

No. 10403

**UNITED STATES OF AMERICA
and
PHILIPPINES**

Exchange of notes constituting an agreement concerning customs regulations on cargo for United States military forces (with appendix). Manila, 24 April 1969

Authentic text: English.

Registered by the United States of America on 2 April 1970.

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

Échange de notes constituant un accord concernant la réglementation douanière relative aux envois destinés aux forces militaires des États-Unis (avec appendice). Manille, 24 avril 1969

Texte authentique: anglais.

Enregistré par les Etats-Unis d'Amérique le 2 avril 1970.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
THE PHILIPPINES CONCERNING CUSTOMS REGULA-
TIONS ON CARGO FOR UNITED STATES MILITARY
FORCES

I

No. 296

The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and has the honor to refer to the discussions that have recently taken place between representatives of the Philippine and United States Governments on various aspects of the procedures involved in the importation into the Philippines of cargoes consigned to United States Military Forces. It was recognized that the substantive provisions governing such importations, including their tax and duty-free status, are contained in the Military Bases Agreement of 1947.² It was also recognized that, except as provided in this or other agreements between the two governments, members of the United States Armed Forces, the civilian component, and their dependents, are subject to the laws and regulations relating to importations administered by the Customs authorities of the Philippines.

In order to facilitate the Philippine Government's desire to be informed as to the nature and quantity of goods imported by the United States Military Forces and, at the same time, not to impede or impair the prompt handling and disposition of such cargoes, agreement has been reached on the procedures to be established for Customs clearance of such importations.

In implementing this agreement, the Philippine Government has prepared and promulgated new Customs Regulations governing procedures for handling cargo consigned to United States Military authorities or Armed Forces personnel. These new regulations are attached hereto as Appendix "A". Section II of said regulations refers to "informal entries." An "informal entry" shall be accomplished by the submission to the Bureau of Customs of a document

¹ Came into force on 4 May 1969, i.e., ten days after the signature, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 43, p. 271.

entitled " No Dollar Import Declaration ", with appropriate parts of the United States Military manifest attached thereto. Examples of these documents are attached hereto as Appendix " B ".* An example of the declaration for personal effects and privately-owned vehicles referred to in Section II (3) of said regulations is attached hereto as Appendix " C ".* Examples of the records to be furnished for goods received for the post exchanges and commissaries as required by Article II (2) of the Customs Regulations (Appendix A), are attached hereto as Appendix " D ".* An example of the tax exemption certificate referred to in Section III (1) and (2) of said regulations is attached hereto as Appendix " E ".*

It is agreed that Customs examination of cargoes described in Section II (1) and (2) of Appendix A which are consigned to United States Military authorities, shall be for the purpose of verifying the numbers, types, markings, quantity and weight of the shipments. Cargoes under official seal, including classified cargoes, consigned to United States Military authorities shall not be subject to examination. Cargoes described in Section II (3) will be examined in the manner determined by the Collector of Customs. The examination will be conducted in the presence of the owner or his agent and a representative of the United States Military authorities. However, to expedite the release, the Collector of Customs will, as far as practicable, determine which of the shipments may be released without the formality of physical examination. Cargoes described in Section II (3) discharged at the Port of Manila will be examined at the authorized Customs warehouse of the agents of the United States Military authorities. Similar cargoes discharged at Subic, Sanglely Point, Mactan and other military ports, will be examined at a designated area in the military base to which the owner is assigned.

It is agreed that cargoes described in Section II (1), (2) and (3) of Appendix A shall remain in the physical custody of the United States Military Forces or their designated agents until such cargoes are released to the consignees.

It is agreed that the documentation required by the Government of the Philippines to comply with the Customs Regulations (Appendix A) may be submitted directly to the Department of Finance and the Bureau of Customs, as

* Appendixes B to F, which are simply " forms " or " examples " of the documentation referred to in the Agreement or Appendix A thereof, were not considered by the Government of the United States of America as being subject to registration. However, they are filed in the archives of the Department of State where they are available for reference.

appropriate, by the United States Military authorities without the necessity of forwarding them through the United States Embassy or the Philippine Department of Foreign Affairs.

It is agreed that all MSTs ships, including USS, USNS, GAA, and those on time and voyage charter, but excluding those on space charter, are "public vessels" within the meaning of Article IV of the Military Bases Agreement and for the purposes of the Philippine Customs Regulations (Appendix A). However, all cargoes carried on such vessels and consigned to United States Military authorities, United States Armed Forces personnel and their dependents, and other tax exempt persons under the Philippines-United States Military Bases Agreement, shall be subject to the procedures specified in Sections II and III of Appendix A to this Note.

The Collector of Customs will expedite the release upon arrival of cargoes described in Section II (1) and (2) of Appendix A on condition that the covering "Certificate of Exemption" will be submitted to the Department of Finance not later than ten days after release of such shipments. To facilitate planning, such release can be expected to take place within twenty-four hours of unloading or of the filing of the informal entry with the Collector of Customs, whichever is later, except as otherwise mutually agreed.

In order to comply with the Customs Regulations, the Collector of Customs will make personnel available whenever necessary to carry out the procedures established in those regulations and in this Exchange of Notes.

Permission will be promptly granted for non-public vessels to call at Sangley, Subic, Mactan, or other military ports for the purpose of loading or off-loading cargo consigned to or from United States Military Forces in the Philippines.

In the Port of Manila permission for shipside loading and off-loading shall normally be granted for cargoes consigned to or from United States Military Forces in the Philippines.

It is agreed that, immediately prior to permanent departure from the Philippines of any person who has imported into the Philippines personal effects, household goods, or a privately-owned vehicle pursuant to the provisions of Section II (3) of Appendix A, the United States Military authorities will submit to the Bureau of Customs (on a form, an example of which is attached

hereto as Appendix “ F ”)* a record of those items specified in Appendix C which the individual imported into the Philippines, any of the same items which he may have purchased from the United States Military base post exchanges in the Philippines, any of the same items which he may have sold or otherwise disposed of in the Philippines, and any of the same items which he intends to export from the Philippines at the time of his departure therefrom.

It is agreed that, should either government find that there are practical problems in the implementation of the new procedures described above and in the attached documents, such problems and the relevant procedures will be jointly reviewed by the two governments upon the request of either of them.

This agreement will become effective ten days after signature, provided, however, that a reasonable period of time will be allowed for the United States Military authorities to produce and distribute the forms required for the declaration for personal effects and privately-owned vehicles (Appendix C) and to take the necessary administrative steps to initiate the accounting described in Section II (2) of Appendix A.

If the foregoing conforms to the Department’s understanding of the agreement reached, the Embassy suggests that this Note and the Department of Foreign Affairs’ affirmative reply thereto be considered as constituting an agreement between our two governments.

The Embassy avails itself of this opportunity to renew to the Department of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America
Manila, April 24, 1969

* See footnote on p. 188.

APPENDIX A

REPUBLIC OF THE PHILIPPINES
DEPARTEMENT OF FINANCE
Bureau of Customs

MANILA

April 19, 1969

CUSTOMS ADMINISTRATIVE ORDER No. [5-69] *

Subject: Procedures for handling non-public vessels carrying cargo consigned to U.S. military authorities, U.S. Armed Forces personnel and their dependents, and other tax exempt persons under the RP-US Military Bases Agreement.

To all collectors of customs,
heads of departments, chiefs of divisions
and others concerned:

The procedures for handling non-public vessels carrying cargo consigned to U.S. military authorities, U.S. Armed Forces personnel and their dependents, and other tax exempt persons under the RP-US Military Bases Agreement, shall be as follows:

I. *Vessels*

1. Vessels shall enter and discharge cargo only in ports or subports of entry. For Subic Bay, Sangley Point, Mactan and other military ports, vessels intending to discharge cargo thereat must obtain prior permission from the Commissioner of Customs.

2. Upon entry, the master of the vessel shall submit to the Customs authorities the shipping documents required under Section 1004 of the Tariff and Customs Code of the Philippines. The present military manifest shall be considered as sufficient compliance of Section 1005 of the said Code, provided, that the Bureau of Customs shall be furnished with deciphered guides to identify the U.S. military cargo, military units, and type of packings.

* The United States was informed of the Customs Administrative Order Number and its effective date by Philippine Note No. 69-2173 of Aug. 22, 1969.

II. *Entry, Examination, and Delivery of Cargo*

1. Purely military cargo such as arms, ammunitions, aircrafts, watercrafts, vehicles and fuel thereof, and articles consigned to U.S. military authorities other than those falling under numbers 2 and 3 below shall be covered by informal entries and shall be subject to such examination as the Collector of Customs may determine.

2. Articles intended for the post exchange and the commissary, including alcoholic and tobacco products for sale to U.S. Armed Forces personnel and their dependents shall be covered by informal entries, and shall be subject to such examination as the Collector of Customs may determine. The U.S. military authorities shall submit to the Collector of Customs concerned, in addition to the U.S. military manifest, documents providing a substantial description of the type and quantity of all goods of this category; such documents shall be submitted within 30 days from the end of the month in which the shipment was released from Customs. Annual inventory of stocks on hand in the post exchange and commissary shall be submitted to the Commissioner of Customs through the Collector of Customs concerned.

3. Personal effects and household goods, including motor vehicles for the personal use of U.S. Armed Forces personnel and their dependents or other persons who may be entitled to tax exemption under the Military Bases Agreement shall be covered by informal entries and shall be subject to such examination as the Collector of Customs may determine. The owner/consignee shall, in the form herein incorporated as Annex "A", submit adequate information as to his official status, tax exemption qualification, and a substantial description of the articles specified on the said form, to the Collector of Customs.

4. Shipment delivery of shipments shall normally be allowed by the Collector of Customs concerned under such conditions provided for by customs regulations.

III. *Tax Exemption*

1. All shipments consigned to the U.S. military authorities, U.S. Armed Forces personnel and their dependents, and other persons who may be entitled to tax exemption under the agreement, shall be covered by tax exemption certificates duly approved by the Department of Finance and which shall be filed with the Collector of Customs concerned upon application for the release of the shipments; provided, however, that the release upon arrival of shipments falling under the categories in number 1 and 2 of heading II above, shall be expedited by the Collector of Customs concerned on condition that the covering tax exemption certificate shall be filed with the Department of Finance within 10 days from release of the shipment.

2. Shipments falling under the categories in number 1 and 2 of heading II above, arriving in one vessel, may be covered by one tax exemption certificate, provided, that such certificate is accompanied by a copy of the military manifest of the carrying vessel.

3. Shipments falling under the category in number 3 of heading II above, arriving in one vessel, may be covered by one tax exemption certificate duly supported by the owners/consignees declaration forms as required in number 3 of heading II above.

4. To facilitate the release of shipments above-described, Collectors of Customs concerned are hereby instructed to avoid unnecessary delay in the processing of the covering import documents.

IV. *Effectivity*

This Order shall take effect on [July 15,]¹ 1969.

Rolando G. GEOTINA
Acting Commissioner of Customs

Approved:

Eduardo Z. ROMUALDEZ
Secretary of Finance

II

The Department of Foreign Affairs of the Philippines to the American Embassy

69-1028

The Department of Foreign Affairs presents its compliments to the United States Embassy and has the honor to refer to the Embassy's Note Verbale No. 296 dated April 24, 1969, reading as follows:

[*See note I*]

The Department agrees that the Embassy's Note No. 296 above-quoted and this note replying thereto shall constitute an agreement between the Philippine and United States Governments.

The Department avails itself of this opportunity to renew to the Embassy the assurances of its highest consideration.

Manila, 24 April 1969

¹ See footnote on page 194.