

No. 85

**UNITED STATES OF AMERICA
and
CUBA**

Exchange of Notes constituting an agreement relating to the services of nationals of one country in the armed forces of the other country. Washington, 6 November 1942, 9 January and 1 February 1943

English and Spanish official texts 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
CUBA**

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, 6 novembre 1942, 9 janvier et 1er février 1943

Textes officiels anglais et espagnol communiqués par le représentant permanent des Etats-Unis d'Amérique auprès du siège de l'Organisation des Nations Unies. Le classement et l'inscription au répertoire ont eu lieu le 3 mars 1948.

No. 85. EXCHANGE OF NOTES¹ CONSTITUTING AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CUBA RELATING TO THE SERVICES OF NATIONALS OF ONE COUNTRY IN THE ARMED FORCES OF THE OTHER COUNTRY. WASHINGTON, 6 NOVEMBER 1942, 9 JANUARY AND 1 FEBRUARY 1943

I

The Secretary of State to the Cuban Ambassador

DEPARTMENT OF STATE
WASHINGTON

November 6, 1942

Excellency:

I have the honor to refer to conversations which have taken place between officers of the Cuban Embassy and of the Department with respect to the application of the United States Selective Training and Service Act of 1940, as amended,² to Cuban citizens 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 nationals of cobelligerent countries 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 their own country, should they desire to do so. It will be recalled that during 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.

¹ Came into force on 11 January 1943, date of the receipt by the United States Government of the notes from the Cuban Government of 9 January 1943.

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

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. This Government is also prepared to afford to nationals of cobelligerent countries who have not declared their intention of becoming American citizens who may already be serving in the armed forces of the United States an opportunity of electing to transfer to the armed forces of their own country. The details of the arrangement are to be worked out directly between the War Department and the Selective Service System on the part of the United States Government and the appropriate authorities of the Cuban Government. It should be understood, however, that in all cases a person exercising an option under the arrangement must actually be accepted by the military authorities of the country of his allegiance before his departure from 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 his or 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 Republic of Cuba 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), (c) above.

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

For the Secretary of State:
G. Howland SHAW

His Excellency Señor Dr. Aurelio F. Conchoso
Ambassador of Cuba

II

The Cuban Ambassador to the Secretary of State

SPANISH TEXT — TEXTE ESPAGNOL

TRANSLATION¹— TRADUCTION¹

EMBAJADA DE CUBA
WASHINGTON, D.C.

EMBASSY OF CUBA
WASHINGTON, D.C.

9 de enero de 1943

January 9, 1943

Excelencia:

Excellency:

Tengo el honor de referirme a la nota de Vuestra Excelencia de 6 de noviembre de 1942 en relación con las conversaciones que han tenido lugar entre funcionarios de la Embajada de Cuba y del Departamento de Estado con respecto a la aplicación de la Ley de Entrenamiento y Servicio Selectivo de 1940, de los Estados Unidos, tal como ha sido modificada, a los ciudadanos cubanos que residen en los Estados Unidos.

Señala Vuestra Excelencia que dicha Ley estipula que, con ciertas excepciones, todo varón ciudadano de los Estados Unidos y todo otro varón que resida en los Estados Unidos, comprendido entre las edades de 18 y 65 años,

I have the honor to refer to Your Excellency's note of November 6, 1942, relative to the conversations which have taken place between officials of the Embassy of Cuba and the Department of State with respect to the application of the Selective Service and Training Act of 1940 of the United States, as amended, to Cuban citizens residing in the United States.

Your Excellency states that the said Act provides that, with certain exceptions, every male citizen of the United States and all other males who reside in the United States, between the ages of 18 and 65 years, must register, the

¹Translation by the Government of the United States of America

¹Traduction du Gouvernement des Etats Unis d'Amérique.

deberá inscribirse, estipulando la Ley además, que, con ciertas excepciones, los individuos inscritos comprendidos dentro de ciertos límites de edad especificados se hallan sujetos a la obligación de prestar servicio militar activo en las fuerzas armadas de los Estados Unidos.

A este respecto informa Vuestra Excelencia que el Gobierno de los Estados Unidos reconoce que desde el punto de vista de la moral de los individuos afectados y del esfuerzo militar en general de los países en guerra contra las potencias del Eje, sería deseable el permitir que ciertos nacionales de países cobeligerantes que se han inscrito o que se inscriban bajo la Ley de Entrenamiento y Servicio Selectivo de 1940, tal como ha sido modificada, se alistén en las fuerzas armadas de su propio país, si así lo desearan, a cuyo efecto, el Gobierno de Vuestra Excelencia se halla dispuesto a iniciar un procedimiento por el cual se permitirá a los cubanos que se hayan inscrito bajo la Ley de Entrenamiento y Servicio de 1940, tal como ha sido modificada, y que no hayan declarado su intención de adoptar la ciudadanía americana, el elegir servir en las fuerzas armadas de Cuba en lugar de prestar servicio en las fuerzas armadas de los Estados Unidos, en cualquier momento anterior a su incorporación a las fuerzas armadas de este país. Igualmente se permitirá a los cubanos que no hayan declarado su intención de adoptar la ciudadanía americana, que ya estén prestando servicio en las fuerzas armadas de los Estados Unidos, el elegir trasladarse a las fuerzas armadas de Cuba. Se estipula, sin embargo, que en todo caso la

Act further providing that, with certain exceptions, the registered individuals included within certain specified age limits are subject to rendering compulsory active military service in the armed forces of the United States.

In this connection Your Excellency advises that the Government of the United States recognizes that, from the viewpoint of the morale of the individuals affected and of the military effort in general of the countries at war against the Axis powers, it would be desirable to permit certain nationals of co-belligerent countries who have registered or may register under the Selective Service and Training Act of 1940, as amended, to enlist in the armed forces of their own country if they so desire, for which purpose Your Excellency's Government is disposed to initiate a procedure whereby Cubans who have registered under the Selective Service and Training Act of 1940, as amended, and who have not declared their intention of adopting American citizenship, will be permitted to elect to serve in the armed forces of Cuba instead of rendering service in the armed forces of the United States, at any time prior to their entry into the armed forces of this country. Likewise, Cubans who have not declared their intention of adopting American citizenship and who are already serving in the armed forces of the United States will be permitted to elect to transfer to the armed forces of Cuba. It is stipulated, however, that in every case the person exercising such an option under this arrangement must actually be accepted

persona que ejerza tal opción bajo este arreglo deberá ser efectivamente aceptada por las autoridades militares de Cuba antes de su salida de los Estados Unidos.

Se propone en la nota de Vuestra Excelencia que los detalles del arreglo sean acordados directamente entre el Departamento de la Guerra y el Sistema de Servicio Selectivo, por parte del Gobierno de los Estados Unidos, y las autoridades competentes del Gobierno de Cuba.

Me informa Vuestra Excelencia que el Gobierno de los Estados Unidos se halla dispuesto a poner en vigor inmediatamente con respecto a la República de Cuba, el régimen señalado, sujeto a las siguientes condiciones:

(a) No se utilizará emenaza o coacción de ninguna especie por parte del Gobierno de Cuba para inducir a una persona cualquiera que se encuentre en los Estados Unidos a que se aliste en las fuerzas armadas de Cuba o de cualquier otro Gobierno extranjero.

(b) Se otorgará por el Gobierno de Cuba tratamiento recíproco a los ciudadanos americanos; es decir, que con anterioridad a su incorporación a las fuerzas armadas de Cuba se les dará la oportunidad de elegir el servir en las fuerzas armadas de los Estados Unidos de manera sustancialmente igual a la señalada más arriba. Además, el Gobierno de Cuba convendrá en informar a todos los ciudadanos americanos que se encuentren sirviendo en sus fuerzas armadas o a exciudadanos americanos que hayan

by the Cuban military authorities before his departure from the United States.

It is proposed in Your Excellency's note that the details of the arrangement be agreed upon directly between the War Department and the Selective Service System, on behalf of the Government of the United States, and competent authorities of the Government of Cuba.

Your Excellency advises me that the Government of the United States is disposed to put the above-mentioned policy into effect immediately with respect to the Republic of Cuba, subject to the following conditions:

(a) No threat or coercion of any kind shall be used by the Government of Cuba to induce any person who is in the United States to enlist in the armed forces of Cuba or of any other foreign Government;

(b) Reciprocal treatment shall be granted by the Government of Cuba to American citizens; that is to say, prior to their entry into the armed forces of Cuba they shall be given an opportunity to elect to serve in the armed forces of the United States in a manner substantially similar to that indicated above. Furthermore, the Government of Cuba will agree to inform all American citizens who are serving in the armed forces or former American citizens who have lost their citizenship as a consequence

perdido su ciudadanía como consecuencia de haber prestado juramento de fidelidad al incorporarse a las fuerzas armadas de Cuba, y que se hallan ahora prestando servicio en dichas fuerzas, que podrán transferirse a las fuerzas armadas de los Estados Unidos si así lo desean y siempre que sean aceptables a las fuerzas armadas de los Estados Unidos. Los arreglos para llevar a cabo tales transferencias serán acordados por los representantes de las fuerzas armadas de los Gobiernos respectivos.

(c) No se aceptarán por parte de la República de Cuba alistamientos en los Estados Unidos de ciudadanos americanos sujetos a inscripción o de extranjeros de cualquiera nacionalidad que hayan declarado su intención de adoptar la ciudadanía americana y se hallan sujetos a inscripción.

Tengo el honor de informar a Vuestra Excelencia que mi Gobierno desea valerse del procedimiento sugerido en la nota de Vuestra Excelencia y que conviene en hacerlo dentro de las condiciones señaladas y de las estipulaciones establecidas en los párrafos (a), (b) y (c) antes mencionados.

Con respecto al párrafo (a), sin embargo, mi Gobierno desea señalar que en Cuba existe el Servicio Militar Obligatorio y que si bien por el momento es aplicable solamente a los ciudadanos cubanos, el Gobierno de Cuba se reserva el derecho de hacerlo extensivo a los extranjeros en general. En este último caso las estipulaciones del párrafo (b) garantizan a los ciu-

of having taken an oath of allegiance upon joining the armed forces of Cuba and who are now serving in the said forces, that they will be able to transfer to the armed forces of the United States if they so desire and provided that they are acceptable to the armed forces of the United States. The arrangements for effecting such transfers shall be agreed upon by the representatives of the armed forces of the respective Governments;

(c) There shall not be accepted by the Republic of Cuba enlistments, in the United States, of American citizens subject to registration or of foreigners of any nationality who have declared their intention of adopting American citizenship and are subject to registration.

I have the honor to advise Your Excellency that my Government desires to avail itself of the procedure suggested in Your Excellency's note and that it agrees to do so under the conditions stated and with the stipulations expressed in paragraphs (a), (b), and (c) set forth above.

With respect to paragraph (a), nevertheless, my Government desires to point out that Obligatory Military Service exists in Cuba and that, although for the time being it is applicable only to Cuban citizens, the Cuban Government reserves the right to extend it to foreigners in general. In the latter case the stipulations of paragraph (b) guarantee to American citizens in

dadanos americanos en Cuba el mismo trato que se ofrece por el presente arreglo a los ciudadanos cubanos en los Estados Unidos.

Con respecto al propio párrafo (a) se desea señalar además que, de acuerdo con la Ley del Servicio Militar de Emergencia de 1941, de la República de Cuba, los ciudadanos cubanos actualment en los Estados Unidos tienen la obligación de inscribirse para servir militarmente en las fuerzas armadas de Cuba, en las oficinas consulares de la República en este país, quedando sujetos a llamamiento mediante sorteo. El no cumplimiento de esta obligación trae aparejada la correspondiente sanción penal.

Se espera que en breve plazo se podrá informar a Vuestra Excelencia la designación de las autoridades cubanas que habrán de convenir con el Departamento de la Guerra y el Sistema de Servicio Selectivo los detalles del arreglo.

Aprovecho esta oportunidad para reiterar a Vuestra Excelencia el testimonio de mi más alta consideración.

A. F. CONCHESO

A Su Excelencia
Mr. Cordell Hull
Secretario de Estado
Washington, D.C.

Cuba the same treatment as that offered by the present arrangement to Cuban citizens in the United States.

With respect to the same paragraph (a), it is desired to point out, furthermore, that, according to the Emergency Military Service Law of 1941 of the Republic of Cuba, Cuban citizens at present in the United States are under obligation to register for military service in the armed forces of Cuba at consular offices of the Republic in this country, being subject to call according to lottery. Non-fulfilment of this obligation renders a person liable to appropriate penalties.

It is hoped that within a short time it will be possible to advise Your Excellency of the designation of the Cuban authorities who are to come to an agreement with the War Department and the Selective Service System regarding the details of the arrangement.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

A. F. CONCHESO

His Excellency
Cordell Hull
Secretary of State
Washington, D.C.

III

The Secretary of State to the Cuban Ambassador

DEPARTMENT OF STATE
WASHINGTON

February 1, 1943

Excellency:

I have the honor to acknowledge the receipt of your note no. 17 of January 9, 1943, in which you state that your Government desires to enter into the agreement, proposed in my note of November 6, 1942, concerning the services of nationals of one country in the armed forces of the other country. You state that your Government gives the assurances stipulated in paragraphs (a), (b), and (c) of the note of November 6, 1942.

I take pleasure in informing you that this agreement is now considered by this Government as having become effective on January 11, 1943, the date on which your note under acknowledgment was received in the Department. The appropriate authorities of this Government will be informed accordingly, and I may assure you that this Government will carry out the agreement in the spirit of full cooperation with your Government.

It is suggested that all the details incident to carrying out the agreement be discussed directly by officers of the Embassy with the appropriate officers in the War Department and the Selective Service System. Lieutenant Colonel W. D. Partlow, of the War Department, and Major S. G. Parker, of the Selective Service System, will be available to discuss questions relating to the exercise of the option prior to induction. The Inter-Allied Personnel Board of the War Department, which is headed by Major General Guy V. Henry, is the agency with which questions relating to the discharge of nondeclarant nationals of Cuba, who may have been serving in the Army of the United States on the effective date of the agreement and who desire to transfer to the Cuban forces, may be discussed.

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

For the Secretary of State:
G. Howland SHAW

His Excellency Señor Dr. Aurelio F. Conchoso
Ambassador of Cuba