

No. 76

UNITED STATES OF AMERICA
and
NETHERLANDS

Exchange of Notes constituting an agreement relating to the services of nationals of one country in the armed forces of the other country. Washington, 31 March, 2 July, 24 and 30 September 1942

English official text communicated by the Permanent Representative of the United States of America at the seat of the United Nations. The filing and recording took place on 3 March 1948.

ETATS-UNIS D'AMERIQUE
et
PAYS-BAS

Echange de notes constituant un accord relatif au service de ressortissants de l'un des pays dans les forces armées de l'autre pays. Washington, 31 mars, 2 juillet, 24 et 30 septembre 1942

Texte officiel anglais communiqué par le représentant permanent des Etats-Unis d'Amérique au siège de l'Organisation des Nations Unies. Le classement et l'inscription au répertoire ont eu lieu le 3 mars 1948.

No. 76. EXCHANGE OF NOTES¹ CONSTITUTING AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE NETHERLANDS RELATING TO THE SERVICES OF NATIONALS OF ONE COUNTRY IN THE ARMED FORCES OF THE OTHER COUNTRY. WASHINGTON, 31 MARCH, 2 JULY, 24 AND 30 SEPTEMBER 1942

I

The Acting Secretary of State to the Netherlands Minister

DEPARTMENT OF STATE
WASHINGTON

March 31, 1942

Sir:

I have the honor to refer to conversations which have taken place between officers of the Netherlands Legation and of the Department with respect to the application of the United States Selective Training and Service Act of 1940, as amended,² to Netherlands subjects residing in the United States.

As you are aware, the Act provides that with certain exceptions, every male citizen of the United States and every other male person residing in the United States between the ages of eighteen and sixty-five shall register. The Act further provides that, with certain exceptions, registrants within specified age limits are liable for active military service in the United States armed forces.

This Government recognizes that from the standpoint of morale of the individuals concerned and the over-all military effort of the countries at war with the Axis Powers, it would be desirable to permit certain classes of individuals who have registered or who may register under the Selective Training and Service Act of 1940, as amended, to enlist in the armed forces of a co-belligerent country, should they desire to do so. It will be recalled that during

¹ Came into force on 8 July 1942, date of the receipt by the United States Government of the note from the Netherlands Government of 2 July 1942.

² 54 Stat. 885; 50 U.S.C. app. §§ 301-318, Supp. II §§ 302-305, 308-310, 312, 315.

the World War this Government signed conventions with certain associated powers on this subject. The United States Government believes, however, that under existing circumstances the same ends may now be accomplished through administrative action, thus obviating the delays incident to the signing and ratification of conventions.

This Government is prepared, therefore, to initiate a procedure which will permit aliens who have registered under the Selective Training and Service Act of 1940, as amended, who are nationals of cobelligerent countries and who have not declared their intention of becoming American citizens to elect to serve in the forces of their respective countries, in lieu of service in the armed forces of the United States, at any time prior to their induction into the armed forces of this country. Individuals who so elect will be physically examined by the armed forces of the United States, and if found physically qualified, the results of such examinations will be forwarded to the proper authorities of the cobelligerent nation, for determination of acceptability. Upon receipt of notification that an individual is acceptable and also receipt of the necessary travel and meal vouchers from the cobelligerent government involved, the appropriate State Director of the Selective Service System will direct the local Selective Service Board having jurisdiction in the case to send the individual to a designated reception point for induction into active service in the armed forces of the cobelligerent country. If upon arrival it is found that the individual is not acceptable to the armed forces of the cobelligerent country, he shall be liable for immediate induction into the armed forces of the United States.

Before the above-mentioned procedure will be made effective with respect to a cobelligerent country, this Department wishes to receive from the diplomatic representative in Washington of that country a note stating that his government desires to avail itself of the procedure and in so doing agrees that:

(a) No threat or compulsion of any nature will be exercised by his government to induce any person in the United States to enlist in the forces of any foreign government;

(b) Reciprocal treatment will be granted to American citizens by his government; that is, prior to induction in the armed forces of his government they will be granted the opportunity of electing to serve in the armed forces of the United States in substantially the same manner as outlined above. Furthermore, his government shall agree to inform all American citizens serving in its armed forces or former American citizens who may have lost their citizenship as a result of having taken an oath of allegiance on enlistment in such armed forces and who are now serving in those forces

that they may transfer to the armed forces of the United States provided they desire to do so and provided they are acceptable to the armed forces of the United States. The arrangements for effecting such transfers are to be worked out by the appropriate representatives of the armed forces of the respective governments;

(c) No enlistments will be accepted in the United States by his government of American citizens subject to registration or of aliens of any nationality who have declared their intention of becoming American citizens and are subject to registration.

This Government is prepared to make the proposed regime effective immediately with respect to the Kingdom of the Netherlands upon the receipt from you of a note stating that your Government desires to participate in it and agrees to the stipulations set forth in lettered paragraphs (a), (b), and (c) above.

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

Sumner WELLES
Acting Secretary of State

The Honorable Dr. A. Loudon
Minister of the Netherlands

II

The Netherlands Ambassador to the Secretary of State

NETHERLANDS EMBASSY
WASHINGTON, D.C.

Washington, D.C., July 2, 1942

Sir,

I have the honor to acknowledge receipt of Your Excellency's further note of May 6, 1942,¹ No 811.2222 (1940/712) in the matter of the application of the United States Selective Training and Service Act of 1940, as amended, to Netherlands subjects residing in the United States.

After giving the most careful attention to the reasons set forth in that note which have prompted the Government of the United States to reach a decision as explained therein, my Government cannot but express its great disappointment at the policy adopted by the United States Government which will prevent

¹ Not printed.

an important number of Netherlands subjects to fulfill their military duties in the armed forces of their own country, while it also seriously hampers the efforts of the Netherlands Government to reinforce their military effectives, a considerable part of which were lost in the fight against the common enemies of the United Nations. In previous conferences and in correspondence with the Department of State on this subject the Netherlands Embassy has already had an opportunity to stress the obvious advantage for the common war effort to use preferably men of Netherlands nationality fighting under the Netherlands flag for the future liberation of Netherlands territory and the re-establishing of law and order there. As Your Excellency is undoubtedly aware, the number of men in the Netherlands Armed forces is already extremely limited under existing conditions, whereas by the proposed arrangement the principal source of manpower for those forces, to wit from among those living in the United States would henceforth be reduced to unappreciable figures.

The Netherlands Government regrets that apparently no alternative is left but to comply with the proposals in question, although they are being felt as a considerable handicap in the Government's constant endeavor to prepare for the liberation of its country from the invader as one of its contributions to the combined war effort.

My Government has noted that the United States Government is prepared to permit Netherlands nationals who have registered under the Selective Training and Service Act of 1940 as amended, and who have not declared their intention of becoming American citizens, to elect to serve in the Netherlands forces, in lieu of service in the armed forces of the United States, at any time prior to their induction into the armed forces of this country.

The Netherlands Government assumes that the names and addresses of Netherlands subjects, who are free to elect to serve in the armed forces of the Netherlands will be made available immediately to the Director of Netherlands Military Registration in the United States, 10 Rockefeller Plaza, New York. It is therefore requested that the National Headquarters Selective Service System be instructed accordingly and that the Netherlands Military authorities will be allowed to exchange information with the local boards.

Individuals who elect to serve in the Netherlands Armed forces need not be physically examined by the medical service of the armed forces of the United States. The appropriate Netherlands authorities will provide for the medical examination. If it is found that the individual is not acceptable for the armed forces of the Netherlands, he shall then become liable for immediate induction into the armed forces of the United States.

In connection with the foregoing the attention of the Government of the United States is invited to the fact that in case Netherlands subjects enter the American military service of their own free choice, without previously having obtained the official permission of the Netherlands Government to do so, they thereby lose the status of Netherlands subject according to article 7, paragraph 4 of the Netherlands Law on nationality and citizenship.

The Netherlands Government therefore would feel obligated if the United States authorities concerned could see their way not to accept such aliens for military service without such permission previously having been obtained, in which connection the Netherlands Government explicitly reserves full authority to grant or refuse permission, as each particular case would seem to warrant.

In view of the foregoing, the Netherlands Government on its part agrees that:

- A) No threat or compulsion of any nature will be exercised by the Netherlands Government to induce any person in the United States to enlist in the forces of any foreign government.
- B) Reciprocal treatment will be granted to American citizens by the Netherlands Government; that is, prior to induction in the Armed Forces of that Government, they will be granted the opportunity of electing to serve in the Armed Forces of the United States in substantially the same manner as outlined above. Furthermore the Netherlands Government agrees to inform all American citizens serving in the Netherlands Armed Forces or former American citizens who may have lost their citizenship as a result of having taken an oath of allegiance on enlistment in such Armed Forces, and who are now serving in those Forces, that they may transfer to the Armed Forces of the United States provided that they desire to do so and provided they are acceptable to the Armed Forces of the United States. The arrangements for effecting such transfers are to be worked out by the appropriate representatives of the Armed Forces of our Governments.
- C) No enlistments will be accepted in the United States by the Netherlands Government of American citizens subject to registration or of aliens of any nationality who have declared their intention of becoming American citizens and are subject to registration.

It should, however, be understood that the arrangement set forth above does not intend to prevent the Netherlands Government from exercising its sovereign powers under existing treaties and international law to protect the

rights and to impose duties upon its citizens residing in the United States, and to take such measures to that effect as may appear necessary.

The Netherlands Government suggests the regime as proposed above to become effective immediately upon receipt of a note from Your Excellency stating that the Government of the United States agrees thereto, particularly with regard to the names and addresses to be supplied by the Selective Service System.

The Netherlands Government assumes that pending the negotiations concerning the above the Selective Service Headquarters will instruct the local Boards to refrain from enlisting persons into the armed forces of the United States who under the proposed agreement are free to elect to serve in the Netherlands armed forces.

Please accept, Sir, the renewed assurances of my highest consideration.

A. LOUDON

The Honorable Secretary of State
Washington, D.C.

III

The Secretary of State to the Netherlands Ambassador

DEPARTMENT OF STATE
WASHINGTON

September 24, 1942

Excellency:

I have the honor to refer to your note no. 4521 of July 2, 1942, concerning the proposed arrangement regarding the service of nationals of one country in the armed forces of the other country.

The appropriate authorities of this Government have given careful consideration to the contents of your note, and consider it to contain satisfactory assurances in regard to the points raised in the Department's note of March 31, 1942. Accordingly, the arrangement is being regarded as having taken effect on July 8, 1942, the date on which your note of July 2, 1942, was received in the Department.

The Selective Service System, in connection with your request to be given the names and addresses of Netherlands subjects who are free to opt for service in the Netherlands armed forces, has made the following statement:

“This Headquarters has no available list of declarant citizens of the Netherlands except the names taken from Alien’s Personal History and Statement (DSS Form 304). It is now contemplated that the use of this form will be discontinued shortly, at least as far as cobelligerent and neutral countries are concerned. If this should be the case, it will be very difficult and practically impossible to furnish the names desired, since it will be inadvisable to request local boards to undertake the added burden of compiling such lists.”

Major Sherrow G. Parker of the Selective Service System, and Brigadier General Guy W. Henry of the Inter-Allied Personnel Board of the War Department, will be available to discuss with the Netherlands Embassy all details pertaining to the reciprocal induction arrangements.

The enclosed memorandum (I—422)¹ contains information as to the manner in which reciprocal induction arrangements are being carried out by the Selective Service System. It is presumed that, in the case of the Netherlands, the procedure will be identical.

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

For the Secretary of State:
G. Howland SHAW

Enclosure:

Memorandum to all State Directors (I. 422)

His Excellency Dr. A. Loudon
Ambassador of the Netherlands

¹ Not printed.

IV

The Secretary of State to the Netherlands Ambassador

DEPARTMENT OF STATE
WASHINGTON

September 30, 1942

Excellency:

I have the honor to refer to the arrangement between the Netherlands and the United States concerning the services of nationals of one country in the armed forces of the other country, and to inform you that the War Department is prepared to discharge, for the purpose of transferring to the armed forces of their own country, non-declarant Netherlands nationals now serving in the United States forces who have not heretofore had an opportunity of electing to serve in the forces of their own country, under the same conditions existing for the transfer of American citizens from the Netherlands forces.

The Inter-Allied Personnel Board of the War Department, which is headed by Major General Guy V. Henry, is prepared to make the necessary arrangements for the contemplated transfers, and to discuss matters related thereto. In the case of a person serving outside the United States, however, the commanding officer of the theater of operations in which he may be serving is the proper authority to arrange the release.

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

For the Secretary of State:
Breckinridge LONG

His Excellency Dr. A. Loudon
Ambassador of the Netherlands