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# U.S.--Philippines Military Bases

## Agreement Review, 1988

[Editor's note. On 17 October 1988, after long negotiations which began on 5 April 1988, the governments of the United States and the Philippines entered into a memorandum of agreement which amends the 1979 Military Bases Agreement. A key component of the new agreement is a pledge by the Executive Branch of the U.S. Government to exert its best efforts to provide mutually agreed levels of military and economic assistance to the Philippines, amounting to \$962 million to be furnished in Fiscal Years 1989 and 1990. The following items include a reprint of a letter from President Reagan to President Aquino which details the proposed increase in assistance, plus a reprint of the new agreement which was signed by U.S. Secretary of State George P. Shultz and Philippines Secretary of Foreign Affairs Raul Manglapus. Also included are two "agreed minutes" which accompany the memorandum of agreement. This material, which reflects the complex and diverse issues associated with the negotiation of a U.S. military bases agreement, is extracted from the publication, *Selected Documents No. 33*, published by the Bureau of Public Affairs, U.S. Department of State.]

### PRESIDENT REAGAN'S LETTER TO PRESIDENT AQUINO, OCTOBER 17, 1988

Dear Madame President:

I was pleased to learn that our representatives have completed the second five-year review of the Military Bases Agreement which is called for in the 1979 amendments.

In light of this development, I wish to state that the Executive Branch of the United States Government will, during the two fiscal years beginning on October 1, 1989, make its best efforts to provide \$962 million in security assistance, development and commodity assistance, and housing investment guarantees, in the following amounts:

Military Assistance Program	\$400 million
Economic Support Fund	320 million
Development Assistance and Food Aid	192 million
Housing Investment Guarantees	50 million

In connection with an implemented Housing Investment Guarantee program, the Government of the Philippines may use the dollars borrowed on the security of the United States Government guarantee to enhance its foreign exchange position or for other purposes, should it so desire.

The United States Executive Branch will seek Congressional authorization to forgive repayment of the \$29.4 million in existing unused FMS credits for the Philippines.

The Export-Import Bank of the United States is prepared to consider loans, guarantees, and insurance aggregating up to \$350 million over three U.S. fiscal years, 1989, 1990 and 1991, for the purpose of assisting in the financing of United States exports to the Philippines.

Such financing will be extended on a case-by-case basis at the discretion of the Board of Directors of the Export-Import Bank; shall be subject to all applicable provisions of United States law, including budget commitment authority; and shall be in the form of loans, guarantees, or insurance under the Bank's regular programs for individual transactions or projects approved by

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the Board. The Board will apply the creditworthiness criteria and financing terms and conditions which are the customary policies and practices of the Bank. Loans to private companies in the Philippines may require a guarantee of the Government of the Philippines.

The Overseas Private Investment Corporation will continue to facilitate United States private investment in the Republic of the Philippines and to that end expects to issue new insurance coverage for United States private investment projects in the Philippines in the range of \$100 million by September 30, 1991.

In addition, by September 30, 1991, the Overseas Private Investment Corporation would provide financial guarantees up to \$50 million in United States private capital, through appropriate mechanisms, for use in financing productive projects in the private sector in the Republic of the Philippines. Both the Overseas Private Investment Corporation's finance guarantees and insurance coverage will be subject to terms and conditions as shall be agreed upon by the Overseas Private Investment Corporation and the Government of the Philippines, and approved by the Overseas Private Investment Corporation's Board of Directors.

These undertakings are subject to the limitations of applicable United States legislation and compliance with applicable legal requirements, and, where necessary, to the availability of the appropriate funding.

As you know, under our constitutional system, the Congress has sole authority to appropriate funds.

In closing, let me affirm once again the continuing support of the United States for your efforts to strengthen democracy and economic development in the Republic of the Philippines. I am pleased to note that the Military Bases Agreement Review confirmed that the Agreement continues to meet our mutual needs and interests. I believe that this review has again underlined the close and historic ties linking our two countries, and will contribute further to strengthening the peace and security of the Western Pacific region.

Sincerely,  
*RONALD REAGAN*

## **TEXT OF AGREEMENT, OCTOBER 17, 1988**

### **Memorandum of Agreement**

The Exchange of Notes between the Government of the Philippines and the Government of the United States amending the Military Bases Agreement, dated January 7, 1979, provides: "in every fifth anniversary year from the date of this modification and until the termination of the Military Bases Agreement, there shall be begun and completed a complete and thorough review and reassessment of the agreement, including its objectives, its provisions, its duration, and the manner of implementation, to assure that the agreement continues to serve the mutual interest of both parties." The first such review, conducted in Manila from April 11 to June 1, 1983, resulted in the signing of a Memorandum of Agreement dated June 1, 1983.

The second scheduled review of the Agreement took place in Manila and Washington from April 5, 1988, to October 17, 1988, with discussions between representatives of the Government of the Philippines and the Government of the United States. Pursuant to the understandings reached during the second scheduled review, the Government of the Philippines and the Government of the United States have agreed to the following:

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## **I. Mutual Security Relationship**

1. The Government of the Philippines and the Government of the United States reaffirm the importance of their continuing mutual security relationship, of which the military base arrangements form an integral part, and the fundamental principles on which this relationship is based, including in particular their mutual respect for the sovereign equality and independence of both countries, their joint commitment to the defense and stability of their respective territories and to maintaining the freedom and dignity of their peoples, and their mutual interest in strengthening the fabric of peace in the Pacific area and in maintaining global freedom of commerce and trade.

2. The Government of the Philippines and the Government of the United States also affirm the continuing need to adjust their current security relationship in light of present and emerging realities in the domestic, regional and global situation. In the context of the foregoing and in full recognition of and respect for each other's sovereignty and consistent with their respective national interests, both governments reaffirm their commitments under the 1947 Military Bases Agreement and Mutual Defense Treaty.

3. Recognizing the interrelationship of economic, social, and security concerns, the Government of the United States will exert its best efforts to provide mutually agreed levels of financial assistance to strengthen the security, as well as to help support the economic and social development, of the Republic of the Philippines.

## **II. Procurement of Philippine Products**

1. The Government of the United States reaffirms its obligations under the 1983 Memorandum of Understanding that U.S. forces shall procure goods and services in the Philippines to the maximum extent feasible and its undertaking in 1986, at the request of the Government of the Philippines, to pursue energetically a Buy Philippines Program aimed at identifying, advising, and assisting potential Philippine suppliers in order to expand the range of goods and services which can be procured in the Philippines. As part of that program, the United States has waived, and will continue to waive for the period of this Agreement, the requirements of the Balance of Payments Program in order to permit purchase within the Philippines of goods and materials that are mined, produced, or manufactured in the Philippines by and for the use of U.S. forces in the Philippines.

2. In order to expand further the potential markets for and use of Philippine products by U.S. military forces, the United States will waive, in addition, the Balance of Payments Program requirements in order to permit purchase of Philippine goods and materials by and for the use of U.S. forces in the foreign areas of responsibility of the U.S. Commander in Chief, Pacific (USCINCPAC).

3. The Executive Branch of the United States Government will also seek legislation which would permit a waiver permitting purchase of Philippine goods and materials, notwithstanding the restrictions of the Berry Amendment, by and for the use of U.S. forces in the Philippines and the foreign areas of responsibility of the U.S. Commander in Chief, Pacific (USCINCPAC).

## **III. Review of the Base Labor Agreement**

1. Pursuant to an exchange of notes between the Government of the Philippines and the Government of the United States completed on April 12, 1988, representatives of the two countries have met beginning on July 12, 1988, to discuss possible additional revisions to or alterations in the Base Labor Agreement of May 27, 1968, concerning the employment of Philippine nationals by the U.S. forces in the Philippines.

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2. The Government of the Philippines and the Government of the United States are committed to the welfare of the Philippine national work force at the bases. The proposed talks reflect the critical contribution made by the Philippine national work force to the effective operation of the U.S. Facilities and will be conducted with a view to ensuring that labor relations involving the Philippine national work force remain harmonious, productive, and beneficial to both the employer and the workers. The discussions shall be conducted on the basis of the principles of recognition and respect for the sovereignty of the Republic of the Philippines and equality of treatment.

3. The Government of the Philippines suggests the following issues for discussion: (1) application of Philippine labor laws; (2) preferential employment for Filipinos; (3) uniform or comparative employment standards on wages and other forms of compensation; (4) security of employment; (5) severance pay; (6) regulation of contracting out of services and activities; (7) full recognition of the right to self-organization and collective bargaining; (8) fair and effective dispute settlement, and improvement of the mechanics and role of the Joint Committee; (9) fair standards for contractors and concessionaires. The panels, however, will be empowered to approve their own agenda.

#### **IV. Joint Republic of the Philippines-United States Panel and Philippines Veterans' Claims**

Recognizing the commitment of the Government of the Philippines and the Government of the United States to the rights of the veterans who fought in World War II, the United States representatives have communicated to the highest appropriate United States authority the concerns of the Government of the Philippines regarding the request to reconvene the Veterans' Claims Panel.

#### **V. Social Issue**

1. The Government of the Philippines and the Government of the United States affirm their common concern over the global problem of AIDS [Acquired Immune Deficiency Syndrome] virus infection and their common interest in the prevention and control of this disease.

2. The Government of the Philippines and the Government of the United States shall exchange releasable information on the incidence of AIDS virus infection.

3. The Government of the United States reaffirms its policy that U.S. military personnel who test positive for the AIDS virus will not be assigned outside the United States.

4. In recognition of the global dimensions of the AIDS problem, both Governments agree to refer this issue to a bilateral committee consisting of appropriate representatives from both Governments concerned with the limitation and control of this disease, in order to establish and develop programs and identify funding in support of AIDS prevention, education, testing, detection, and control.

#### **VI. Nuclear Weapons**

1. Notwithstanding the provisions of Article III of the 1947 Military Bases Agreement, as amended, the storage or installation of nuclear or non-conventional weapons or their components in Philippine territory shall be subject to the agreement of the Government of the Philippines.

2. For purposes of paragraph 1, transits, overflights, or visits by U.S. aircraft or ships in Philippine territory shall not be considered storage or installation. These transits, overflights, or visits will be conducted in accordance with existing procedures, which may be changed or modified, as necessary, by mutual agreement between both parties.

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## **VII. Ownership and Disposition of Buildings, Structures, and Other Property**

Article XVII of the 1947 Military Bases Agreement is amended to read as follows:

1. It is mutually agreed that the United States shall have the right to remove or dispose of any or all removable improvements, equipment, or facilities located at or on any base and paid for with funds of the United States. No export tax shall be charged on any property so removed from the Philippines. The Government of the Philippines shall have the first option to acquire, upon mutually agreed terms, such removable United States Government property within the bases as the United States Government determines to be excess property available for disposition in the Philippines.

2. Non-removable buildings and structures within the bases, including essential utility systems such as energy and water production and distribution systems and heating and air conditioning systems that are an integral part of such buildings and structures, are the property of the Government of the Philippines, and shall be so registered. The United States shall, however, have the right of full use, in accordance with this Agreement, of such non-removable buildings and structures within the United States Facilities at the bases, including the right to repair, alter or, when necessary for reasons of safety or new construction, to demolish them. There shall be no obligation on the part of the United States or of the Philippines to rebuild or repair any destruction or damage inflicted from any cause whatsoever on any of the non-removable buildings or structures used by the United States in the bases. The United States is not obligated to turn over the bases to the Philippines at the expiration of this Agreement or the earlier relinquishment of any bases in the condition in which they were at the time of their occupation, nor is the Philippines obliged to make any compensation to the United States for the improvements made in the bases or for the non-removable buildings or structures left thereon, the right of use of which shall revert to the Philippines upon the termination of this Agreement or the earlier relinquishment by the United States of the bases where the buildings or structures have been built.

3. Upon final termination of the use by the Government of the United States of the Facilities or earlier relinquishment, the United States and the Republic of the Philippines will take appropriate measures as they shall jointly determine to ensure a smooth transition with respect to custody and control of the Facilities and in order to minimize any disruptive effects of such termination.

## **VIII. Base Security**

1. The Governments of the Philippines and the United States take note of the need to improve the security of the bases in view of increasing intrusions into and other possible threats on the bases. Accordingly, both Governments agree that the Mutual Defense Board (MDB) shall give this need priority in its agenda for 1988 and conclude an action plan, along with any necessary related agreements, that addresses the full range of security concerns regarding physical security of the bases, including security of U.S. personnel off-base, on or before the end of 1988. This tasking shall not affect the general or continuing responsibilities of the Joint Committee created under the 1983 amendment to the 1947 Military Bases Agreement, and the MDB shall report to the Joint Committee on the conclusion of its efforts.

Subject to the availability of funds, the Government of the United States is prepared to provide up to \$4 million per year for FYs 1990 and 1991 for the sole purpose of assisting the Philippine Base Commands at Subic and Clark in the maintenance of base security. Prioritization of projects for improvements of base security will be jointly agreed upon by the Philippine Base Commanders and U.S. Facility Commanders and submitted to the MDB for approval.

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2. The Governments of the Philippines and the United States take note of the presence of squatters on base and Facility lands and of the need to relocate them. Both Governments also take note of the joint action taken by the Philippine Base Commanders and U.S. Facilities Commanders of Clark Air Base and Subic Naval Base to address the squatter problem. For its part, the Philippine Government will take steps to relocate and resettle the squatters and prevent further squatting on the bases. The resettlement program will give priority to those whose relocation is necessary to improve base security and protect them from risks arising from operations at the bases while at the same time improving their conditions. For this purpose, the Philippine Government will carry out a resettlement program, which will include a livelihood component, for squatters at Clark Air Base and Subic Naval Base. For its part, the United States Government is prepared at this time to provide up to \$5 million to fund Philippine Government approved projects.

The recommendations of the Base Commanders and U.S. Facility Commanders will be taken into consideration in the formulation of the resettlement program. Priority for squatter relocation will be jointly agreed by the Philippine Base Commanders and the U.S. Facility Commanders and forwarded for appropriate consideration. To start the resettlement program, a resettlement project will be undertaken in 1988 for squatters at Clark Air Base.

3. The Government of the Philippines reaffirms its obligation under Article V of the 1979 Arrangements Regarding Delineation of United States Facilities concerning access to, egress from, and movement between U.S. Facilities, depicted areas, other base areas of the Philippine military bases which are made available for use by the U.S. forces under the 1947 Military Bases Agreement, and the Tabones Training Complex.

4. With respect to the problem of unlawful entry onto the bases and Facilities, the Government of the Philippines will take necessary and appropriate steps to achieve strict enforcement of existing laws and to ensure that defendants appear for trial. These steps shall include the circulation to the authorities concerned of relevant Philippine law or rules relating to the periods for which defendants may be detained, and, for defendants who post bail and thereafter fail to appear, the vigorous pursuit of their arrest and detention pending trial. The Philippine Base Commanders and U.S. Facilities Commanders will also continue to work to improve the expeditious processing of apprehended intruders.

## **IX. ESF Budget Support Program**

The Government of the United States will develop with the Government of the Philippines a program of budget support for the Philippine Government. The United States will propose rapid disbursement of a substantial portion of \$248 million in ESF [Economic Support Fund] for U.S. fiscal years 1988 and 1989 and a substantial portion of the fiscal year 1990 ESF, in the anticipated amount of \$160 million, which may be appropriated for the Philippines to assure continued progress in implementation of agreed on Philippine economic and administrative reforms. These cash transfers would enhance significantly the financial ability of the Government of the Philippines to undertake a voluntary, market-oriented debt reduction program in 1990, or earlier if desirable and feasible.

## **X. Further Consultations**

The Government of the Philippines and of the United States note that other important subjects, including questions related to criminal jurisdiction and military operations, have been discussed during the course of the review, but that no agreement has been reached. The Governments of the Philippines and of the United States note, however, that any further concerns of both Governments regarding the implementation and operation of arrangements in these areas can be further explored under existing consultation procedures.

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## Entry Into Force

This Agreement shall enter into force upon signature.  
IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Washington, in duplicate, the seventeenth day of October, 1988.

For the Government of the  
United States of America

GEORGE P. SHULTZ

For the Government of the  
Republic of the Philippines

RAUL MANGLAPUS

**AGREED MINUTE OCTOBER 17, 1988**

The Government of the Philippines and the United States note their understanding that the term "non-conventional weapons" refers to chemical and biological weapons.

**AGREED MINUTE OCTOBER 17, 1988**

"Non-removable buildings and structures" refers to buildings, structures, and other improvements permanently affixed to the ground, and such equipment that is essential to the habitability and general use of such improvements and is permanently attached to or integrated into the property. Examples are roads, runways, buildings with basements, permanently installed plumbing, heating, and cooling systems required for normal habitation purposes, and generators for basic electric power requirements of such buildings. Examples of removal property are demountable structures (e.g., trailers, Butler buildings, certain antennas), communications equipment, navigational aids, vehicles, furniture, portable air conditioners, aircraft, weapons, ammunition, office equipment, data processing equipment, special heating and cooling equipment not related to habitability of a structure, generators for special power requirements exceeding habitability and general use requirements, and other types of military or special use equipment.