

# PRESS RELEASE



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## RATIFICATION OF CANADA-UNITED STATES AGREEMENT CONCERNING GUT DAM CLAIMS

The Secretary of State for External Affairs, the Hon. Paul Martin, announced today that Mr. A. E. Ritchie, the Canadian Ambassador to the United States of America and Mr. Dean Rusk, the Secretary of State of the United States of America, today exchanged Instruments of Ratification, thereby bringing into force the Agreement between the Government of Canada and the Government of the United States of America concerning the establishment of an International Arbitral Tribunal to dispose of U.S. claims relating to Gut Dam which was signed on March 25, 1965.

In line with provisions contained in the Agreement, the Governments of Canada and the United States have today appointed jointly Dr. Lambertus Erades, Vice-President of the Rotterdam District Court, The Netherlands, to preside over the three-man Tribunal as Chairman. Also Canada has appointed the Hon. Daniel Roach, a recently retired judge of the Court of Appeal of Ontario, as the Canadian national member and the United States Government has appointed Professor Alwyn Freeman of John Hopkins University as its national member.

These claims arose in 1951 and 1952. At that time there were unusually high water levels on Lake Ontario. Residents of the United States owning real estate on the south shore of Lake Ontario and the St. Lawrence complained that these high water levels resulted in damage to their properties and were attributable in whole or in part to the construction by the Government of Canada of a navigation improvement in the international section of the river known as "Gut Dam".

The construction of Gut Dam was carried out at the beginning of the century in pursuance to arrangements entered into between the Canadian and United States Governments of the day. Gut Dam itself was removed in 1953 as part of the St. Lawrence Seaway construction programme.

Over the years inter-governmental negotiations have been in progress with the United States on an intermittent basis with a view to finding a fair solution. The bringing into force of this Agreement today represents the successful results of these negotiations. Under the terms of this Agreement the United States claimants will be afforded the opportunity to have their claims heard and disposed of on their merits. Any award made by the Tribunal will be final and binding on both Governments.

The Tribunal headquarters is being established in Ottawa but it is anticipated that the Tribunal will hold sittings in Washington. The first meeting of the Tribunal will take place early in the new year, the intervening period being taken up with the completion of preparatory procedures necessary to put the Tribunal in a position to commence its functions.

The Tribunal staff will be headed by Charles V. Cole, the Canadian Joint Secretary, and by Arnold E. Ogren, the U.S. Joint Secretary. The representative of the Government of Canada before the Tribunal will be H. Courtney Kingstone, Deputy Head of Legal Division, Department of External Affairs, and the representative of the United States before the Tribunal will be Ernest L. Kerley, Assistant Legal Advisor, State Department, Washington.

There are also on record complaints concerning damage allegedly attributable to Gut Dam from residents of Canada holding real estate on the north shore of Lake Ontario. Claims by Canadians against the Canadian Government will not be considered by the International Tribunal. However, if the findings of the Tribunal make it desirable to do so the Canadian Government will at that stage consider the establishment of special procedures for Canadian claims.

Providing for the possibility that the decisions of the Tribunal may indicate that the United States Government has at least a partial legal responsibility in connection with the construction of Gut Dam, when signing the Agreement on March 25, 1965, in Ottawa Mr. Martin contemporaneously delivered to the United States Ambassador a diplomatic note on this matter. The note stated that the Government of Canada reserves its right to espouse claims of Canadian citizens against the United States Government relating to damage allegedly attributable to Gut Dam should the Tribunal find that the United States Government is in some measure legally liable to compensate the United States claimants for damage caused by Gut Dam or should any award by the Tribunal provide some other basis which would warrant in the opinion of the Government of Canada such a course of action being followed.