

**No. 17333**

**UNITED STATES OF AMERICA  
and  
BAHAMAS**

**Exchange of notes constituting an agreement relating to social security (with related note dated 14 November 1977). Nassau, 27 October 1976, 6 May and 23 September 1977**

*Authentic text: English.*

*Registered by the United States of America on 24 November 1978.*

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**ÉTATS-UNIS D'AMÉRIQUE  
et  
BAHAMAS**

**Échange de notes constituant un accord relatif à la sécurité sociale (avec note connexe en date du 14 novembre 1977). Nassau, 27 octobre 1976, 6 mai et 23 septembre 1977**

*Texte authentique : anglais.*

*Enregistré par les États-Unis d'Amérique le 24 novembre 1978.*

## EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> BETWEEN THE UNITED STATES OF AMERICA AND THE BAHAMAS RELAT- ING TO SOCIAL SECURITY

### I

Nassau, Bahamas, October 27, 1976

Dear Mr. Russell:

A revised version of the draft note originally transmitted to your office on November 6, 1975, relating to the participation of the United States Government in the National Insurance Scheme is enclosed for your additional review.

The points made by Mr. B. Pinder, Director of the National Insurance Board, during his meeting with Mr. Emile Morin, First Secretary (Administration) of Embassy, were noted and changes to the Agreement have been made accordingly. Any questions regarding the draft note may again be directed to Mr. Morin.

Sincerely,

[Signed]  
RUSH W. TAYLOR, Jr.  
Chargé d'affaires a.i.

Enclosure:

Draft Note

Oris Russell, Esquire  
Permanent Secretary  
Ministry of External Affairs  
Nassau, Bahamas

### DRAFT NOTE

The Embassy of the United States of America presents its compliments to the Ministry of External Affairs of the Government of the Commonwealth of the Bahamas and has the honor to propose that the United States participate on a limited voluntary basis in the National Insurance Scheme for certain employees of the United States Government in the Commonwealth of the Bahamas. It is proposed that an agreement containing the following conditions govern United States Government participation:

#### I. PARTICIPATION

1. Employees on the employment rolls of the United States Government in the Bahamas as of the effective date of this Agreement, who are nationals or permanent residents of the Bahamas and who are not citizens of the United States, shall, within the limits of their eligibility under Bahamian law, be enrolled by the United States Government in the National Insurance Scheme for retirement, invalidity, survivor, sickness, maternity, funeral, employment injury, disablement and death.

<sup>1</sup> Came into force on 23 September 1977 by the exchange of the said notes, with retroactive effect from 7 October 1974, in accordance with their provisions.

2. Employees hired by the United States Government in the Bahamas after the effective date of this Agreement who are nationals or permanent residents of the Bahamas and who are not citizens of the United States, shall, within the limits of their eligibility under Bahamian law, be enrolled by the United States Government in the National Insurance Scheme for retirement, invalidity, survivor, sickness, maternity, funeral, employment injury, disablement and death.

3. Any employee on the employment rolls of the United States Government in the Bahamas on October 7, 1974, who is a national or permanent resident of the Bahamas and who is not a citizen of the United States, and who is covered by the United States retirement system, shall be permitted by the National Insurance Scheme, if the employee so elects, to contribute both the employer and employee share directly to the National Insurance Scheme for the benefits listed in paragraphs 1 and 2 of this part.

4. The Government of the Commonwealth of the Bahamas shall extend the same benefits to United States Government employees covered by this Agreement as are enjoyed by other nationals and residents of the Bahamas under the law of the Bahamas.

5. The reservation by the Contracting Parties of certain privileges, immunities, and limitations of liability shall confer no rights on the employees of the United States to whom this Agreement applies. The rights and duties of such employees in matters relating to National Insurance Scheme shall be determined by the law of the Bahamas.

## II. ADMINISTRATION

1. Subject to the provisions of Part I of this Agreement, the United States shall undertake the following actions on behalf of employees identified in paragraphs 1, 2, and 3 of Part I and who become enrolled in the National Insurance Scheme:

- a. Pay appropriate contributions as an employer;
- b. Withhold appropriate contributions of its employees;
- c. Remit said contributions to appropriate officials of the National Insurance Board;
- d. Make returns on forms and in the manner prescribed by the National Insurance Board;
- e. Furnish information as may be relevant to the administration of the provisions of the National Insurance Board;
- f. Provide self-audit and self-inspection of its accounts and financial records in lieu of audit and inspection by the National Insurance Board required by the law of the Bahamas for private employers.

2. No penalty or penalty interest shall be incurred by the United States and no lien or charge shall be levied against its property because of its agreement to assume the obligations enumerated in paragraph 1 of this Part.

3. The United States Government shall be under no obligation whatsoever with respect to participation in the National Insurance Scheme prior to October 7, 1974.

4. Nothing in this Agreement is to be construed as a waiver of the sovereign immunity of the United States Government or as a modification of the privileges and immunities derived from generally accepted principles of international law and practice and from treaties and agreements in force between our respective governments. Nor shall this Agreement subject the United States, its departments or establishments or its officers or employees who are not within the groups identified in paragraphs 1, 2 and 3 of Part I

of this Agreement, to any judicial or administrative action, whether civil or penal in nature, provided by Bahamian law or any other law now or in the future.

5. If the United States should otherwise become eligible for a refund of contributions made pursuant to this Agreement, such amounts shall be applied in reduction of future obligations for contributions by the United States. Upon termination of this Agreement, any amounts outstanding to the credit of the United States shall be promptly refunded.

6. Employees on the employment rolls of the United States Government in the Bahamas on or after October 7, 1974, who are nationals or permanent residents of the Bahamas and who are not citizens of the United States shall have the payroll credit for their hours of employment adjusted by the United States Government so as to avoid duplication in the payment of benefits for sick leave under the National Insurance Scheme of the Commonwealth of the Bahamas and any like sick leave system of the United States Government.

7. The Contracting Parties shall jointly conclude administrative arrangements, regulatory in nature, for the further implementation of this Agreement. Amendments, modification[s], additions, and deletions of provisions in such administrative arrangements may be made by mutual consent of the Contracting Parties.

### III. AMENDMENT OF AGREEMENT

This Agreement may be amended at any time by mutual consent of the Contracting Parties.

### IV. TERMINATION OF AGREEMENT

Either Party may terminate this Agreement at any time provided notice in writing is given to the other party six months in advance of such termination date.

The Embassy proposes that, if these conditions are acceptable to the Government of the Commonwealth of the Bahamas, this Note and the reply concurring therein shall constitute an agreement between our two Governments which shall enter into force on October 7, 1974.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of External Affairs of the Government of the Commonwealth of the Bahamas the assurances of its highest consideration.

Embassy of the United States of America

Nassau, October 27, 1976

## II

MINISTRY OF EXTERNAL AFFAIRS  
NASSAU, BAHAMAS

No. EXT/137

*(In replying please quote this number)*

6th May 1977

Dear Sir,

I am directed to refer to your letter of 17 March 1977 and to previous correspondence concerning the participation of the United States Government in the National Insurance Scheme.

The Ministry of Labour and National Insurance has offered the comments on your Draft Note of October 27, 1976, as indicated below:

1. Bahamian nationals and permanent residents in the Commonwealth of the Bahamas in employment of the United States Embassy are not exempt from the payment of contribution to the National Insurance Scheme and our records show that contributions have been paid by and in respect of these persons from the implementation of the National Insurance Scheme on the 7th October 1974. For this purpose, therefore, the proposed agreement is not necessary.

2. Employees of the United States Embassy in the Commonwealth of the Bahamas, who are citizens of the United States of America, or of a third State who are covered by the social security provisions of the United States of America or a third State are exempt from the payment of contributions to the Bahamas National Insurance Scheme by virtue of the Vienna Convention on Diplomatic Relations 1961,<sup>1</sup> and the provisions of the National Insurance Act, 1972. The proposed agreement is not necessary in respect of these persons.

3. *Part I. PARTICIPATION.* A. (*Para. 3*) Bahamian nationals and permanent residents in the Commonwealth of the Bahamas who are employees of the United States Embassy, like employed persons with any other employers, cannot elect to contribute to the National Insurance Scheme; they are obligated to do so under the provisions of the National Insurance Act, and the fact that they may be contributing to the United States Retirement System does not relieve them of this obligation; nor can such employees elect to contribute both the employer and employee's share of the contributions. The liabilities of the employer and employee are clearly set out in the National Insurance Act.

B. (*Para. 4*) The Government of the Commonwealth of the Bahamas extends the same benefits to all insured persons, as provided by the National Insurance Act for the various classes of insured persons, but no provisions are made, at the present time, for such benefits to be extended to persons who may be contributing to or covered by the United States Retirement System or the Social Security System of any other country. Such provisions may be made by reciprocal agreements between the Government of the Commonwealth of the Bahamas and other countries as provided for under the National Insurance Act.

4. *Part II. ADMINISTRATION.* A. (*Para. 5*) No provision is made in the National Insurance Act and Regulations for the National Insurance Board to retain and apply in reduction of future contributions, any refund of contribution to which any employer and/or his employees may become eligible. The Regulations provide for the Board to make such refunds to the employer, if application to that effect is made in writing to the Board within the appropriate time, who in turn makes the refund to the employees of the insured persons part of the contribution.

B. (*Para. 6*) Benefits provided under the National Insurance Act, to which insured persons may become entitled, must be paid to the individuals concerned and such benefits are inalienable either by agreement or otherwise. Provisions are made in the General Benefits and Assistance Regulations for the employer to adjust salaries paid to employees while they are in receipt of sickness, maternity or injury benefits. This adjustment is not compulsory, but when it is not applied, the result is that the employee is earning more when he is receiving benefit than while he is working.

Yours faithfully,

[Signed]

GEORGE P. STEWART

For Permanent Secretary

Mr. Rush W. Taylor, Jr.  
Deputy Chief of Mission  
Embassy of the United States of America  
Nassau, Bahamas

<sup>1</sup> United Nations, *Treaty Series*, vol. 500, p. 95.

## III

No. 88

The Embassy of the United States of America presents its compliments to the Ministry of External Affairs of the Government of the Commonwealth of the Bahamas and has the honor to acknowledge the Ministry's letter No. EXT/137 of May 6, 1977. The Ministry in its letter states that no formal agreement between the Government of the Bahamas and the United States is necessary for the Embassy's participation in the National Insurance Scheme (NIS) since the alien employees of the United States Government in the Bahamas have been enrolled in the National Insurance Scheme since October 7, 1974. However, the United States Government is legally required to negotiate such an agreement whenever its employees participate in the Social Security Scheme of the host Government. Therefore, the Embassy requests that its letter of October 27, 1976, forwarding its proposal to participate in the National Insurance Scheme, the Ministry's letter No. EXT/137 of May 6, 1977, commenting on the provisions of the Embassy's proposed participation, and this Note acknowledging understanding of the Ministry's conditions for United States Government participation in the National Insurance Scheme constitute an agreement between the Government of the Bahamas and the United States. If the Embassy receives no written expression of objections or exceptions to the foregoing from the Ministry, the Embassy's letter of October 27, 1976, to the Permanent Secretary with its proposed agreement to participate in the National Insurance Scheme, the Ministry's letter No. EXT/137 of May 6, 1977 and this Note shall constitute an agreement formalizing participation of the United States Government in the National Insurance Scheme.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of External Affairs of the Government of the Commonwealth of the Bahamas the assurances of its highest consideration.

Embassy of the United States of America

Nassau, September 23, 1977

## RELATED NOTE

MINISTRY OF EXTERNAL AFFAIRS  
NASSAU, BAHAMAS

14th November 1977

No. 298

The Ministry of External Affairs of the Commonwealth of the Bahamas presents its compliments to the Embassy of the United States of America and has the honour to refer to Embassy's Note No. 88 of September 23, 1977, regarding the formalization of the participation of the United States Government in the National Insurance Scheme.

The Ministry has the honour to confirm that the Government of the Commonwealth of the Bahamas agrees with the proposal of the Embassy that the Embassy's letter of October 27, 1976, to the Permanent Secretary with its proposed agreement to participate in the National Insurance Scheme, the Ministry's letter No. EXT/137 of May 6, 1977, together with the Embassy's Note No. 88 of September 23, 1977, shall constitute an agreement between the Government of the United States of America and the Government of the Commonwealth of the Bahamas formalizing the participation of the Government of the United States of America in the National Insurance Scheme.

The Ministry of External Affairs of the Commonwealth of the Bahamas avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Embassy of the United States of America  
Nassau, Bahamas

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