

No. 4366

**UNITED STATES OF AMERICA
and
CUBA**

**Exchange of notes constituting an agreement relating to
guaranties of private investments. Havana, 4 February
1957**

Official texts: English and Spanish.

Registered by the United States of America on 17 June 1958.

**ÉTATS-UNIS D'AMÉRIQUE
et
CUBA**

**Échange de notes constituant un accord relatif à la garantie
des investissements privés. La Havane, 4 février 1957**

Textes officiels anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 17 juin 1958.

No. 4366. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CUBA RELATING TO GUARANTIES OF PRIVATE INVESTMENTS. HAVANA, 4 FEBRUARY 1957

I

The American Ambassador to the Cuban Minister of State

No. 93

Habana, February 4, 1957

Excellency :

I have the honor to refer to conversations which have recently taken place between representatives of our respective Governments, relating to guaranties authorized by Section 413 (b) (4) of the Mutual Security Act of 1954, as amended. I also have the honor to confirm the following understandings reached as a result of these conversations :

1. The Governments of the Republic of Cuba and of the United States of America will, upon the request of either of them, consult with respect to those projects in Cuba proposed by nationals of the United States of America with regard to which guaranties under Section 413 (b) (4) of the Mutual Security Act of 1954, as amended, have been made or are under consideration.

2. The Government of the United States agrees that it will issue no such guaranties with regard to any project unless it is approved by the Government of the Republic of Cuba.

3. With respect to such guaranties extending to projects which are approved by the Government of the Republic of Cuba in accordance with the provisions of the aforesaid Section 413 (b) (4), the Government of the Republic of Cuba agrees :

- a. That if the Government of the United States of America makes payment in United States dollars to any person under any such guaranties, the Government of the Republic of Cuba will recognize the transfer to the United States of America of any right, title or interest of such person in assets, currency, credits, or other property on account of which such payment was made and the subrogation of the United States of America to any claim or cause of action, or right of such person arising in connection therewith.
- b. That peso amounts acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment not less favorable than that accorded to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and that such peso amounts will be freely available to the Government of the United States of America for administrative expenditures.

¹ Came into force on 29 November 1957, in accordance with the provisions of the said notes.

- c. That any claim against the Government of the Republic of Cuba to which the Government of the United States of America may be subrogated as the result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government.

Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of Cuba, the Government of the United States of America will consider that this note and your final reply thereto constitute an agreement between the two Governments on this subject, the agreement to enter into force on the date of your final note in reply.

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

Arthur GARDNER

His Excellency Gonzalo Güell
Minister of State
Cuba

II

The Cuban Minister of State to the American Ambassador

[SPANISH TEXT — TEXTE ESPAGNOL]

REPÚBLICA DE CUBA
MINISTERIO DE ESTADO

C.I.337.
C-130

La Habana, 4 de febrero de 1957

Señor Embajador :

Tengo el honor de referirme a la nota número 93, que Vuestra Excelencia me ha dirigido en esta fecha, cuyo texto, traducido al idioma español, es el que paso a transcribir :

« Tengo el honor de referirme a las conversaciones que se han efectuado recientemente entre representantes de nuestros respectivos Gobiernos en relación con las garantías autorizadas por la Sección 413 (b) (4) de la Ley de Seguridad Mutua de 1954, tal como ha sido modificada. Tengo también

Me es grato significar a Vuestra Excelencia que mi Gobierno está de acuerdo con el contenido de dicha nota, y que espero poder confirmar en un futuro cercano su aceptación final, de acuerdo con nuestros procedimientos constitucionales.

Aprovecho la oportunidad para reiterar a Vuestra Excelencia el testimonio de mi más alta y distinguida consideración.

G. GUËLL

Al Excelentísimo señor Arthur Gardner
Embajador Extraordinario y Plenipotenciario
de los Estados Unidos de América
La Habana

[TRANSLATION¹ — TRADUCTION²]

REPÚBLICA DE CUBA
MINISTERIO DE ESTADO

C.I.337.

La Habana, February 4, 1957

Excellency :

I have the honor to refer to the note number 93, which Your Excellency has addressed to me on this date, the text of which, translated into the spanish language, is transcribed below :

[*See note I*]

I have the pleasure of expressing to Your Excellency, that my Government is in agreement with the context of said note, and that I hope to be able to confirm in the near future its final acceptance, in accordance with our constitutional procedures.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

G. GUËLL

His Excellency Mr. Arthur Gardner
Ambassador Extraordinary and Plenipotentiary
of the United States of America
La Habana

¹ English translation transmitted by the Cuban Minister of State to the American Ambassador.
² La traduction en anglais a été transmise à l'Ambassadeur des États-Unis d'Amérique par le Ministre d'État de la République cubaine.