

N° 3381.

ÉTATS-UNIS D'AMÉRIQUE
ET HAÏTI

Accord concernant l'haïtianisation de
la garde d'Haïti et la désoccupa-
tion militaire du territoire de la
République, avec arrangement
financier. Signé à Port-au-Prince,
le 7 août 1933.

UNITED STATES OF AMERICA
AND HAITI

Agreement regarding the Haitiani-
zation of the Garde d'Haiti and
the Withdrawal of Military
Forces from Haiti, and Financial
Arrangement. Signed at Port-au-
Prince, August 7th, 1933.

No. 3381. — AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF HAITI REGARDING THE HAITIANIZATION OF THE GARDE D'HAITI AND THE WITHDRAWAL OF MILITARY FORCES FROM HAITI, AND FINANCIAL ARRANGEMENT. SIGNED AT PORT-AU-PRINCE, AUGUST 7TH, 1933.

French and English official texts communicated by the Secretary of State for External Affairs of the Republic of Haiti. The registration of the Agreement took place March 5th, 1934. This Agreement was transmitted to the Secretariat by the Department of State of the Government of the United States of America, November 9th, 1933.

SECTION I.

HAITIANIZATION OF THE GARDE D'HAITI AND WITHDRAWAL OF MILITARY FORCES FROM HAITI.

The undersigned Plenipotentiaries, duly authorized by their respective Governments, have agreed upon the following Accord :

Article I.

The American officers now serving with the Garde d'Haiti will be replaced in such a manner that by October 1st, 1934, the Garde shall be completely commanded by Haitian officers.

Article II.

On October 1st, 1934, the Garde, under complete command of Haitian officers, will be turned over to a Colonel in active service whom the President of the Republic shall designate as Commandant.

Article III.

The promotions to be effected until complete Haitianization of the Garde will be made after examinations held in the presence of the representative of the Government of Haiti in conformity with Article X of the Treaty² of September 16th, 1915.

Article IV.

To complete the instruction, training and discipline of the Garde the President of Haiti may, if he considers it desirable, request the President of the United States to designate a Military Mission

¹ Came into force January 1st, 1934.

² *British and Foreign State Papers*, Vol. 109, page 958.

of not more than seven members among the American officers who have served in Haiti. The powers to be granted to this Mission will be determined by a decree of the President of Haiti. The services of this Mission shall terminate at the request of either Party to the Agreement upon sixty days' notice given by either Party.

Article V.

The withdrawal of the Marine Brigade of the United States and the American Scientific Mission established by the Accord¹ of August 5th, 1931, shall commence on October 1st, 1934, and shall be completed within thirty days.

Article VI.

The Government of Haiti, in order to preserve public order, assumes the obligation of maintaining strict discipline in the Garde and of applying for this purpose the present regulations of the Garde d'Haiti.

It will enact a statute which will fix the conditions of appointment, promotion and retirement in the Garde. It will also take all legislative measures recognized as necessary to guarantee public peace and security.

SECTION II.

FINANCIAL ARRANGEMENT. ADJUSTMENT OF FINANCIAL GUARANTEES STIPULATED IN THE PROTOCOL OF 1919 AND THE LOAN CONTRACT OF 1922.

Article VII.

Beginning January 1st, 1934, the services of the Financial Adviser-General Receiver and of the Deputy General Receiver shall be carried on, in fulfillment of the obligations and guarantees undertaken in order to obtain the loan issued in accord with the Protocol² of October 3rd, 1919, by a Fiscal Representative and a Deputy Fiscal Representative, appointed by the President of the Republic upon nomination of the President of the United States, who shall exercise the powers hereinafter set forth.

Article VIII.

As the Customs Revenues constitute the principal pledge to the holders of the bonds of the 1922 loan, the Fiscal Representative will have under his direction, until the complete amortization or the prior refunding of the loan under reference, the Customs Service and the application of the laws relative thereto. In addition, he shall inspect the activities of the Internal Revenue Service and make appropriate recommendations for its proper operation; he shall be in charge of the existing Service of Payments, reserve being made of the provisions of Article XII hereafter; he shall maintain adequate records of receipts and disbursements, which records shall be open to inspection and verification by the appropriate authorities; and he shall submit monthly reports of his activities to the Secretary of State for Finance and the Secretary of State of the United States.

In order properly to carry out his duties, the Fiscal Representative shall have such employees and assistants as may appear necessary. The number of Americans so employed shall not exceed eighteen. The President of Haiti, upon the presentation which will be made to him by the Secretary of State for Finance, will commission as of January 1st, 1934, the employees occupying positions of authority and trust under the Fiscal Representative and recommended by the latter. Thereafter, any position which may become vacant among the commissioned employees shall be filled by

¹ Volume CXXV, page 241, of this Series.

² *British and Foreign State Papers*, Vol. 112, page 1131.

examination, the form and procedure of which shall be determined by an accord between the Secretary of State for Finance and the Fiscal Representative. The successful competitor in such examination shall be recommended for the vacancy and will be commissioned by the President of Haiti. Such commissioned employees may be suspended without pay by the Fiscal Representative, on charges filed with the Secretary of State for Finance and such employee or assistant shall not be reinstated unless the charges shall have been disproved to the satisfaction of the Secretary of State for Finance and of the Fiscal Representative. Pending the hearing of the charges made, the Fiscal Representative, after a report to the Secretary of State for Finance, may fill the vacancy provisionally, if necessary, until the charges have been disproved or a new commission issued.

Article IX.

The salaries of the Fiscal Representative and of the Deputy Fiscal Representative shall be made the subject of an accord between the two Governments. These salaries, together with the expenses of the activities of the Fiscal Representative, but excluding the expenses of the Internal Revenue Inspection Service, may not exceed five per centum of customs receipts except by agreement between the two Governments.

Article X.

The Internal Revenue Service, the personnel of which shall be exclusively Haitian, shall be placed in charge of a Haitian Director under the Secretary of State for Finance.

Nevertheless, if the Fiscal Representative should notify the Secretary of State for Finance and the Director General of Internal Revenue in writing that there is reason to suppose any officer or employee of the Internal Revenue Service is inefficient, or that his action is not correct, such officer or employee shall be suspended, and not reinstated unless the charges shall have been disproved to the satisfaction of the Secretary of State for Finance.

The expenses of the Internal Revenue Service shall be paid from the funds set aside for this purpose by the National Bank of the Republic of Haiti in accordance with schedules of payments agreed upon between the Secretary of State for Finance and the Fiscal Representative. These expenses shall not exceed ten per centum of internal revenue receipts, and the expenses of the Internal Revenue Inspection Service shall not exceed five per centum of internal revenue receipts. Any sums not required by the Internal Revenue Inspection Service within this allowance shall be made available to the Internal Revenue Service.

Article XI.

On and after January 1st, 1934, all monies received by or for the Haitian Government shall be deposited in the National Bank of the Republic of Haiti to the credit of the Haitian Government with the exception of the five per centum of customs revenues foreseen in Article IX above and the amounts needed for payments connected with execution of the loan contracts, which amounts shall be credited to the Fiscal Representative. The National Bank of the Republic of Haiti also shall set aside preferentially each month to the credit of the Fiscal Representative the amounts provided in Article X above for the expenses of the Internal Revenue Service and of the Internal Revenue Inspection Service.

In order to assure the maintenance of public order, the monthly allocation for the Garde d'Haiti will be set aside preferentially by the National Bank of the Republic of Haiti for the exclusive use of the Garde from the funds thereafter remaining.

Article XII.

All payments of Government funds shall continue to be made by checks prepared by the Service of Payments. The existing arrangement, as agreed upon between the two Governments

on August 5th, 1931, shall continue to govern this service except that all checks henceforth will be signed by the Secretary of State for Finance, or his delegate, reserve being made in the case of those checks drawn against the funds deposited at the National Bank of the Republic of Haiti to the credit of the Fiscal Representative, which checks shall be signed only by the latter, or his delegate.

Article XIII.

Each year, by January 31st at the latest, the Fiscal Representative shall present a detailed estimate of receipts for the following fiscal year. Except by special agreement, the budget of the Republic shall not exceed the amount of probable ways and means which the Secretary of State for Finance and the Fiscal Representative shall have agreed upon.

Article XIV.

The Haitian Government may authorize any appropriations whatsoever if unobligated funds are available, or derivable at an early date from the ordinary revenues, to cover such appropriations after setting up such reserves as may appear to the Secretary of State for Finance and the Fiscal Representative to be necessary.

Article XV.

In case of a probable budgetary deficit, expenditures must be brought to the level of ways and means, either by reducing expenditures or by the creation of new receipts. In every case, it will not be possible without the accord of the Fiscal Representative to cover a deficit by calling upon the reserve funds of the Government.

Article XVI.

There shall be included annually in the budget of the Republic the amounts necessary for the regular service of the funded debt and other contractual obligations, as well as two lump sums representing five per centum of customs and five per centum of internal revenues, respectively, for the payment of the expenses of the Fiscal Representative, and those of the Internal Revenue Inspection Service, and finally a lump sum representing ten per centum of internal revenue receipts for the payment of the expenses of the Internal Revenue Service. The balance may be apportioned by the Haitian Government between the budgets of the various departments as it may see fit. If the revenues received in any month shall be insufficient to meet the full debt service and expenses of collection, the Government will make available the amount required to make up the difference.

Article XVII.

Without the accord of the Fiscal Representative no new financial obligation will be assumed unless the ordinary revenues of the Republic, after defraying the expenses of the Government, shall be adequate to assure the final discharge of such obligation.

Article XVIII.

The Government will not dispose of its investments except with the accord of the Fiscal Representative.

Article XIX.

The present finance law shall be the organic act of the Republic so far as concerns the administration of Government finances.

Article XX.

The Government of Haiti agrees not to reduce the tariff nor to modify the taxes and internal revenues in such a manner as to reduce the total amount thereof without the accord of the Fiscal Representative.

Article XXI.

The Custom Houses of the Republic will have an exclusively Haitian personnel and the title of Director shall be re-established in lieu of that of Collector. However, inspectors of the Customs Service may be assigned, either temporarily or permanently, to oversee the operation and the strict application of the customs laws.

Article XXII.

In case of payment under protest of customs duties or internal revenue taxes, and where restitution of such payment is requested, a written claim shall be presented to the competent service within a time-limit of thirty working days beginning with the date on which the duties or taxes were paid. If the decision is not accepted, the matter shall be presented to a commission composed of a representative of the Secretary of State for Finance and a representative of the Fiscal Representative.

If there should still be failure to reach an agreement, the claim for restitution shall be decided by legal proceedings, but the State may not be liable for any compensatory or punitive damages.

Article XXIII.

In view of the fact that under normal conditions the operation of the sinking fund will result in retirement of the outstanding series of the loan authorized by the law of June 26th, 1922, approximately by the year 1944, and inasmuch as any further issue of the loan would necessarily extend the operation of this Agreement, to a period beyond that year, which extension is contrary to their desire, it is hereby agreed by both Governments that the loan shall be considered closed and that no additional series shall be issued thereunder.

Article XXIV.

In case there should appear to be occasion for judicial proceedings against the Fiscal Representative or his American assistants, the two Governments, in order to avoid possible misunderstanding, agree to examine each case impartially and to agree upon the legal action which might be appropriate.

Article XXV.

The Haitian Government, upon the signature of the present Agreement, will issue irrevocable instructions to the National Bank of the Republic of Haiti in order that there may be full and complete execution of the clauses herein respecting the deposit and disbursement of the funds of the Government.

Article XXVI.

The Haitian Government reserves the right to retire the bonds issued in accord with the Protocol of October 3rd, 1919, advance of their due date; and the Government of the United States will not invoke the provisions of Article VI of the Protocol as an obstacle to such retirement before the expiration of the period of fifteen years fixed therein, provided that the Haitian Government is able to make an arrangement for this purpose satisfactory to the holders of the outstanding bonds.

In this case the provisions of this Accord shall automatically become null and void and of no effect upon the completion of the funding operation. The Haitian Government in order to hasten the retirement of the loan of 1922 may continue, as rapidly as its resources will permit, to buy on the open market bonds of the several series of the said loan.

Article XXVII.

Any controversy which may arise between the two Governments on the subject of the clauses of the present Accord shall be submitted to arbitration in case it cannot be settled through diplomatic channels, in accordance with the Arbitration Treaty¹ of January 7th, 1909, between the two countries.

Signed at Port-au-Prince in duplicate in the English and French languages, this seventh day of August, 1933.

(S) Norman ARMOUR.

(S) A. BLANCHET.

¹ *British and Foreign State Papers*, Vol. 102, page 451.