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STATEMENT ON NIAGARA DIVERSION TREATY, BY THE
HON. L. B. PEARSON, SECRETARY OF STATE FOR EXTERNAL
AFFAIRS, IN THE HOUSE OF COMMONS ON FEBRUARY 27, 1950.

I should like to make a statement about the diversion of water from the Niagara River for hydro-electric power.

We have been discussing with the United States Government, at their suggestion, the possibility of amending Article V of the Boundary Waters Treaty of 1909 with respect to the use of water from the Niagara River for the generation of hydro-electric power. In these talks we have had the valuable assistance of the Chairman of the Hydro Electric Power Commission of Ontario and the Chairman of the Niagara Parks Commission. The discussions have resulted in a Niagara Diversion Treaty. I am able to announce that this Treaty is being signed today in Washington by the United States Secretary of State, the Honourable Dean Acheson, and the Canadian Ambassador, Mr. Hume Wrong. I should like to table copies of the treaty in English and French.

The Boundary Waters Treaty of 1909 authorized the diversion by the United States of 20,000 cubic feet of water per second, and the diversion by Canada of 36,000 cubic feet per second. Although Canada was thus allowed to use more water than the United States, the power produced by the extra Canadian share has been exported to the United States. As a result each country has had the use of hydro-electric power produced by approximately half of the water made available by the 1909 Treaty.

During the Second World War additional diversions of 13,000 cubic feet per second on the Canadian side, and 12,500 cubic feet per second on the United States side were authorized on a temporary basis.

The new Niagara Treaty reserves adequate quantities of water for flow over the Falls and through the Rapids, and then authorizes the use of all remaining water for power purposes. Since this water will for the first time be divided equally between the two countries, the United States Government is being informed through our Embassy in Washington that when facilities have been constructed in the United States to use the full United States share of water, Canadian export licenses then in effect will not be renewed unless circumstances existing in Canada at that time make such a course desirable.

It is not possible to say just how much more water this Treaty will make available to Canada, since the the necessity of preserving the scenic beauty of the Falls and Rapids is the first charge on the fluctuating volume of water in the Niagara River. However it is expected that both countries will normally have the use of more water than

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before. At the same time, the fact that the temporary arrangements agreed upon during the war are being superseded by a permanent agreement will permit the construction of new power plants of the latest design to replace a number of existing plants now in operation, which cannot make the most effective use of the available water. For these two reasons, a substantial increase in the amount of hydro-electric power generated at Niagara can be expected once this Treaty has been ratified and the new power plants have been constructed.

Nevertheless the demand for power keeps increasing, and this additional Niagara power cannot be expected to meet the full needs of Ontario and New York State. The power requirements of these areas can only be met by the full development of the potential power of the St. Lawrence River. The additional Niagara power should help to tide us over the period required for the construction of the St. Lawrence facilities, but the need for St. Lawrence power is as urgent as it ever has been. The new Niagara Diversion Treaty does not in any way lessen Canada's interest in, and desire for, early ratification by both governments of the St. Lawrence Waterway and Power Agreement of 1941.

The Treaty contains two provisions designed to protect and enhance the scenic beauty of the Niagara River and Falls. It calls for early completion of remedial works to ensure an unbroken crestline on the Falls by distributing the waters more evenly. It also ensures that the flow over the Falls and through the Rapids will not be reduced below the amounts which experience has shown are essential for the preservation of the full scenic spectacle.

I have been advised by the Chairman of the Hydro Electric Power Commission of Ontario that this Treaty meets with the approval of the Premier of Ontario, the Ontario Hydro, and the Niagara Parks Commission.

NIAGARA DIVERSION TREATY

The United States of America and Canada, recognizing their primary obligation to preserve and enhance the scenic beauty of the Niagara Falls and River and, consistent with that obligation, their common interest in providing for the most beneficial use of the waters of that River,

Considering that the quantity of water which may be diverted from the Niagara River for power purposes is at present fixed by Article V of the treaty with respect to the boundary waters between the United States of America and Canada, signed at Washington January 11, 1909, between the United States of America and Great Britain, and by notes exchanged between the Government of the United States of America and the Government of Canada in 1940, 1941, and 1948, authorizing for emergency purposes temporary additional diversions,

Recognizing that the supply of low-cost power in northeastern United States and southeastern Canada is now insufficient to meet existing and potential requirements and considering that the water resources of the Niagara River may be more fully and efficiently used than is now permitted by international agreement,

Desiring to avoid a continuing waste of a great natural resource and to make it possible for the United States of America and Canada to develop, for the benefit of their respective peoples, equal shares of the waters of the Niagara River available for power purposes, and,

Realizing that any redevelopment of the Niagara River for power in the United States of America and Canada is not advisable until the total diversion of water which may be made available for power purposes is authorized permanently and any restrictions on the use thereof are agreed upon,

Have resolved to conclude a treaty in furthermore of these ends and for that purpose have appointed as their plenipotentiaries:

The United States of America:

Canada:

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

This Treaty shall terminate the third, fourth, and fifth paragraphs of Article V of the Treaty between the United States of America and Great Britain relating to boundary waters and questions arising between the United States of America and Canada dated January 11, 1909, and the provisions embodied in the notes exchanged between the Government of the United States of America and the Government of Canada at Washington on May 20, 1941, October 27, 1941, November 27, 1941 and December 23, 1948 regarding temporary diversions of water of the Niagara River for power purposes.

ARTICLE II

The United States of America and Canada agree to complete, in accordance with the objectives envisaged in the final report submitted to the United States of America and Canada on December 11, 1929 by the Special International Niagara Board, the remedial works which are necessary to enhance the beauty of the

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Falls by distributing the waters so as to produce an unbroken crestline on the Falls. The United States of America and Canada shall request the International Joint Commission to make recommendations as to the nature and design of such remedial works and the allocation of the task of construction as between the United States of America and Canada. Upon approval by the United States of America and Canada of such recommendations the construction shall be undertaken pursuant thereto under the supervision of the International Joint Commission and shall be completed within four years after the date upon which the United States of America and Canada shall have approved the said recommendations. The total cost of the works shall be divided equally between the United States of America and Canada.

ARTICLE III

The amount of water which shall be available for the purposes included in Articles IV and V of this Treaty shall be the total outflow from Lake Erie to the Welland Canal and the Niagara River (including the Black Rock Canal) less the amount of water used and necessary for domestic and sanitary purposes and for the service of canals for the purposes of navigation. Waters which are being diverted into the natural drainage of the Great Lakes System through the existing Long Lac-Ogoki works shall continue to be governed by the notes exchanged between the Government of the United States of America and the Government of Canada at Washington on October 14 and 31 and November 7, 1940, and shall not be included in the waters allocated under the provisions of this Treaty.

ARTICLE IV

In order to reserve sufficient amounts of water in the Niagara River for scenic purposes, no diversions of the water specified in Article III of this Treaty shall be made for power purposes which will reduce the flow over Niagara Falls to less than one hundred thousand cubic feet per second each day between the hours of eight a.m., E.S.T., and ten p.m., E.S.T., during the period of each year beginning April 1 and ending September 15, both dates inclusive, or to less than one hundred thousand cubic feet per second each day between the hours of eight a.m., E.S.T., and eight p.m., E.S.T., during the period of each year beginning September 16 and ending October 31, both dates inclusive, or to less than fifty thousand cubic feet per second at any other time; the minimum rate of fifty thousand cubic feet per second to be increased when additional water is required for flushing ice above the Falls or through the rapids below the Falls. No diversion of the amounts of water, specified in this Article to flow over the Falls, shall be made for power purposes between the Falls and Lake Ontario.

ARTICLE V

All water specified in Article III of this Treaty in excess of water reserved for scenic purposes in Article IV may be diverted for power purposes.

ARTICLE VI

The waters made available for power purposes by the provisions of this Treaty shall be divided equally between the United States of America and Canada.

/ARTICLE VII....

ARTICLE VII

The United States of America and Canada shall each designate a representative who, acting jointly, shall ascertain and determine the amounts of water available for the purposes of this Treaty, and shall record the same, and shall also record the amounts of water used for power diversions.

ARTICLE VIII

Until such time as there are facilities in the territory of one party to use its full share of the diversions of water for power purposes agreed upon in this Treaty, the other party may use the portion of that share for the use of which facilities are not available.

ARTICLE IX

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 Treaty.

ARTICLE X

This Treaty shall be ratified and the instruments of ratification thereof exchanged at _____. The Treaty shall come into force upon the date of the exchange of ratifications and continue in force for a period of fifty years and thereafter until one year from the day on which either party shall give notice to the other party of its intention of terminating the Treaty.

In witness whereof, the undersigned plenipotentiaries have signed this Treaty.

Done in duplicate at Washington, this 27th day of February, 1950.

FOR THE UNITED STATES OF AMERICA:

FOR CANADA: