

N° 4825.

COLONIE
ET PROTECTORAT DU NIGÉRIA
ET TERRITOIRES ESPAGNOLS
DU GOLFE DE GUINÉE

Traité relatif au recrutement, dans le Nigéria,
de main-d'œuvre indigène pour travailler
dans les Territoires espagnols du Golfe de
Guinée. Signé à Lagos, le 9 décembre 1942.

*Textes officiels anglais et espagnol communiqués par le secrétaire d'Etat aux
Affaires étrangères de Sa Majesté en Grande-Bretagne. L'enregistrement
a eu lieu le 30 septembre 1944.*

COLONY
AND PROTECTORATE OF NIGERIA
AND SPANISH TERRITORIES
OF THE GULF OF GUINEA

Treaty regarding the Recruitment in Nigeria of
Native Labourers for working in the Spanish
Territories of the Gulf of Guinea. Signed
at Lagos, December 9th, 1942.

*English and Spanish official texts communicated by His Majesty's Secretary
of State for Foreign Affairs in Great Britain. The registration took place
September 30th, 1944.*

No. 4825. — TREATY¹ BETWEEN THE NIGERIAN GOVERNMENT AND THE GOVERNMENT OF THE SPANISH TERRITORIES OF THE GULF OF GUINEA FOR THE RECRUITMENT OF NATIVE LABOURERS IN THE FORMER COUNTRY WITH THE OBJECT OF WORKING IN THE SAID SPANISH POSSESSIONS. SIGNED AT LAGOS, DECEMBER 9TH, 1942.

TREATY

Concluded between THEIR EXCELLENCIES THE GOVERNOR OF THE COLONY AND PROTECTORATE OF NIGERIA and THE GOVERNOR-GENERAL OF THE SPANISH TERRITORIES OF THE GULF OF GUINEA, for the recruitment of native labourers in the former country with the object of working in the said Spanish possessions.

Both contracting parties desiring to regulate and control, in the common interest, the recruitment and working conditions of Nigerian natives (who wish to be employed as labourers in the Spanish Territories of the Gulf of Guinea), as much in the interest of the natives as in that of the employers who use their services, in mutual agreement approve and sign the following Treaty.

Article 1.

The Government of Nigeria shall allow and facilitate the engagement in Nigeria of natives of Nigeria by recruiters authorised by that Government on the recommendation of the Government of the Spanish Territories of the Gulf of Guinea, provided that the contract between the native of Nigeria and the employer is made in accordance with this Treaty.

Article 2.

Every employer in the Spanish Territories of the Gulf of Guinea who wishes to employ any native of Nigeria to work for him in such Territories shall apply in writing to the Governor-General of the Spanish Territories of the Gulf of Guinea stating the number of workers required, the terms of employment offered and the name of the recruiter, if any, authorised by him to engage such workers on his behalf. The Government of the Spanish Territories of the Gulf of Guinea shall send a certified English translation of such application to the Government of Nigeria and shall state that the applicant has been authorised to contract by the British Authorities.

Article 3.

On receiving the recommended application the Government of Nigeria shall inform the applicant if he is there, or his agent if he has one in that country, or failing that the Government of the Spanish Territories of the Gulf of Guinea the region, where the workers may be recruited. The Government of Nigeria reserves the right to deny permission for the recruitment of workmen to any employer or recruiter who consistently or grossly infringes the terms of this Treaty.

¹ Came into force March 9th, 1943.

Article 4.

Before the contract is signed, each recruited labourer shall be brought before an authorised representative of the Government of Nigeria in the port from which he is to embark and shall be examined by a doctor of that Government at the expense of the employer or his agent.

If the labourer, on medical or other grounds outside his will, is not suitable to be contracted, the employer or his agent shall pay the cost of his return journey to the place where he was engaged.

Article 5.

No native can be contracted whose apparent age is less than 16 years.

Article 6.

A workman's wives and his children under the age of 16 years may accompany him to the place of employment, provided that the number of wives does not exceed two. These persons shall not be obliged to work for the employer.

Article 7.

The employer or his agent shall provide for the workers and their families the necessary means of transport from the place of recruitment to the place of employment, and shall bear the expense of such transport and of subsistence during the journey.

Article 8.

If the workmen and their families are obliged to make long journeys on foot, the duration of the daily journey must be compatible with their physical capabilities and especially with that of the women and children.

Article 9.

During the journey the workmen and their families shall be provided with adequate subsistence and medical attention.

Article 10.

The Government of the Spanish Territories of the Gulf of Guinea will adopt all necessary measures to ensure that the ships and vehicles of whatever type used for the conveyance of the workmen and their families are in good sanitary condition, and are not overloaded.

Article 11.

Workmen shall not pay Customs dues on entering Spanish Territory in respect of their personal effects and tools and those of their families, neither shall they be liable to any direct taxation in such territory other than payment for their Identity Card for the Statutory Tax, which they will make in the form and manner laid down for workers in the Spanish Territories of the Gulf of Guinea.

Article 12.

Workmen who are natives of Nigeria employed in the Spanish Territories of the Gulf of Guinea will be allowed freedom of conscience and to practise their religion. The spiritual needs of the said workers will be attended to by a Christian Chaplain and a Moslem Priest nominated with the consent of the Governments of Nigeria and the Spanish Territories of the Gulf of Guinea.

Article 13.

Workmen must not be submitted to corporal punishment, and any punishment which may be necessary shall be administered to them with moderation.

Article 14.

The contract between the workman and the employer or his authorised agent shall be made in writing in Nigeria, in the form of the attached specimen and shall be attested by an officer of that Government specially appointed for that purpose before the workman leaves his country to work in Spanish Territory.

Article 15.

The Spanish Authorities of the Gulf of Guinea of whatever rank or authority will attribute legal effect to the contracts and to the stated copies of the contracts formulated in accordance with the prescription of this Treaty; and the signature of the representative of the Nigerian Government authorising the said copies will have the effect of a certified public document, and will be considered in every event as a proof of the authenticity and existence of the contract.

Article 16.

The contracts shall be made out in quadruplicate at the expense of the employer. Two copies shall be in English and two in Spanish. One copy in English shall be delivered free of charge to the workman by the representative of the Nigerian Government, who shall also forward the other English copy to his Government to be filed; and of the two Spanish copies one shall be sent to the Government in Sta. Isabel, who will register it, and the other to the employer or his representative.

The total charge payable by the employer for each individual contract, including the medical examination of the labourer, shall not exceed £1 sterling.

Article 17.

Every labour contract shall contain amongst other requisites the following :

(1) Particulars of the contracting parties, giving the names of the employer and of the workman, of the family and tribe of the latter, the place and district of birth, and also his fingerprints and photograph.

(2) The type of work and the duration of the daily shift.

(3) The duration of the contract and method of renewal.

(4) The denomination and region of the place of employment.

(5) The amount of remuneration and the method of its payment.

(6) The advances which the workman will receive on account of his salary before beginning his contract.

(7) Any extra benefits to which the workman is entitled relative to housing, medical assistance, hospitalisation, and allotment of land for his cultivation.

(8) The deductions which may be made from the salary of the workman in accordance with the laws of the country where he will be employed.

(9) The number of the family of the workman who may accompany him or join him subsequently in the place of employment.

(10) The arrangements made with the object of assuring the subsistence of the workman's family.

(11) The method of transporting the workman and his family to and from the place of employment, and the method of meeting the expenses of the journey.

(12) The payment to the workman of a sum equal to the total cost of his repatriation if at the expiration of his contract he does not exercise his right of repatriation, and of an equivalent additional sum in the case of renewal of the contract with the same or another employer.

Article 18.

The transfer of a contract from one employer to another cannot be effected unless the workman freely and spontaneously gives his consent before the Labour Officer, and the new contract must be certified by the Consular Agent. It will be invalid if there has been any outside influence, or a mistake in the expression of the workman's wish.

The Labour Officer will inform the Government of Nigeria of any transfer, and will send it a certified copy of the document in which it is stated.

Article 19.

The nature of the work on which the labourers shall be employed will be agricultural, sylvicultural, industrial, commercial or domestic service.

Article 20.

The duration of the first contract signed between the employer and the labourer will not be longer than two years in any case. The duration of the contract will be calculated from the date on which the labourer arrives at the territory in which he is to be employed.

Article 21.

The workman will receive a monthly salary of not less than thirty-five pesetas, and a workman employed in forestry or industry will receive 40 per cent more than the salary laid down for other workers.

Article 22.

The salary will be paid in Spanish currency at the end of each month. Half of the money earned by the workman will be paid to him direct, and the other half will be deposited by the employer at the Labour Office in favour of the workman.

At the expiration of the contract the sum deposited in the Labour Office will be remitted to the Government of Nigeria in English currency at the official rate of exchange of the day for payment to the workman on his return to Nigeria, except when the workman stays on in Spanish Guinea, in which case the sum deposited to his credit will be paid to him direct.

Article 23.

Before the commencement of his employment in Spanish territory, the contracted labourer shall receive in money as an advance on his salary a sum not greater than five shillings.

Article 24.

In addition to his salary, the workman shall receive from his employer free of charge the following daily ration of food :

600 grammes of rice,
250 grammes of salt fish,
65 grammes of palm oil,
20 grammes of salt,
and an adequate quantity of vegetables and edible fruits.

With the express approval of a Medical Officer there may be substituted for these articles alternative ones of equal nutritive value.

The employer shall be obliged to cultivate at his own expense for the benefit of the workman and his family an area of 1/50 hectare per person which shall be used for the production of native foodstuffs, and shall permit the workman to make full use of these foodstuffs. In addition the workman shall have the right to collect firewood for his cooking free of cost.

The employer shall also provide adequate and hygienic quarters for the workman and his family.

The employer shall also provide at his own expense medical and pharmaceutical aid and hospitalisation for the workman and his family.

Article 25.

The day's work will be of eight hours, not beginning before sunrise or ending after sunset. At the fifth hour of work the workman shall be allowed two hours rest. A workman who voluntarily works more than eight hours a day shall receive an increase of salary of 25 per cent for each extra hour worked.

Article 26.

Work is forbidden on Sundays, on Feast Days, and on days when a doctor certifies a workman as unfit. As an exception, work which cannot be interrupted without grave loss shall be arranged by establishing shifts of eight-hour periods of alternate work and rest. Workmen who have been thus employed shall be granted a compensatory period of rest during a week-day without prejudice to the 25 per cent increase of salary for each hour worked which is due to them for employment on such labour.

Article 27.

A contract shall be terminated by reason of one of the following causes :

- (1) By the completion of the term for which it was made.
- (2) By the death of the workman before the expiration of the contract.
- (3) By physical inability of the workman to fulfil the contract on account of illness or accident certified by a doctor.
- (4) By order of the Labour Officer when he considers that one or the other party is unable to fulfil the contract for any reason, or when he suspects that the employer may take reprisals against a workman who has lodged a complaint against him or against his subordinates before the British Consular Agent.

Article 28.

Contracted labourers shall have the right of repatriation to their country of origin on the termination or abrogation of the contract. The cost of the repatriation shall be borne by the employer, except in the case where the contract, by order of the Labour Officer, has been rescinded solely through the fault of the workman. In this case the workman will be required to bear the cost of repatriation himself out of the money deposited to his credit in the Labour Office ; should this money be insufficient to meet the cost of his repatriation the difference shall be paid by the employer.

Article 29.

If a workman's family has accompanied him to the place of his employment they will be repatriated when the workman is repatriated, or in the case of his death within sixty days thereof. The cost of such repatriation shall be borne by the employer.

Article 30.

The Labour Officer may exempt the employer from bearing the cost of repatriation of the workman and his family, or of the family of a deceased workman, when they have manifested to him, or to the British Consular Agent, their express desire to settle in the Spanish Territories of the Gulf of Guinea.

Article 31.

The Government of the Spanish Territories of the Gulf of Guinea will repatriate workmen and their families who have not been repatriated by the employer under obligation to do so.

Article 32.

When a workman and his family are repatriated, the conditions relating to transport and subsistence will be those set out in Articles 7, 8, 9 and 10 of this Treaty.

Article 33.

The Labour Officer will collect the personal effects and salary earned by a Nigerian workman who has died in Spanish Territory, and will send them to the British Consular Agent to be handed over to the workman's family in accordance with the laws of the workman's country.

Article 34.

On the expiration of the contract the workman may enter into a new one with the same or another employer for a period not exceeding eighteen months, or may return to his country in conformity with the conditions laid down in Article 28 of this Treaty.

Renewed contracts will be made out in the Spanish Territories of the Gulf of Guinea, and shall fulfil the requirements laid down in Articles 14, 15, 16 and 17 of this Treaty.

Such contracts will be attested by the British Consular Agent.

Article 35.

If, on the expiration of a contract for any of the causes laid down in Article 27 of this Treaty, a workman commences a new contract with the same or with another employer he shall have the right to receive from the former employer a sum equal to the cost of his repatriation and that of his family (in case of their not returning to their country), notwithstanding that by reason of the new contract he will also receive from the new employer a similar sum as an award.

Article 36.

From the time that this treaty comes into force, the transport in canoes of native Nigerian workmen between the territories of Nigeria and the Spanish Territories of the Gulf of Guinea shall be forbidden, and the Governments of the two said territories will adopt the necessary measures to make the prohibition effective.

Any Nigerian native who, after this treaty has come into force, begins to work for any person in the Spanish Territories of the Gulf of Guinea without having previously entered into a labour contract in accordance with the conditions of this Treaty shall be obliged to return to Nigeria, at the expense of the Nigerian Government.

Article 37.

The British Government, with the consent of the Spanish Government, may send to the Spanish Territories of the Gulf of Guinea a British Consul who shall have the right to satisfy himself as to the well-being of Nigerian natives working in those territories.

The Spanish Government, with the consent of the British Government, may send to Nigeria a Spanish Consul, whose duties and rights will be analogous to those of the British Consul in the Territories of the Gulf of Guinea.

Article 38.

The British Consular Agent may act as the representative of Nigerian workmen recruited to work in the Spanish Territories of the Gulf of Guinea in all relations between them and the Labour Officer, and the Consular Agent will have the right to make any claims which he considers to be in their favour.

Article 39.

In the case of the British Consular Agent presenting a claim before the Labour Officer, the latter will investigate the causes of it and will inform the British Consular Agent of the decision which he has adopted.

If the British Consular Agent disagrees with the decision which the Labour Organisation of the Spanish Territories of the Gulf of Guinea has adopted in any matter under its jurisdiction, the Government of the Spanish Territories of the Gulf of Guinea will authorise him, after due application, to make a visit accompanied by the Labour Officer or his representative in order to examine the facts on which the decision was based and to bring them to the notice of the Governor-General if he considers them prejudicial to the interests of the Nigerian labourers.

The said visit shall take place within forty-eight hours of the British Consular Agent's having presented his application.

Article 40.

The British Consular Agent shall have the right to be given free of charge a copy of any sentences pronounced by the Courts of Justice of the Spanish Territories of the Gulf of Guinea in suits between native Nigerian labourers and their employers and also a copy of decisions taken by the Labour Officer on claims made before him which affect the interests of workmen who fall within the scope of this Treaty.

Article 41.

Every alternate month the Spanish Labour Officer will invite the British Consular Agent to accompany him on routine visits of inspection to those working centres where Nigerian labourers are employed.

Article 42.

For the removal of any doubts which may arise between the contracting parties to this Treaty, in respect of the interpretation of the terms thereof, reference shall be made to the correspondence between the representatives of the Governments of Nigeria and of the Spanish Territories of the Gulf of Guinea prior to the signing of the present Treaty.

Article 43.

This Treaty shall come into force three months after it is signed by the two contracting parties, and shall remain in force until six months after either one of the high contracting parties has notified the other of his intention to end it.

The period of six months referred to in the previous paragraph may be reduced by mutual agreement between the contracting parties.

In witness whereof the Parties have hereunto set their hands and seals this ninth day of December, one thousand nine hundred and forty-two.

Signed, sealed and delivered by SIR BERNARD HENRY BOURDILLON, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Excellent Order of the British Empire, Governor and Commander-in-Chief of the Colony and Protectorate of Nigeria, etc., etc., etc., for and on behalf of the Government and Colony and Protectorate of Nigeria.

(Signed) B. H. BOURDILLON,
Governor.

Signed, sealed and delivered by DON ENRIQUE POWER USTARA for and on behalf of the Governor-General of the Spanish Territories of the Gulf of Guinea, being duly authorised thereunto by letter dated at Santa Isabel the twenty-fourth day of November, one thousand nine hundred and forty-two, and being under seal of the Governor-General of the above Territories.

(Signed) E. P. USTARA,
The Delegate of the Spanish Territories of the Gulf of Guinea.

CONTRACT OF SERVICE

This Agreement made the day of 194.... between (hereinafter called the Employer) of the one part, and of tribe of the village of in the Division of Province of Nigeria, of the other part (hereinafter called the Employed).

Whereby it is agreed as follows :

1. The Employer engages the Employed to serve him at the Plantation of in the Spanish Territory of as a worker in (nature of employment) for the period of months, from the date of the arrival of the Employed in the said Territory, in consideration of which the Employer shall pay him pesetas monthly. Wages shall be payable at the end of each month, one-half being paid to the Employed and the other half being deposited at the Spanish Labour Office for ultimate payment to him on the termination of the contract. If the contract is not renewed payment will be made in sterling, at the current rate of exchange at the date of termination, through the Government of Nigeria.
2. The Employer agrees to convey the Employed together with his wives named respectively and and his children under the age of 16 named respectively and and free of cost, whether for transport for maintenance or for medical attention from (place of recruitment) in Nigeria to (place of his employment), and return provided that if it is necessary for the Spanish Labour Officer to terminate the contract by reason of the misconduct of the Employed the expense of the return journey will be paid from the money deposited to the credit of the Employed at the Spanish Labour Office. Alternatively, the above-named members of the family may subsequently join the Employed in Spanish Territory.
3. An advance on the salary of the Employed amounting to shillings has been paid to him at Calabar on 194....
4. The Employer agrees to supply to the Employed, free of cost, a daily ration of food in accordance with the scale agreed to in the Labour Treaty.
5. The Employer agrees to provide living accommodation for the Employed and for his family not exceeding the number stipulated in paragraph 2 above.
6. The Employer shall pay the medical expenses and hospital fees of the Employed and his family in the case of sickness or accident.
7. The Employer shall cultivate at his own expense an area of one-fiftieth of a hectare of ground for the Employed and for each permitted member of his family. (See paragraph 2 above.)
8. The Employed shall have the right to collect sufficient firewood for his cooking, free of charge.
9. The Employer shall be entitled to deduct from the wages of the Employed the amount of the Statutory Tax payable by the Employed in accordance with Spanish Colonial Law.
10. The Employed and his family shall not be required to pay Customs duties on their personal effects and tools, and on those of their families, when entering Spanish Territory.
11. The normal day's work shall not exceed eight hours per day and there shall be an interval of two hours for rest and recreation in each day's work, commencing not later than the expiration of the fifth hour. The Employed shall not be required to work on Sundays or Feast Days, unless in exceptional circumstances (for example, the completion of an industrial task which cannot be interrupted without causing serious loss). The Employed shall be paid his normal salary and an additional 25 per cent for each hour worked in excess of the normal day's work.
12. This contract shall commence from the date of the arrival of the Employed in Spanish Territory and shall remain in force for a period of months with an option of renewal by mutual consent between the contracting parties for a further period not exceeding eighteen months.

13. In the event of the renewals of this contract, the Employer shall pay to the Employed a sum equal to the cost of his repatriation, and that of his family, to Nigeria. This sum shall also be paid if, on the expiration of his contract the Employed does not exercise his right of repatriation to the place of recruitment, but enters instead upon a new contract with a different employer in Spanish Territory.

The Employer shall not effect any assignment to the contract without the consent of the Employed. Any assignment of the contract must be authenticated by the Spanish Labour Office.

14. In any dispute which may arise between the parties to this agreement relating to the performance of any clause thereof, the Spanish Labour Officer shall be consulted and his decision shall be final and binding on both of the parties to the agreement.

15. This contract shall be construed on the basis of, and governed by the terms of, the Labour Treaty, and if any provision of this contract is in conflict with the Labour Treaty, the provisions of the Labour Treaty shall prevail.

In witness whereof the said parties have hereunto set their hands or made their marks the day and year first above written

Signature of Employer or his Agent
in the presence of

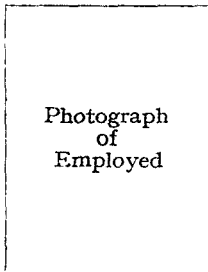
Signature, address and description of witness

Signature or thumb mark of Employed
in the presence of

Signature, address and description of witness

ATTESTATION.

I hereby certify this day of 194..., that the above Agreement was read over and explained to the parties hereto in my presence who acknowledged their agreement thereto, and that it was entered into voluntarily and with understanding of its meaning and effect, and that the photograph hereto affixed is a photograph of the Employed referred to in this Agreement.



.....
Officer appointed by the Government of Nigeria to certify contracts for employment of natives in the Spanish Territories of the Gulf of Guinea.