

No. 16818

**UNITED STATES OF AMERICA
and
BRAZIL**

**Exchange of notes constituting an agreement relating to
the establishment of a Trade Center (with note of
guarantee). Brasília, 22 June and 20 October 1976**

Authentic texts: English and Portuguese.

Registered by the United States of America on 10 July 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
BRÉSIL**

**Échange de notes constituant un accord relatif à la création
d'un Centre commercial (avec note de garantie). Bra-
sília, 22 juin et 20 octobre 1976**

Textes authentiques : anglais et portugais.

Enregistré par les États-Unis d'Amérique le 10 juillet 1978.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND BRAZIL RELATING TO THE ESTABLISHMENT OF A TRADE CENTER

I

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

[TRANSLATION² — TRADUCTION³]

MINISTÉRIO DAS RELAÇÕES EXTERIORES

MINISTRY OF EXTERNAL RELATIONS

DFT/DCS/72/801.1(B13)(B46)

DFT/DCS/72/801.1(B13)(B46)

O Ministério das Relações Exteriores cumprimenta a Embaixada dos Estados Unidos da América e tem a honra de referir-se à sua Nota Verbal no. 030, de 20 de janeiro próximo passado, pela qual se informa que o Departamento de Comércio dos E.U.A. pretende, sujeito à concordância do Governo brasileiro, estabelecer em São Paulo instalações permanentes para exposições comerciais (*Trade Center*), como dependências do Consulado Geral dos Estados Unidos naquela cidade e sob o regime de entreposto aduaneiro.

The Ministry of External Relations presents its compliments to the Embassy of the United States of America and has the honor to refer to its note verbale No. 030, of January 20, 1976, informing the Ministry that the United States Department of Commerce, subject to the agreement of the Brazilian Government, wishes to establish in São Paulo permanent commercial exhibition facilities (*Trade Center*), under the supervision of the United States Consulate General and under the regime of a customs warehouse.

2. Em resposta, o Ministério das Relações Exteriores informa a Embaixada dos Estados Unidos da América de que, embora o Decreto-Lei no. 1.455, de 7 de abril do ano em curso, tenha excluído a possibilidade de constituição de entreposto aduaneiro de importação de uso privativo, isto é, quando destinado ao uso exclusivo de um único usuário, o Governo brasileiro decidiu, em especial atenção ao Governo dos Estados Unidos da América, e com base no princípio de reciprocidade, conceder autorização para a instalação do referido *Trade Center*, nos moldes solicitados, sujeita aos requisitos previstos na legislação brasileira que rege a espécie, que seriam, fundamentalmente, os seguintes:

[2.] In reply, the Ministry of External Relations informs the Embassy of the United States of America that although Decree-Law No. 1455 of April 7, 1977,⁴ excludes the possibility of establishing an import customs warehouse for private use, that is, intended for exclusive use by a single user, the Brazilian Government has decided, as a special courtesy to the Government of the United States of America, and on the basis of the principle of reciprocity, to grant authorization for the establishment of the aforementioned Trade Center, under the terms requested, subject to the provisions of the pertinent Brazilian legislation, which are basically as follows:

¹ Came into force on 20 October 1976 by the exchange of the said notes.

² Translation supplied by the Government of the United States of America.

³ Traduction fournie par le Gouvernement des Etats-Unis d'Amérique.

⁴ Should read: "April 7, 1976".

- que o mesmo tenha exclusivamente o caráter de entreposto para feiras e exposições;
 - admissão no recinto de somente uma unidade de cada tipo de equipamento, máquina ou aparelho sem similar nacional;
 - oferecimento de garantia do Governo dos E.U.A. pelo eventual inadimplemento das obrigações assumidas;
 - conferência das mercadorias por ocasião de sua entrada no recinto;
 - responsabilidade do concessionário pela guarda das mercadorias que de-rem entrada no recinto;
 - necessidade de indicação do foro onde as divergências serão dirimidas, de preferência o de São Paulo;
 - sujeição aos controles e fiscalização da Secretaria da Receita Federal do Ministério da Fazenda, bem como adequação e ajustamento às normas administrativas que forem baixadas; e
 - atendimento às exigências de segurança fiscal.
- That the Center function exclusively as a customs warehouse for fairs and exhibitions;
 - Admission to the area of only one unit of any given type of equipment, machinery, or device with no national similars;
 - Offer of guarantee by the United States Government against any breach of the obligations assumed;
 - Verification of the goods at the time of their introduction into the area;
 - Responsibility of the grantee for the security of goods introduced into the area;
 - Need to designate the court of justice in which any disputes shall be resolved, preferably that of São Paulo;
 - Submission to the supervision and control of the Federal Revenue Bureau of the Ministry of Finance as well as compliance with any administrative rules established; and
 - Compliance with all fiscal requirements.

3. No tocante às mostras a serem realizadas nas mencionadas instalações, ficarão as mesmas sujeitas a autorizações específicas do Ministério da Indústria e do Comércio, nos termos do Decreto no. 63.672, de 21 de novembro de 1968.

4. Caso o Governo dos Estados Unidos esteja de acordo com as condições acima, o Ministério das Relações Exteriores apreciaria receber a confirmação da Embaixada dos E.U.A., a fim de proceder às necessárias gestões junto à Coordenação do Sistema de Tributação do Ministério da Fazenda, com vistas à obtenção do competente Ato Declaratório, pelo qual será formalizada a concessão do regime de entreposto aduaneiro ao *Trade Center*.

[3.] Exhibitions to be held in the aforementioned facilities will be subject to specific authorization by the Ministry of Industry and Commerce under the terms of Decree No. 63672 of November 21, 1968.

[4.] Should the United States Government agree to the foregoing conditions, the Ministry of External Relations would appreciate receiving confirmation from the United States Embassy in order to take the necessary steps with the Office of the Coordinator of the Tax System of the Ministry of Finance for purposes of obtaining the appropriate Declaratory Act formalizing the granting of the customs warehouse regime to the Trade Center.

Brasília, em 22 de junho de 1976

Brasília, June 22, 1976

II

No. 439

The Embassy of the United States of America presents its compliments to the Ministry of External Relations and has the honor to refer to the Ministry's Note DFT/DCS/72/801.1(B13)(B46) of June 22, 1976, in response to the Embassy's Note No. 30 of January 20, 1976, requesting the agreement of the Government of Brazil to the establishment in São Paulo of a permanent commercial exhibition facility which would be known as the United States Trade Center.

The Embassy wishes to express its understanding of the conditions set forth in the Ministry's Note, as specified in the appropriate Brazilian legislation governing the activities of such exhibition facilities in Brazil:

- The Trade Center will function as a customs warehouse for fairs and exhibitions for the purpose of exhibiting goods during its trade fairs. It will, in addition, seek to promote two-way trade between Brazil and the United States and thus contribute to the improvement of Brazilian technology and industrial capability.
- The Trade Center programming for trade fairs will seek to avoid exhibition of goods with similars being manufactured in Brazil, as defined by Decree No. 61.574 of October 20, 1967. Only one unit of any given model will be shown by any exhibitor in the same trade exhibit or will be held by the U.S. Trade Center. When nationalization of exhibited goods is requested, it is understood that the provisions of the law of similars will apply when appropriate.
- The United States Government assumes financial responsibility against any breach of obligations arising from the exhibition of goods after they have been admitted into the area of the Trade Center for the purpose of exhibition. The United States Government provides a written guarantee to this effect (attached).
- The Trade Center will further assume full responsibility for all goods that it accepts into its area. This will include physical security, as well as preparation of documentation and storage of exhibit items, in accordance with norms and regulations of the Government of Brazil.
- The Trade Center will be subject to all pertinent Brazilian legislation. In the event of a dispute arising from the admission of goods into the area of the Trade Center for the purpose of exhibition, settlement shall be sought in the first instance within the jurisdiction of administrative and/or judicial authorities located in São Paulo. Appeal beyond this jurisdiction on these matters will remain within the Brazilian national administrative or judiciary system and should not become the subject of representations and exchanges through diplomatic channels.
- The Trade Center will present to the Ministry of Industry and Commerce a yearly list of programmed fairs for its authorization, well in advance of the date of the first fair on the list. Substitutions may be requested for any fairs which are not authorized by the Brazilian Government because they are in direct conflict with previously scheduled Brazilian fairs or any Brazilian law as well as for programmed fairs which are not held for other reasons.

Within the understanding outlined above, the Embassy accepts the conditions as presented in the Ministry's Note of June 22. The Embassy understands that the Ministry's Note, and this Note, will serve as the basis for elaboration of the Declaratory Act by the Government of Brazil regarding the operations of the Trade Center.

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

: Embassy of the United States of America

Brasília, October 20, 1976

NOTE OF GUARANTEE

The Government of the United States of America hereby declares that all goods displayed by the United States Trade Center in São Paulo, Brazil, will be used and disposed of solely in accordance with the terms of the applicable regulations of the Government of Brazil.

The United States Government undertakes to pay on demand, in cases of violations of the Brazilian regulations, the appropriate amounts of customs duties, taxes, penalties and fees.

The United States Government understands that any breach of the Brazilian regulations renders the goods concerned liable to forfeiture.

[Signed]

JOHN HUGH CRIMMINS
Ambassador