

No. 162

UNITED STATES OF AMERICA
and
BRAZIL

Exchange of Notes constituting an agreement relating to the services of nationals of one country in the armed forces of the other country. Washington, 23 January, 28 April and 24 May 1943

English and Portuguese 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 14 April 1949.

ETATS-UNIS D'AMERIQUE
et
BRESIL

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, 23 janvier, 28 avril et 24 mai 1943

Textes officiels anglais et portugais communiqués 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 14 avril 1949.

No. 162. EXCHANGE OF NOTES¹ CONSTITUTING AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND BRAZIL RELATING TO THE SERVICES OF NATIONALS OF ONE COUNTRY IN THE ARMED FORCES OF THE OTHER COUNTRY. WASHINGTON, 23 JANUARY, 28 APRIL AND 24 MAY 1943

I

The Secretary of State to the Brazilian Ambassador

DEPARTMENT OF STATE
WASHINGTON

January 23, 1943

Excellency:

I have the honor to refer to conversations which have taken place between officers of the Brazilian Embassy and of the Department of State with respect to the application of the United States Selective Training and Service Act of 1940, as amended,² to Brazilian nationals 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 co-belligerent 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 30 April 1943, by the exchange and according to the terms of the said notes.

² United States of America, 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 armed 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 Brazilian 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 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 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.

2. Em resposta, cumpre-me comunicar a Vossa Excelência que recebi instruções do meu Govêrno no sentido de aceitar seja efetivado entre o Brasil e os Estados Unidos da América, na base da reciprocidade, o processo acima referido e de comunicar que meu Govêrno dá as garantias estipuladas nos paragrafos (a), (b) e (c) da dita nota de 23 de Janeiro de 1943, com as seguintes reservas:

- 1) o Govêrno brasileiro intende que o acôrdo deve ser considerado como reciproco sob todos os aspétos e que as garantias solicitadas ao Govêrno brasileiro na referida nota são implicitamente dadas também pelo Govêrno dos Estados Unidos, e
- 2) o Govêrno brasileiro não póde assumir o encargo de informar todos os cidadãos americanos em serviço nas suas forças armadas ou cidadãos americanos que por ventura tenham perdido sua cidadânia em consequência de terem prestado juramento nas forças brasileiras e estejam atualmente servindo nessas forças armadas, de que podem ser transferidos para as forças armadas dos Estados Unidos, se assim o desejam e sejam aceitos pelas forças armadas dos Estados Unidos. Da mesma forma, nenhuma notificação será exigida com relação aos cidadãos brasileiros que estejam por ventura servindo nas forças armadas dos Estados Unidos ou

2. In reply, I have to state to Your Excellency that I have received instructions from my Government in the sense of accepting that there should be effected, between Brazil and the United States of America, and on the basis of reciprocity, the proceeding referred to above and to communicate that my Government gives the guarantees stipulated in paragraphs (a), (b), and (c) of the said note of January 23, 1943 with the following reservations:

- 1) The Brazilian Government understands that the accord must be considered as reciprocal under all aspects and that the guarantees requested of the Brazilian Government in the said note are given, by implication, by the Government of the United States also, and
- 2) The Brazilian Government cannot assume the task of informing all the American citizens in its armed forces, or American citizens who may by chance have lost their citizenship in consequence of having taken an oath in the Brazilian forces and who are at present serving in those armed forces, that they can be transferred to the armed forces of the United States if they should so desire and if they be accepted by the armed forces of the United States. In like manner, no notification shall be required with relation to the Brazilian citizens who may by chance be serving in the armed forces of the United States or who may be subject to

venham a ser sujeitos ao serviço militar sob as leis dos Estados Unidos.

3. Espera o Govêrno brasileiro, contudo, possam os cadadãos brasileiros já incorporados ou convocados para o exército dos Estados Unidos, exercer, em virtude do presente acôrdo, opção para servir nas forças armadas do Brasil.

Aproveito a oportunidade para renovar a Vossa Excelência os protestos da minha mais alta consideração.

Carlos MARTINS PEREIRA E SOUSA

A Sua Excelência o
Senhor Cordell Hull
Secretário de Estado
dos Estados Unidos da América

military service under the laws of the United States.

3. The Brazilian Government hopes, however, that the Brazilian citizens already incorporated in or summoned to the army of the United States may be able to exercise, by virtue of this agreement, the option to serve in the armed forces of Brazil.

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

Carlos MARTINS PEREIRA E SOUSA

His Excellency Cordell Hull
Secretary of State
of the United States of America

III

The Secretary of State to the Brazilian Ambassador

DEPARTMENT OF STATE
WASHINGTON

May 23, 1943

Excellency:

I have the honor to acknowledge the receipt of your note no. 152/622.23(22) of April 28, 1943 in which you state that you have received instructions from your Government in the sense of accepting that there should be effected between Brazil and the United States of America, and on the basis of reciprocity, the proceeding suggested in the Department's note of January 23, 1943; you state that your Government gives the guarantees stipulated in paragraphs (a), (b) and (c) of the Department's note of January 23, 1943 with the following reservations:

1) The Brazilian Government understands that the accord must be considered as reciprocal under all aspects and that the guarantees requested

of the Brazilian Government in the said note are given, by implication, by the Government of the United States also, and

2) The Brazilian Government cannot assume the task of informing all the American citizens in service in its armed forces, or American citizens who may by chance have lost their citizenship in consequence of having taken an oath in the Brazilian forces and who are at present serving in those armed forces, that they can be transferred to the armed forces of the United States if they should so desire and if they be accepted by the armed forces of the United States.

I take pleasure in informing you that your reply meets with the approval of this Government, and that this Government now considers the agreement with Brazil as having become effective on April 30, 1943, the date on which your note of acknowledgment was received in the Department. The appropriate authorities of the United States Government have been 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 this agreement be discussed directly by officers of the Embassy with the appropriate officers of the Selective Service System and of the War Department. Lieutenant Colonel S. G. Parker, of the Selective Service System, and Lieutenant Colonel V. L. Sailor, of the Recruiting and Induction Section, Adjutant General's Office, 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 Brazil 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 Brazilian forces, may be discussed.

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

For the Secretary of State:

G. Howland SHAW

His Excellency Carlos Martins
Ambassador of Brazil