

January 15, 1953

**EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT BETWEEN
THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES
OF AMERICA IMPLEMENTING THE AGREEMENTS OF 14 MARCH
1947 CONCERNING MILITARY BASES**

Note: The Agreement entered into force, February 9, 1953.

Reference: This Agreement is also published in 185 UNTS, p. 384.

The Philippine Secretary of Foreign Affairs to the American Ambassador

REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS

Manila, December 29, 1952

Excellency.:

I have the honor to refer to outstanding tax problems confronting United States military authorities operating in the Philippines under the Military Bases Agreement which have been the subject of several communications from the Embassy particularly Note 629 and the memorandum of conversation attached thereto which embodies the discussions on the subject between representatives of the various agencies of the Philippine Government concerned and the Embassy.

Following a study of the problems raised by the Embassy on the matter and by way of implementing Articles V and XVIII of the aforesaid Agreement, my Government is now prepared to assure United States military agencies and their instrumentalities including their authorized contractors operating in the Philippines exemption from the contractor's tax of 3%, the excise or compensating tax of 7% and upwards, the foreign exchange tax of 17%, and the import licensing formality and fee of 2% in respect of goods and services imported by such agencies and instrumentalities from abroad or procured locally from importers, manufacturers and producers either by such agencies and instrumentalities directly or through the agency of private contractors acting for and in behalf, provided that such goods and services are exclusively destined for and actually utilized in the construction, operation, maintenance and defense of the bases, and provided further that the exemptions herein specified are subject to the following conditions.

In the case of the contractor's tax of 3%, the excise or compensating tax of 7% and upwards and the import licensing formality and fee of 2%, the Philippine Government requires of the United States base commanders concerned or their respective contracting officers:

(a) to furnish this Department, through the Embassy, with four (4) certified copies of the bill of materials necessary for the accomplishment of any military project or construction under contract;

(b) to furnish this Department, through the Embassy, in the same number of copies specified in paragraph (a) a statement of the local bank upon which the letter or letters of credit will be opened, the name of the contractor or the importer if other than the contractor, the name of the

carrying vessel or vessels and the approximate date or dates of arrival thereof;

(c) to assure this Department, through the Embassy, that all applicable contracts entered into contain a clause requiring the contractor concerned to account to the United States base commander or contracting officer, and/or to Philippine authorities concerned when so required, for all materials brought into the Philippines under each contract and the bill of materials corresponding to such contract; for this purpose a certificate in quadruplicate of the actual arrival, delivery and use of the materials and equipment required for which exemption has been granted should also be furnished duly supported by the pertinent commercial invoices and bills of lading;

(d) to furnish this Department, through the Embassy, a certificate in quadruplicate showing any material brought into the Philippines by any contractor in excess of the requirement of the United States Government for any military project or construction after making a reasonable allowance normally not in excess of 3% for breakage and deterioration of each item specified in the bill of materials;

(e) to include in all contracts a clause prohibiting the removal from sites under the control of the United States military authorities concerned any material in excess of contract requirements or any material that has been rejected because of inferior quality until such excess or surplus material is first reported to the Department and the requisite clearance obtained for the removal of such materials. Normally, clearance will be granted in a few days.

(f) to furnish this Department, through the Embassy, with a certificate in quadruplicate of any changes in the bills of materials resulting from modifications or revisions of, contracts so that the appropriate taxes could be assessed and collected on the materials not required in the performance of such contracts as modified or revised;

(g) to report, upon discovery thereof, to this Department,, through the Embassy, any irregularity or excessive importation of goods into the Philippines by contractors under contract with the United States Government and/or any of its military agencies operating in the Philippines under the Military Bases Agreement;

(h) prior to the removal of imported goods from customs custody, to issue and furnish this Department, through the Embassy, four (4) copies appropriate certificate of every incoming shipment identifying such shipment to be a part, or the total, of the materials required in a specific contract or contracts as shown in the relevant bill or bills of materials; that in order to facilitate identification and clearance of each shipment, reference to the particular contract, project and/or job manner should be indicated in the certificate;

(i) to furnish this Department, through the Embassy, with two (2) certified copies each of the payment vouchers issued to individual contractors as payments are made, including such relevant data about these payments when and if requested by this Department;