

No. 386

**UNITED STATES OF AMERICA
and
CANADA**

**Exchange of notes (with appendix) constituting an agreement
relating to unemployment insurance benefits. Ottawa,
6 and 12 March 1942**

Official text: English.

Filed and recorded at the request of the United States of America on 24 January 1952.

**ÉTATS-UNIS D'AMÉRIQUE
et
CANADA**

**Échange de notes (avec annexe) constituant un accord
concernant l'assurance-chômage. Ottawa, 6 et 12 mars
1942**

Texte officiel anglais.

*Classé et inscrit au répertoire à la demande des États-Unis d'Amérique le 24 janvier
1952.*

No. 386. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA RELATING TO UNEMPLOYMENT INSURANCE BENEFITS. OTTAWA, 6 AND 12 MARCH 1942

I

The Canadian Secretary of State for External Affairs to the American Minister

DEPARTMENT OF EXTERNAL AFFAIRS
CANADA

No. 22

Ottawa, March 6, 1942

Sir,

I have the honour to state that discussions have recently taken place between representatives of the Unemployment Insurance Commission of Canada and the Social Security Board of the United States of America on matters of mutual interest arising under the laws of both countries.

The United States of America, by the enactment of the Social Security Act (Act of August 14, 1935, c. 531, 49 Stat. 620, 42 U. S. C., c. 7 (Supp.), as amended by Act of August 10, 1939, c. 666, 53 Stat. 1360), has made provision for the maintenance of a Federal-State unemployment insurance programme in the United States of America. The Parliament of Canada, by the enactment of the Unemployment Insurance Act, 1940, chapter 44 of the Statutes of Canada, 1940, has made provision for an unemployment insurance programme in Canada.

There are now in operation unemployment insurance laws in the various states of the United States of America and in Canada.

The representatives of the Unemployment Insurance Commission and the Social Security Board concluded that it is desirable that the application of such laws be co-ordinated and integrated so that duplication of contributions with respect to the same services and duplication of insurance payments with respect to the same periods of unemployment may be avoided.

In order to achieve this result, the Government of Canada is prepared to make with the Government of the United States of America the agreement which

¹ Came into force on 12 April 1942 in accordance with the terms of the said notes.

is annexed as an Appendix to this note. The agreement would come into force one month from the date of your reply stating that the Government of the United States of America accepts the Canadian Government's proposal.

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

N. A. ROBERTSON

for the Secretary of State for External Affairs

The United States Minister to Canada
Legation of the United States of America
Ottawa

APPENDIX

AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Article I

- (a) In this agreement, unless the context otherwise requires,
- (i) "agency" means any officer, board, commission or other authority designated by an Unemployment Insurance Law in force in any state or in Canada to administer the Unemployment Insurance Fund for which provision is made by such Unemployment Insurance Law;
 - (ii) "state" means any state of the United States of America, the territories of Alaska and Hawaii, and the District of Columbia;
 - (iii) "Social Security Board" means the Board designated in the Social Security Act to administer those provisions of the laws of the United States of America which relate to the Federal-State unemployment insurance programme;
 - (iv) "jurisdiction" means any State or Canada.
- (b) Services performed by an individual for an employer shall be deemed to be localized within a jurisdiction if—
- (i) such services are performed entirely within such jurisdiction, or
 - (ii) such services are performed both within and without such jurisdiction, but the services performed without such jurisdiction are incidental to the individual's services performed within such jurisdiction, for example, are temporary or transitory in nature or consist of isolated transactions.

Article II

This agreement shall not be applicable to employment with respect to which contributions are payable under the Railroad Unemployment Insurance Act of the United States of America or to periods of unemployment with respect to which benefits are payable under that Act.

Article III

The Government of the United States of America agrees that the Social Security Board will recommend to each of the states that it carry out the provisions herein contained, and Canada agrees to carry out such provisions : Provided that if any state does not substantially carry out any such provisions, the Unemployment Insurance Commission of Canada may suspend the operation of such provision with reference to such state.

Article IV

(a) An individual's entire services for an employer in insurable employment as defined in the unemployment insurance law of a jurisdiction will be insured under the unemployment insurance law of such jurisdiction in respect of services performed by him within, or both within and without such jurisdiction if—

- (1) his services are localized in such jurisdiction, or
- (2) his services are not localized in any jurisdiction, but some of his services are performed in such jurisdiction, and
 - (i) his base of operations, or if he has no base of operations, the place from which his services are directed or controlled, is in such jurisdiction, or
 - (ii) his base of operations or the place from which his services are directed or controlled is not in any jurisdiction in which some of his services are performed, but his residence is in such jurisdiction.

(b) If clauses 1 and 2 of paragraph (a) of this article do not apply with respect to an individual's services, the agency of any jurisdiction may approve, subject to such conditions as it may prescribe or as may be prescribed by its unemployment insurance law, an election by such individual's employer pursuant to which such individual's entire services for that employer shall be deemed to be insured employment under the unemployment insurance law of such jurisdiction.

Article V

The Agency of any jurisdiction may perform services for the agency of any other jurisdiction in the taking and development of any claim for benefits by an individual absent from such latter jurisdiction and desirous of claiming benefits under the unemployment insurance law of such jurisdiction.

Article VI

(a) To avoid the duplication of unemployment insurance payments with respect to the same period of unemployment, no benefits shall be payable on the basis of a claim filed through an agency of another jurisdiction unless the claimant's benefit rights, if any, under the law of the jurisdiction in which he files his claim shall have been exhausted or otherwise terminated.

(b) If, after such rights have been exhausted or otherwise terminated, any such individual has rights under the unemployment insurance laws of two or more jurisdictions, such individual may be required to exhaust or otherwise terminate his rights to benefits under such other laws in such order as may be determined jointly by the Social Security

Board of the United States of America and the Unemployment Insurance Commission of Canada, to be reasonable and just as between all affected interests.

Article VII

This agreement may be amended by mutual arrangement evidenced by an exchange of notes between the two Governments, and may be terminated by either Government after sixty days notice to the other Government.

II

The American Minister to the Canadian Secretary of State for External Affairs

LEGATION OF THE UNITED STATES OF AMERICA

No. 620

Ottawa, Canada, March 12, 1942

Sir,

I have the honor to acknowledge the receipt of your note dated March 6, 1942, setting forth as an appendix the agreement which the Government of Canada is prepared to make with the Government of the United States of America respecting coordination and integration of the unemployment insurance laws of the United States of America and Canada, so that duplication of contributions with respect to the same services and duplication of insurance payments with respect to the same periods of unemployment may be avoided.

Under instructions from my Government, I hereby advise you that the Government of the United States of America accepts the Canadian Government's proposal and understands that the agreement will come into force one month from the date of this note; namely, April 12, 1942.

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

Pierrepont MOFFAT

The Right Honorable The Secretary of State for External Affairs
Ottawa