

No. 19868

**UNITED STATES OF AMERICA
and
PHILIPPINES**

**Agreement continuing the operations of the United States
Veterans Administration in the Philippines. Signed at
Manila on 5 September 1979**

Authentic text: English.

Registered by the United States of America on 10 June 1981.

**ÉTATS-UNIS D'AMÉRIQUE
et
PHILIPPINES**

**Accord relatif au maintien de l'activité de l'Administration
des anciens combattants des États-Unis aux Philippines.
Signé à Manille le 5 septembre 1979**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 10 juin 1981.

AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES CONTINUING THE OPERATIONS OF THE UNITED STATES VETERANS ADMINISTRATION IN THE PHILIPPINES

Whereas, the Congress of the United States by Public Law 95-520, approved October 26, 1978, as embodied in Sections 230(b), 624, and 632, Title 38, United States Code, has provided for the extension of the operations of the United States Veterans Administration Regional Office in the Philippines to September 30, 1981, and for further assistance by grants-in-aid to the Republic of the Philippines in providing medical care and treatment and nursing home care for certain veterans, as defined below, for replacement and upgrading of equipment and for rehabilitating the physical plant of the Veterans Memorial Medical Center, and for education and training of health service personnel who are assigned to such hospital, and

Whereas, the Republic of the Philippines is desirous of taking advantage of the provisions thereof for the purpose of continuing the operations of the United States Veterans Administration in the Republic of the Philippines, particularly that of extending the program of medical care and hospitalization and providing nursing home care of those disabled veterans who come within the purview of Public Law 95-520, as embodied in Section 230(b), 624, and 632, Title 38, United States Code,

The United States of America and the Republic of the Philippines have decided to conclude a new Agreement for the above purposes, the regulations relating to which the United States of America will promulgate in the Federal Register, and do hereby agree as follows:

TITLE I. PURPOSES OF CONTRACT

Article 1. Subject to mutual agreement, the necessary appropriation acts of the United States Congress, and such rules and regulations as, from time to time, may be prescribed by the Administrator of Veterans Affairs of the United States, to whom the President of the United States has delegated the authority conferred upon him by Sections 631-634, Title 38, United States Code, the Administrator of Veterans Affairs of the United States will enter into a contract with the Director of the Veterans Memorial Medical Center subject to the approval of the Minister of National Defense of the Republic of the Philippines, as follows:

- (a) To provide reimbursement to the Republic of the Philippines by the United States of America for hospital care in the Republic of the Philippines of Commonwealth Army veterans and New Philippine Scouts determined by the Administrator of Veterans Affairs of the United States to be in need of such hospital care for service-connected disabilities, at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable;

¹ Came into force on 5 September 1979 by signature, with retroactive effect from 27 October 1978, in accordance with article 16.

- (b) To provide reimbursement as described in (a) above for hospital care at the Veterans Memorial Medical Center of Commonwealth Army veterans and of those New Philippine Scouts who enlisted before July 4, 1946, determined by the Administrator of Veterans Affairs of the United States to be in need of such hospital care for non-service-connected disabilities, if they are unable to defray the expenses of necessary hospital care;
- (c) To provide reimbursement for medical services in the Republic of the Philippines for Commonwealth Army veterans and New Philippine Scouts determined by the Administrator to be in need of such medical services for service-connected disabilities which shall be provided either in the Veterans Memorial Medical Center or at the Outpatient Clinic of the United States Veterans Administration, or by contract, at rates to be jointly determined for each fiscal year by the two Governments to be fair and reasonable;
- (d) To provide reimbursement for nursing home care in the Republic of the Philippines for any Commonwealth Army veteran or New Philippine Scout who has been furnished hospital care and who has been determined by the Administrator to be in need of such nursing home care, at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable but in no event to exceed 50 per centum of the per diem rate established pursuant to (a) above.
- (e) To provide reimbursement for veteran's travel expenses incident to such hospitalization, medical services, or nursing home care which are authorized by the Administrator of Veterans Affairs of the United States;
- (f) To provide that the period of the contract may be extended through and end on September 30, 1981;
- (g) To provide that the total of payments for authorized hospital care, which includes cost of determining the medical need for such hospital care, and medical services plus any payments for authorized travel expenses incident to the hospitalization or medical services or nursing home care of Commonwealth Army veterans and New Philippine Scouts shall not exceed the amounts provided by the appropriation acts of the Congress of the United States for each fiscal year in the event such specific appropriations are enacted and in no event shall exceed \$2,000,000 for any one fiscal year commencing October 1, 1978 and ending on September 30, 1981 which shall include an amount not to exceed \$250,000 for any one such fiscal year for nursing home care as provided for in (d) above;
- (h) To provide that during the contract period specified in this article, subject to mutual agreement of the officials designated to execute such actions, payments for hospital care and for medical services provided to Commonwealth Army veterans and New Philippine Scouts or to United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator of Veterans Affairs of the United States to the Veterans Memorial Medical Center at valuations therefor as determined by the Administrator of Veterans Affairs of the United States, provided the valuations so determined shall not be less than the cost of the items furnished, including transportation;
- (i) To provide that during the period covered by such contract the Republic of the Philippines and the Veterans Memorial Medical Center will replace and

upgrade, as needed, the equipment of such hospital and will rehabilitate the existing physical plant and facilities of such hospital as soon as practicable to place the hospital on a sound and effective operating basis;

- (j) To provide that failure of the Republic of the Philippines and the Veterans Memorial Medical Center to fulfill the commitment described in (i) above or to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator of Veterans Affairs of the United States, shall be a ground for stopping payments under this Agreement upon reasonable notice as stipulated by the contract;
- (k) To provide for grants by the Administrator of Veterans Affairs of the United States, on such terms and conditions as he may prescribe, to the Veterans Memorial Medical Center, to assist the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such hospital, which shall not exceed the amounts provided by the appropriation acts of the Congress of the United States for that purpose and in no event shall exceed the amount of \$50,000 for each fiscal year during the period beginning October 1, 1978 and ending September 30, 1981;
- (l) To provide for grants by the Administrator of Veterans Affairs of the United States to the Veterans Memorial Medical Center for education and training of health service personnel who are assigned to such hospital which shall not exceed the amounts provided by the appropriation acts of the Congress of the United States for that purpose and in no event shall exceed \$50,000 for each fiscal year during the period beginning October 1, 1978 and ending September 30, 1981, which grants shall be made on terms and conditions prescribed by the Administrator, including approval by him of all educational and training programs.

TITLE II. DELEGATION OF AUTHORITY

Article 2. The Minister of National Defense of the Philippine Government, under the general direction of the President of the Republic of the Philippines, shall have full authority to administer for the Government of the Republic of the Philippines all matters relating to the provision of medical care and treatment for veterans, for replacement and upgrading of equipment and for rehabilitating the physical plant of the Veterans Memorial Medical Center, and for education and training of health service personnel who are assigned to such hospital within the purview of Public Law 95-520, approved October 26, 1978, as embodied in Sections 230(b), 624, and 632 of Title 38, United States Code.

TITLE III. DEFINITIONS

Article 3. (a) The term "Commonwealth Army veterans" is agreed to mean persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President of the United States dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated or subsequently recognized by the Commander-in-Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable.

(b) The term “New Philippine Scouts” means persons who served in the Philippine Scouts under Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

(c) Determination by the Department of Defense of the United States as to military service shall be accepted by the United States Veterans Administration. In those cases in which the United States Veterans Administration shall have information which it deems reliable and in conflict with the information upon which a determination was made, such cases together with the information in the possession of the United States Veterans Administration shall be referred to the Department of Defense of the United States for reconsideration and redetermination. Such determinations and redeterminations, respectively, as to military service shall be conclusive for the purpose of this Agreement.

Article 4. The term “service-connected disabilities” is agreed to mean disabilities determined by the Administrator of Veterans Affairs of the United States under laws administered by the United States Veterans Administration to have been incurred in or aggravated by the service described in Article 3 in line of duty.

TITLE IV. USE OF FACILITIES OF THE VETERANS MEMORIAL MEDICAL CENTER

Article 5. As previously agreed between the two Governments, the ownership of the Veterans Memorial Medical Center and the equipment thereof has been vested in the Government of the Philippines and the use to which said hospital or any part of equipment thereof shall be devoted is for determination by mutual consent of the two Governments.

Article 6. Use by the Republic of the Philippines of the facilities of the Veterans Memorial Medical Center shall be discretionary with the Republic of the Philippines except that:

- (a) First priority of admission and retention in the hospital shall be accorded Commonwealth Army veterans and New Philippine Scouts needing hospital care for service-connected disabilities or non-service-connected disabilities associated with and aggravating service-connected disabilities;
- (b) Second priority shall be accorded United States veterans who require hospital care for service-connected disabilities or non-service-connected disabilities associated with and aggravating service-connected disabilities;
- (c) Third priority shall be accorded Commonwealth Army veterans, New Philippine Scouts referred to in Article 3(b), and who enlisted before July 4, 1946, and United States veterans with “wartime” service, who need hospital care for non-service-connected disabilities.

TITLE V. OTHER PROVISIONS

Article 7. It is agreed between the two Governments that the determination of legal eligibility and medical need for hospitalization and medical treatment of Commonwealth Army veterans and the New Philippine Scouts as well as their need for nursing home care, rests exclusively with the United States Veterans Administration. The question of whether to hospitalize such veterans prior to

an official determination of their legal eligibility and medical need having been made by the United States Veterans Administration, or whether to require such determinations to be made prior to hospitalizing them will be wholly within the discretion of the Minister of National Defense of the Philippine Government, depending upon such contingencies and exigencies as the Minister of National Defense of the Philippine Government may deem it appropriate to consider. No liability for reimbursement shall accrue to the United States Veterans Administration for any hospitalization of either a Commonwealth Army veteran or a New Philippine Scout until legal eligibility and medical need for hospitalization has been determined by the United States Veterans Administration, but when such determination shall have been made, the liability for reimbursement shall, subject to such limitation as the rules and regulations of the United States Veterans Administration may provide, relate back to the date of admission to the hospital. Hospitalization in the Philippines of Commonwealth Army veterans and New Philippine Scouts found by the United States Veterans Administration to be in need of hospitalization for service-connected disabilities shall not be limited to hospitalization in the Veterans Memorial Medical Center, but that hospital will be used to the maximum extent feasible in the hospitalization of such veterans.

Article 8. The contract entered into pursuant to this Agreement shall provide for hospitalization on a per diem basis for those United States veterans in the Philippines who may be found eligible by the United States Veterans Administration for such hospitalization. Hospitalization of United States veterans who are in need of treatment for non-service-connected disabilities shall be limited to treatment in the Veterans Memorial Medical Center. Billings for services rendered these United States veterans will be made separately, and reimbursements, including travel expenses incident to such hospitalization, shall be payable from United States Veterans Administration appropriations and shall not be chargeable to the appropriation ceiling for the fiscal year in question for the hospitalization, medical services, nursing home care, and travel expenses incident thereto of Commonwealth Army veterans and New Philippine Scouts referred to in Article I.

Article 9. The contract entered into pursuant to this Agreement shall provide for nursing home care which shall be provided either at the Veterans Memorial Medical Center or at such nursing home care facility as may be approved by the Administrator of Veterans Affairs of the United States for those United States veterans who have been furnished hospital care in the Philippines, but who require a protracted period of nursing home care, on a per diem basis at the same rate specified in Article 1(d). Billings for nursing home care furnished these United States veterans will be made separately, and reimbursements, including travel expenses incident to such nursing home care, shall be payable from Veterans Administration appropriations as specified in Article 8 above.

Article 10. The Minister of National Defense of the Republic of the Philippines will, with the concurrence of the Administrator of Veterans Affairs of the United States, cause such printed forms of applications for hospitalization, nursing home care, outpatient treatment, forms of physical examination reports, forms for billing for services rendered and such other forms and notices as may be necessary and incident to the efficient execution of this program to be prepared, and such approved forms will be used whenever applicable to the general operations of such program.

Article 11. The Minister of National Defense of the Philippines shall furnish to the Administrator of Veterans Affairs of the United States, upon his request, or the request of any officer duly designated by him for such purpose, full and complete cost accounting information, copies of medical examination and treatment reports and any other information deemed by him to be necessary and incident to the proper application of the terms of this Agreement.

Article 12. The United States of America, through such qualified persons as the Administrator of Veterans Affairs of the United States may designate, shall have the right to inspect any hospital in which veterans are being hospitalized or any nursing home care facility in which veterans are being provided nursing home care under the terms of this Agreement; to inspect and audit its books and all accounts as are incident to the proper determination of cost of the reimbursement, on a per diem basis, for such hospitalization or nursing home care and to determine whether the hospital and nursing home care facilities, procedures, techniques, and standards, as well as the quality of subsistence furnished, are adequate and proportionate to the charges being made therefor.

Article 13. Appropriations for hospital care, medical services, and nursing home care for veterans under subsection (a) of Section 632, Title 38, United States Code, and for grants to the Veterans Memorial Medical Center for education and training of health service personnel assigned to such hospital under subsection (d)(1) of Section 632 will, if unobligated, be reverted to the United States Treasury at the end of the fiscal year. Appropriation for grants to the Veterans Memorial Medical Center to assist the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such hospital shall remain available until expended.

Article 14. It is agreed between the two Governments that if the conditions and terms of the Agreement are not being met, the Minister of National Defense of the Philippines and the Administrator of Veterans Affairs of the United States or his designee shall enter into immediate consultation with a view to compliance with said terms and conditions. The initiation of such consultations by either Government shall not limit or qualify the duty and obligation of the Administrator of Veterans Affairs of the United States to withhold or suspend payments when in his judgment such payments would not be in accordance with the terms of this Agreement.

Article 15. It is agreed between the two Governments that the program under this Agreement, including the contract referred to in Article 1, shall be effective from the date specified in such contract.

Article 16. The Agreement entered into between the United States of America and the Republic of the Philippines on April 4, 1974,¹ is deemed terminated on September 30, 1978, and the present Agreement shall be deemed to have come into effect on October 27, 1978 shall remain in effect until amended or terminated by subsequent agreement or until September 30, 1981 whichever is earlier. Such amendment or revocation may be accomplished by an exchange of notes between the two Governments.

Article 17. The Republic of the Philippines shall save harmless all officers and employees of the United States Veterans Administration from damage suits

¹ United Nations, *Treaty Series*, vol. 953, p. 143.

or other civil and criminal actions arising out of the performance of their official duties.

Article 18. Officers, employees, and agents of the United States Veterans Administration who are citizens of the United States and who are on duty or who may be assigned to duty in the Republic of the Philippines, and their families, shall be permitted to move freely into and out of the Republic of the Philippines, subject to existing visa and passport regulations. Gratis transit shall be extended to all officers, employees or agents of the United States Veterans Administration over all bridges, ferries, roads, and other facilities of the highways where tolls are collected for passage of vehicles or occupants in the performance of their official duties.

Article 19. No import, excise, consumption, or other tax, duty, impost fee, charge or exaction shall be imposed or collected by the Republic of the Philippines on funds or property in the Republic of the Philippines which are for use for purposes under this Agreement, or on any funds or property imported into the Republic of the Philippines for use in connection with such purposes. No tax, duty, impost fee, charge or exaction shall be imposed or collected by the Republic of the Philippines on personal funds or movable property, not intended for resale, owned by United States Veterans Administration personnel who are citizens of the United States, nor shall any tax, duty, impost fee, charge or exaction be imposed or collected by the Republic of the Philippines on the official emoluments paid to the United States Veterans Administration personnel who are citizens of the United States, nor shall any tax, duty, impost fee, charge or exaction be imposed or collected by the Republic of the Philippines on personal funds or property, not intended for resale, imported into the Republic of the Philippines for the use of, or consumption by United States Veterans Administration personnel, who are United States citizens, nor shall any export or other tax, fee, charge or exaction be imposed or collected by the Republic of the Philippines on any of the foregoing funds or property mentioned in this article in the event of their removal from the Republic of the Philippines.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement in duplicate, in the City of Manila, this 5th day of September 1979.

For the United States of America:

[Signed — Signé]¹

For the Republic of the Philippines:

[Signed — Signé]²

SIGNED at Ministry of Foreign Affairs, City of Manila, Republic of the Philippines, on September 5, 1979.

¹ Signed by Richard W. Murphy — Signé par Richard W. Murphy.

² Signed by Carlos P. Romulo — Signé par Carlos P. Romulo.