



EXCHANGE OF NOTES (November 17, 1949 and January 24, 1950) BETWEEN CANADA AND THE UNITED STATES OF AMERICA SUPPLEMENTING THE CONVENTION OF 15 APRIL 1935\* RELATING TO CLAIMS ON ACCOUNT OF DAMAGES CAUSED BY FUMES EMITTED FROM THE SMELTER AT TRAIL, BRITISH COLUMBIA.

## I

*The Secretary of State to the Canadian Ambassador*

DEPARTMENT OF STATE

WASHINGTON

Nov. 17, 1949

Excellency:

I have the honor to refer to the fact that pursuant to the provisions of Article I of the Convention signed at Ottawa on April 15, 1935, the Government of Canada paid this Government in December 1935 the sum of \$350,000 on account of damages caused prior to January 1, 1932, in the United States by fumes emitted from the smelter at Trail, British Columbia, and that as a consequence of the decision of the international tribunal established by that Convention rendered on April 16, 1938, pursuant to Article III of the Convention, the Government of Canada paid this Government in June 1938 the sum of \$78,179.51 on account of similar damages caused between January 1, 1932 and October 1, 1937. In a further opinion rendered on March 11, 1940, the same tribunal held that the United States had failed to establish that any fumigations between October 1, 1937 and October 1, 1940 had caused similar damage in the United States.

In accordance with the applicable law of the United States (31 U.S.C. 547) the proceeds of the payments so made were deposited in two trust funds in the United States Treasury, and, on the basis of findings made by the Department of Agriculture as to the amount of damages sustained by individual property owners, the Secretary of State made certifications to the Secretary of the Treasury in favor of the individual owners and payments were made to them accordingly out of the respective trust funds. However, there remain in the accounts unobligated balances, in excess of the total amounts of the certificates issued, of \$7,508.68 and \$1,319.51, respectively.

The Government of the United States is prepared to refund these balances to the Government of Canada on the understanding that, in the unlikely event that claims of additional property owners in the affected area are presented on account of similar damage sustained prior to October 1, 1937, and such claims are determined to be valid by this Government, the Government of Canada will make corresponding repayment to this Government of such amounts, not in excess of the amounts refunded, as may be necessary to satisfy any such additional claims.

\*Canada Treaty Series, 1935, No. 20.