe Island South Side Light and extended to the shore of the State of New York.
- (2) The Welland Canal, and the Canadian waters of Lake Erie westward of a line running approximately 206° True from Southeast Shoal Light to Sandusky Pierhead Light at Cedar Point in the State of Ohio. The Canadian waters of the connecting channels between Lake Erie and Lake Huron.
- (3) The Canadian waters of St. Marys River connecting Lake Huron and Lake Superior as far as, in the northern approach, a line drawn approximately 020° True from Point Iroquois Light to the westward tangent of Jackson Island.

In recognition of the need for cooperation with respect to pilotage services on the Great Lakes, the Minister of Transport of Canada and the Secretary of Commerce of the United States agreed to recommend to their respective Governments the arrangements set forth in a Memorandum of Arrangements of May 1, 1961. This Memorandum of Arrangements was incorporated in the terms of an agreement between the two Governments by an exchange of notes on May 5, 1961. This Memorandum of Arrangements was subsequently amended effective October 15, 1962, April 29, 1963 and July 29, 1963.

It has been mutually recognized from experience gained in the intervening period since May 1, 1961, that a general revision of the Memorandum is necessary and desirable to provide a more efficient and effective pilotage service and promote uniformity in administration by each Government. The Minister of Transport and the Secretary of Commerce have therefore agreed to recommend to their respective Governments the following general revision of the Memorandum of Arrangements:

Interpretations

1. In this Memorandum, the expression:

(a) "designated waters" means the waters of Districts Nos 1, 2 and 3;

(b) "District No. 1" means all the waters of the St. Lawrence River from the International Boundary at St. Regis, Quebec, to a line running from Carruthers Point Light at Kingston, Ontario, on a true bearing of approximately 127° through Wolfe Island, South Side Light and extended to the New York shore;

(c) "District No. 2" means the Welland Canal and the waters of Lake Erie westward of a line running on a true bearing of approximately 026° from Sandusky Pierhead Light at Cedar Point, Ohio, to Southeast Shoal Light, the waters contained within the area of a circle of one mile radius eastward of Sandusky Pierhead Light, the Detroit River, Lake St. Clair, the St. Clair River and the northern approaches thereto south of latitude 43°05'30" N;

(d) "District No. 3" means the St. Mary's River, including the locks and the approaches thereto, between latitude 45°57' N and a line running from Point Iroquois

Light to the westward tangent of Jackson Island on a true bearing of approximately 020°;

(e) "Great Lakes" means Lakes Superior, Michigan, Huron, Erie and Ontario, their connecting and tributary waters, the St. Lawrence River as far east as Saint Regis, and adjacent port areas;

(f) "Minister" means the Minister of Transport of Canada;

(g) "registered pilot" means a person registered in the United States or in Canada as a pilot in the manner contemplated by Section 2(b);

(h) "Secretary" means the Head of the Department of the Government of the United States of America in which the Great Lakes Pilotage Administration is operating;

(i) "undesignated waters" means all the waters of the Great Lakes other than designated waters.

Pilotage Service

2. (a) There shall be a coordinated pilotage service provided for the Great Lakes by United States and Canadian registered pilots under the administration and control of the Secretary and the Minister;

(b) The Secretary and the Minister, respectively, will maintain registers of United States and Canadian registered pilots authorized to render pilotage services on all or specified portions of the Great Lakes, and will establish and maintain systems to provide for the orderly recruitment and training of additional or replacement pilots.

(c) No person shall be registered as a pilot, and no registered pilot shall continue as such, after he reaches the age of 65 years unless, in the opinion of the Secretary or the Minister, as the case may be, the public interest will be thereby served and such person is fit to perform the duties of a pilot.

Participation in Pilotage Service

3. (a) The Secretary and the Minister will, from time to time determine the number of pilots to be registered and the waters for which they are to be registered.

(b) Except as provided in paragraph (c), United States and Canadian registered pilots shall participate equally in the pilotage services required on the Great Lakes so that there shall be an equal number of Canadian and United States registered pilots.

(c) Pilotage between Snell Lock and the Eastern boundary of District No. 1 shall be performed exclusively by Canadian pilots who shall be registered, in such number as the Minister may determine, for service in only those waters; and for the remaining waters of the Great Lakes the number of United States registered pilots shall exceed the number of Canadian registered pilots by two.

Dispatching

4. (a) The Secretary and the Minister will establish or cause to be established under their control in the United States and Canada, respectively, organizations

and facilities for the dispatching of pilots and related services, including pilot boats, with responsibilities as follows:

<i>Location of Facilities</i>	<i>Nationality of Organization</i>	<i>Dispatching Responsibility</i>
<i>District No. 1</i>		
Montreal	Canada	Upbound from St. Regis to Snell Lock.
Cornwall	Canada	Upbound from Snell Lock to Cape Vincent and downbound from Snell Lock to St. Regis.
Cape Vincent	United States	Downbound from Cape Vincent to Snell Lock, westbound across Lake Ontario and to and from places on Lake Ontario.
<i>District No. 2</i>		
Port Weller	Canada	The Welland Canal westbound from Port Weller to Lake Huron Lightship, to and from places on Lake Erie and Lake Ontario and eastbound across Lake Ontario.
Port Huron	United States	Eastbound from Lake Huron Lightship to Port Weller and to and from places on Lake Erie, Lake Huron, Lake Michigan and the Detroit and St. Clair Rivers.
<i>District No. 3</i>		
Detour (Michigan)	United States	Between Detour Light and Gross Cap Reef Light, to and from places on Lake Superior and from Detour Light to places on Lakes Michigan and Huron.

(b) The Secretary and the Minister may assign dispatching responsibilities in circumstances not provided for in paragraph (a), and may authorize changes in the locations of dispatching facilities.

(c) All dispatching and related services available for use by United States and Canadian registered pilots; and pilots will be dispatched on a turn for turn (*tour de rôle*) basis without regard to nationality.

Accounting

5. (a) The office dispatching a pilot shall be responsible for collecting and accounting for pilotage revenues for that service except that, when a pilot is dispatched by a dispatching office outside his district, the billing and accounting will be the responsibility of the nearest billing office in his own district.

(b) The costs of operating the dispatching and related services shall be as determined by the Secretary and the Minister and shall be paid out of the pilotage revenues

and, except as provided in paragraph (c), the remainder divided into United States and Canadian shares in proportion to the revenues for pilotage services rendered by United States and Canadian registered pilots, respectively.

(c) The United States and Canadian shares of the pilotage revenues collected for services by pilots registered only for service in Lake Ontario shall be determined on the basis of the number of days on which United States and Canadian pilots, respectively, were on duty or available for pilotage service.

(d) Billing will be on the basis of the currency of the nationality of the pilot or on such other basis as the Secretary and the Minister may determine.

(e) Settlement of accounts adjusting amounts due between dispatching offices will be effected on an interim basis as of the end of each month with an annual settlement as of 31st December of each year; and payments on account will be made on the 15th of the following month with drafts payable in the currency of the nationality of the office making the payment.

(f) The accounts of each dispatching office shall be subject to joint audit by designated representatives of the Secretary and the Minister.

6. Charges for pilotage in the designated waters shall be as follows:

(a) District No. 1:

(i) Between Snell Lock and Cape Vincent or Kingston, whether or not undesignated waters are traversed	\$220
(ii) Between Snell Lock and Cardinal, Prescott or Ogdensburg . . .	110
(iii) Between Cardinal, Prescott or Ogdensburg and Cape Vincent or Kingston, whether or not undesignated waters are traversed.	160
(iv) For pilotage commencing or terminating at any point above Snell Lock other than those named in items (i) to (iii), \$2.20 per mile but with a minimum charge therefore of	50
(v) For a movage in any harbour	50

(b) District No. 2:

(i) Passage through the Welland Canal or any part thereof, \$5.00 for each mile plus \$15 for each lock transited but with a minimum charge therefore of and a maximum charge therefore of	\$50 200
(ii) Between Southeast Shoal or any point on Lake Erie west thereof and any point on the St. Clair River or the approaches thereto as far as the northerly limit of the District	150
(iii) Between Southeast Shoal and any point on Lake Erie west thereof or on the Detroit River	95
(iv) Between any point on Lake Erie west of Southeast Shoal and any point on the Detroit River	95
(v) Between points on Lake Erie west of Southeast Shoal . . .	50
(vi) Between points on the Detroit River	50

(vii) Between any point on the Detroit River and any point on the St. Clair River or its approaches as far as the northerly limit of the District	95
(viii) Between points on the St. Clair River including the approaches thereto as far as the northerly limit of the District	75
(c) District No. 3:	
(i) Between the southerly limit of the District and the northerly limit of the District or the Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	200
(ii) Between the southerly limit of the District and Sault Ste. Marie, Michigan or any point in Sault Ste. Marie, Ontario, other than the Algoma Steel Corporation Wharf	165
(iii) Between the northerly limit of the District and Sault Ste. Marie, Ontario, including the Algoma Steel Corporation Wharf, or Sault Ste. Marie, Michigan	75
(iv) For a moveage in any harbour	50

7. (a) Subject to paragraph (b), the charges to be paid by a ship that has a registered pilot on board in the undesignated waters shall be \$50 for each 24-hour period or part thereof that the pilot is on board, plus

- (i) \$25 for each time the pilot performs the docking or ~~undocking~~ of the ship on entering or leaving harbour or performs a moveage of the ship within a harbour, and
- (ii) the travel expenses reasonably incurred by a pilot in joining the ship and returning to his base.

(b) When a registered pilot is carried on a ship in a direct transit of the undesignated waters of Lake Erie between Southeast Shoal and Port Colborne, the charges referred to in paragraph (a) are not payable unless,

- (i) the ship is required by law to have a registered pilot on board in those waters, or
- (ii) services are performed by the pilot in those waters at the request of the master.

Detention en Route

8. (a) When the passage of a ship through a District is interrupted for the purpose of loading or discharging cargo or for any other reason and the services of the registered pilot are retained, during such interruption, for the convenience of the ship, the ship shall be required to pay an additional charge of \$5 for each hour or part of an hour during which each interruption lasts, but with a maximum of \$75 for each 24-hour period of such interruption.

(b) Notwithstanding paragraph (a), no charge shall be payable for any interruption caused by ice, weather or traffic, except during the period from the 1st day of December to the 8th day of April next following.

Delays

9. When in designated or undesignated waters the departure or the moveage of a ship for which a registered pilot has been ordered is delayed for the convenience

of the ship for more than one hour after the pilot reports for duty or after the time for which he is ordered, whichever is the later, or when a pilot is detained on board a ship for the convenience of the ship for more than one hour after the end of the assignment for which he was ordered, there shall be payable an additional charge of \$5 per hour after the first hour of such delay; but the aggregate amount of such further charges shall not exceed \$75 for any 24-hour period.

Cancellations

10. When in designated or undesignated waters a registered pilot reports for duty as ordered and the order is cancelled, the charges to be paid by the ship shall be,

(a) a cancellation charge of \$25,

(b) if the cancellation is more than one hour after the pilot was ordered for, a further charge of \$5 for every hour or part of an hour after the first hour, except that the aggregate cancellation fee payable in any 24-hour period shall not exceed \$75,

(c) if the ship is in the undesignated waters, the travel expenses reasonably incurred by the pilot in joining the ship and returning to his base.

Other Charges

11. (a) No charges different from those set forth in this Memorandum shall be made for any of the pilotage services dealt with in this Memorandum,

(b) except with the approval of the Minister or the Secretary, as the case may be, no charge shall be made for the performance by a registered pilot of a service for which a charge is not set forth in this Memorandum.

Rules and Regulations

12. The Secretary and the Minister will respectively establish such rules and regulations as they deem advisable respecting the dispatching of pilots, the accounting for revenues and other matters to give effect to the intent and purposes of this Memorandum.

Violations

13. The Secretary and the Minister will inform one another when it is brought to their attention that a registered pilot or dispatching office of one country has violated any pilotage regulation in the waters of the other country.

J. W. PICKERSGILL

Minister of Transport of Canada

Ottawa, June 27, 1966

[SEAL]

John T. CONNOR

Secretary of Commerce of the United States of America

Washington, D.C., 29 June 1966

[SEAL]

II

DEPARTMENT OF STATE
WASHINGTON

April 13, 1967

Excellency:

I have the honor to refer to your note of April 13, 1967 and the memorandum attached thereto, concerning the coordination of pilotage services in the Great Lakes and the Saint Lawrence Seaway as far east as St. Regis, and to agree to your proposal that the memorandum, signed on June 27, 1966, by the Minister of Transport of Canada and on June 29, 1966 by the Secretary of Commerce of the United States, shall govern the coordination of pilotage services with effect as of June 29, 1966.

I also have the honor to agree to your further proposal that your note and this reply shall constitute an agreement between our two Governments, which shall enter into force on the date of this Note, and which shall supersede the Agreement of May 5, 1961, as amended.

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

For the Acting Secretary of State:

John M. LEDDY

His Excellency A. E. Ritchie
Ambassador of Canada