

No. 9428

**BRAZIL
and
SPAIN**

**Agreement on migration. Signed at Madrid on
27 December 1960**

Authentic texts : Portuguese and Spanish.

Registered by Brazil on 24 February 1969.

**BRÉSIL
et
ESPAGNE**

**Accord sur les migrations. Signé à Madrid le
27 décembre 1960**

Textes authentiques : portugais et espagnol.

Enregistré par le Brésil le 24 février 1969.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE
UNITED STATES OF BRAZIL AND THE GOVERNMENT
OF THE SPANISH STATE ON MIGRATION

PREAMBLE²

The President of the Republic of the United States of Brazil and the
Chief of the Spanish State,

Convinced of the need to regulate co-operation between the two countries
in the matter of migration and to organize and assist migration in a manner
compatible with their respective interests, and aware that the application of
an objective and appropriate policy, based on the spirit of international
co-operation and having as its aim the economic development of Brazil
through the utilization of Spanish technology and manpower, will serve to
strengthen the ties of traditional friendship uniting them, have decided to
conclude this Agreement on Migration and have for this purpose appointed as
their plenipotentiaries :

The President of the Republic of the United States of Brazil : His Excellency
Mr. João Pizarro Gabizo de Coelho Lisboa, Ambassador of the United
States of Brazil to the Government of the Spanish State ;

The Chief of the Spanish State : His Excellency Mr. Fernando Maria Castiella
y Maíz, Minister for Foreign Affairs,

Who, having communicated to each other their full powers, found in
good and due form, have agreed as follows :

PURPOSES

Article 1

The purpose of this Agreement is to direct, regulate and assist the flow
of Spanish migrants to Brazil through the joint efforts of both High Con-
tracting Parties, so that the migration problems affecting the two countries
may be solved in a practical, speedy and effective manner, bearing in mind
the desirability of preserving the unity of the family.

¹ Came into force on 10 June 1964 by the exchange of the instruments of ratification,
which took place at Brasilia, in accordance with article 58.

² This title appears in the Portuguese text only.

Article 2

Spanish migration to Brazil may be either planned or spontaneous ; both forms of migration shall receive the full support and protection of the High Contracting Parties. The latter may avail themselves of the co-operation and assistance of the Intergovernmental Committee for European Migration or of other international bodies within the framework of programmes agreed upon beforehand.

SPONTANEOUS MIGRATION

Article 3

Spontaneous migration is that undertaken on the initiative and at the expense of the migrants either singly or collectively, as a family or in groups of families.

Article 4

The Governments of the High Contracting Parties may, through an exchange of notes, increase and facilitate the spontaneous migration of Spaniards to Brazil, undertaking, for that purpose, to furnish all information likely to be of guidance to them and to promote all measures capable of benefiting them.

Article 5

Spontaneous migrants shall be exempt from the payment of consular fees for the issuance of their permanent visas.

PLANNED MIGRATION

Article 6

Planned migration shall take place according to programmes drawn up by agreement between and with the assistance of the High Contracting Parties.

Article 7

The planned migration of Spaniards to Brazil shall include the following categories :

- (a) technicians, craftsmen, specialists and skilled, semi-skilled or experienced workers, subject to the requirements of the Brazilian labour market and of the relevant Brazilian legislation ;

- (b) production units or enterprises of an industrial or technical character likely to contribute to the economic development of Brazil, as determined beforehand by the competent Brazilian authorities ;
- (c) farmers, technicians specializing in rural industries and related activities, agricultural workers, cattle-hands, crop-farmers, cattle-breeders and peasants in general who migrate with the intention of settling forthwith, whether or not as landowners ;
- (d) associations or co-operatives of farmers, crop-farmers, agricultural workers and cattle-hands who emigrate collectively with the intention of settling, as landowners or otherwise, on plantations or ranches, in agricultural or stock-raising enterprises or in settlement units in Brazil already existing or proposed ;
- (e) members of migrants' families who accompany them under the system of planned migration or are sent for by Spanish migrants domiciled in Brazil.

Article 8

Spanish migrants who settle in Brazil under the system of planned migration shall enjoy all facilities provided for in this Agreement or to be granted under special arrangements by an exchange of notes between the two Governments.

Article 9

The Spanish Government shall authorize the duty-free export of the following items belonging to migrants going to settle in Brazil under the system of planned migration, in addition to personal and household effects :

- (a) tools, instruments and small machines in the case of craftsmen and skilled workers ;
- (b) a bicycle or motorcycle or motor scooter, a sewing-machine and a manual knitting machine, all of which must have been used ;
- (c) agricultural equipment, implements and machinery, including tractors and machinery for the processing of agricultural and animal products, in the case of migrants who are farmers, agricultural workers, cattle-hands or technicians specializing in rural industries ;
- (d) thoroughbred stock or selected seeds and plants of scientific or economic value.

Article 10

1. The Brazilian Government shall exempt the items mentioned in article 9 above from prior licensing, import duties, consumption taxes, custom-house fees and any other charges applicable to goods brought into the country.

2. The items exempted under this article may not be sold until two years have elapsed from the date of their entry into Brazil. If the migrant is obliged to leave the country before the two years have expired, he shall be entitled to take his possessions with him.

Article 11

The benefits mentioned in articles 9 and 10 above shall be restricted to items corresponding to the qualifications of the migrant, in a quantity commensurate with his economic situation and sufficient to enable him to begin his activities in Brazil.

PRELIMINARY SELECTION AND SELECTION ¹

Article 12

1. In order that the Spanish Emigration Institute may prepare its planned migration programmes, the National Institute of Immigration and Settlement of Brazil shall inform it, at least once a year, of Brazilian requirements in respect of Spanish workers, such requirements to be classified by economic activity and occupational category.

2. The Spanish Emigration Institute shall in turn inform the National Institute of Immigration and Settlement of the conditions in which it could satisfy those requirements and shall, as appropriate, submit to it the offers of services made by Spaniards who wish to emigrate.

3. Within the limits of each country's possibilities, the two Institutes shall organize planned migration programmes, for the preparation of which the Brazilian authorities shall provide detailed and up-to-date information on living, environmental and working conditions in Brazil for the various occupational categories required and on housing, wages and pension and social welfare benefits.

4. The Spanish authorities shall disseminate this information properly, so that potential emigrants may be fully informed.

Article 13

1. The competent Spanish authorities shall carry out the preliminary selection of candidates for planned migration, in accordance with the categories specified in article 7 and on the basis of the information furnished by the Brazilian Government, and shall prepare a list of the candidates containing the particulars necessary to enable a final selection to be made.

¹ This title appears in the Portuguese text only.

2. The costs of the preliminary selection shall be paid by the competent Spanish bodies.

Article 14

1. The Brazilian authorities shall make the final selection of migrants under the planned migration system from among those candidates who have been pre-selected in accordance with article 13 and who satisfy the requirements of the Brazilian legislation in force, as well as the standards established for selection purposes. The selection shall, whenever possible, be made in the provincial headquarters of the National Training and Placement Service.

2. The Brazilian Government shall maintain a permanent occupational and medical selection service in Spain for the purposes referred to in this article.

3. The costs of the operation and the selection activities of this service shall be paid by the Brazilian Government.

4. The Spanish Government shall give the service in question every assistance in the discharge of its functions, and shall also facilitate the holding of any practical tests that may be required to determine the vocational qualifications of migrants.

5. The details of the selection operations shall be established in advance by the Brazilian service and the Spanish Emigration Institute, taking into account the special characteristics and requirements of the various categories to be selected.

6. Once the selection operations have been completed, the Brazilian service shall send to the Spanish Emigration Institute the list of the candidates accepted and rejected

7. The National Institute of Immigration and Settlement shall take the necessary steps to ensure that the medical and occupational selection certificates furnished by the selection service are fully approved by the other Brazilian health and immigration authorities.

Article 15

When the Brazilian consular authorities in Spain have verified that the legal requirements mentioned in article 14, paragraph 1 have been fulfilled, the migrant under the planned migration system shall be granted a visa free of charge and the permit for the entry of the items mentioned in articles 9 and 10.

EMBARKATION AND TRANSPORT

Article 16

1. The Spanish Government shall grant the necessary facilities for the embarkation of migrants under the planned migration system to whom Brazilian consular visas have been issued and of the items the migrants have been authorized to take to Brazil.

2. Except in special cases to be agreed upon in an exchange of notes, all the costs relating to the transport and maintenance of candidates for planned migration which are incurred in Spanish territory shall be paid by the competent Spanish bodies or the migrants themselves.

Article 17

The two Governments shall request assistance from the Intergovernmental Committee for European Migration (ICEM) or other specific international bodies recognized by the two Governments for the transport to Brazil of the migrants and the items accompanying them. If such assistance should be unobtainable, the High Contracting Parties shall establish by an exchange of notes the most appropriate means and conditions for effecting such transport.

Article 18

In the transport of migrants by sea or air, preference shall be given to the ships and aircraft of the two countries.

RECEPTION, TRANSPORT TO DESTINATION AND PLACEMENT

Article 19

1. From the disembarkation of migrants under the system of planned migration until their arrival at their final destination, the Brazilian Government shall assume responsibility for :

- I. their reception, lodging, feeding and medical attention ;
- II. the clearance and storage of the items accompanying them ;
- III. The issuance of the documents required to enable them to remain and work in Brazil ;
- IV. The stabling of their livestock and veterinary services for the same ;
- V. The transport to their final destination of the migrants and the items accompanying them, as well as the placement of migrants.

2. The ports and dates of disembarkation of the migrants and the items accompanying them shall be established by agreement between the Brazilian and Spanish authorities, with a view to avoiding unnecessary delays and expenditure.

3. Inspection of the migrants upon their arrival in Brazilian territory and of the items and livestock accompanying them shall conform to the relevant legal provisions in force, due account being taken, as regards the said items, of the provisions of article 10.

Article 20

Subject to the provisions of article 21, paragraphs 2 and 3, the responsibility of the Brazilian Government in respect of the obligations specified in article 19 shall cease with the placement of a migrant, together with the items accompanying him, at his final destination.

Article 21

1. A migrant's placement shall be deemed to be completed when he has been received at his destination and has begun to engage in his occupation or, where appropriate, when he has completed his probationary period.

2. A migrant who, although he has begun to engage in his occupation, finds that the environmental and working conditions do not correspond to those previously described to him, may apply to the competent Brazilian authorities for placement in other employment.

3. Consideration may be given to other applications for placement in other employment or for assistance to a migrant and his family during the first year after their arrival.

Article 22

The services attached to the Diplomatic Mission of Spain in Brazil may co-operate with the Brazilian authorities in the reception and placement of and provision of assistance to Spanish migrants, and shall be granted every facility for the performance of those functions.

Article 23

The Brazilian Government shall, as a subsidiary measure, grant facilities for the establishment and activities of associations composed of Brazilians and Spaniards residing in Brazil the purpose of which is to encourage and assist Spanish migration. The statutes and membership of such associations shall require the approval of the Brazilian authorities after consultation with the Diplomatic Mission of Spain in Brazil.

AGRICULTURAL SETTLEMENT

Article 24

The High Contracting Parties shall encourage the preparation of plans for agricultural settlement in Brazil, and to that end shall adopt administrative, technical and financial measures to facilitate the implementation of such plans.

Article 25

The programmes for the preliminary and final selection of Spanish migrants who are to settle in settlement units shall be approved in advance by the competent Brazilian and Spanish authorities. In addition to their economic, financial and technical aspects, these programmes shall provide information on general living and working conditions and on the assistance given to settlers and technical and financial data on housing construction.

Article 26

Agricultural settlement programmes shall be implemented in the areas of Brazilian territory best suited to the development of the country and the prosperity of the Spanish settlers, in accordance with the master plan for migration and settlement drawn up by the Brazilian Government.

Article 27

The High Contracting Parties shall consider as a settler any farmer, whether or not the owner of a farm, who, on the initiative of an official body or on his own initiative, settles permanently in a rural area and engages in an occupation typical of such area.

Article 28

The expression " rural area " means an area in which the inhabitants are engaged in activities typical of a rural environment.

Article 29

Settlement of the category (c) and category (d) migrants referred to in article 7 shall be conditional upon compliance with the provisions of article 25.

Article 30

Migrants who intend to engage in agricultural settlement activities under the planned migration system shall remain in a rural area for at least three

years, or shall cease to enjoy the benefits conferred by this Agreement on the category (c) and category (d) migrants referred to in article 7, except in cases where authorization to leave has been obtained beforehand from the competent Brazilian authorities.

Article 31

The category (c) and category (d) migrants referred to in article 7 shall be offered long-term facilities for the purchase of land suitable for the exercise of their occupation, with a view to the formation of small holdings, subject to compliance with the rules and conditions of the Brazilian legislation on settlement.

Article 32

Where land is granted as a concession by a State Government or municipal authority, its price shall be determined in conformity with the relevant legislation; the Federal Government of Brazil undertakes to use its good offices to secure the lowest price consonant with the local scales of value and suitable payment terms.

Article 33

The Brazilian Government shall endeavour to obtain from the State Governments and municipal authorities an exemption for Spanish settlers, during the first three years of their establishment on the land, from all current or future taxes and charges on their plots, on crops, on vehicles for the transport of crops and products derived therefrom and on processing equipment and the installation thereof, including the land tax on the transfer *inter vivos* or *mortis causa* of fully paid plots.

Article 34

1. The competent Brazilian authorities shall provide school facilities and medical and social services.
2. In agricultural settlement units in which Spanish settlers have been installed, duly recognized organizations may provide medical services and, in exceptional cases, primary-school facilities, on condition that the teachers, who must be of Brazilian nationality, are duly qualified as provided by law.

Article 35

The Brazilian Government shall come to an understanding with the State Governments concerning the construction, at their expense, of access

roads to Spanish agricultural settlement units and, if possible, of roads serving the plots that have already been laid out.

MIGRATION OF RELIGIOUS

Article 36

The High Contracting Parties shall facilitate the migration of Spanish religious to Brazil, and the provision of religious assistance to Spanish migrants who request it.

REPATRIATION

Article 37

1. The Spanish authorities shall grant consular repatriation to Spanish migrants who are entirely incapable of adapting themselves to the Brazilian environment and have no means of their own. In special cases, the opinion of the Joint Commission mentioned in article 53 shall be obtained.

2. The Brazilian Government shall be responsible for the maintenance of such migrants in Brazil until they embark, and the transport costs shall be paid by the Spanish Government.

FINANCIAL AND OTHER ASSISTANCE

Article 38

1. The High Contracting Parties may make financing available to the migrants, the co-operatives and the duly recognized organizations through credit institutions.

2. The provision of the financing dealt with in this article shall be conditional upon the preparation in advance of a specific plan approved by the financing body.

3. The Brazilian Government shall exempt from all fiscal charges the transfers of financial assistance made by the Spanish Government or by the credit institutions mentioned in this article.

Article 39

Subject to the provisions of article 38, the Brazilian Government shall arrange for the financing and the corresponding reimbursements to be effected

either through special departments of Brazilian banks or foreign banks with branches in Brazil or through international institutions.

INSURANCE

Article 40

The High Contracting Parties recommend that special insurance shall be provided for each migrant which will guarantee that he will be paid compensation if, during the voyage, he should be the victim of an unavoidable accident or any other fortuitous circumstance which renders him wholly or partially unable to work, and will ensure that his beneficiaries will be paid a sum of money in the event of his death.

Article 41

The High Contracting Parties shall recommend to the settlement units that they insure their agricultural activities against the risks and losses arising from natural phenomena.

VOCATIONAL TRAINING AND RECOGNITION OF EDUCATIONAL CERTIFICATES

Article 42

The High Contracting Parties agree to promote the basic and supplementary vocational training of the migrants through training and improvement courses.

Article 43

The High Contracting Parties undertake to examine, by agreement, the possibility of adopting standards, methods and criteria likely to facilitate the mutual recognition of degrees, educational certificates and technical and vocational training diplomas issued in the two countries by the respective officially recognized educational bodies.

SOCIAL SECURITY

Article 44

The High Contracting Parties agree that the provisions of the following articles shall be applied until the social security problems of the nationals of both countries have been regulated by specific agreements.

Article 45

Migrants who are nationals of either Contracting Party shall enjoy the benefits conferred by the social security legislation of the other Contracting Party in the same conditions as nationals of the latter.

Article 46

1. The High Contracting Parties agree, within the limits established by the relevant legislation of each, to guarantee that migrant workers shall enjoy the benefits previously acquired in their country of origin, even when they have not completed in the host country the minimum waiting periods required for the granting of each class of social security right mentioned in article 47.

2. If the migrant has not completed the waiting period in his country of origin, the periods during which contributions have already been paid in that country shall be taken into account for the purposes of the legislation in force in the host country.

3. In the case described in the previous paragraph, the mean wage on which contributions have been paid in the host country shall if necessary be taken as the basis for the calculation of the benefits.

4. The granting of the benefits mentioned in this article shall not necessitate the transfer to the host country of the individual reserve funds resulting from the contributions paid in the country of origin.

Article 47

The benefits mentioned in article 46 shall relate exclusively to the risks of sickness, invalidity and death and to maternity and funeral allowances, and shall be guaranteed only from the day on which the migrant worker begins to engage in an activity falling within the jurisdiction of the social security institutions of the host country.

Article 48

1. The social security institutions of the country of origin shall grant sickness insurance benefits in kind to the beneficiaries of the migrant who remain in the country of origin, within the limits of the legislation of the host country and for the account of the latter.

2. The benefits referred to in the previous paragraph shall be granted for a maximum period of twelve months from the day on which the migrant worker begins to engage in the host country in one of the activities mentioned in article 47.

Article 49

If within a period of three years — considered as a period of adaptation in the host country — the migrant worker returns to his country of origin and resumes an activity covered by social security, the latter country shall guarantee him the enjoyment of the rights deriving from contributions made by him in that country in the past.

Article 50

The temporary departure of the migrant or his beneficiaries from the host country shall not jeopardize the payment to them of the benefits in kind to which they are entitled.

Article 51

The competent authorities of the two countries shall agree on the practical rules necessary for the implementation of the provisions of this Agreement relating to social security.

TRANSFER OF FUNDS

Article 52

Workers who have emigrated to Brazil shall be guaranteed the right and opportunity to transfer their savings to Spain in favour of their families or other persons economically dependent on them, in the most favourable conditions provided for in the Brazilian exchange legislation in force for the maintenance of the family and similar categories of persons, or as may be provided in a payments agreement between Brazil and Spain.

JOINT COMMISSION

Article 53

1. In order to secure the practical and effective fulfilment of the purposes of this Agreement, a Joint Commission consisting of eight representatives — four Brazilian and four Spanish — shall be established.

2.¹ The Brazilian representatives on the Joint Commission shall be appointed, respectively, by the Ministry of Foreign Affairs, the National Institute of Immigration and Settlement, the Advisory Council of that Institute and the Ministry of Labour and Social Security.

¹ This paragraph is numbered "3" in the Spanish text.

3.¹ The Spanish representatives shall be appointed as appropriate by the Spanish Government.

4. Each High Contracting Party may designate one of its representatives as Chief Representative whenever it seems appropriate to do so.

5. In addition to the aforementioned representatives, technical advisers not exceeding four for each delegation may also be appointed.

Article 54

The Joint Commission shall have its headquarters in the federal capital of Brazil and, whenever convened by one of the delegations, may meet anywhere in Spanish or Brazilian territory as may be required for the purposes of this Agreement.

Article 55

The Joint Commission shall at all times act in close co-ordination with the competent authorities of the two Governments, namely, the National Institute of Immigration and Settlement and the Spanish Emigration Institute, and shall have the following principal functions :

- (a) to propose to the competent authorities of the two Governments such policy directives, recommendations and administrative measures relating to migration, agricultural settlement and social security as may be necessary for the proper application of this Agreement, and, in particular, of the programmes provided for in article 6 ;
- (b) to give an opinion, when consulted, on the repatriation of migrants, in conformity with the provisions of article 37 ;
- (c) to resolve doubts, take decisions regarding omissions and settle disputes arising out of the application of this Agreement ;
- (d) to recommend to the competent authorities of the two countries, in the matter of social security, any review and updating of the provisions of articles 45-51 that may be necessary ;
- (e) to draw up its own rules of procedure ;
- (f) to consider any other matters referred to it by either Government.

Article 56

The Joint Commission shall at all times report its activities and decisions to the two Governments.

¹ This paragraph is numbered " 2 " in the Spanish text.

REVISION

Article 57

The High Contracting Parties, acting on their own initiative or that of the Joint Commission, shall periodically consult with each other in order to bring up to date and improve this Agreement or any special arrangements made by virtue thereof.

PERIOD OF VALIDITY AND TERMINATION

Article 58

1. This Agreement shall be ratified as soon as the legal formalities of each of the High Contracting Parties have been complied with. It shall enter into force on the date of the exchange of the instruments of ratification, which shall take place at Brasilia as soon as possible, and shall remain in force for two years unless it is terminated by either High Contracting Party with six months' prior notice.

2. When the period of two years has expired, the Agreement shall be renewed automatically for another year, and so on, unless either High Contracting Party terminates it at least six months before the expiry of each renewal period.

3. The termination shall in no way affect any previous measures specifically decided upon, any projects already being carried out or any commitments entered into before the date on which the notice of termination is given; all such measures, projects and commitments shall be carried out in the normal way.

IN WITNESS WHEREOF the aforementioned plenipotentiaries have signed the present Agreement and have thereto affixed their seals.

DONE at Madrid in duplicate, in the Portuguese and Spanish languages, both texts being equally authentic, on the twenty-seventh of December one thousand nine hundred and sixty.

For the United States
of Brazil :

João PIZARRO GABIZO
DE COELHO LISBOA

For Spain :

Fernando Maria CASTIELLA Y Maíz