

## II

*The Secretary of State for External Affairs to the Ambassador of the  
United States of America to Canada*

## DEPARTMENT OF EXTERNAL AFFAIRS

No. 167

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. 297 of June 8, 1959, concerning proposed channel improvements to be undertaken in Canadian waters along the sailing courses in Lake Erie, east of the Detroit River navigation light and through the Pelee Passage.

It is noted that the work would consist of the removal of shoals and rock obstacles from the sailing courses shown on the maps attached to the Note under reference in order to ensure the safe operation of deep draft vessels. The authorized project depth is 28.5 feet below low water datum. An additional depth of one foot would be provided in the rock areas. The excavated materials would be deposited below a depth of 25 feet in the areas shown on the attached map. It is noted further that the project area will be approximately twenty miles long and two miles wide.

The Canadian Government agrees to the above-noted proposal subject to the following terms and conditions:

- (a) That Canada will be responsible for providing the dumping grounds shown on the attached map in accordance with the conditions outlined in paragraph (2) above.
- (b) That the final plans and specifications for the improvement of the channel, including those for spoil disposal areas, shall be approved by the Canadian Government.
- (c) That dredging and excavations and the deposit of dredged and excavated materials shall not be carried out on Canadian territory until a date to be fixed by the Canadian Government. In this way, the Canadian Government will have such time as it may require to make all necessary arrangements to permit the dredging to be started. As soon as these arrangements have been completed, the United States Embassy will be informed of the date on which operations may commence.
- (d) That the United States Government will ensure, in a manner satisfactory to the Canadian Government, that the contractor or contractors for this work will as a matter of contract responsibility be required to
  - (i) perform and complete the work in accordance with the plans and specifications as duly approved by the Canadian authorities;
  - (ii) 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;
  - (iii) carry adequate insurance commensurate with the responsibility; and
  - (iv) satisfy the requirements of all applicable Canadian law.
- (e) That neither party shall be responsible for physical injury or damage to persons or property in the territory of the other which may be caused by any act authorized or provided for by this Note.