

No. 18928

**UNITED STATES OF AMERICA
and
PHILIPPINES**

**Exchange of notes constituting an agreement relating to
military assistance in defence articles and services.
Manila, 23 and 30 August 1979**

Authentic text: English.

Registered by the United States of America on 12 June 1980.

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

**Échange de notes constituant un accord relatif à l'assistance
militaire par fourniture de matériels et de services de
défense. Manille, 23 et 30 août 1979**

Texte authentique . anglais.

Enregistré par les États-Unis d'Amérique le 12 juin 1980.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE PHILIPPINES RELATING TO MILITARY ASSISTANCE IN DEFENSE ARTICLES AND SERVICES

I

The American Ambassador to the Philippine Minister of Foreign Affairs

Manila, August 23, 1979

No. 459

Excellency:

I have the honor to refer to the recent discussions between representatives of our two Governments concerning the United States Military Assistance Program with the Republic of the Philippines during the United States fiscal year 1979, and the effect of certain changes in United States laws applicable to the funding of such programs by the United States. I have the further honor to confirm, on behalf of my Government, the following understandings reached as a consequence of the aforesaid discussions:

1. Subject to the terms and conditions set forth in the Mutual Defense Assistance Agreement of June 26, 1953,² related agreements between our two Governments, and as provided herein, the United States shall grant to the Government of the Republic of the Philippines defense articles and defense services of a value not to exceed \$17,067,600 during the United States fiscal year 1979. The value of such defense articles and defense services shall be calculated by the United States in accordance with the provisions of applicable United States laws and regulations, including the Foreign Assistance Act of 1961, as from time to time amended, and the Foreign Assistance and Related Programs Appropriations Act, 1979.

2. The defense articles and defense services to be furnished pursuant to this agreement shall be furnished in accordance with, and subject to, the United States laws referred to in paragraph 1, and such successor legislation as may be hereafter enacted. Deliveries of such defense articles, and the performance of such defense services may be suspended or terminated by the United States under unusual or compelling circumstances when the national interest of the United States so requires.

3. Selection of particular defense articles or defense services (hereafter in this paragraph referred to collectively as "items") to be furnished pursuant to this agreement shall be made from time to time by the United States Department of Defense, taking into consideration the requests, if any, of the Ministry of National Defense of the Government of the Republic of the Philippines for particular items. The United States Department of Defense may cancel the furnishing of any item, or quantity thereof, at any time in order to recoup funds sufficient to pay any net increases in costs to the United States of the aggregate of selected items within the dollar value specified in paragraph 1. In effecting such recoupments, the United States Department of Defense will take into consideration the views, if any, of the Ministry of National Defense of the Government of the Republic of the Philippines as to which items or quantities thereof should be cancelled.

¹ Came into force on 30 August 1979, the date of the note in reply, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 213, p. 77.

4. In accordance with the requirements of the Foreign Assistance Act of 1961, as amended:
- (A) Title to defense articles to be furnished to the Government of the Republic of the Philippines pursuant to this agreement must be transferred to the Government of the Republic of the Philippines on or before September 30, 1982. And defense services to be performed pursuant to this agreement must be performed not later than September 30, 1982;
 - (B) Defense articles to which the United States obtains or retains title after September 30, 1982, will not be furnished pursuant to this agreement, and defense services not performed on or before September 30, 1982, will not be performed pursuant to this agreement. The obligations of the United States with respect to the furnishing of such articles and services pursuant to this agreement shall cease as of October 1, 1982; and
 - (C) Delivery of defense articles furnished pursuant to this agreement to the Government of the Republic of the Philippines must commence on or before September 30, 1982, if such delivery is to be financed from United States Military Assistance Funds. Delivery of such articles after that date shall be at the expense of the Government of the Republic of the Philippines.

I have the honor to propose that this note, together with Your Excellency's note confirming the acceptance of the Government of the Republic of the Philippines of the foregoing understandings, shall constitute an agreement between our two Governments with respect to the United States Military Assistance Program for the United States fiscal year 1979, effective from the date of Your Excellency's note in reply.

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

RICHARD W. MURPHY

His Excellency Carlos P. Romulo
Minister of Foreign Affairs of the Republic
of the Philippines
Manila

II

The Philippine Minister of Foreign Affairs to the American Ambassador

REPUBLIKA NG PILIPINAS
KAGAWARAN NG UGNAYANG PANLABAS
MAYNILA¹

Manila, 30 August 1979

No. 19814

Excellency:

I have the honor to refer to your Excellency's note No. 459 dated 23 August 1979 concerning the United States Military Assistance Program with the Republic of the Philippines during the United States fiscal year 1979, and the effect of certain changes in the United States laws applicable to the funding of such program by the United States.

¹ Republic of the Philippines, Department of Foreign Affairs, Manila — République des Philippines, Ministère des affaires étrangères, Manille.

On behalf of my Government, I hereby confirm the understandings enumerated in the Embassy's note which were reached as a consequence of the recent discussions between the representatives of our two Governments on the subject. Accordingly, your note and this reply shall constitute an agreement between our two Governments with respect to the United States Military Assistance Program for the United States fiscal year 1979, effective on the date of this reply.

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

[Signed — Signé]¹

His Excellency Richard W. Murphy
Ambassador of the United States of America
Manila

¹ Signed by Carlos P. Romulo — Signé par Carlos P. Romulo.