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and
Philippines

Agreement between the Government of the United States of America and the Government of the Republic of the Philippines regarding the treatment of United States Armed Forces visiting the Philippines. Manila, 10 February 1998

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États-Unis d'Amérique
et
Philippines

Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la République des Philippines relatif au traitement des forces armées des États-Unis d'Amérique visitant les Philippines. Manille, 10 février 1998

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[ENGLISH TEXT – TEXTE ANGLAIS]

Agreement Between the Government of the United States of America and the Government of the Republic of the Philippines Regarding the Treatment of United States Armed Forces Visiting the Philippines

Preamble

The Government of the United States of America and the Government of the Republic of the Philippines,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations and their desire to strengthen international and regional security in the Pacific area;

Reaffirming their obligations under the Mutual Defense Treaty of August 30, 1951;

Noting that from time to time elements of the United States armed forces may visit the Republic of the Philippines;

Considering that cooperation between the United States and the Republic of the Philippines promotes their common security interests;

Recognizing the desirability of defining the treatment of United States personnel visiting the Republic of the Philippines;

Have agreed as follows:

Article I

Definitions

As used in this Agreement, "United States personnel" means United States military and civilian personnel temporarily in the Philippines in connection with activities approved by the Philippine Government. Within this definition:

1. The term "military personnel" refers to military members of the United States Army, Navy, Marine Corps, Air Force, and Coast Guard.

2. The term "civilian personnel" refers to individuals who are neither nationals of nor ordinarily resident in the Philippines and who are employed by the United States armed forces or who are accompanying the United States armed forces, such as employees of the American Red Cross and the United Services Organization.

Article II

Respect for Law

It is the duty of United States personnel to respect the laws of the Republic of the Philippines and to abstain from any activity inconsistent with the spirit of this agreement, and, in particular, from any political activity in the Philippines. The Government of the United States shall take all measures within its authority to ensure that this is done.

Article III

Entry and Departure

1. The Government of the Philippines shall facilitate the admission of United States personnel and their departure from the Philippines in connection with activities covered by this agreement.

2. United States military personnel shall be exempt from passport and visa regulations upon entering and departing the Philippines.

3. The following documents only, which shall be presented on demand, shall be required in respect of United States military personnel who enter the Philippines:

(a) personal identity card issued by the appropriate United States authority showing full name, date of birth, rank or grade and service number (if any), branch of service and photograph, and;

(b) individual or collective document issued by the appropriate United States authority, authorizing the travel or visit and identifying the individual or group as United States military personnel.

(c) the commanding officer of a military aircraft or vessel shall present a declaration of health, and when required by the cognizant representative of the Government of the Philippines, shall conduct a quarantine inspection and will certify that the aircraft or vessel is free from quarantinable diseases. Any quarantine inspection of United States aircraft, or vessels, or cargoes thereon, shall be conducted by the United States commanding officer in accordance with the international health regulations as promulgated by the World Health Organization, and mutually agreed procedures.

4. United States civilian personnel shall be exempt from visa requirements but shall present, upon demand, valid passports upon entry and departure of the Philippines.

5. If the Government of the Philippines has requested the removal of any United States personnel from its territory, the United States authorities shall be responsible for receiving the person concerned within its own territory or otherwise disposing of said person outside of the Philippines.

Article IV

Driving and Vehicle Registration

1. Philippine authorities shall accept as valid, without test or fee, a driving permit or license issued by the appropriate United States authority to United States personnel for the operation of military or official vehicles.

2. Vehicles owned by the Government of the United States need not be registered, but shall have appropriate markings.

Article V

Criminal Jurisdiction

1. Subject to the provisions of this article:

(a) Philippine authorities shall have jurisdiction over United States personnel with respect to offenses committed within the Philippines and punishable under the law of the Philippines.

(b) United States military authorities shall have the right to exercise within the Philippines all criminal and disciplinary jurisdiction

conferred on them by the military law of the United States over United States personnel in the Philippines.

2. (a) Philippine authorities exercise exclusive jurisdiction over United States personnel with respect to offenses, including offenses relating to the security of the Philippines, punishable under the laws of the Philippines, but not under the laws of the United States.

(b) United States authorities exercise exclusive jurisdiction over United States personnel with respect to offenses, including offenses relating to the security of the United States, punishable under the laws of the United States, but not under the laws of the Philippines.

(c) For the purposes of this paragraph and paragraph 3 of this article, an offense relating to security means:

(1) treason;

(2) sabotage, espionage or violation of any law relating to national defense.

3. In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply:

(a) Philippine authorities shall have the primary right to exercise jurisdiction over all offenses committed by United States personnel, except in cases provided for in paragraphs 1 (b), 2 (b), and 3 (b) of this Article.

(b) United States military authorities shall have the primary right to exercise jurisdiction over United States personnel subject to the military law of the United States in relation to:

(1) offenses solely against the property or security of the United States or offenses solely against the property or person of United States personnel; and

(2) offenses arising out of any act or omission done in performance of official duty.

(c) The authorities of either government may request the authorities of the other government to waive their primary right to exercise jurisdiction in a particular case.

(d) Recognizing the responsibility of the United States military authorities to maintain good order and discipline among their forces, Philippine authorities will, upon request by the United States, waive their primary right to exercise jurisdiction except in cases of particular importance to the Philippines. If the Government of the Philippines determines that the case is of particular importance, it shall communicate such determination to the United States authorities within twenty (20) days after the Philippine authorities receive the United States request.

(e) When the United States military commander determines that an offense charged by authorities of the Philippines against United States personnel arises out of an act or omission done in the performance of official duty, the commander will issue a certificate setting forth such determination. This certificate will be transmitted to the appropriate authorities of the Philippines and will constitute sufficient proof of performance of official duty for the purposes of paragraph 3(b)(2) of this article. In those cases where the Government of the Philippines believes the circumstances of the case require a review of the duty certificate, United States military authorities and Philippine authorities shall consult immediately. Philippine authorities at the highest levels may also present any information bearing on its validity. United States military authorities shall take full account of the Philippine position. Where appropriate, United States military authorities will take disciplinary or other action against offenders in official duty cases, and notify the Government of the Philippines of the actions taken.

(f) If the government having the primary right does not exercise jurisdiction, it shall notify the authorities of the other government as soon as possible.

(g) The authorities of the Philippines and the United States shall notify each other of the disposition of all cases in which both the authorities of the Philippines and the United States have the right to exercise jurisdiction.

4. Within the scope of their legal competence, the authorities of the Philippines and the United States shall assist each other in the arrest of United States personnel in the Philippines and in handing them over to authorities who are to exercise jurisdiction in accordance with the provisions of this article.

5. United States military authorities shall promptly notify Philippine authorities of the arrest or detention of United States personnel who are subject to Philippine primary or exclusive jurisdiction. Philippine

authorities shall promptly notify United States military authorities of the arrest or detention of any United States personnel.

6. The custody of any United States personnel over whom the Philippines is to exercise jurisdiction shall immediately reside with United States military authorities, if they so request, from the commission of the offense until completion of all judicial proceedings. United States military authorities shall, upon formal notification by the Philippine authorities and without delay, make such personnel available to those authorities in time for any investigative or judicial proceedings relating to the offense with which the person has been charged. In extraordinary cases, the Philippine Government shall present its position to the United States Government regarding custody, which the United States Government shall take into full account. In the event Philippine judicial proceedings are not completed within one year, the United States shall be relieved of any obligations under this paragraph. The one year period will not include the time necessary to appeal. Also, the one year period will not include any time during which scheduled trial procedures are delayed because United States authorities, after timely notification by Philippine authorities to arrange for the presence of the accused, fail to do so.

7. Within the scope of their legal authority, United States and Philippine authorities shall assist each other in the carrying out of all necessary investigations into offenses and shall cooperate in providing for the attendance of witnesses and in the collection and production of evidence, including seizure and, in proper cases, the delivery of objects connected with an offense.

8. When United States personnel have been tried in accordance with the provisions of this article and have been acquitted or have been convicted and are serving, or have served their sentence, or have had their sentence remitted or suspended, or have been pardoned, they may not be tried again for the same offense in the Philippines. Nothing in this paragraph, however, shall prevent United States military authorities from trying United States personnel for any violation of rules of discipline arising from the act or omission which constituted an offense for which they were tried by Philippine authorities.

9. When United States personnel are detained, taken into custody, or prosecuted by Philippine authorities, they shall be accorded all procedural safeguards established by the law of the Philippines. At the minimum, United States personnel shall be entitled:

(a) To a prompt and speedy trial;

(b) To be informed in advance of trial of the specific charge or charges made against them and to have reasonable time to prepare a defense;

(c) To be confronted with witnesses against them and to cross examine such witnesses;

(d) To present evidence in their defense and to have compulsory process for obtaining witnesses;

(e) To have free and assisted legal representation of their own choice on the same basis as nationals of the Philippines;

(f) To have the services of a competent interpreter;

(g) To communicate promptly with and to be visited regularly by United States authorities, and to have such authorities present at all judicial proceedings. These proceedings shall be public unless the court, in accordance with Philippine law, excludes persons who have no role in the proceedings.

10. The confinement or detention by Philippine authorities of United States personnel shall be carried out in facilities agreed on by appropriate Philippine and United States authorities. United States personnel serving sentences in the Philippines shall have the right to visits and material assistance.

11. United States personnel shall be subject to trial only in Philippine courts of ordinary jurisdiction, and shall not be subject to the jurisdiction of Philippine military or religious courts.

Article VI

Claims

1. Except for contractual arrangements, including United States foreign military sales letters of offer and acceptance and leases of military equipment, both governments waive any and all claims against each other for damage, loss or destruction to property of each other's armed forces or for death or injury to their military and civilian personnel arising from activities to which this agreement applies.

2. For claims against the United States, other than contractual claims and those to which paragraph 1 applies, the United States Government, in accordance with United States law regarding foreign claims, will pay just and reasonable compensation in settlement of meritorious claims for damage, loss, personal injury or death, caused by acts or omissions of United States personnel, or otherwise incident to the non-combat activities of the United States forces.

Article VII

Importation and Exportation

1. United States Government equipment, materials, supplies, and other property imported into or acquired in the Philippines by or on behalf of the United States armed forces in connection with activities to which this agreement applies, shall be free of all Philippine duties, taxes and other similar charges. Title to such property shall remain with the United States, which may remove such property from the Philippines at any time, free from export duties, taxes, and other similar charges. The exemptions provided in this paragraph shall also extend to any duty, tax, or other similar charges which would otherwise be assessed upon such property after importation into, or acquisition within, the Philippines. Such property may be removed from the Philippines, or disposed of therein, provided that disposition of such property in the Philippines to persons or entities not entitled to exemption from applicable taxes and
duties shall be subject to payment of such taxes, and duties and prior approval of the Philippine Government.

2. Reasonable quantities of personal baggage, personal effects, and other property for the personal use of United States personnel may be imported into and used in the Philippines free of all duties, taxes and other similar charges during the period of their temporary stay in the Philippines. Transfers to persons or entities in the Philippines not entitled to import privileges may only be made upon prior approval of the appropriate Philippine authorities including payment by the recipient of applicable duties and taxes imposed in accordance with the laws of the Philippines. The exportation of such property and of property acquired in the Philippines by United States personnel shall be free of all Philippine duties, taxes, and other similar charges.

Article VIII

Movement of Vessels and Aircraft

1. Aircraft operated by or for the United States armed forces may enter the Philippines upon approval of the Government of the Philippines in accordance with procedures stipulated in implementing arrangements.

2. Vessels operated by or for the United States armed forces may enter the Philippines upon approval of the Government of the Philippines. The movement of vessels shall be in accordance with international custom and practice governing such vessels, and such agreed implementing arrangements as necessary.

3. Vehicles, vessels, and aircraft operated by or for the United States armed forces shall not be subject to the payment of landing or port fees, navigation or overflight charges, or tolls or other use charges, including light and harbor dues, while in the Philippines. Aircraft operated by or for the United States armed forces shall observe local air traffic control regulations while in the Philippines. Vessels owned or operated by the United States solely on United States Government non-commercial service shall not be subject to compulsory pilotage at Philippine ports.

Article IX

Duration and Termination

This agreement shall enter into force on the date on which the parties have notified each other in writing through the diplomatic channel that they have completed their constitutional requirements for entry into force. This agreement shall remain in force until the expiration of 180 days from the date on which either party gives the other party notice in writing that it desires to terminate the agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective governments, have signed this agreement.

DONE in duplicate at Manila, The Philippines, this tenth day of February, 1998.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES