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EXCHANGE OF NOTES

between the Government of Canada and the
United States Government

regarding the

RECIPROCAL RECOGNITION OF LOAD LINE REGULATIONS FOR VESSELS ENGAGED IN INTERNATIONAL VOYAGES ON THE GREAT LAKES

Ottawa, April 29, 1938–March 4, 1940

*Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty*

LONDON

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EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF CANADA
AND THE UNITED STATES GOVERNMENT REGARDING THE
RECIPROCAL RECOGNITION OF LOAD LINE REGULATIONS
FOR VESSELS ENGAGED IN INTERNATIONAL VOYAGES ON
THE GREAT LAKES.

Ottawa, April 29, 1938–March 4, 1940.

No. 1.

*The United States Chargé d'Affaires ad interim at Ottawa to the
Secretary of State for External Affairs of Canada.*

No. 686.

Sir,

April 29, 1938.

I HAVE the honor to inform you that the appropriate authorities of my Government have received copies of the *Canada Gazette* of August 28, 1937, containing an Order-in-Council, P.C. 1903, under date of August 6, 1937, making effective as of October 1, 1937, load line rules for ships making voyages on lakes or rivers.

The Coastwise Load Line Act, 1935, as amended, of the United States provides in the U. S. C., title 46, sec. 88 d :

“ § 88d. Foreign vessels; application of sub-chapter. Whenever the Secretary of Commerce shall certify that the laws and regulations in force in any foreign country relating to load lines are equally effective with the regulations established under sections 88 to 88i of this title, the Secretary of Commerce may direct, on proof that a vessel of that country has complied with such foreign laws and regulations, that such vessel and her master and owner shall be exempted from compliance with the provisions of sections 88 to 88i of this title, except as hereinafter provided: *Provided*, That this section shall not apply to the vessels of any foreign country which does not similarly recognize the load lines established under sections 88 to 88i of this title and the regulations made thereunder. (August 27, 1935, c. 747, § 5, 49 Stat. 889.) ”

The American authorities have concluded that, except for subdivision load lines applicable to passenger vessels, the aforementioned Canadian load line regulations are as effective as the regulations set forth in Section C of the Load Line Regulations of the United States (Rules and Regulations Series, No. 4, January 1938 edition), of which three copies are enclosed.⁽¹⁾

⁽¹⁾ Not reproduced.

The Government of the United States will recognize the Canadian load line regulations as promulgated in the *Canada Gazette* of August 28, 1937, to be as effective as Section C of the United States Load Line Regulations (January 1938 edition), provided that the Canadian Government will similarly recognize United States load line regulations.

As no provision is made in the Canadian load line regulations for sub-division marks for passenger vessels, and as the United States Load Line Regulations under Section D require passenger vessels to be provided with such marks, I am desired by my Government to inquire whether, in order to prevent Canadian passenger vessels from becoming liable to a penalty when entering United States ports, the Canadian Great Lakes Load Line Regulations could be extended to give effect to sub-division and other matters pertaining thereto.

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

JOHN FARR SIMMONS,
Chargé d'Affaires a. i.

No. 2.

*The Secretary of State for External Affairs to the United States
Chargé d'Affaires ad interim at Ottawa.*

No. 125.

Sir,

Ottawa, August 24, 1938:

WITH reference to your note No. 686 of the 29th April, 1938, in the matter of load line regulations which apply to the Great Lakes, I have the honour to state that this matter was considered by the Canadian authorities concerned.

It is observed that the United States authorities have concluded that, except for sub-division load lines applicable to passenger vessels, the Canadian load line regulations applicable to ships making voyages on the Great Lakes are as effective as the regulations set forth in Section (C) of the Load Line Regulations of the United States (Rules and Regulations Series No. 4, January, 1938, edition), and that the Government of the United States will recognize the Canadian load line regulations promulgated in the *Canada Gazette* of the 28th August, 1937, that is to say the "Load Line Rules for Ships Making Voyages on Lakes or Rivers," approved by Order-in-Council of the 6th August, 1937, provided that the Canadian Government will similarly recognize the United States Load Line Regulations referred to above.

The Canadian authorities consider that the Load Line Regulations of the United States applicable to ships engaged in making voyages on the Great Lakes (Rules and Regulations Series, No. 4, January, 1938, edition) are as effective as the Canadian regulations, "Load Line Rules for Ships Making Voyages on Lakes or Rivers," approved by Order-in-Council of the 6th August, 1937.

The Canadian Government recognize that the United States Load Line Regulations mentioned above are equivalent to the Load Line Rules for Ships Making Voyages on Lakes or Rivers approved by Order-in-Council of the 6th August, 1937.

With reference to the last paragraph of your note, the Canadian authorities advise that the Canada Shipping Act, 1934, inasfar as it concerns load lines, does not deal with the sub-division of passenger ships, this question being dealt with under the part of the Act which refers to the construction and inspection of ships. General regulations dealing with the construction and inspection of the hulls of steamships are now under consideration, and the matter of sub-division will be dealt with in them.

The Canadian authorities will not be in a position to have these regulations in force before the end of the season of navigation this year for passenger ships employed on the Great Lakes, plying to United States ports. It is understood, however, that there are few such ships, and that their season of navigation ends not later than the 30th September.

As most of the passenger ships making voyages on the Great Lakes from Canadian to United States ports are old ships, there is doubt in the minds of the Canadian technical officers as to whether it would be reasonable and practicable to have them comply fully with the sub-division regulations laid down by the United States authorities, which are based, generally, on the International Convention for Safety of Life at Sea. The Canadian authorities would appreciate if information could be obtained as to what action the United States authorities propose to take in the matter of such ships of United States registry.

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

O. D. SKELTON,
for the Secretary for State for External Affairs.

No. 3.

The United States Chargé d'Affaires ad interim at Ottawa to the Acting Secretary of State for External Affairs of Canada.

No. 819.

Sir,

October 22, 1938.

WITH reference to Dr. Skelton's note No. 125, dated 24th August, 1938, in the matter of load-line regulations applicable to the Great Lakes, I have the honor to inform you that the American authorities have noted that the Canadian Government recognizes that the load-line regulations of the United States applicable to vessels making voyages on the Great Lakes of North America are equivalent to Canadian "Load-line Rules for Ships Making Voyages on Lakes

or Rivers," approved by Order-in-Council on the 6th August, 1937, except as to subdivision load-lines applicable to passenger vessels.

The American authorities have noted also that the Canadian Government will not be in a position to have in force subdivision load-line regulations applicable to vessels of the Great Lakes before the close of navigation this year. In this regard, when the subdivision load-line regulations are issued by the Canadian authorities, the competent American authorities must give consideration to them before accepting them as being equal to the United States subdivision load-line regulations.

The American Government will appreciate, therefore, receiving copies of these subdivision load-line regulations as soon as possible after they are issued.

With regard to the request contained in Dr. Skelton's note under reference for information as to the procedure for marking existing passenger vessels with subdivision load-lines and to what extent such ships are required to comply with the subdivision load-line regulations, the competent American authorities have stated that each existing passenger ship is considered on its merits in relation to its physical compliance with the subdivision load-line requirements. In interpreting the meaning of the words *reasonable* and *practicable*, the decisions of the Department of Commerce have resulted in most cases in a one-compartment standard of subdivision.

The American authorities have directed attention to the following slight difference in the scope of the basic load-line laws of the United States and of Canada: The laws of the United States are more general and probably embrace more vessels; for instance, tug boats do not seem to be required to have load-lines under the Canadian law, but are required to have them under the United States law. In the case of such Canadian vessels which are exempt from Canadian load-line regulations and which visit United States ports, it will satisfy the American load-line authorities if such vessels are marked with load-lines under the Canadian load-line regulations, even though Canadian load-line law would not require them to be marked.

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

DAVID McK. KEY,
Chargé d'Affaires a. i.

No. 4.

*The Secretary of State for External Affairs to the United States
Chargé d'Affaires ad interim at Ottawa.*

No. 185.

Sir,

Ottawa, 2nd September, 1939.

WITH reference to the despatch No. 819 of the 22nd October, 1938, from the United States Chargé d'Affaires at Ottawa, and

previous correspondence, in the matter of Load Line Regulations applicable to the Great Lakes, I have the honour to state that, by Order-in-Council of the 7th July, 1939, P.C. 1790, certain regulations relating to sub-division have been made, bearing the title, "Regulations respecting the Sub-Division and Pumping Arrangements of Passenger Steamships employed making Inland Voyages between Canada and the United States of America."

These regulations were published in the "Canada Gazette" of the 12th August, 1939, and I enclose herewith a copy of the "Gazette" ⁽¹⁾, so that the competent authorities of the United States Government may be in a position to give consideration to the acceptance of these regulations as being equal to the United States Sub-Division Load Line Regulations.

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

O. D. SKELTON,
for the Secretary of State for External Affairs.

No. 5.

*The Secretary of State for External Affairs to the United States
Chargé d'Affaires ad interim at Ottawa.*

No. 217.

Sir,

Ottawa, 18th October, 1939.

WITH reference to my note No. 185 of the 2nd September, 1939, advising that certain regulations relating to the sub-division of ships making inland voyages between Canada and the United States of America had been made, and enclosing a copy of the *Canada Gazette* of the 12th August containing these Regulations, I have the honour to state that these Regulations contained two errors and that action was taken to have these errors corrected by Order-in-Council.

An Order-in-Council P.C. 2669, dated 14th September, was issued, amending the errors in question, and was published in the *Canada Gazette* of 30th September, 1939.

I enclose herewith three copies of an extract from the *Canada Gazette* ⁽¹⁾ of that date, containing the Order-in-Council, and wish to request that a copy of the extract be forwarded to the Government of the United States.

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

O. D. SKELTON,
for the Secretary of State for External Affairs.

(1) Not reproduced.

No. 6.

The United States Chargé d'Affaires ad interim at Ottawa to the Secretary of State for External Affairs of Canada.

No. 208.

Sir, 10th January, 1940.

I HAVE the honor to refer to your note No. 217 dated 18th October, 1939, and to previous correspondence concerning a proposed arrangement between Canada and the United States for the reciprocal recognition of load line regulations for vessels engaged in international voyages on the Great Lakes.

I am desired by my Government to advise you that the Canadian regulations set forth by Orders-in-Council of July 7, 1939, P.C. 1790 and 1791, as published in the *Canada Gazette* of the 12th August, 1939, have been examined carefully and compared by the competent American authorities with the similar regulations of the Secretary of Commerce, as set forth in Section D of the Load Line Regulations of the United States, approved September 28, 1937 (Part 46, Section 46.42 of the Codification of the Load Line Regulations), and have been found, subject to the following comments, to be the equivalent of the said United States regulations :

(a) United States regulations are applicable to all passenger vessels of 150 gross tons and above, whereas Canadian regulations are applicable only to steamships, (motorships) of 150 gross tons and above.

(b) A United States passenger vessel on the Great Lakes is one carrying more than 16 passengers, whereas a Canadian passenger vessel is one carrying more than 12 passengers.

(c) Canadian regulation 4, subparagraph (2), defines the freeboard as the distance from the subdivision water line to the margin line and it is presumed that when marked on the ship as provided by regulation 49, subparagraph (2), that proper allowances will be made.

It is the opinion of the competent American authorities that any differences which may arise with reference to the foregoing comments can be adjusted administratively.

It appears from Canadian regulations No. 2 (P.C. 1790) that these regulations apply only to steel vessels, and that in the case of wooden vessels, if any, the breadth will be taken to the outside of the planking.

The Coastwise Load Line Act, 1935, as amended, of the United States, provides in the U.S.C., title 46, sec. 88 d :

“ § 88d. Foreign vessels; application of sub-chapter. Whenever the Secretary of Commerce shall certify that the laws and regulations in force in any foreign country relating to load lines are equally effective with the regulations established under sections 88 to 88i of this title, the Secretary of Commerce may

direct, on proof that a vessel of that country has complied with such foreign laws and regulations, that such vessel and her master and owner shall be exempted from compliance with the provisions of sections 88 to 88i of this title, except as hereinafter provided: *Provided*, That this section shall not apply to the vessels of any foreign country which does not similarly recognize the load lines established under sections 88 to 88i of this title and the regulations made thereunder. (August 27, 1935, c. 747, § 5, 49 Stat. 889.)”

The Government of the United States recognizes the Canadian Load Line Regulations, as promulgated in the *Canada Gazette* dated 12th August, 1939, respecting subdivision, pumping arrangements, watertight doors, and other appliances of passenger steamers making inland voyages on the Great Lakes between Canada and the United States, to be as effective as comparable United States regulations applicable to passenger vessels engaged in voyages on the Great Lakes between the United States and Canada, provided that the Canadian Government similarly recognizes the Subdivision Load Line Regulations of the United States applicable to passenger vessels engaged in voyages on the Great Lakes.

With further reference to your note No. 217 of the 18th October, 1939, which stated that an Order-in-Council, P.C. 2669, dated the 14th September, 1939, was issued, amending two errors which occurred in the Order-in-Council of the 7th July, 1939, P.C. 1790, I am requested to inform you of the receipt by the Secretary of Commerce of the United States of this information:

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

JOHN FARR SIMMONS,
Chargé d’Affaires a. i.

No. 7.

*The Secretary of State for External Affairs to the United States
Minister at Ottawa.*

No. 20.

Sir,

Ottawa, 4th March, 1940.

WITH reference to the note No. 208, of the 10th January, 1940, from the United States Chargé d’Affaires *ad interim*, concerning a proposed arrangement between the United States and Canada for the reciprocal recognition of load line regulations for vessels engaged in international voyages on the Great Lakes, I have the honour to state that it is noted that the United States Government recognizes the Canadian regulations respecting subdivision, pumping arrangements, watertight doors and other appliances on passenger steamships engaged in making inland voyages on the Great Lakes between Canada and the United States to be as effective as comparable United

States regulations applicable to passenger vessels engaged on voyages on the Great Lakes between Canada and the United States, provided that the Canadian Government similarly recognizes the subdivision load line regulations of the United States applicable to passenger vessels engaged in voyages on the Great Lakes.

I may say that the Canadian Government recognizes the subdivision load line regulations of the United States applicable to passenger vessels engaged in voyages on the Great Lakes, as set forth in Section D of the Load Line Regulations of the United States, approved 28th September, 1937, as being as effective as the Canadian regulations respecting subdivision, pumping arrangements, watertight doors and other appliances for passenger steamships making inland voyages between Canada and the United States, as set forth in the Regulations respecting Subdivision and Pumping Arrangements of Passenger Steamships employed making Inland Voyages between Canada and the United States, P.C. 1790 of the 7th July, 1939, and the Regulations respecting Watertight Doors and Other Appliances, P.C. 1791, of the 7th July, 1939, respectively.

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

O. D. SKELTON,
for the Secretary of State for External Affairs.

