

CANADA

TREATY SERIES, 1946

No. 42

EXCHANGE OF NOTES

(September 28 and November 13/15, 1946)

BETWEEN
CANADA

AND

THE UNITED STATES OF AMERICA
RECORDING AN AGREEMENT
FOR THE WAIVER OF CLAIMS
ARISING FROM MARITIME COLLISIONS
INVOLVING VESSELS OF THE TWO COUNTRIES

Came into force November 15, 1946



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CANADA

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EXCHANGE OF NOTES

(September 28 and November 13, 1946)

BETWEEN
SUMMARY
CANADA

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**EXCHANGE OF NOTES (SEPTEMBER 28 AND NOVEMBER 13/15, 1946)
BETWEEN CANADA AND THE UNITED STATES OF AMERICA
RECORDING AN AGREEMENT FOR THE WAIVER OF CLAIMS
ARISING FROM MARITIME COLLISIONS INVOLVING VESSELS
OF THE TWO COUNTRIES.**

1

*The Canadian Ambassador to the United States of America to the
Acting Secretary of State of the United States*

CANADIAN EMBASSY

WASHINGTON, September 28, 1946.

No. 348

Sir,

With reference to the exchange of notes of May 25 and 26, 1943, between the Governments of Canada and of the United States of America recording an agreement for the waiver of claims from collisions between vessels of war,* I have the honour to inform you that the Government of Canada is prepared to give effect to an agreement in the following terms:

Article 1

In this Agreement the expression "Government vessel" means a vessel (including a vessel of war), flying-boat or drydock owned by or under bareboat charter to, requisitioned by, demised to, or otherwise operated by, either Government, its servant, agent or instrumentality on bareboat terms or chartered to or otherwise operated by or for such Government on terms which authorize such Government to make this Agreement effective with respect to such vessel, flying-boat or drydock; it includes a vessel operated under the supervision of the War Shipping Administration or Park Steamship Company Limited, but does not include (a) a vessel, flying-boat or drydock on bareboat charter or otherwise on demise by either Government to a Government other than a contracting Government, or to any person, firm or corporation otherwise than as the servant, agent or instrumentality of either contracting Government; or (b) a vessel owned by Canadian National (West Indies) Steamships Limited, Canadian National Steamship Company Limited or associated or subsidiary companies.

Article 2

The Government of Canada and the Government of the United States of America agree that each shall waive all those legal maritime claims by either Government against the other Government or any servant, agent or instrumentality of the other Government or any Government vessel in respect of collision, salvage, general average, negligent navigation or negligent management of the said Government vessel or in respect of the loss or salvage of, damage to, or general average in connection with, cargoes carried in the said Government vessel; subject however to the provisions of Articles 3 and 4.

* For the text of the Exchange of Notes, see *Canada Treaty Series*, 1943, No. 12.

Article 3

Where in any case claims arise which are not required to be waived by this Agreement in addition to or in conjunction with claims which are so required to be waived and it is necessary in any proceedings including proceedings for the limitation of liability that claims be marshalled or for the proper assessment of any salvage or general average that values should be estimated, the provisions of this Agreement shall not apply but claims which would otherwise be required to be waived under this Agreement shall be asserted. Any recoveries, however, shall be waived by the Government entitled to such recoveries or at the option of such Government shall be dealt with in such other way as will give effect to the purpose of this Agreement.

Article 4

1. In order to carry out the full intention of this Agreement each Government will so arrange in connection with bareboat charters or demises to it or requisitions by it that neither the owners, nor the persons, firms or corporations interested through such owners, shall have or assert any claims of the character specified herein.

2. Each Government represents that in no case in which a legal maritime claim arises under any insurance that has been or will be effected on or in respect of any Government vessel or cargo carried therein shall any rights that can be exercised against the other Government be subrogated to the insurers concerned insofar as the insurers' liability relates to a claim which is required to be waived by this Agreement.

Article 5

Each Government shall facilitate the assertion by the other Government of sovereign immunity in relation to any Government vessel.

Article 6

This Agreement terminates the agreement contained in the exchange of notes of May 25 and 26, 1943, and it shall apply to legal maritime claims arising since December 7, 1941, but remaining unsettled on the day this Agreement enters into force, as well as in respect of claims arising on or after such day and during the period in which the Agreement shall remain in force.

Article 7

This Agreement shall remain in force until the expiration of six months from the day on which either Government shall have given notice in writing to the other Government of an intention to terminate the Agreement.

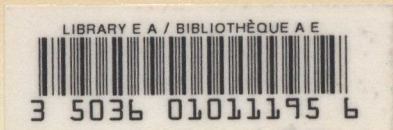
I have the honour to inform you that if an Agreement in accordance with the above terms is acceptable to the Government of the United States of America, it shall be considered by the Government of Canada to have been concluded and to be in effect as of the date of a corresponding note from you indicating that the Government of the United States of America is prepared to give effect to the Agreement.

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

L. B. PEARSON.

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II

*The Acting Secretary of State of the United States to
the Canadian Ambassador*

DEPARTMENT OF STATE

WASHINGTON, November 13, 1946.

EXCELLENCY:

I have the honor to refer to your note No. 348 of September 28, 1946 containing the text of a proposed agreement between the Governments of Canada and of the United States of America for the waiver of certain claims involving vessels of the two Governments.

The terms of the proposed agreement are acceptable to this Government, but after the words "War Shipping Administration" in Article I of the text of the agreement there should be added the words "and United States Maritime Commission". If this addition is satisfactory, the agreement will be regarded as effective from the date of your note so advising.

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

DEAN ACHESON.

III

*The Canadian Ambassador to the
Acting Secretary of State of the United States*

CANADIAN EMBASSY

WASHINGTON, November 15, 1946.

No. 428

SIR,

I have the honour to refer to your note of November 13, 1946, regarding the proposed agreement between the Governments of Canada and the United States of America for the waiver of certain claims involving vessels of the two governments and to Mr. Pearson's note No. 348 of September 28, 1946, containing the text of said proposed agreement.

I also note that your government wishes an addition to be made to the text of Article I of the said proposed agreement, namely, that after the words, "War Shipping Administration", there should be added the words "and United States Maritime Commission".

This addition to the text of Article I is acceptable to the Canadian Government. It is understood, therefore, that the agreement is in force from the date of this note.

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

H. H. WRONG.

Article 3

I have the honor to refer to your note No. 348 of September 28, 1916 containing the text of a proposed agreement between the Governments of Canada and of the United States of America for the waiver of certain claims involving vessels of the two Governments.

The terms of the proposed agreement are acceptable to this Government, and after the words "War Shipping Administration" in Article I of the text of the agreement there should be added the words "and United States Maritime Commission". If this addition is satisfactory, the agreement will be regarded as effective from the date of your note as advising.

Accept, Sir, the renewed assurance of my highest consideration in respect of any Government which may be desirous of entering into a similar agreement with the Government of Canada. I am, Sir, very respectfully,
DEAN ACHESON

Article 4

The Canadian Ambassador to the Acting Secretary of State of the United States

This Agreement was signed at Washington, November 13, 1916.

Article 5

I have the honor to refer to your note of November 13, 1916 regarding the proposed agreement between the Governments of Canada and the United States of America for the waiver of certain claims involving vessels of the two governments and to Mr. Pearson's note No. 348 of September 28, 1916, containing the text of said proposed agreement.

It is noted that your government wishes an addition to be made to the text of Article I of the said proposed agreement, namely, that after the words "War Shipping Administration" there should be added the words "and United States Maritime Commission". This addition to the text of Article I is acceptable to the Canadian Government. It is understood, therefore, that the agreement is in force from the date of this note.

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

H. H. WONG