

**August 10, 1965**

**EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT BETWEEN  
THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES  
OF AMERICA AMENDING ARTICLE XIII OF THE MILITARY BASES  
AGREEMENT OF 14 MARCH 1947**

Note: The Agreement entered into force, August 10, 1965.

Excellency:

I have the honor to acknowledge Your Excellency's note No. 36949 dated August 10, 1965 with Annex regarding revision of criminal jurisdiction arrangements under the Philippine-United States Military Bases Agreement of 1947.

I have the honor to inform Your Excellency that the provisions contained in that Annex are acceptable to the United States Government, and that my Government agrees that Your Excellency's note and this reply shall constitute an agreement between our two Governments to enter into force on the date of this note.

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

(Sgd.) William McCormick Blair, Jr.

His Excellency  
MAURO MENDEZ,  
Secretary of. Foreign Affairs,  
Manila

No. 36949

Manila, August 10, 1965

Excellency:

I have the honor to refer to our recent discussions regarding revision of the arrangements for criminal jurisdiction under the Philippine-United States Military Bases Agreement of 1947, and to propose the amendment of Article XIII of the 'V

Agreement by substituting the provisions set forth in the Annex to this note together with attached Agreed Official Minutes and Agreed Implementing Arrangements for the present provisions of Article XIII; except for paragraph 8 of the present article concerning civil actions which I propose remain in effect.

In view of the great interest of the Philippine Government and people in a revision of arrangements governing criminal jurisdiction, I wish also to propose that pending the conclusion of continuing negotiations on other aspects of the Military Bases Agreement, the new criminal jurisdiction arrangements be implemented immediately.

Upon receipt of a note from Your Excellency indicating that the provisions contained in the Annex are acceptable to the United States Government, the Government of

the Republic of the Philippines will consider that this note with its Annex and your reply thereto constitutes an agreement between the two governments on this subject, the agreement to enter into force on the date of your note in reply.

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

(Sgd.) MAURO MENDEZ  
Secretary of Foreign Affairs

ANNEX

Criminal Jurisdiction Provisions  
with attached Agreed Official  
Minutes and Agreed Implementing  
Arrangements

### **ANNEX**

To Department of Foreign Affairs Note No. 36949, dated August 10, 1965

### **ARTICLE XIII**

1. Subject to the provisions of this Article,

(a) The authorities of the Republic of the Philippines shall have jurisdiction over the members of the United States armed forces or civilian component and their dependents with respect to offenses committed within the Republic of the Philippines and punishable by the law of the Republic of the Philippines;

(b) The military authorities of the United States shall have the right to exercise within the Republic of the Philippines all criminal and disciplinary jurisdiction conferred on them by the law of the United States over all persons subject to the military law of the United States;

2. (a) The authorities of the Republic of the Philippines shall have the right to exercise exclusive jurisdiction over members of the United States armed forces or civilian component and their dependents with respect to offenses, including offenses relating to the security of the Republic of the Philippines, punishable by its law but not by the law of the United States;

(b) The military authorities of the United States shall have the right to exercise exclusive jurisdiction over persons subject to the military law of the United States with respect to offenses, including offenses relating to its security, punishable by the law of the United States, but not by the law of the Republic of the Philippines.

(c) For the purposes of this paragraph and of paragraph 3 of this article a security offense against a State shall include

(i) Treason against the State

(ii) Sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defense of that State.

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

(a) The authorities of the Republic of the Philippines shall have the primary right to exercise jurisdiction in all offenses except as enumerated in paragraph (b) hereof.

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

(i) offenses solely against the property or security of the United States, or offenses solely against the person or property of a member of the United States armed forces or civilian component or of a dependent ;

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

(c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the United States to exercise jurisdiction over persons who are nationals of or ordinarily resident in the Republic of the Philippines, unless they are members of the United States armed, forces.

5. (a) The appropriate authorities of the Republic of the Philippines and the appropriate authorities of the United States shall assist each other in the arrest of members of the United States armed forces or civilian component and their dependents in the Republic of the Philippines and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of the Republic of the Philippines shall notify promptly the military authorities of the United States of the arrest of any member of the United States armed forces or civilian component or a dependent.

(c) The custody of an accused member of the United States armed forces or civilian component or dependent over whom the Republic of the Philippines is to exercise jurisdiction shall, if he is in the hands of the United States, remain with the United States until he is charged by the Republic of the Philippines.

6. (a) The authorities of the Republic of the Philippines and United States shall assist each other in the carrying out of all necessary investigations into offenses, and in the collection and production of evidence including the seizure and, in proper cases, the handing over of objects connected with an offense. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(b) The authorities of the Republic of the Philippines and the United States shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7. (a) A death sentence shall not be carried out in the Republic of the Philippines by the authorities of the United States if the legislation of the Republic of the Philippines does not provide for such punishment in a similar case.

(b) The authorities of the Republic of the Philippines shall give sympathetic consideration to a request from the authorities of the United States for assistance in carrying out a sentence of imprisonment pronounced by the authorities of the United States under the provisions of this Article within the Republic of the Philippines.

8. Where an accused has been tried in accordance with the provisions of this Article by the authorities of the Republic of the Philippines or by the authorities of the United States and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offense within the same territory by the authorities of the either State. However, nothing in this paragraph shall prevent the military authorities of the United States from trying a member of its force for any violation of rules or discipline arising from an act or omission which constituted an offense for which he was tried by the authorities of the Republic of the Philippines.

9. Whenever a member of the United States armed forces or civilian component or a dependent is prosecuted under the jurisdiction of the Republic of the Philippines he 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 him;

(c) to be confronted with the witnesses against him;

(d) to have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of the Republic of the Philippines;

(e) to have legal representation of his own choice for his defense or to have free or assisted legal representation under the conditions prevailing for the time being in the Republic of the Philippines;

(f) if he considers it necessary, to have the services of a competent interpreter;

(g) to communicate with a representative of the Government of the United States; and

(h) to have a representative of the United States Government present during the trial, which will be public except when the court decrees otherwise in accordance with Philippine law.

10. (a) Regularly constituted military units or formations of the United States armed forces shall have the right to police any camps, establishments or other premises which they occupy as the result of an agreement with the Republic of the