

DEFENSE

Cooperation

**Agreement Between the
UNITED STATES OF AMERICA
and the PHILIPPINES**

Amending the Agreement of
May 16 and July 16, 1974

Effected by Exchange of Notes at
Manila and Pasay City March 8, 2005
and May 2, 2006



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“. . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

PHILIPPINES

Defense: Cooperation

*Agreement amending the agreement
of May 16 and July 16, 1974.
Effected by exchange of notes at Manila and
Pasay City March 8, 2005 and May 2, 2006;
Entered into force May 2, 2006.*

The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and, referring to an Agreement concerning payment to the United States of net proceeds from the sale or disposal of defense articles furnished on a grant basis, proposes that the Agreement be amended.

The Agreement would be amended by replacing "under the military assistance program of" with "on a grant basis from" in the second paragraph.

If this proposal is acceptable to the Republic of the Philippines, the Embassy proposes that this note and the Department's affirmative note in reply shall constitute an agreement between the United States of America and the Republic of the Philippines which shall enter into force on the date of the Department's reply. Attached is a draft of proposed language for the Department's note of acceptance.

The Embassy of the United States of America avails itself of this opportunity to renew to the Department of Foreign Affairs of the Republic of the Philippines the assurances of its highest consideration.

Enclosure: As stated.



Embassy of the United States of America,
Manila, March 8, 2005.

DRAFT PROPOSED DFA ACCEPTANCE)

(COMPLIMENTARY OPENING) and acknowledges receipt of the Embassy's Note No. (INSERT NUMBER), dated (INSERT DATE), which reads as follows: (QUOTE U.S. NOTE IN ITS ENTIRETY)

The Department of Foreign Affairs of the Republic of the Philippines has the honor to confirm to the Embassy of the United States of America that the Republic of the Philippines approves the above-mentioned proposal. The Embassy's note and the Department's note shall constitute an agreement between the two Governments which shall enter into force on the date of this note.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

No. 06-1097

The Department of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honor to refer to U.S. Note Verbale No. 0282 dated 08 March 2005, proposing amendments to the Exchange of Notes dated 16 May 1974 and 16 July 1974.

The Department has no objection to the proposed amendment and submits the following additional comments on the matter:

1. By replacing the phrase "*under the Military Assistance Program of*" with "*on a grant basis from*" in the second paragraph of the Notes dated 16 May and 16 July 1974, this may have the effect of expanding the obligation of the Philippines under the original Exchange of Notes.

Under the original Exchange of Notes, the Philippines' obligation is to share with the U.S. the net proceeds from the sale of defense equipment given under the Military Assistance Program. The proposed amendment suggests that the said obligation will be expanded to include the net proceeds from the sale or disposition of defense equipment furnished to the Philippines pursuant to any form of grant. The Philippine Government would appreciate confirmation from the U.S. Government regarding this matter.

2. Any future exchange of notes, executive agreement, or treaty in relation to payment of net proceeds of sales of defense articles

furnished by the U.S. to the Philippines should contain a clearly defined distinction between furnishing of defense articles on grant basis on the one hand and purchase of defense articles on the other, such that payment for the defense articles would not be applicable in the latter instance such are being acquired or purchased through Philippine funds.

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

Pasay City, 02 May 2006

