

MIGRATORY WORKERS

Exchange of notes at Washington November 15, 1946
Entered into force November 15, 1946

61 Stat. 3575; Treaties and Other
International Acts Series 1684

The Acting Secretary of State to the Mexican Ambassador

WASHINGTON, D.C.
November 15, 1946

EXCELLENCY:

I have the honor to refer to the agreement of April 29, 1943,¹ between the Government of the United States of America and the Government of the United Mexican States for the recruiting of Mexican non-agricultural workers to assist in the war effort of the United States, and to Your Excellency's note No. 9942 of January 2, 1946, and memorandum No. 3148 of June 18, 1946, regarding deductions from the workers' salaries under the Railroad Retirement Act.²

The emergency situation which demanded the exertion of every possible effort to consummate the military defeat of the axis powers having come to an end, the services of this group of war workers which constituted such an important contribution to the success of the war effort are no longer necessary. Therefore, if it is agreeable to the Government of the United Mexican States, it is proposed that the agreement be terminated ninety days from December 1, 1946. In order to bring this about in accordance with the terms of the General Provisions of the agreement under reference, the United States Government hereby gives notification to the Government of the United Mexican States of its desire to terminate the agreement as of March 1, 1947.

The Government of the United States wishes again to express to the Government of Mexico and to these workers its sincere appreciation of the wholehearted and effective cooperation of your Government and of the very great services rendered by the workers.

It is the understanding of the Government of the United States that any outstanding accounts, other than those in the Railroad Retirement Fund,

¹ EAS 376, *ante*, p. 1136.

² 49 Stat. 967.

due individual workers will continue to be settled through channels already agreed upon and now in operation.

With regard to the funds deducted from the salaries of these Mexican workers in accordance with the provisions of the Railroad Retirement Act of the United States, the Government of the United States is aware that when the agreement of April 29, 1943, was in the process of negotiation, the position of the Mexican representatives was that the workers' salaries should be exempt from such deductions because they considered that the accompanying benefits could not be administered effectively once the workers had departed from the United States. It was found, however, that because of the terms of the Railroad Retirement Act it was impossible to provide in the agreement for such an exemption without delaying indefinitely the entire program.

The Government of the United States recognizes that the return of these workers to their native country has made difficult the administration of the rights and benefits which the Railroad Retirement Act established in their favor. The Department is, therefore, disposed to agree with Your Excellency that the funds deducted from the salaries of these Mexican workers should be returned to them.

Your Excellency will readily understand, however, that because of limitations of its constitutional procedure the Department of State cannot make, in the absence of enabling legislation, a definite commitment that this refund will be made. Nevertheless, the Department does recognize the desirability of making the refund and of settling this question as soon as possible, and will endeavor to obtain from the next Congress the authorization and appropriation necessary to pay to the Government of the United Mexican States a lump sum equal to the total of all Railroad Retirement Board deductions from the wages of these workers, less the deductions from any workers whose benefits have been previously and duly liquidated. If the necessary legislation is obtained steps will be taken to effect the refund.

It is understood that if the appropriate administrative authorities of the United States be authorized to make the refund in the manner set forth above, the Mexican Government, upon receipt of the lump sum, will undertake to make the individual payments to each of the Mexican workers concerned and will assume the responsibility for the distribution. In order to make it possible for the Mexican Government to effect the distribution, the Government of the United States would furnish Your Excellency's Government a list of the individual workers concerned and of the amounts contributed by each one of them to the Railroad Retirement Fund.

It is further understood that the payment of the lump sum to the Mexican Government would be on the condition: (1) that the individuals involved would be barred forever from all rights and benefits which they acquired as a result of the deductions made under the Railroad Retirement Act; (2) that the Mexican Government would be precluded from presenting any claim on its own behalf or on behalf of such individuals, either for recovery of

their contributions to the Retirement Fund or on the basis of the rights or benefits under the retirement law; (3) that the Mexican Government will indemnify the Government of the United States on account of any claims or judgments which may be made or obtained by the individual workers for a refund of their contributions to the Railroad Retirement Fund, and (4) in the event any individual Mexican workman should return to the United States and be re-employed by an American railroad the Mexican Government will reimburse the Railroad Retirement Fund in the amount of the workman's prior contributions to the fund, plus necessary interest, provided, of course, that the individual worker in question has not cancelled his claim by accepting a refund of the contributions which he made under his previous employment in accordance with the agreement of April 29, 1943.

If the foregoing suggestions are acceptable to the Mexican Government, it would be appreciated if Your Excellency would so inform the Department.

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

For the Acting Secretary of State:

SPRUILLE BRADEN

His Excellency

Señor Dr. DON ANTONIO ESPINOSA DE LOS MONTEROS,
Ambassador of Mexico.

The Mexican Ambassador to the Secretary of State

[TRANSLATION]

EMBASSY OF MEXICO

WASHINGTON, D.C.

November 15, 1946

MR. SECRETARY:

I have the honor to acknowledge receipt of Your Excellency's courteous note of this date, November 15, 1946, relative to the agreement set forth in the exchange of notes of April 29, 1943.

The Government of Mexico is in accord with the suggestion that the aforementioned agreement be considered terminated on March 1, 1947.

I thank Your Excellency most sincerely for your expressions of gratitude for the magnificent cooperation given to the war effort of our two Republics by those Mexican workers who went to the United States in accordance with the terms of the agreement of April 29, 1943.

With regard to the amounts which are still owed to the individual workers, with the exception of those coming under the *Railroad Retirement Act*, it is also the understanding of the Government of Mexico that they shall continue to be settled through the channels which have been established for that purpose.

With reference to the deductions from the workers' salaries under the *Railroad Retirement Act*, Your Excellency's note, to which I am replying by means of the present communication, states literally the following:

[For terms of understanding relating to Railroad Retirement Act, see fifth, sixth, seventh, eighth, and ninth paragraphs of U.S. note, above.]

In compliance with instructions from my Government, I accept the suggestions contained in those paragraphs of Your Excellency's note which I have just transcribed.

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

A. E. DE LOS MONTEROS
Ambassador

His Excellency
JAMES F. BYRNES,
Secretary of State,
Washington, D.C.