

No. 8810

**PHILIPPINES
and
MALAYSIA**

Agreement on anti-smuggling co-operation (with exchange of notes). Signed at Kuala Lumpur, on 1 September 1967
Protocol to the above-mentioned Agreement (with exchange of notes). Signed at Kuala Lumpur, on 1 September 1967

Official text: English.

Registered by the Philippines on 24 October 1967.

**PHILIPPINES
et
MALAISIE**

Accord de coopération en matière de lutte contre la contrebande (avec échange de notes). Signé à Kuala-Lumpur, le 1^{er} septembre 1967
Protocole à l'Accord susmentionné (avec échange de notes). Signé à Kuala-Lumpur, le 1^{er} septembre 1967

Texte officiel anglais.

Enregistrés par les Philippines le 24 octobre 1967.

No. 8810. AGREEMENT¹ ON ANTI-SMUGGLING CO-OPERATION BETWEEN THE GOVERNEMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF MALAYSIA. SIGNED AT KUALA LUMPUR, ON 1 SEPTEMBER 1967

The Government of the Republic of the Philippines and the Government of Malaysia,

Realising that there is a need to regulate trade between the Philippines and Sabah,

Believing that it is to their best interest and for the mutual benefit of their peoples to promote trade and to cooperate closely for the peace, progress and stability of the aforesaid area,

Have agreed as follows :

1. The Government of the Republic of the Philippines and the Government of Malaysia agree with each other in the implementation and enforcement of measures agreed upon between them to regulate trade between the Philippines and Sabah.

2. (1) The Government of Malaysia agrees that no vessel owned or controlled by a Philippine citizen, of whatever tonnage, shall be allowed entry into the ports and harbours in Sabah unless the following documents are presented :

- (a) a valid certificate of registry of such vessel issued by the Philippine authorities ;
- (b) a valid port clearance issued by the same authorities ; and
- (c) such other documents as may be necessary under Malaysian Laws.

2. (2) The Government of Malaysia further agrees that no citizen of the Republic of the Philippines shall be allowed entry into Sabah unless such person presents the following documents :

- (a) a valid passport, or seaman's identification card issued by the Philippine authorities ; provided that where the person concerned is resident in the Philippine Boarder Area, a Border Crossing Pass shall be sufficient for entry and sojourn in accordance with the Protocol to this Agreement ; and
- (b) such other documents as may be necessary under Malaysian Laws.

¹ Came into force on 1 December 1967, three months after the date of signature, in accordance with article 11 of the Agreement.

3. (1) The Government of the Republic of the Philippines agrees that no vessel owned or controlled by a citizen of Malaysia, of whatever tonnage, shall be allowed entry into the ports and harbours in Balabac and the Province of Sulu unless the following documents are presented :

- (a) a valid certificate of registry of such vessel issued by the Malaysian authorities ;
- (b) a valid port clearance issued by the same authorities ; and
- (c) such other documents as may be necessary under the Philippine Laws.

3. (2) The Government of the Republic of the Philippines further agrees that no citizen of Malaysia shall be allowed entry into Balabac and the Province of Sulu unless such person presents the following documents :

- (a) a valid passport, or seaman's identification card, issued by the Malaysian authorities ; provided that where the person concerned is resident in the Malaysian Border Area and is entering the Philippine Border Area, a Border Crossing Pass shall be sufficient for entry and sojourn in accordance with the Protocol to this Agreement.
- (b) such other documents as may be necessary under Philippine Laws.

4. For the purpose of Articles 2 and 3, the expressions „ Philippine Border Area ”, “ Malaysian Border Area ” and “ Border Crossing Pass ” shall have the meanings assigned to them in the Protocol to this Agreement.

5. The Malaysian Authorities in Sabah will inform without delay the Philippine Customs representatives assigned in Sabah about the arrival and departure of vessels owned or controlled by citizens of the Republic of the Philippines and such information may include such data as the name, tonnage, type and owner of vessel, inward and outward cargo, loaded or unloaded, members of the crew, passengers and other persons disembarked or on board, and any other relevant data which may be requested by said customs representatives.

6. The Government of the Republic of the Philippines and the Government of Malaysia agree to exchange information and intelligence (including information on the values of merchandise) relating to smuggling of goods into each other's territory.

7. (1) The port clearance issued by the Philippine Authorities shall state, among other things, that a bond or bonds have been filed with the appropriate Philippine authorities in the Philippines to guarantee the payment of duties, taxes and other charges payable on goods and merchandise listed in the port clearance as among the cargo that the said vessel would carry.

7. (2) The Malaysian customs authorities shall not permit any vessel owned or controlled by citizens of the Republic of the Philippines to take out of Sabah any goods or merchandise which are not authorized or are in excess of the quantities or values stated in the said port clearance.

8. For the purpose of facilitating instantaneous transmission by the Philippine customs representatives of information pertaining to smuggling and such other types of messages as may be agreed upon, the Government of Malaysia agrees to establish, maintain and operate a direct communication network between Sabah and Batu-Batu in the Philippines provided that the cost for establishing such communication network and the cost of maintaining and operating it will be borne by the Government of the Republic of the Philippines.

9. In order to realise the objectives of this Agreement:

(a) The Government of Malaysia agrees to permit the Government of the Republic of the Philippines to assign customs representatives in Sandakan, Jesselton, and Semporna in Sabah for the following purposes:

- (i) to pass on information referred to in Article 5 and 6 above to the Philippine authorities through the telecommunication network;
- (ii) to receive the certificate of registry, clearance certificate and other related documents issued by the proper authorities in the Philippines handed for deposit by the captain or master of a Philippine vessel after arrival and due clearance of those documents by the Malaysian authorities in Sabah;
- (iii) to maintain liaison, with the Malaysian customs officials in the respective ports in Sabah.

(b) The Government of Malaysia agrees that ships of the Royal Malaysian Navy which, in their course of operations sight vessels or crafts suspected of smuggling goods into the Philippines shall report such sighting to the Philippines Navy through the communication network referred to in Article 8.

(c) The Protocol to this Agreement shall form part of this Agreement.

10. In order to facilitate the implementation of this Agreement the two Governments shall consult together upon the request of either Government to discuss any matter arising from the Agreement.

11. This Agreement shall enter into force three (3) months from the date of signing and thereafter, it shall remain in force until the expiration of six (6) months from the date on which either Government receives from the other Government a written notice of its intention to terminate this Agreement.

The Government of the Republic of the Philippines and the Government of Malaysia may at any time agree to revise or amend this Agreement and amendments so agreed shall be recorded in Notes exchanged between them.

IN WITNESS WHEREOF, the undersigned representatives of their respective Government, have signed this Agreement.

DONE at Kuala Lumpur this First day of September in the year Nineteen Hundred and Sixty-seven.

For the Government
of the Republic of the Philippines :

Narciso RAMOS

For the Government
of Malaysia :

Tun Abdul Razak BIN DATO HUSSEIN

EXCHANGE OF NOTES

I

No. 321 /67

The Embassy of the Philippines presents its compliments to the Ministry of Foreign Affairs, Malaysia, and with reference to the talks on Anti-Smuggling Co-operation between the representatives of the Philippine Government and the Malaysian Government recently held in Kuala Lumpur, has the honor to state the following understanding :

“ That nothing in the Agreement on Anti-Smuggling Co-operation between the Government of the Republic of the Philippines and the Government of Malaysia signed on September 1, 1967 at Kuala Lumpur should be construed to alter or amend the undertaking expressed by both Governments in the exchange of Notes both dated February 7, 1966 (Malaysian Note No. BY 6/66 and Philippines DFA No. 2587), and in the Communiqué dated June 3, 1966, between the Government of the Philippines and the Government of Malaysia. ”

Upon receipt of a reply Note from the Ministry of Foreign Affairs confirming the above-quoted understanding, this Note and the Ministry's reply thereto will constitute an Agreement between the two Governments.

The Embassy of the Philippines avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Malaysia, the assurances of its highest consideration.

Kuala Lumpur, September 1, 1967

II

BY 67/67

The Ministry of Foreign Affairs, Malaysia, presents its compliments to the Embassy of the Republic of the Philippines and has the honour to refer to the latter's Note No. 321/67 dated 1st September, 1967 which reads as follows :

[See note I]

The Ministry wishes to confirm that the Embassy's above quoted Note records correctly the understanding reached between the representatives of the Philippine and Malaysian Governments on the above mentioned subject and further, that the aforesaid Embassy's Note and the Ministry's reply constitute an Agreement between the Governments of the Republic of the Philippines and Malaysia.

The Ministry of Foreign Affairs, Malaysia, avails itself of this opportunity to renew to the Embassy of the Republic of the Philippines the assurances of its highest consideration.

Kuala Lumpur
1st September, 1967

PROTOCOL ¹ TO THE AGREEMENT ON ANTI-SMUGGLING
CO-OPERATION BETWEEN THE GOVERNEMENT OF
THE REPUBLIC OF THE PHILIPPINES AND THE
GOVERNEMENT OF MALAYSIA OF 1 SEPTEMBER 1967.
SIGNED AT KUALA LUMPUR, ON 1 SEPTEMBER 1967

For the purpose of enabling citizens of the Republic of the Philippines residing in the Philippine Border Area to enter the Malaysian Border Area and to enable citizens of Malaysia residing in the Malaysian Border Area to enter the Philippine Border Area, the Government of the Republic of the Philippines and the Government of Malaysia have agreed as follows :

Article I

For the purpose of this Protocol

“ Malaysian Border Area » means the Administrative Districts of Sandakan, Lahad Datu, Semporna, Kudat and Tawau in the State of Sabah ;

“ Philippine Border Area ” means the Province of Sulu and the Balabac Island Group of the Province of Palawan ;

“ Border Crossing Pass ” means a pass issued under Article VII of this Protocol ;

“ Specified Purpose ” means any or all of the following purposes :

- (a) Business ;
- (b) Visit of relatives ;
- (c) Pleasure ;
- (d) On Government duty in case of Government officers.

Article II

1. All citizens of the Republic of the Philippines who are bona fide residents in the Philippine Border Area and all Philippine Government Officers resident in the aforesaid area, who are required in the course of their duty to cross into the Malaysian Border Area will be eligible to a Border Crossing Pass to be issued by the Authorities in the Philippines to serve as a Passport and will be allowed entry into the Malaysian Border Area by the Malaysian Authorities, provided that such entry is for a specified purpose and is effected at an Immigration Control Post.

¹ Came into force on 1 December 1967, three months after the date of signature, in accordance with article IX of the Protocol.

2. All citizens of Malaysia who are bona fide residents in the Malaysian Border Area and all Malaysian Government Officers resident in the aforesaid area, who are required in the course of their duty to cross into the Philippine Border Area will be eligible to a Border Crossing Pass to be issued by the Malaysian Authorities to serve as a Passport and will be allowed entry into the Philippine Border Area by the Philippine Authorities, provided that such entry is for a specified purpose and is effected at an Immigration Control Post.

Article III

1. The form of the Border Crossing Pass will be in accordance with the specimen attached¹ as annexure to this Protocol. Such Border Crossing Pass will contain the following particulars relating to the holder thereof :

- (1) Name of holder ;
- (b) Sex ;
- (c) Identity Card No. ;
- (d) Date of Birth ;
- (e) Place of Birth ;
- (f) Height ;
- (g) Colour of Eyes ;
- (h) Colour of Hair ;
- (i) Visible Distinguishing Marks ;
- (j) Address ;
- (k) Occupation ;
- (l) National Status ;
- (m) Photograph of the Holder ;
- (n) Signature or Right Thumbprint of the Holder of the Pass.

2. If the Holder of the Border Crossing Pass is accompanied by a child or children of fifteen years of age and below, the Pass shall contain the photographs of such child or children and also the following particulars relating to such child or children :

- (a) Name ;
- (b) Sex ;
- (c) Date of Birth ;
- (d) Identity Card No.

Article IV

A Border Crossing Pass shall be valid for a period of three months from the date of issue and may be used for multiple entries for a stay not exceeding fourteen days during each entry.

¹ Not printed herein.

Article V

1. Nothing in this Protocol shall apply to :
 - (a) Citizens of the Republic of the Philippines who are not residing in the Philippine Border Area ;
 - (b) Citizens of Malaysia who are not residing in the Malaysian Border Area ; and
 - (c) A holder of a Border Crossing Pass issued by either the Philippine Authorities or, as the case may be, the Malaysian Authorities, who is intending to travel beyond the Malaysian Border Area or, as the case may be, beyond the Philippine Border Area.
2. The persons referred to in paragraph 1 of this Article shall be subject to the laws of their respective country and the laws of the country into which such persons seek entry.

Article VI

1. Each Government reserves the right to refuse the entry of any holder of a Border Crossing Pass if the Immigration Authorities of each country have sufficient reasons to believe that :
 - (a) The pass was issued in violation of the provisions of this Protocol ; or
 - (b) The person possessing the Pass is an undesirable person according to the laws of such country.
2. Where a holder of a Border Crossing Pass has been refused entry in accordance with paragraph 1, the Immigration Authorities to whom such pass has been presented, may endorse the pass to the effect that entry has been refused. The Immigration Authorities which issued the pass shall re-admit him.
3. Each Government shall not issue further Border Crossing Pass to any person, whose Border Crossing Pass has been endorsed as aforesaid without the agreement of the Government which endorsed the said pass.

Article VII

1. Border Crossing Passes may be issued in the Philippines by the Immigration Authorities of the Philippine Border Area.
2. Border Crossing Passes may be issued in Malaysia by the following Authorities :
 - (a) Controller of Immigration, Sabah ;
 - (b) Assistant Controller of Immigration, Sabah ;

- (c) Senior Immigration Officers and Immigration Officers in charge of Immigration Entry Points in the Malaysian Border Area.

Article VIII

Every vessel crossing from the Philippine Border Area or the Malaysian Border Area shall prepare a Passenger Manifest in duplicate. It shall be signed by the Captain or Master of the vessel before the Immigration Authorities at the point of departure ; the original of which shall be kept in the custody of the latter. The Captain or Master of the vessel shall deliver the duplicate to the Immigration Authorities at the point of entry.

Article IX

This Protocol shall enter into force three (3) months from the date of signing and thereafter, it shall remain in force until the expiration of six (6) months from the date on which either government receives from the other Government a written notice of its intention to terminate such Protocol.

The Government of the Republic of the Philippines and the Government of Malaysia may at any time agree to revise or amend this Protocol and amendments so agreed shall be recorded in Notes exchanged between them.

Article X

IN FAITH WHEREOF, the representatives of the Government of the Republic of the Philippines and the representatives of the Government of Malaysia have signed the present Protocol.

DONE at Kuala Lumpur this First day of September in the year Nineteen Hundred and Sixty-seven.

For the Government of the
Republic of the Philippines :

Narciso RAMOS

For the Government
of Malaysia :

Tun Abdul Razak BIN DATO HUSSEIN

EXCHANGE OF NOTES

I

BY 68/67

The Ministry of Foreign Affairs, Malaysia, presents its compliments to the Embassy of the Republic of the Philippines and has the honour to refer to Article VI of the Protocol to the Agreements on Anti-Smuggling

Co-operation between the Governments of the Republic of the Philippines and Malaysia and to state the following understanding :

“ 1. On the question of persons who are refused entry in pursuance of Article VI of the Protocol to the Agreement on Anti-Smuggling Co-operation between the Government of the Republic of the Philippines and the Government of Malaysia hereinafter referred to as the Protocol, it is agreed that either Government shall be responsible for the cost of returning its rejected citizens or for providing suitable means of transportation at its own expense for the return of such citizens.

“ 2. The Government of Malaysia agrees to notify the Philippine Government's communication network in Batu-Batu whenever there are Philippine citizens refused entry in pursuance of Article VI of the Protocol. Upon receipt of such notification, the Government of the Republic of the Philippines undertakes to send suitable means of transportation for the purpose of effecting the return of said Philippine citizens.

“ 3. The Government of the Philippines agrees to notify the Government of Malaysia whenever there are Malaysian citizens who are refused entry in pursuance of Article VI of the Protocol.

“ 4. If either Government desires to provide transportation at its own expense for the return of its citizens, it is further agreed that such transportation shall be so provided not later than two weeks from the date on which it is officially notified. If such transportation is not provided within the said two weeks, the Government of the country from which the aforesaid citizens are to be returned shall be entitled to make alternative arrangements and incur reasonable expenses in connection with the said return and such expense shall be recoverable from the Government which fails to provide such transportation

“ 5. This exchange of Notes shall take effect simultaneously with the effectivity of the Protocol.”

Upon receipt of a reply Note from the Embassy confirming the above-quoted understanding, this Note and the Embassy's reply thereto will constitute an Agreement between the two Governments.

The Ministry of Foreign Affairs, Malaysia, avails itself of this opportunity to renew to the Embassy of the Republic of the Philippines the assurances of its highest consideration.

Kuala Lumpur
1st September, 1967

II

No. 322/67

The Embassy of the Republic of the Philippines presents its compliments to the Ministry of Foreign Affairs, Malaysia, and has the honor to refer to the Ministry's Note No. BY 68/67 dated September 1, 1967, which reads as follows :

[*See note I*]

The Embassy wishes to confirm that the Ministry's above-quoted Note records correctly the understanding reached between the Government of Malaysia and the Government of the Republic of the Philippines and further, that the aforesaid Ministry's Note and the Embassy's Reply constitute an Agreement between the two Governments.

The Embassy of the Republic of the Philippines avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Malaysia, the assurances of its highest consideration.

Kuala Lumpur, September 1, 1967
