

## MIGRATORY WORKERS

*Exchange of notes at México April 26, 1943*

*Entered into force April 26, 1943*

*Supplemented by agreement of March 25 and April 2, 1947<sup>1</sup>*

*Superseded by agreement of February 20 and 21, 1948<sup>2</sup>*

57 Stat. 1152; Executive Agreement Series 351

*The Minister of Foreign Affairs to the American Ambassador*

[TRANSLATION]

DEPARTMENT OF FOREIGN RELATIONS  
UNITED MEXICAN STATES  
MEXICO CITY

317

MEXICO CITY, *April 26, 1943*

MR. AMBASSADOR:

With relation to the conversations held in this Department between representatives of the Embassy in Your Excellency's charge and of the Farm Security Administration, on the one hand, and of the Departments of Gobernación, of Agricultura y Fomento, of Labor and Social Welfare and of this Department of Foreign Relations, on the other, with the object of examining the amendments which it would be proper to introduce in the arrangement of August 4, 1942,<sup>3</sup> relative to agricultural workers who enter the United States to render their services, it is a pleasure for me to make the following statement to Your Excellency:

The Government of Mexico, which is pleased to render this collaboration to that of the United States of America, is grateful for the spirit of understanding evidenced by the representatives of the Embassy and of the Farm Security Administration and, in view thereof, takes the liberty of submitting to Your Excellency's approval the text which would amend the above-mentioned arrangement of August 4, 1942, in the understanding that these amendments will apply both to the workers who were engaged under the arrangement in question and to those who have been engaged and will continue to be engaged in accordance with the request of the United States

<sup>1</sup> TIAS 1710, *post*, p. 1229.

<sup>2</sup> TIAS 1968, *post*, p. 1232.

<sup>3</sup> EAS 278, *ante*, p. 1069.

Government. The amendments to the arrangement of August 4, 1942, are written in capitals: <sup>4</sup>

In order to effect a satisfactory arrangement whereby Mexican agricultural labor may be made available for use in the United States and at the same time provide means whereby this labor will be adequately protected while out of Mexico, the following general provisions are suggested:

*General Provisions*

1) It is understood that Mexicans contracting to work in the United States shall not be engaged in any military service.

2) Mexicans entering the United States as a result of this understanding shall not suffer discriminatory acts of any kind in accordance with the Executive Order No. 8802 issued at the White House June 25, 1941.<sup>5</sup>

3) Mexicans entering the United States under this understanding shall enjoy the guarantees of transportation, living expenses and repatriation established in Article 29 of the Mexican Federal Labor Law as follows:

"Article 29. All contracts entered into by Mexican workers for lending their services outside their country, shall be made in writing, legalized by the municipal authorities of the locality where entered into and visaed by the Consul of the country where their services are being used. Furthermore, such contract shall contain, as a requisite of validity of same, the following stipulations, without which the contract is invalid:

I. Transportation and subsistence expenses for the worker, and his family, if such is the case, and all other expenses which originate from point of origin to border points and compliance of immigration requirements, or for any other similar concept, shall be paid exclusively by the employer or the contractual parties.

II. The worker shall be paid in full the salary agreed upon, from which no deductions shall be made in any amount for any of the concepts mentioned in the above sub-paragraph.

III. The employer or contractor shall issue a bond or constitute a deposit in cash in the Bank of Workers, or in the absence of same, in the Bank of Mexico, to the entire satisfaction of the respective labor authorities, for a sum equal to repatriation costs of the worker and his family, and those originated by transportation to point of origin.

Once the employer establishes proof of having covered such expenses or the refusal of the worker to return to his country, and that he does not

<sup>4</sup> Amendments are underscored here, as in United States note.

<sup>5</sup> 6 Fed. Reg. 3109.

owe the worker any sum covering salary or indemnization to which he might have a right, the labor authorities shall authorize the return of the deposit or the cancellation of the bond issued.”

It is specifically understood that the provisions of Section III of Article 29 above-mentioned shall not apply to the Government of the United States notwithstanding the inclusion of this section in the agreement, in view of the obligations assumed by the United States Government under Transportation (a) and (c) of this agreement.

4) Mexicans entering the United States under this understanding shall not be employed to displace other workers, or for the purpose of reducing rates of pay previously established.

In order to implement the application of the general principles mentioned above the following specific clauses are established:

(When the word ‘employer’ is used hereinafter it shall be understood to mean the Farm Security Administration of the Department of Agriculture of the United States of America; the word ‘sub-employer’ shall mean the owner or operator of the farm or farms in the United States on which the Mexican will be employed; the word ‘worker’ hereinafter used shall refer to the Mexican farm laborer entering the United States under this understanding.)

#### *Contracts*

a. Contracts will be made between the employer and the worker under the supervision of the Mexican Government. (Contracts must be written in Spanish.)

b. The employer shall enter into a contract with the sub-employer, with a view to proper observance of the principles embodied in this understanding.

#### *Admission*

a. The Mexican health authorities will, at the place whence the worker comes, see that he meets the necessary physical conditions.

#### *Transportation*

a. All transportation and living expenses from the place of origin to destination, and return, as well as expenses incurred in the fulfillment of any requirements of a migratory nature shall be met by the employer.

b. Personal belongings of the workers up to a maximum of 35 kilos per person shall be transported at the expense of the employer.

c. In accord with the intent of Article 29 of the Mexican Federal Labor Law, quoted under General Provisions (3) above, it is expected that the employer will collect all or part of the cost accruing under (a) and (b) of Transportation from the sub-employer.

*Wages and employment*

a. (1) Wages to be paid the worker shall be the same as those paid for similar work to other agricultural laborers under the same conditions within the same area, in the respective regions of destination. Piece rates shall be so set as to enable the worker of average ability to earn the prevailing wage. In any case wages for piece work or hourly work will not be less than 30 cents per hour.

a. (2) On the basis of prior authorization from the Mexican Government salaries lower than those established in the previous clause may be paid those emigrants admitted into the United States as members of the family of the worker under contract and who, when they are in the field, are able also to become agricultural laborers but who, by their condition of age or sex, cannot carry out the average amount of ordinary work.

b. The worker shall be exclusively employed as an agricultural laborer for which he has been engaged; any change from such type of employment or any change of locality shall be made with the express approval of the worker and with the authority of the Mexican Government.

c. There shall be considered illegal any collection by reason of commission or for any other concept demanded of the worker.

d. Work of minors under 14 years shall be strictly prohibited, and they shall have the same schooling opportunities as those enjoyed by children of other agricultural laborers.

e. Workers domiciled in the migratory labor camps or at any other place of employment under this understanding shall be free to obtain articles for their personal consumption, or that of their families, wherever it is most convenient for them.

f. The Mexican workers will be furnished without cost to them with hygienic lodgings, adequate to the physical conditions of the region of a type used by a common laborer of the region and the medical and sanitary services enjoyed also without cost to them will be identical with those furnished to the other agricultural workers in the regions where they may lend their services.

g. Workers admitted under this understanding shall enjoy as regards occupational diseases and accidents the same guarantees enjoyed by other agricultural workers under United States legislation.

h. Groups of workers admitted under this understanding shall elect their own representatives to deal with the employer, but it is understood that all such representatives shall be working members of the group.

The Mexican Consuls, assisted by the Mexican Labor Inspectors, recognized as such by the employer will take all possible measures of protection in the interests of the Mexican workers in all questions affecting them within

their corresponding jurisdictions, and will have free access to the places of work of the Mexican workers. The employer will observe that the sub-employer grants all facilities to the Mexican Consuls and the Assistant Labor Inspectors of the Mexican Government for the compliance of all the clauses in this contract.

i. For such time as they are unemployed under a period equal to 75% of the period (exclusive of Sundays) for which the workers have been contracted they shall receive a subsistence allowance at the rate of \$3.00 per day.

For the remaining 25% of the period for which the workers have been contracted during which the workers may be unemployed when such unemployment is not due to their unwillingness to work they shall receive lodging and subsistence without cost to them.

Should the cost of living rise this will be a matter for reconsideration.

The master contracts for workers submitted to the Mexican Government shall contain definite provisions for computation of subsistence and payments under this understanding.

j. The term of the contract shall be made in accordance with the authorities of the respective countries.

k. At the expiration of the contract under this understanding, and if the same is not renewed, the authorities of the United States shall consider illegal, from an immigration point of view, the continued stay of the worker in the territory of the United States, exception made of cases of physical impossibility.

#### *Savings Fund*

a. The respective agencies of the Government of the United States shall be responsible for the safekeeping of the sums contributed by the Mexican workers toward the formation of their Rural Savings Fund, until such sums are transferred to the Wells Fargo Bank and Union Trust Company of San Francisco for the account of the Bank of Mexico, S. A., which will transfer such amounts to the Mexican Agricultural Credit Bank. This last shall assume responsibility for the deposit, for the safekeeping and for the application, or in the absence of these, for the return of such amounts.

b. The Mexican Government through the Banco de Crédito Agrícola will take care of the security of the savings of the workers to be used for payment of the agricultural implements, which may be made available to the Banco de Crédito Agrícola in accordance with exportation permits for shipment to Mexico with the understanding that the Farm Security Administration will recommend priority treatment for such implements.

#### *Numbers*

As it is impossible to determine at this time the number of workers who may be needed in the United States for agricultural labor employment, the em-

ployer shall advise the Mexican Government from time to time as to the number needed. The Government of Mexico shall determine in each case the number of workers who may leave the country without detriment to its national economy.

*General Considerations*

It is understood that, with reference to the departure from Mexico of Mexican workers, who are not farm laborers, there shall govern in understandings reached by agencies of the respective Governments the same fundamental principles which have been applied here to the departure of farm labor.

It is understood that the employers will cooperate with such other agencies of the Government of the United States in carrying this understanding into effect whose authority under the laws of the United States are such as to contribute to the effectuation of the understanding.

Either Government shall have the right to renounce this understanding, giving appropriate notification to the other Government 90 days in advance.

This understanding may be formalized by an exchange of notes between the Ministry of Foreign Affairs of the Republic of Mexico and the Embassy of the United States of America in Mexico.

In case Your Excellency, as I hope, considers the text of the arrangement acceptable as it is set forth in the foregoing sections, it will be sufficient for you to communicate it to me in writing for the same to come into force.

I renew to Your Excellency the assurance of my highest and most distinguished consideration.

E. PADILLA

His Excellency GEORGE S. MESSERSMITH,  
*Ambassador Extraordinary and Plenipotentiary  
of the United States of America,  
City.*

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*The American Ambassador to the Minister of Foreign Affairs*

EMBASSY OF THE  
UNITED STATES OF AMERICA  
*México, D.F., April 26, 1943*

No. 1214

EXCELLENCY:

I have the honor to refer to the note No. 317 dated April 26, 1943 in which Your Excellency formulates certain proposals made by the Mexican Government for making the Agreement of August 4, 1942 between the Governments of the United States of America and Mexico a more workable instrument under which Mexican agricultural workers may be recruited in Mexico to work in the United States for a temporary period.

The United States representatives who have been discussing the proposed changes with the representatives designated by the Mexican Government for this purpose have been gratified by the generous spirit of cooperation which has animated these discussions and which has helped to bring them to a successful conclusion.

I am incorporating into this note the text of the Agreement of August 4, 1942 and indicating by underlining those additions or changes agreed upon by my Government:

[For text of agreement, see Mexican note, above.]

In accepting the above text as the arrangement under which Mexican Agricultural workers shall be recruited and employed in agricultural work in the United States my Government agrees that all the conditions set forth in the revised agreement will apply equally to those agricultural workers already in the United States or on their way to the United States under individual work agreements as well as to those who may be recruited for such work in the future.

Accept, Excellency, the renewed assurances of my highest and most distinguished consideration.

G. S. MESSERSMITH

His Excellency

Señor Licenciado EZEQUIEL PADILLA,  
*Minister for Foreign Affairs,*  
*México, D.F.*