

THE REVISED UNITED STATES-PHILIPPINE TRADE AGREEMENT OF 1955

by

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FOREWORD

Professor Golay, of the Department of Economics and Southeast Asia Program, came to Cornell in 1953 from Washington, D.C., where he served as economist (specializing on the Far East) in various government agencies, including the Board of Governors of the Federal Reserve System.

During 1955-56 Professor Golay received an award for advanced research from the United States Educational (Fulbright) Foundation in the Philippines. Affiliated with the University of the Philippines, he was able to carry out research there and in many other parts of the islands on problems associated with economic policies of the Republic.

The present study of the Revised United States-Philippine Trade Agreement of 1955 was originally prepared as a journal article. However, publication in that form would have entailed omission of materials which Professor Golay felt should be included in his study. It was accordingly decided that his work should be enlarged and issued in this form.

The Revised United States-Philippine Trade Agreement of 1955 eliminates all of the provisions of the 1946 Agreement which infringed on Philippine sovereignty and which proved to be a persistent source of irritation in postwar United States-Philippine relations. The analysis presented here suggests that the impact of the Revised Trade Agreement will be primarily political, and the orderly reduction in mutual economic preferences, which has been a consistent United States objective in economic relations between the two countries, is maintained in the Revised Agreement. The principal economic consequence of the Revised Agreement should be a substantial increase in Philippine government revenues from the import duties which will be levied on imports from the United States at accelerated rates.

The Southeast Asia Program would like to acknowledge the contribution of Mrs. Rose Thomas who assisted materially in the production of this Data Paper.

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THE REVISED UNITED STATES-PHILIPPINE TRADE AGREEMENT CF 1955¹

With the approach of the end (July 3, 1954) of the eight year "Rehabilitation" period of free trade provided in the United States-Philippine Trade Agreement (1946), pressure for revision of the Agreement mounted in the Philippines and was increasingly recognized in the United States.²

I

THE PHILIPPINE POSITION WITH RESPECT TO REVISION OF THE 1946 TRADE AGREEMENT

On April 24, 1952, President Quirino appointed a distinguished committee of fifteen members to "make a final study and advise the President on the proposed revision of the Trade Agreement between the Philippines and the United States."³ The report of the Committee, submitted January 9, 1953,

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1. Agreement between the Republic of the Philippines and the United States of America concerning trade and related matters during a transitional period following the institution of Philippine independence, signed at Manila on July 4, 1946, as revised, including a protocol, annexes and related exchange of notes both dated September 6, 1955, Washington, D.C., September 6, 1955. For further information on the Revised United States-Philippine Trade Agreement, cf. Ahrensdoerf, J., "Some Economic Aspects of the Revised Bell Trade Act," Economic Research Journal, Vol. II, No. 1, June 1955, pp. 7-14 and Tejam, M.A., "The Story of the 1954 Philippine Economic Mission to the United States," Economic Research Journal, Vol. II, No. 3, December 1955, pp. 138-148.
 2. For example, the United States Economic Survey (Bell) Mission Report made the following recommendation. "The Philippine Government will find it necessary to direct its commercial policy to meet the needs for development and to strengthen trade relations with other countries. The present trade agreement sets the terms that will govern the trade relations between the United States and the Philippine Republic for the next twenty-four years. The Act under which the agreement was made was passed more than four years ago. Conditions have changed very radically since then; new problems have emerged and new policies have become necessary to deal with them. It would be desirable to have a joint United States-Philippine Commission study the need for modification of the trade agreement to cover trade relations between the two countries."
 3. Executive Order No. 499, Manila, April 24, 1952. Reprinted in Central Bank of the Philippines, Annual Report, 1952, p. 323.

recommended that "immediate representations" be made to the United States to initiate negotiations to revise the 1946 Trade Agreement.⁴

The basic recommendation of the Committee was a proposal of "reciprocal free trade" providing "for a limited and reciprocal free trade between the two countries whereby full duties will be imposed on all imports both ways, except for those commodities that may be included in the duty-free list and up to the volume and/or amount as may be agreed upon."⁵

Following the inauguration of President Magsaysay on January 1, 1954, he appointed a Special Committee headed by Vice President Garcia to consider proposals for revision of the 1946 Trade Agreement. This committee endorsed the recommendations of the 15-man Committee of the previous (Quirino) administration by submitting a "selective free trade" formula as the basic recommendation. The basic proposal of selective free trade was presented to the United States in an exchange of diplomatic notes as the basis for negotiating a Revised Trade Agreement but was rejected as "unworkable and unacceptable" by the United States Government.⁶

Meanwhile, in the summer of 1954 both the United States and the Philippines took steps to suspend the imposition of tariffs on imports from the other country as scheduled in the 1946 Trade Agreement pending the outcome of the negotiation of a new Trade Agreement.⁷

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4. The Report of the President's 15-man committee to Revise the Trade Agreement Between the Philippines and the United States as well as the attached report of a Special Committee of the National Economic Council, The Need for a Revision of the Executive Agreement with the United States, Manila, March 26, 1952, are reprinted in Central Bank of the Philippines, Annual Report, 1952. pp. 398-410
 5. Ibid., p. 408
 6. Tejam, M. A., op. cit., p. 138
 7. For the United States -- Public Law 474, 83rd Congress, "An Act to provide for an extension on a reciprocal basis of the period of the free entry of Philippine Articles in the United States," Washington, D.C., July 5, 1954. On July 10, 1954 President Eisenhower issued a Proclamation extending duty-free treatment for Philippine imports until December 31, 1955. For the Philippines -- Republic Act No. 1137 of June 16, 1954, "An Act to Amend Commonwealth Act Seven Hundred and Thirty-three" authorized the extension on a reciprocal basis of duty-free entry of U.S. imports until December 31, 1955. President Magsaysay on July 12, 1954 issued Presidential Proclamation No. 49 extending duty-free treatment for U.S. imports until December 31, 1955.

In the fall of 1954 a fifteen man Philippine mission, headed by Senator Jose P. Laurel, was despatched to the United States to negotiate a Revised Trade Agreement. A counterpart United States mission was headed by Mr. James Langley, a New Hampshire publisher. The negotiations opened on September 20, 1954 and it was not until almost three months later, December 15, 1954 that a draft agreement (Laurel-Langley Agreement) embodying substantial changes in the 1946 Trade Agreement was signed in Washington.⁸ The Laurel-Langley Agreement required the enactment of implementing legislation by the Congresses of both countries. On June 18, 1955, Republic Act No. 1355 was signed by President Magsaysay⁹ and on August 1, 1955, the United States Congress enacted Public Law 196, 84th Congress.¹⁰ These laws were followed by the formality of "negotiating" the Revised Trade Agreement along the lines of the Laurel-Langley Agreement. On September 6, 1955 the Revised Trade Agreement was signed in Washington. On October 26, 1955 President Eisenhower proclaimed the Revised Trade Agreement to take effect on January 1, 1956. This was followed by a similar proclamation (No. 216) by President Magsaysay on November 28, 1955.

The Philippines approached the Trade Agreement negotiations with a formula which was widely discussed as "selective free trade." The Philippines proposed "that the present trade provisions of the executive agreement be replaced by others providing for a limited and reciprocal free trade between the Philippines and the United States whereby full duties will be imposed on all imports, both ways, except for those commodities that by agreement of the two countries, are to be included in the duty-free lists and up to such volume and/or amount as may be agreed upon."¹¹

8. Final Act of Negotiations Relative to the Revision of the 1946 Trade Agreement Between the United States of America and the Republic of the Philippines, Washington, D.C., December 15, 1954.

9. "An Act authorizing the President of the Philippines to enter into a revised agreement with the President of the United States on the basis of the Final Act of Negotiations relative to the Revision of the 1946 Trade Agreement between the Republic of the Philippines and the United States of America, which was signed at Washington, D.C. on December 15, 1954.

10. "Philippine Trade Agreement Revision Act of 1955."

11. Cuaderno, M., Guideposts to Economic Stability and Progress, (Manila, 1955), p. 250. Note the similarity of "Selective free trade" to "Reciprocal free trade" initially proposed by the Philippines.

Philippine discussion in anticipation of revision of the 1946 Agreement served to clear away much of the confusion which has characterized Philippine consideration of Philippine-United States trade relations. The Philippine position recognized the importance to the Philippine economy of the preferred position in United States markets for Philippine agricultural products, particularly the Philippine quota in the United States sugar market. In view of the postwar decade of calumny directed at the so-called "free-trade" provisions of the 1946 Trade Agreement, it was refreshing to see official Philippine recognition that retention of United States tariff concessions for Philippine exports was a basic objective of Philippine policy.

Prior to the departure of the Philippine Trade Revision (Laurel) Mission to the United States, the details of the Philippine position with respect to revision of the 1946 Trade Agreement were "leaked" to the press.¹² The twelve concrete proposals comprising the Philippine position were as follows:

"(1) Free entry into the United States of sugar, coconut oil, cordage, desiccated coconut, cigars, leaf tobacco, pearl buttons, embroidery, in quantities specified in the Philippine Trade Act of 1946, until January , 1974, canned pineapple and other goods for future export to the United States to be borne in mind by the Mission.

"(2) Entry into the United States of all other Philippine exports on the same basis as those permitted to other countries under the most-favored-nation treatment.

"(3) Free entry into the Philippines of essential food and essential producer goods from the United States per list to be submitted; all other United States exports to be subject to duty.

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12. The Sunday Times (Manila) of August 29, 1954, pp. 1-2, under the headline, "PI Stand on the Bell Act Bared," published an article reviewing and quoting from a 26-page report to President Magsaysay of the technical panel of The Philippine Trade Revision Mission to the United States. The next day, Senator Gil J. Puyat, Chairman of the panel (Manila Times, August 31, 1954, p. 1) denounced this premature disclosure by an unnamed congressional source, stating it had weakened the Philippine position.

"(4) In the course of negotiations, an opportunity may present itself for the Philippine Mission to request, if a quota on sugar is to be maintained, that it be based on the present consumption of sugar in the United States. The panel is informed that the present Philippine quota of 852,000 long tons was originally determined on the basis of 15.41% of the annual consumption in the United States of 5,500,000 long tons. On the basis of present consumption of sugar in that country of 8,200,000 long tons, the Philippine quota should now be 1,148,730 long tons.

"(5) The Philippine Mission should explore the possibility of retaining quotas on Philippine exports to the United States after 1974, even without any other preferences.

"(6) Presidents of both countries to have the right to impose quotas on any product of each country if found that such product were coming or likely to come into substantial competition with similar product of the other country.

"(7) Elimination of the power of the United States Government with respect to fixing of individual quotas already established on coconut oil, sugar, cordage, cigars, scrap tobacco and pearl buttons.

"(8) If (1) and (2) are not acceptable, propose the continuation of the present trade provisions of Executive Agreement, provided the duties to be collected on Philippine products are paid back to the Philippine Government to be used for economic development and as stabilization fund to insure stability of the Philippine currency. Items (6) and (7) must be insisted upon.

"(9) It is imperative that the Philippine tariff system be revised. The tariff is one of the most important instruments in promoting the development of domestic industries. This device is used by all industrial nations. Even the United States, the most economically and financially stable country of the world, has a system of protective tariffs which is among the highest in the world.

"The tariff schedule should be so designed that only minimum rates purely for revenue purposes should be imposed on essential producer goods and essential consumer articles which are not and cannot be produced locally in the foreseeable future. With respect to consumer goods which may be produced in this

country, the tariff rates should be high enough to give local industries a strong competitive position with imported products. These rates should be anywhere from 50 to 100%, depending on the degree of essentiality of the article, and the need of protection for the local enterprises. In general, it can be stated that the rates should be high enough to restrict the volume of imports to levels compatible with our foreign-exchange resources as will enable us to lift our trade and exchange controls

"(10) That the provision in the present Executive Agreement governing immigration, and the rights and privileges extended to citizens in the field of public utilities, land ownership and exploitation of natural resources be made reciprocal as between citizens of both countries.

"(11) That the provision of the present Executive Agreement requiring the Philippine Government to obtain the consent of the President of the United States before it can change the par value of the peso or restrict transactions in foreign exchange, be eliminated, and that the right of the Republic of the Philippines to control and administer its currency, subject only to its commitment to the International Monetary Fund, be recognized

"(12) The Mission should stress the need for a Stabilization Fund, irrespective of any trade arrangement which may be agreed upon, in order to insure the stability of the Philippine currency, since it is the plan of the Philippine Government not only to decontrol imports but also to allow the remittance abroad (United States) of all current earnings of foreign firms and individuals engaged in business in the Philippines."

Analysis of "Selective Free Trade".

Analysis of the composition of Philippine exports to the United States during recent years indicates that if the Philippine list of commodities proposed for free entry into the United States had been accepted, that these commodities together with the substantial proportion of Philippine exports presently on the United States "free list," i.e., not subject to tariff duties would have accounted for virtually all of current Philippine exports to the United States.

During 1953-54, Philippine exports to the United States were valued (f.o.b.) at \$258.3 million. Philippine exports not subject to United States duty totalled \$98.8 million or 38.6 per cent of total exports.¹³ During this

13. Including: copra (\$56.2 million), abaca (\$11.9 million), base metals, ores, and concentrates (\$22.2 million), logs and timber (\$7.3 million) and crude rubber, copal, maguey and other gums and resins (\$1.2 million). Republic of the Philippines, Bureau of Customs.

same period, exports of commodities for which the Philippines proposed duty-free treatment (including canned pineapple) averaged \$148.6 million¹⁴ or 58.6 per cent of total exports. The Philippine proposal of "selective free trade" would have resulted in the free entry of approximately 97 per cent of Philippine exports to the United States in recent years.

The "selective free trade" proposal would have produced little change in existing United States-Philippine economic relations. The objective of this proposal was to balance trade and payments between the two countries subject to the basic limitation of maximum duty-free exports to the United States. Following the imposition of exchange controls by the Philippines in November 1949, payments between the two countries have been balanced subject to the same basic limitation of maximum duty-free Philippine exports to the United States. The only effective limit on Philippine exports to the United States in recent years arising out of the 1946 Trade Agreement has been the sugar quota assigned to the Philippines.¹⁵

In view of the widespread criticism, both in the Philippines and the United States of the so-called "free-trade" relationship between the two countries, United States rejection of the Philippine proposal of "selective free trade" is not surprising. Moreover, acceptance of the Philippine recommendation of "selective free trade" would have required that the United States abandon a basic objective of United States economic policy towards the Philippines. Beginning with establishment of the

14. Including: sugar (\$100.4 million), coconut oil (\$16.5 million), cordage (\$0.6 million), desiccated coconut (\$14.5 million), embroideries (\$7.4 million), canned pineapple (\$7.8 million) and cigars, leaf tobacco, and pearl buttons (\$1.4 million). Republic of the Philippines, Bureau of Customs.

15. See Golay, F.H., "Economic Consequences of the Bell Trade Act," Pacific Affairs, Vol. XXVIII, No. 1, March 1955, pp. 64-65. Quotas for Philippine exports to the United States, with the exception of sugar and cordage, have not been filled in the postwar period. Moreover, the economically significant quotas on cordage and coconut oil do not represent potential limits on Philippine export earnings because these commodities can be exported to the United States without limit at a prior stage of processing, i.e., as abaca and copra which are on the United States "free list."

Commonwealth Government in 1933, the United States has, with few aberrations, maintained a policy of orderly reduction in mutual economic preferences.¹⁶

II

SURVEY OF CHANGES IN THE REVISED TRADE AGREEMENT FAVORABLE TO THE PHILIPPINES

The over-all impression gained from analysis of the Revised Trade Agreement is that there have been desirable changes eliminating provisions of the 1946 Agreement which infringed on Philippine sovereignty, but that the transition in the economic relationship between the two countries envisaged in the 1946 Agreement will not be materially changed by the Revised Agreement. The scheduled reduction of the preferred position of each country in the market of the other will continue, and if the Revised Agreement is fully implemented, the Philippines will achieve substantial formal economic independence by 1974.

Changes with Significant Economic Consequences

A major concession to the Philippines in the Revised Trade Agreement sharply accelerates the rate at which Philippine tariffs are to be collected on imports from the United States and at the same time sharply decelerates the rate at which United States tariff duties are to be collected on imports from the Philippines. For example, under the Revised Agreement, 75 per cent of Philippine tariff duties will be collected on imports from the United States beginning January 1, 1962 while in the 1946 Agreement, the comparable rate scheduled was 45 per cent. On the other hand, under the Revised Agreement, only 20 per cent of United States tariff duties will be collected on imports from the Philippines beginning January 1, 1962 while under the 1946 Agreement, the comparable rate scheduled was 45 per cent.

16. The provisions of the 1946 Trade Agreement infringing upon Philippine economic sovereignty which are primarily explained in terms of the interests of the United States business community in the Philippines represented the only significant departure from this policy. The United States suffered great political damage from this inept reversion to economic imperialism while the economic consequences for the Philippines were probably slight. Cf. Golay, op. cit., pp. 53-70.

Proportion of Philippine tariff duties to be collected on imports of United States commodities: (a)

	<u>Average rate under 1946 Agreement^(b)</u>	<u>Rate under Re- vised Agreement</u>
1/1/1956 - 12/31/1958	20%	25%
1/1/1959 - 12/31/1961	35%	50%
1/1/1962 - 12/31/1964	50%	75%
1/1/1965 - 12/31/1973	80%	90%
1/1/1974 and subsequently	100%	100%

(a) Revised Agreement, Article I, paragraph 1.

(b) Under the 1946 Agreement, the proportion of Philippine tariff duties to be collected on imports of United States commodities was scheduled to increase 5 per cent per annum until full duties would be imposed beginning January 1, 1973.

Proportion of United States tariff duties to be collected on imports of Philippine commodities: (a)

	<u>Average rate under 1946 Agreement ^(b)</u>	<u>Rate under Re- vised Agreement</u>
1/1/1956 - 12/31/1958	20%	5%
1/1/1959 - 12/31/1961	35%	10%
1/1/1962 - 12/31/1964	50%	20%
1/1/1965 - 12/31/1967	65%	40%
1/1/1968 - 12/31/1970	80%	60%
1/1/1971 - 12/31/1973	95%	80%
1/1/1974 and subsequently	100%	100%

(a) Revised Agreement, Article I, paragraph 2.

(b) Under the 1946 Agreement, the proportion of United States tariff duties to be collected on imports of Philippine commodities was scheduled to increase 5 per cent per annum until full duties imposed beginning January 1, 1973.

Not only does the Revised Agreement sharply accelerate the collection of Philippine tariff duties on imports from the United States, but the Philippines is in the process of evolving a new tariff policy which provides levels of protection substantially higher than were envisaged in the Laurel-Langley Agreements. An interim change in Philippine tariff policy resulted from Executive Order No. 150 of December 31, 1955 which provided for increases up to several hundred per cent in tariff duties on approximately eighty-five commodity classifications plus an increase of 30 per cent in all other tariff rates.¹⁷

Republic Acts Nos 911 of June 20, 1953 created a Tariff Commission to "make a thorough study of the tariff system of the Philippines, and not later than one and one half years from the date of assumption of offices of its members, shall submit its recommendations for a revision of the tariff system together with a draft of a bill embodying a revised tariff law." The recommendations of the Tariff Commission in the form of a proposed "Tariff Revision Bill" were submitted to the House Ways and Means Committee on June 24, 1955. The recommended tariff was clearly protective in character and would establish high levels of protection for existing and potential Philippine industries. The Philippine Congress failed to act on the proposed tariff revision bill during the regular and special session during 1955 and Executive Order No 150 was issued as a stop-gap. The Philippine Congress in both the regular (100-day) and the special session for 1956 failed to enact new tariff legislation which became involved in a complex political struggle between administration and congressional forces.¹⁸ However, it is unlikely that the Congress will not make a change in Philippine tariff policy to higher levels of protection.

The Revised Agreement also provides for a Special Import Tax on all Philippine imports to be collected beginning in 1956.¹⁹ The purpose of the Special Import Tax is to maintain Philippine government revenues,

17s Republic Act Nos 1196 of August 25, 1954 empowered the President "upon prior investigation by and recommendation of the (Tariff) Commission . . . to decrease by not more than sixty per centum or to increase by not more than ten times the rates of import duty however established when in his judgment such reduction or increase is necessary in the interest of national economy, general welfare and national defense. . ."

18. Republic of the Philippines, House of Representatives, H. No. 5513, "Tariff and Customs Code of the Philippines," H.R. Committee Report No. 2157 of April 13, 1956.

19. Revised Agreement, Article I, paragraph 7.

compensating for the Special Tax on Sales of Foreign Exchange which expired at the end of 1955. The Special Import Tax is scheduled to be imposed at declining rates (reducing to zero at the end of 1965) as an increasing proportion of Philippine tariff rates are collected on United States imports.²⁰

The Revised Agreement deletes the provisions of the 1946 Agreement prohibiting changes in the peso exchange rate, convertibility of the peso into dollars, and restrictions on the transfer of funds from the Philippines to the United States, except by Agreement of the President of the United States.²¹ This change was obviously needed if the Philippines are to achieve formal economic as well as political independence. However, the economic significance of the change is probably negligible. The significant postwar changes in peso convertibility and in the effective peso exchange rate, indicate that agreement of the President of the United States was readily forthcoming or could be circumvented.²²

20. It will be recalled that the Special Tax on Sales of Foreign Exchange (17 per cent) resulted from the United States Economic Survey (Bell) Mission recommendation that "a special emergency tax of 25 per cent be levied for a period not to exceed two years on imports of all goods other than rice, corn, flour, canned fish, canned milk and fertilizer; that if such an emergency import levy is not possible under the Trade Agreement with the United States, either very heavy excise taxes should be imposed or a tax of 25 per cent should be levied on all sales of exchange; ..." Economic Survey Mission to the Philippines, Report to the President of the United States, Washington, D.C., October 9, 1950, p. 4. The enactment of the Special Tax on Sales of Foreign Exchange followed a Philippine commitment in the Quirino-Foster Agreement (Manila, November 14, 1950) to implement selected recommendations of the Bell Mission.

21. 1946 Agreement, Article V.

22. For example, Philippine exchange and import controls which have been implemented since late 1949 basically changed the convertibility of the peso. The Special Tax on Sales of Foreign Exchange (Republic Act 601, March 28, 1951) significantly changed the peso exchange rate for the bulk of Philippine foreign exchange payments. The Emergency Gold Mining Assistance Act (Republic Act 1164, June 18, 1954) and the earlier Monetary Board policy (October 30, 1952) permitting gold producers to market their output in the free market provided a special favorable effective peso exchange rate for gold producers. Similarly, the No-Dollar Import law (Republic Act 1410, September 10, 1955) will permit producers of export commodities to barter marginal increments of output abroad for commodities to be imported into the Philippines outside the system of exchange allocations. This will establish a haphazard system of multiple (effective) exchange rates for Philippine producers who are able to export commodities under this law.

The Revised Agreement eliminates the absolute quotas established by the United States for imports from the Philippines of cigars, scrap tobacco, stemmed and filler tobacco, coconut oil, rice and shell buttonse Under the Revised Agreement these commodities are subject to declining tariff quotas initially equal to the absolute quotas established in the 1946 Agreement. Imports into the United States in excess of the duty-free quotas will pay 100 per cent of the United States duty.²³ Still another change sharply decelerates the rate at which the duty-free quotas for these commodities are reduced.²⁴ Inasmuch as postwar Philippine exports of these commodities to the United States have amounted to only a fraction of the quotas, the removal of the absolute quota limitations is of little economic significance. Similarly, the diminishing duty-free quotas will acquire significance only in later years of the transition period when levels of Philippine exports to the United States become subject to duty-free quota limitationse

In the case of quotas on sugar and cordage, which have been economically significant determinants of levels of Philippine exports of these commodities to the United States, the absolute quota limitations have been retained at levels established in the earlier agreement -- i.e., 952,000 short tons of raw and refined sugar and 6 million pounds of cordage²⁵ The United States resisted any movement to make these quotas permanently duty free and Philippine exports of these commodities will be subject to the scheduled application of United States tariff dutiese

Another change in the Revised Agreement eliminates limitations on the allocation of quotas established in the earlier agreement.²⁶ The 1946 Agreement established the principle that annual quotas for export to the United States of commodities subject to quota would be granted to producers operating in 1940 on the basis of their production in the prewar period. It is desirable to eliminate such a historical basis for allocation of quotas and any likely alternative basis for quota allocation by the Philippine Government will be an improvement over the out-of-date allocations based on the pre-war pattern of production.

23. Revised Agreement, Article II. Under the 1946 Agreement these commodities, together with sugar and cordage were subject to absolute quotas with a diminishing duty-free quota within the overall limitation of the absolute quotas. Under the Revised Agreement, the absolute quotas other than those on sugar and cordage are eliminated. Note that rice is no longer subject to quota limitation. The rice quota is in the 1946 Agreement, 520 short tons, was economically insignificant.

24. Ibid.

25. Ibid.

26. The Revised Agreement deletes Article II, paragraphs 3 and 4 and the portion of Article VIII, paragraph 2 of the 1946 Agreement which provided for allocation of quotas in the United States market.

Still another provision of the Revised Agreement specifies that the absolute quota set for Philippine exports of sugar to the United States "shall be without prejudice to any increases which the Congress of the United States might allocate to the Philippines in the future."²⁷ The 1946 Agreement specifically limited the Philippine sugar quota in the United States market during the duration of the 1946 Agreement to 952,000 short tons.²⁸

Changes Primarily of Political Significance

The remaining changes incorporated in the Revised Trade Agreement can be categorized as removing non-reciprocal and politically humiliating provisions of the 1946 Agreement. One provision makes the enjoyment of "parity" rights by citizens of either country in the territory of the other reciprocal.²⁹ While the terms of the Agreement meticulously provide for a formal reciprocity, actual reciprocity is not likely to result from application of the Agreement. The imbalance in the political influence which each country is able to exert on the activities of the other and the disparity in the political and economic influence of the minority of citizens of each country, engaging in, or proposing to engage in economic activity in the other country will prevent the achievement of real parity.

27. Revised Agreement, Article II, paragraph 1.

28. "The Sugar Act of 1948" of August 8, 1947 (Public Law 519, 80th Congress, 1st Session) and "Act to Amend and Extend the Sugar Act of 1948 as Amended," of May 29, 1956 (Public Law 545, 84th Congress, 2nd Session) provide for allocation of United States sugar consumption requirements among domestic and favored foreign producers, including the Philippines. During the first half of 1956 when the United States House and Senate Agriculture Committees were holding hearings preparatory to amending the Sugar Act of 1948, there was wide spread Philippine speculation regarding an increase in the Philippine sugar quota. The failure of the Philippines to receive a larger United States sugar quota in P.L. 545 may well have resulted from efforts of representatives and senators from southern states (U.S.) in retaliation for the current Philippine policy of minimizing leaf tobacco imports from the United States.

Republic Act 1194 of August 25, 1954 limited Philippine leaf tobacco imports in 1954 to 40 per cent of imports in 1950, in 1955 to 25 per cent of imports in 1950 and for 1956 and succeeding years to the margin between Philippine tobacco leaf production in that year and the tobacco leaf consumption in tobacco products manufactured in the preceding year. The law also fixed minimum prices for Philippine leaf tobacco production which are relatively high. Tobacco price policy together with import controls have stimulated a rapid expansion in Philippine tobacco acreage.

29. Revised Agreement, Article VI.

A second change makes reciprocal the right of each country to impose additional quantitative restrictions on imports from the other country,³⁰ This provision merely formalizes the existing relationship as the Philippines has, since 1949, been imposing quantitative restrictions on imports from the United States under exchange and import controls. Indeed, under the 1946 Agreement no new quotas have been imposed by the United States on imports from the Philippines while Philippine import and exchange control policy has included relatively arbitrary quantitative restrictions on Philippine imports from the United States.³¹

Still another change eliminates the prohibition against the imposition of export taxation by the Philippines.³² This change is highly desirable since the earlier Agreement denied the Philippines access to a potentially productive tax base during the postwar period when prices of primary raw materials tended to be relatively favorable. However, relative deterioration in the terms of trade of primary producing countries since 1951 has tended to reduce the opportunity for primary producing countries to exploit export proceeds as a tax base.³³

Both Filipinos and citizens of the United States who desire political independence for the Philippines should be pleased with the Revised Agreement as it eliminates all of the politically objectionable infringements on Philippine sovereignty imposed in the 1946 Agreement. Moreover, the Revised Agreement by retaining the principle of reduction of mutual economic preferences should, if fully implemented, ultimately produce more complete Philippine economic independence.

30. Revised Agreement, Article III.

31. Filipino and American critics of the 1946 Agreement have consistently referred to the relationship as providing for "unlimited duty-free imports of United States commodities." Such a characterization was reasonably valid during the period prior to November 30, 1949, but has little relevance as descriptive of the period following 1949 when the Philippines was implementing exchange and import controls.

32. The Revised Agreement deletes Article IV, paragraph 3 of the 1946 Agreement. This change goes further than the establishment of formal reciprocity since the United States is prohibited by the Constitution from collecting taxes on exports.

33. The export proceeds of the Philippine sugar industry which receives substantial monopoly profits from the Philippine quota in the United States sugar market are an important exception to this conclusion.

III

ECONOMIC ANALYSIS OF THE REVISED TRADE AGREEMENT

Impact on Levels of Philippine Protection

A basic criticism of United States economic policy towards the Philippines has been that the "free-trade" relationship has denied the Philippines access to tariff protection which would enable the Philippines to industrialize. Therefore, the establishment of Philippine autonomy over tariff policy was a major Philippine objective in negotiating the Revised Trade Agreement. The Revised Trade Agreement sharply accelerates the transition to full Philippine control over tariff policy envisaged in the 1946 Trade Agreement.³⁴

However, analysis of the Revised Trade Agreement suggests that little change will occur in levels of "protection" established for domestic Philippine producers. Appraisal of the Revised Agreement -- in terms of Philippine recovery of autonomy over commercial policy and the opportunity to exploit protection -- fails to recognize the relatively high level of protection which has been established by the implementation of stringent import and exchange controls beginning in late 1949.

The following types of statistical evidence support the belief that Philippine imports since 1949 have been severely restricted by exchange and import controls and a relatively high level of protection established for Philippine producers of import-competing commodities. First, is the reduction in the volume of imports at the same time Philippine national income was expanding. Second, is the substantial increase in the peso prices of imported goods as compared with prices of domestic goods.³⁵

34. Supra, pp. 8-10.

35. This is, of course, an academic question. Anyone familiar with the controversy over the administration of Philippine import and exchange controls is aware of the strong economic forces which have been generated by the restriction of import quantities.

**SELECTED STATISTICAL DATA RELEVANT TO APPRAISAL OF THE
INTENSITY OF PHILIPPINE IMPORT CONTROLS, 1949-1954 (a)**

Volume of Imports 1948-49 = 100		Index of National Income 1949 = 100	Philippine Price Indexes 1949 = 100					Unit Value of Imports 1948-49 = 100
			Retail Prices Manila	Wholesale Prices				
				Home Goods	All Imports	Essential Imports ^(b)	Non-Essential Imports ^(b)	
1950	61	110	100	92	122	116	128	95
1951	76	123	110	101	153	145	161	108
1952	69	125	106	95	136	127	147	106
1953	72	128	103	93	129	n.a.	n.a.	101
1954	84	132	98	88	125	n.a.	n.a.	97

(a) Central Bank of the Philippines, Annual Report, 1954.

(b) Central Bank of the Philippines, Annual Report, 1952.

Philippine import policy has been (a) to limit imports and other payments to such a level that foreign exchange reserves will not decline below the minimum "safe" level of \$300 million;³⁶ and (b) to allocate the available foreign exchange on the basis of "Essentiality" with relatively liberal exchange allocations for imports of investment goods and industrial raw materials. For

36. Central Bank of the Philippines, Annual Report, 1953, p. 107. As of the end of 1955, Philippine foreign exchange reserves, which had been steadily declining since August 1954 amounted to approximately \$225 million.

example, in 1954, out of total exchange allocations for imports of \$616 million, \$319 million was allocated for "producer goods," \$93 million for "highly essential" commodities, \$154 million for "consumer items" and \$50 million for unclassified items.³⁷

Philippine (peso) prices of imports have been determined (other things being equal) by the quantities of imports. That is to say, the fortunate holders of import permits have been economically rational and have been selling the limited amounts of imports at prices the market will bear. Additional protection will arise only if peso prices of imports rise. This will have to be accompanied by -- result from -- further reduction in import quantities. In view of the essentially "protectionist" Philippine import and foreign exchange policies implemented since 1950, there are few grounds for concluding that import allocations and levels of imports following January, 1956 will not be determined primarily by the level of foreign exchange proceeds. In other words, if foreign exchange earnings are sustained in the future, the implementation of exchange controls will continue to determine the levels of, and commodity distribution of imports rather than the tariff rates which became effective January 1, 1956.³⁸ In the absence of a radical and probably economically irrational intensification of exchange controls, Philippine foreign exchange reserves will continue to be "managed" to maintain reserves at some "safe" level.³⁹

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37. Central Bank of the Philippines, Annual Report, 1954, pp. 146-147. The report states that, during 1954, "to provide protection to the local industries, the foreign exchange allocations for commodities locally produced in sufficient quantities were reduced. Quotas for corn starch and other starches were reduced by 25% of letters of credit opened in 1952. Quotas for shoes were also cut to 50% of letters of credit opened in 1952, but not to exceed \$10,000. Allocations for toys were first reduced to 50%, later, no dollar allocations were given." Imports of pencils were excluded from allocation and, with the establishment of automobile assembly plants in the country, quotas for the importation of finished cars were cancelled.
38. It is obvious that such a conclusion does not apply equally to all commodities. The basic Philippine tariff rates existing at the time the Revised Trade Agreement was negotiated, together with radical increases in rates proclaimed in Executive Order No. 150 on December 31, 1955 will be the basic determinant of peso prices of some imports and, therefore, of the quantity imported.
39. Philippine aspirations for economic development are reflected in the large investment outlays (one billion pesos) provided in Republic Act No. 1000, "An Act Authorizing the President of the Philippines to Issue Bonds to Finance Public Works and Projects for Economic Development", June 12, 1954. It would probably be "irrational" for the Philippines to forego necessary imports in order to accumulate foreign exchange reserves beyond some conventional minimum amount.

To the extent that the foregoing analysis is valid, the significant factor determining future quantities and, therefore, prices of Philippine imports will be the availability of foreign exchange and not the new rates of tariffs permissible under the Revised Trade Agreement. The volume of foreign exchange proceeds and, therefore, levels of future Philippine protection will be primarily a function of the volume of Philippine exports.

The Revised Trade Agreement should not affect Philippine foreign exchange earnings from sources other than the United States.⁴⁰ Therefore, in order to analyze the impact of the Revised Agreement on Philippine foreign exchange receipts and the intensity of Philippine protection, it is necessary to attempt to assess the impact of the Revised Trade Agreement on levels of Philippine exports to the United States.

For those Philippine commodities which are not subject to United States tariff duties, the 'free trade' provisions of United States-Philippine Trade Agreements have been economically redundant. During 1953-54, Philippine exports to the United States of commodities not subject to United States duties averaged \$98 million annually, or 38.6 per cent of Philippine exports to the United States.⁴¹ Presumably, the Revised Trade Agreement will not affect Philippine exports of these commodities since there will be no change in United States policy with respect to these commodities.

Of the remaining Philippine exports to the United States, the most important is sugar which, during 1953-54, earned \$100.5 million annually or 39.6 per cent of average annual exports to the United States during this period. The ultimate United States duty on Philippine sugar exports will be the lowest tariff imposed by the United States on sugar imports. At present, such duty is equivalent to one half cent (\$.005) per pound on imports of Cuban sugar. At current New York landed prices of quota sugar of around six cents per pound, the ultimate duty would be 8-9 per cent ad valorem. Such a duty will affect the profitability of Philippine exports of sugar to the United States but it does not necessarily follow that Philippine dollar earnings would be reduced.

40. It might be argued that the loss of the preferred Philippine position in the U.S. market might force the Philippines to market large quantities of exports in other markets; that demand conditions in such markets are characterized by price elasticities through the relevant range of prices numerically smaller than unity and, therefore, the larger quantities of exports marketed would realize reduced total receipts.

41. Supra, footnote Number 13, p. 6.

The United States policy of "protecting" domestic sugar producers results in a non-competitive price for United States quota sugar which in recent years has averaged some 60-80 per cent above the competitive world price of sugar.⁴² Non-United States producers with a quota in this market realize a monopoly profit and the moderate United States tariff which will ultimately be imposed on Philippine sugar exports to the United States may be paid out of the monopoly profits, without affecting the volume of such exports and the dollar proceeds from Philippine exports to the United States.⁴³

Examination of the remaining Philippine exports to the United States which in 1953-54 amounted \$54.5 million, or approximately one fifth of total exports to the United States indicates that while dollar proceeds from these exports will be reduced, there are mitigating factors which will limit the impact of United States tariff duties scheduled to be imposed under the Revised Agreement. In the case of coconut and abaca products - desiccated coconut (\$14.5 million), coconut oil (\$16.5 million), copra cake or meal (\$3.1 million) and cordage (\$0.6 million), the impact of future United States tariff duties will be limited by the possibility of exporting these products at a prior stage of processing, i.e., as copra and abaca which are not subject to United States duties. The decline in Philippine dollar earnings from these products attributable to the Revised Trade Agreement will be only a part of the dollar proceeds presently realized from these commodities.

Philippine exports of canned pineapple and embroideries to the United States, which in 1953-54 averaged \$7.8 and \$7.4 million respectively, should be sustained by favorable market demand conditions.

42. For example, on March 30, 1956, the spot and future prices for world sugar (f.o.b. Cuba) ranged between 3.27 and 3.31 cents per pound, while quota sugar ranged between 5.40 and 5.60 cents per pound.

43. The tendency for Philippine exports of sugar both in the interwar and postwar periods to be made exclusively to the United States and to be stabilized at the quota ceiling tends to confirm the belief that exports under the quota are profitable. Moreover, the prices at which unused annual quotas and permanent quota rights are traded in the Philippines are measures of the windfall accruing to holders of quotas in the United States market.

In preparing for the transition to normal trade relations envisaged in the 1946 Trade Agreement, the Philippine government made a comprehensive appraisal of export prospects following the imposition of United States duties. With respect to canned pineapple, the appraisal concluded: "There is not much to fear from competition from the Hawaiian Islands inasmuch as the United States is believed to be large enough to absorb the production of both countries." Similarly, the appraisal of embroidery prospects concluded: "Being highly specialized, there is no problem of markets for the present quantities being produced nor of the loss of the American market after the imposition of tariff duties." ⁴⁴

The general impression that Philippine dollar proceeds from exports will not be substantially reduced by the payment of United States tariff duties is also supported by evidence that future Philippine commercial and exchange policies, including export incentives of various kinds and possibly ultimate devaluation of the peso will tend to sustain Philippine export earnings.⁴⁵

Impact on Geographic Composition of Philippine Foreign Trade

A second basic criticism of the economic relations between the Philippines and the United States has been the extreme dependence of the Philippines on the United States for import supplies.⁴⁶ The competitive advantage established for imports from the United States which have been admitted to the Philippines free of tariff duties has produced excessive Philippine reliance on United States import supplies. The Revised Trade Agreement by ultimately eliminating the preference given United States imports should produce a desirable shift in Philippine import procurement to other countries.

44. Philippine Economic Survey Mission, Philippine Agricultural and Industrial Development Program, Revised 1950, pp. 125-126

45. The No-dollar Import Law, Republic Act 1410 of September 10, 1955 and the Gold Mining Assistance Act, Republic Act 1164 of June 18, 1954 which permit producers/exporters to realize a more favorable rate of exchange than the official (two pesos per dollar) rate are examples of such export incentives. The bulk of Philippine exports are traded at prices established in markets independent of the peso exchange rate and there are few grounds for concluding that a peso depreciation, either directly, or the system of multiple exchange rates which has been evolving in recent years, will adversely affect Philippine foreign exchange proceeds.

46. During 1950-54, the proportion of Philippine imports obtained from the United States ranged from 67.6% to 75.2%, and averaged 72.8%.

The Revised Trade Agreement provides that rates equal to one quarter of Philippine tariff rates will be collected (beginning January 1, 1956) on imports from the United States. As scheduled increases in the proportion of Philippine tariff rates collected on United States imports materialize, the competitive advantage enjoyed by United States imports will be reduced and Philippine imports shifted to other sources of supply.

Prior to January 1, 1956, United States imports enjoyed a price advantage in the Philippines because of the "free trade" provisions of the 1946 Trade Agreement. Beginning in 1950, the limited quantities of imports were marketed at peso prices which included substantial monopoly profits arising out of the arbitrary reduction in import quantities by controls. Philippine importers could obtain imports from non-United States sources at profitable prices, but the absence of Philippine duties on United States goods made them absolutely more profitable. Therefore, if one quarter of the pre-1956 Philippine tariff duties had been collected on imports from the United States it would have become relatively more profitable for Philippine importers to obtain supplies from non-United States sources. Moreover, as argued previously, the shift in Philippine imports to non-United States sources would probably have occurred, without a decline in the volume of Philippine imports.

The collection, beginning in 1956, of one quarter of Philippine tariff rates on imports from the United States, may be followed by a shift in imports from non-United States sources to imports from the United States. This paradoxical result will tend to follow the radical increases in Philippine tariff rates beginning January 1, 1956 which were promulgated by President Magsaysay in Executive Order No. 150 on December 31, 1955.⁴⁷ The increases in the basic tariff rates will tend to improve the relative price advantage of imports from the United States. To the extent that such relative price changes materialize, the shift in the geographic composition of Philippine imports to non-United States supply sources will be delayed. The desirable diversification of Philippine import sources will tend to be postponed until later years of the Revised Agreement, when higher proportions of Philippine import duties are collected on imports from the United States.

Impact on Philippine Government Revenues

Finally, the transition to Philippine autonomy over tariff policy will permit the Philippines additional access to a tax base (importi

47. Supra, p. 10.

expenditures) which has traditionally been an important source of government revenues.⁴⁸ Present levels of Philippine governmental activity are restricted by inadequate revenues and government activities are not making an adequate contribution to the capital formation required to achieve Philippine aspirations for economic development.⁴⁹

If, as previously argued, the basic determinant of future levels of Philippine imports will be the availability of foreign exchange and the commodity composition of Philippine imports will not be materially affected by imposition of duties on United States goods, the revenue effects of the Revised Agreement are readily predicted. Given the rates of tariff duty, revenues will tend to be maximized. The assumption that the duties imposed, beginning January 1, 1966, will not affect the volume of imports reflects the belief that the tax will be paid out of the windfall presently being received by various participants in import activities, and that attempts to shift the duty by raising the peso prices of imports will be frustrated by the relative freedom of entry of "new" (Philippine nationals) importers and the maintenance of current levels of foreign exchange availability.

Attempts on the part of importers/retailers to "pass on" the new import duties imposed on January 1, 1956, will result in (a) reduced sales of imported goods and, therefore, (b) larger amounts of foreign exchange for allocation to "new" importers who may be willing to accept lower profit margins on imports of the same goods, or who may choose to import competing goods.

48. Philippine taxes on imported commodities, including imports from the United States, have been an important source of government revenues in the postwar period. Such taxes include: import duties on non-United States imports, the Special Tax on Sales of Foreign Exchange, excise taxes on imported goods, and sales and compensatory taxes on imported goods. See: F. H. Golay, op. cit., p. 58.

49. Philippine government (national and local) expenditures in 1954 amounted to ₱795 million or 9.4 per cent of gross national product and 10.7 per cent of national income. Moreover, the overwhelming bulk of government outlays are current expenditures; gross government investment outlays amounted to only ₱167 million or 2.2 per cent of national incomes. It is apparent that gross government investment may not be sufficient to more than maintain the stock of social capital and there is little or no net capital formation contributed by government economic activity. Central Bank of the Philippines, Sixth Annual Report, 1954, Manila, 1955, pp. 12-16.

To the extent that the new Philippine tariff duties increase peso prices of Philippine imports, it will result in a decline in the volume of imports and in the tariff revenues which will accrue from given levels of tariffst. The impact on government revenues will depend primarily upon the price elasticity of demand for imports; the more inelastic the demand for imports, the smaller will be the reduction in the volume of imports and government tariff revenues from a given increase in the peso prices of imported goods.

To the extent that the Revised Trade Agreement leads to the substitution of imports from non-United States sources, the revenues from tariff duties will increase since imports from countries other than the United States will pay full duty, while imports from the United States will not pay full Philippine tariff duties until 1974.

Finally, the new tariff rates promulgated on December 31, 1955, as well as the Special Import Tariff replacing the Special Tax on Sales of Foreign Exchange should produce substantial increments of revenue over amounts that might have been anticipated when the Revised Trade Agreement was negotiated.

For example, Governor Miguel Cuaderno of the Philippine Central Bank, in a preliminary appraisal of the revenue effects of the Revised Agreement estimated that the average rate of duty on Philippine imports from the United States (subject to duty beginning in 1956) would be 30 per centt. He estimated that ultimate revenues on current levels of Philippine imports from the United States would be ₱ 184 million and in the first year (1956) under the Revised Agreement (25 per cent of Philippine tariff duties) would produce ₱ 46 million of additional revenue.⁵⁰ The increases in tariff rates, effective January 1, 1956, which were established by Executive Order No. 150 would increase revenues from given levels of imports from the United States over revenues estimated by Governor Cuaderno by at least 30 per centt. Therefore, ultimate revenues from current levels of Philippine imports from the United States would at least bet ₱ 239 million and 1956 revenues of at least ₱ 60 million.

Moreover, the increases in tariff duties established by Executive Order No. 150 would increase revenues from current Philippine imports from non-United States sources by at least 30 per cent. This would result

50. Cuaderno, M., Guideposts to Economic Stability and Progress, pp. 289-290. Estimates were made in the early part of 1955 following the return of the Laurel Mission from the United States.

in increased revenues of approximately ₱ 10 million over average tariff revenues of ₱ 32 million in 1953-54. If current levels of Philippine imports should prevail through the life of the Revised Agreement, the ultimate increase in Philippine government revenues from current levels of Philippine import duties would be at least ₱ 249 million.⁵¹ This amount is equal to 44 per cent of average annual Philippine national government tax revenues in 1953-54 of ₱ 564 million.

Summary

The Revised Agreement removes the objectionable infringements on Philippine economic sovereignty imposed by the 1946 Trade Agreement. While such changes are highly desirable, they will not have significant economic consequences. The Philippines achieved a substantial degree of economic sovereignty in spite of the 1946 Trade Agreement.

A basic argument presented here is that the Revised Trade Agreement in conjunction with tariff rates prevailing at the present time (1956) may produce little change in the level of protection which has been implemented in the Philippines since the end of 1950 by relatively stringent exchange and import controls.

Two major economic changes should result from the Revised Trade Agreement. First, will be the ultimate shift in Philippine imports from the United States to other sources of supply. Moreover, the shift in the pattern of Philippine import trade should ultimately induce a similar shift in the geographic composition of Philippine exports.

Second, the collection on tariffs on imports from the United States together with the radical increases in Philippine tariff rates should produce a substantial increase in Philippine government revenues.

51. Governor Cuaderno estimated that the ultimate level of revenue from current United States tariff duties on current levels of United States imports from the Philippines would be equivalent to ₱ 60 million. Ibid., P. 289.

IV

SURVEY OF CHANGES IN THE REVISED TRADE AGREEMENT
FAVORABLE TO THE UNITED STATES

In addition to the substantive changes in the Revised Agreement which are concessions to Philippine objections to the 1946 Agreement, the Revised Agreement includes three changes which can only be explained in terms of United States' interests and the give-and-take of bargaining which produced the Revised Agreements⁵²

52. Analysis of the Revised Agreement to date, has been confined to changes favorable to the Philippines and there has been no discussion of changes favorable to United States interests. For example, an "explanation" of the 1946 Agreement -- agreed upon by the Philippine and United States missions and released on January 7, 1955, outlined the basic objectives of the revision as follows:

- (a) The need for elimination of the provisions (of the 1946 Agreement) which not only contravene the sovereignty of the Philippines but are definite stumbling blocks to the attainment of an independent economy
- (b) That to adjust the economy, the Philippines should be able to raise more revenues through the imposition of customs duty on American goods, the import of which constitutes almost 80 per cent of the nation's imports today
- (c) That while the Philippines is making such adjustment (economic development) it cannot afford a substantial reduction of the foreign exchange income through the imposition by the United States of a rapidly rising percentage of duty on Philippine products sold in the United States
- (d) That the Philippine Government should be able to protect infant industries from competition of goods produced in the United States

It is also revealing that a member of the Laurel Mission to revise the 1946 Agreement in an appraisal of the Laurel-Langley Agreement, allocated the bulk of his analysis to developing "Advantages in favor of the Philippines" without suggesting that there were any revisions favoring the United States. See: Tejam, M.A. op. cit., pp. 141-148.

One change favorable to United States' interests is to be found in the Revised Agreement, Article I, paragraph 7, which provides that "the Philippines shall impose a temporary special import tax, in lieu of the present tax on the sale of foreign exchange, . . . that the initial tax is at a rate no higher than the present rate of the foreign exchange tax, and that the tax shall be progressively reduced. . . ." The Revised Agreement provides for the progressive reduction of the special import duty by increments of ten per cent per year until the tax is eliminated beginning January 1, 1966.⁵³

The interest of the United States business community in the Philippines in this change should be obvious. To the extent that foreign exchange is allocated for remission of profits and disinvestment and repatriation of capital,⁵⁴ repeal of the Special Tax on Sales of Exchange establishes a more favorable rate for such transactions and thereby increases the relative profitability of United States enterprise.

Understanding of the United States stake in this seemingly minor change is clarified when the change is related to Philippine exchange rate policy. The official peso exchange rate and the rate of exchange established by the Revised Agreement for non-trade transactions is two pesos per dollar.

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53. The Revised Agreement, Article I, paragraph 7 includes a complicated provision designed to permit the Philippines to avoid scheduled reductions in the Special Import Tax if "total revenue from Philippine customs duties and from the Special Import Tax on goods coming from the United States is less in any calendar year than the proceeds from the exchange tax on such goods during the calendar year 1955." In view of the rapid rate at which regular Philippine import duties are scheduled to be collected on imports from the United States and the substantial increases in Philippine import duties promulgated in Executive Order No. 150 of December 31, 1955, it is unlikely that revenues from the regular and special import duties on United States imports will fall below levels of revenues produced by the Special Tax on Sales of Exchange in 1955.
54. Including the significant amounts of foreign exchange allocated to foreign service, International Cooperation Administration, Veterans Administration and military personnel to repatriate proceeds from the sale of assets (household appliances, automobiles, etc.) brought into the Philippines.

This rate has prevailed since the beginning of the American occupation. However, because of extensive destruction and dislocation attributable to the war and the postwar period of rehabilitation, the peso is over-valued relative to the dollar and the official parity is maintained only by stringent rationing of the available foreign exchange.⁵⁵

Therefore, to the extent that United States and other non-Philippine business interests are allocated foreign exchange for purposes of profit remission or capital repatriation, they are given access to a windfall which is not available to Filipino and indigenous Chinese business interests which have no comparable claim on the available foreign exchange exchange. ⁵⁶

The crucial United States intervention in the latter part of 1955 on the side of the Central Bank which was fighting to maintain the status quo, — the official exchange rate with concomittant import and exchange controls — in the face of strong forces seeking to devalue the peso was an indication of the stake of United States interests in these policies.⁵⁷

Improving the peso exchange rate for non-trade transactions will benefit foreign as compared to indigenous business interests only to the extent that exchange is allocated for profit remission and repatriation of capital. In 1953-54 exchange allocations for these purposes were equivalent to \$55.5 million or 4.6 per cent of total foreign exchange allocation over these two years.⁵⁸ Removal of nontrade transactions from the

55r A clear indication of the substantial over-valuation of the peso is the current black market premium for dollars ranging up to 40 per cent in recent years. No responsible observer would contend that the present official exchange rate could be sustained (given current foreign exchange availabilities) without exchange controls.

56. To the extent that the peso is over-valued, pesos which can be exchanged for dollars at the official rate will have a greater purchasing power than pesos which can only be expended for Philippine goods and services.

57. See: Golay, F.H. "The Philippine Monetary Policy Debate" Pacific Affairs, September 1956, pp. 253-264.

58. Central Bank of the Philippines, Sixth Annual Report, 1954, pp. 287-289, Fifth Annual Report, 1953, p. 229r A substantial portion of such transactions probably were completed outside the control system. Philippine exchange control, as in the case of all exchange control systems, results in a contest between those people motivated to evade controls and the control authorities striving to minimize evasion.

Special Tax on Sales of Exchange will have two unfortunate consequences. First, the Philippine Government is denied access to a logical and productive tax base, i.e., the windfall inherent in the restriction of foreign exchange payments for non-trade purposes. Second, in view of the over-valuation of the peso, it hardly makes sense to remove the tax on sales of exchange which contributes to a minor degree to eliminate the present over-valuation of the pesos.

Second, a minor concession to the United States appears in Article III which provides, in effect, most-favored-nation treatment for either country in the allocation of import and export quotas not specified in the Revised Agreement (Article II). Such a change favors the United States because of the durability of Philippine exchange controls which are so implemented as to establish effective quotas for commodity imports. Not only are over-all quotas established for import categories, but inherent in the administration of controls is wide discretionary power to choose among alternative supply sources. While there have not been serious United States complaints regarding this aspect of Philippine exchange control, the fact that the Philippines are implementing exchange controls while the United States does not, strongly suggests that the change represents a concession to the United States.

Finally, the Revised Agreement includes a new Article (VII) which provides that:

"The Republic of the Philippines and the United States of America each agrees not to discriminate in any manner, with respect to their engaging in business activities, against the citizens or any form of business enterprise owned or controlled by citizens of the other and that new limitations posed by either Party upon the extent to which aliens are accorded national treatment with respect to carrying on business activities within its territories, shall not be applied as against enterprises owned or controlled by citizens of the other party which are engaged in such activities therein at the time such new limitations are adopted."

The significance of this change is understood only in terms of the "Filipinization" of Philippine import and retail trade through the implementation of exchange and import controls. The imposition of exchange controls in late 1949 was followed by the evolution of a policy of import and retail trade nationalization in which an increasing share of the available foreign exchange was reserved for "bona fide" Filipinos, i.e., natural born Philippine citizens. Exchange and import controls primarily discriminated against the Chinese business community.

"Filipinization" proved to be an increasingly popular policy. Not only were the anti-Chinese (anti-foreign) emotions subject to easy manipulation,

but more important, the restriction of imports, by establishing a substantial windfall margin between the peso selling price of imported goods and their peso costs at the official rate of exchange, guaranteed the profitability of importing activities at all levels. Therefore, Filipinos who prior to the imposition of exchange controls found themselves unable to compete with the well known commercial talents of the Chinese or were discouraged by the financial resources of competing western business interests, quickly discovered that exchange controls could guarantee the success of import activities at all levels.⁵⁹

While discrimination against United States business interests in the Philippines was mild as compared to the treatment of Chinese business interests, the United States negotiators obtained the additional guarantee of national treatment for Americans contained in Article VII. As in the case of the provisions of the 1946 Agreement motivated by American concern for the welfare of United States business interests in the Philippines, the potential impact of this concession to the United States is political and not economic. This minor concession is a potential irritant in Philippine-United States relations, and can be exploited by enemies of the United States to dissipate a considerable part of the political gain realizable from the Revised Agreement.⁶⁰

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59. The monopoly windfall inherent in controls had to be shared with "ten-percenters," corrupt control administrators, etc. Moreover, the government has tended to appropriate a larger share of the windfall arising out of import restrictions by means of tariff and exchange taxation.
60. Article VII might alternatively be explained as a concession to the Philippines, the object of which, is to establish additional security for business activities of Philippine nationals in the United States and Hawaii. Evidence available to the public does not support such an interpretation. The Philippine position with respect to revision of the 1946 Agreement (see pp. 4-6) does not suggest that the Philippines sought such a change. Moreover, upon his return from Washington, D. C. where he served as vice-chairman of the Philippine (Laurel) Mission, Senator Gil J. Puyat made the following analysis of Articles VI and VII of the Revised Trade Agreement:
- "1. Article VI mutualizes the parity provisions on the right of nationals or corporations of the two countries to the development of the natural resources of the other.
 2. Article VII mutualizes the right of one country to discriminate against the nations of the other.

'These articles of the proposed agreement refer only to new comers,' Puyat said. 'They will not affect acquired rights and will not be retroactive.'

If such should be the case, Article VII of the Revised Agreement would be doubly regrettable since it was an unnecessary change. While the 1946 Agreement ("Parity" provision, Article VII) specifically provided for national treatment for United States citizens in the exploitation of Philippine natural resources and the operation of public utilities, a comparable security proved to exist for United States citizens engaged in other economic activity through the operation of Article X, paragraph 4 of the 1946 Agreement. This provision of the 1946 Agreement states that, "If the President of the United States determines and proclaims... that the Philippine Government or any of its political subdivisions is in any manner discriminating against citizens of the United States or any form of United States business enterprise, then the President of the United States shall have the right to suspend the effectiveness of the whole or any portion of this Agreement."

60. (contt.) Puyat said that while the new meaning of the two articles, that had for some time stirred some concern among American business circles, was not placed in the draft agreement, it was nevertheless fully discussed and agreed upon during the three-month negotiation between the Philippines and United States panels headed by Senator Jose P. Laurel and James Langley, respectively.

Americans now in the Philippines and existing American corporations or interests will be allowed to exploit the natural resources of the Philippines, operate public utilities and engage in almost every trade and profession here regardless of whether or not their home states bar aliens, including Philippine nationals, from like activities and privileges, according to Puyat's interpretation.

Puyat admitted that from the economic standpoint, the parity provisions of the proposed agreement would bring the Philippines 'no substantial advantage.'

He pointed out that economic benefits would accrue only to Filipinos now in the United States or its territories who would now be given the right to invest their savings in enterprises from which the laws of the states of their residence had previously barred them.

While conceding that the mutualization of parity rights would bring no substantial gains to the local economy, Puyat maintained nevertheless that the parity provisions are important moral and political victories for the Philippines.

'They restore to the Filipino nation its dignity which it lost in granting parity rights to Americans in 1946,' Puyat declared...'' (Manila Daily Bulletin, January 4, 1955.)

The power of the 'right' of the United States to abrogate the 1946 Agreement following Philippine discrimination against United States business interests was established in 1954 when the Philippine Congress enacted the Retail Trade Nationalization Law (Republic Act 1180 of June 19, 1954.) This law prohibits (Section 1, first paragraph) non-Philippine citizens from engaging in retail business. However, non-Filipinos engaged in retail business on May 15, 1954, may continue to operate such a business until death in case of a proprietorship or until expiration of the term of partnership or of corporate existence in case of other types of retail businesses⁶¹

Republic Act 1180, Section 1, second paragraph, also provides that "nothing contained in this Act shall in any way impair or abridge whatever rights may be granted to citizens and juridical entities of the United States of America under the Executive Agreement signed on July 4, 1946, between that country and the Republic of the Philippines." Inasmuch as the "Parity" provision (Article VII) of the 1946 Agreement specifically established national treatment for United States citizens only for the "exploitation of Philippine natural resources and the operation of public utilities" the United States Embassy asked for a clarification of the position of United States citizens under R.A. 1180.

The former Acting Secretary of Foreign Affairs, Leon M. Guerrero, clarified the position of United States business interests with respect to R.A. 1180 by stating that "The application of the Retail Trade Nationalization Law to American citizens and business enterprises could give the United States the right to suspend the effectiveness of the Trade Agreement, and, if the application is continued, to terminate it altogether. This right would be based, not on the Parity Amendment (Article VII), but on the fourth paragraph of Article X of the (1946) Trade Agreement."

Mr. Guerrero went on to say, "The Americans may claim 'discrimination'--whether correctly or erroneously, is another question--if they are not given the same rights as Filipinos to engage in retail trade. Since under the Trade Agreement, it is entirely and wholly within the discretion and power of the President of the United States to determine and proclaim that there is such 'discrimination,' and thereupon to suspend and eventually terminate the Trade Agreement, our position is extremely vulnerable. We may not like it, but we cannot help it ..."⁶²

The opinion of Mr. Guerrero was subsequently confirmed in an opinion by Mr. Pedro Tuason, Secretary of Justice in response to an inquiry from the Under-Secretary of Foreign Affairs regarding the applicability of R.A. 1180 to retail businesses of United States citizens. Secretary Tuason concluded: "Every indication points to the idea that it (Republic Act 1180,

61. In case of death, the heirs are allowed to continue the business for not more than six months "only for the purpose of liquidation." Republic Act 1180, Section 3.

62. Manila Daily Bulletin, July 17, 1954, Underscoring added.t

Section 1, second paragraph--see above) was concerned and adopted with the definite object of excluding American citizens and business entities from the operation of the Act (Republic Act 1180) regardless of the nature, extent, and force of the rights and obligations provided in the (1946) Trade Agreement... Whether we approve it or not, whether we like it or not, the predominant sentiment in and out of Congress was and is for the revision and extension of the life of the Executive Agreement as a vital necessity to our economy."⁶³

Attrition in the preferential treatment of United States business interests in the Philippines will be slow--not because of the provisions of the Revised Agreement--or any other agreement--but because of Philippine dependence upon United States military Veterans' Administration, International Cooperation Administration and State Department expenditures and above all, on the Philippine quota in the United States sugar market. The potentialities for United States retaliation as well as reluctance to jeopardize enlargement of the Philippine preferential position in United States commerce has been, and will continue to be, an effective deterrent to Philippine policies detrimental to United States business interests in the Philippines.

Summary

The United States suffered severe political damage because of the inept 1946 Trade Agreement. The blatant infringements on Philippine sovereignty were either readily circumvented by the Philippines, or proved to be economically unimportant. The Revised Agreement wiped out the politically offensive provisions of the 1946 Agreement, while maintaining the United States policy of reducing the mutual preferences of each country in the markets of the other country. This policy has been steadily reiterated by the United States since the establishment of the Philippine Commonwealth in 1933. This policy has been dictated by the strategic and political interests of the United States and only incidentally serves the purposes of establishing more complete Philippine sovereignty. Under these circumstances, it is unfortunate that the United States negotiators of the Langley Mission, reveling in the luxury of bargaining power to waste, chose to introduce minor United States concessions. These concessions are unlikely to have significant economic consequences, but they are potentially capable of offsetting much of the political gain to the United States which should be realized from the Revised Agreement.

63. Opinion of the Secretary of Justice, Honorable Pedro Tuason in a letter to Honorable Raul S. Manglapus, Under-Secretary of Foreign Affairs, Manila, July 21, 1954. Reprinted in the American Chamber of Commerce Journal, Vol. XXX, No. 8, August 1954, pp. 299-300. Underscoring added.

APPENDIX A

Tabular Comparison of the United States-Philippine Trade Agreement of July 4, 1946 and the Revised United States-Philippine Trade Agreement of September 6, 1955.

The procedure followed in Appendix A has been to present the complete text of the successive provisions of the Revised United States-Philippine Trade Agreement. Accompanying the various provisions of the Revised Agreement are the comparable provisions of the 1946 Agreement. The provisions of the 1946 Agreement are accompanied by brief notes on the comparability of the Agreements and, where appropriate, page references to the study where changes in the Revised Agreement are analyzed.

Where provisions of the 1946 Agreement were included in the Revised Agreement without change, this is noted, but the provision is not repeated. Where provisions of the 1946 Agreement were deleted in the Revised Agreement, this is noted and the text of the relevant provision of the 1946 Agreement is presented. The procedure followed in Appendix A makes available the complete texts of both the 1946 Agreement and the Revised Agreement.⁶⁴

64. The protocols to the respective Agreements have not been reproduced.

Revised Agreement, PREAMBLE.

AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE
UNITED STATES OF AMERICA CONCERNING TRADE AND RELATED
MATTERS DURING A TRANSITIONAL PERIOD FOLLOWING THE
INSTITUTION OF PHILIPPINE INDEPENDENCE SIGNED AT MANILA
ON JULY 4, 1946, AS REVISED

The President of the Republic of the Philippines and the President of the United States of America, mindful of the close economic ties between the people of the Philippines and the people of the United States during many years of intimate political relations, and desiring to enter into an agreement in keeping with their long friendship, which will be mutually beneficial to the two peoples and will strengthen the economy of the Philippines so as to enable that Republic to contribute more effectively to the peace and prosperity of the free world, have agreed to the following articles:

1946 Agreement, PREAMBLE.

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
AND THE REPUBLIC OF THE PHILIPPINES CONCERNING
TRADE AND RELATED MATTERS DURING A TRANSI-
TICNAL PERIOD FOLLOWING THE INSTITUTION OF
PHILIPPINE INDEPENDENCE

The President of the United States of America and the President of the Philippines, recalling the close economic ties between the people of the United States and the people of the Philippines during many years of intimate political relations, mindful of the great physical destruction and social disturbances suffered by the Philippines as a result of their valiant support of the cause of the United Nations in the war against Japan, and desiring to enter into an Agreement accepting on the part of each country the provisions of Title II and Title III (except Part 1) of the Philippine Trade Act of 1946 of the United States of America, have agreed to the following Articles:

Revised Agreement, ARTICLE I, Paragraphs 1 and 2.

1. The ordinary customs duty to be collected on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol, which during the following portions of the period from January 1, 1956, to July 3, 1974, both dates inclusive, are entered, or withdrawn from warehouse in the Philippines for consumption, shall be determined by applying the following percentages of the Philippine duty as defined in Subparagraph (h) of Paragraph 1 of the Protocol:

(a) During the period from January 1, 1956, to December 31, 1958, both dates inclusive, twenty-five per centums

(b) During the period from January 1, 1959, to December 31, 1961, both dates inclusive, fifty per centum.

(c) During the period from January 1, 1962, to December 31, 1964, both dates inclusive, seventy-five per centum.

(d) During the period from January 1, 1965, to December 31, 1973, both dates inclusive, ninety per centum.

(e) During the period from January 1, 1974, to July 3, 1974, both dates inclusive, one hundred per centum.

2. The ordinary customs duty to be collected on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, other than those specified in the Schedule to Paragraph 2 of Article II, which during such portions of such period are entered, or withdrawn from warehouse, in the United States for consumption, shall be determined by applying the following percentages of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol:

(a) During the period from January 1, 1956, to December 31, 1958, both dates inclusive, five per centum

(b) During the period from January 1, 1959, to December 31, 1961, both dates inclusive, ten per centum

(c) During the period from January 1, 1962, to December 31, 1964, both dates inclusive, twenty per centum

(d) During the period from January 1, 1965, to December 31, 1967, both dates inclusive, forty per centum

(e) During the period from January 1, 1968, to December 31, 1970, both dates inclusive, sixty per centum

(f) During the period from January 1, 1971, to December 31, 1973, both dates inclusive, eighty per centum

(g) During the period from January 1, 1974, to July 3, 1974, both dates inclusive, one hundred per centum

1946 Agreement, ARTICLE I, Paragraphs 1 and 2. See pp. 8-10.

1. During the period from the date of the entry into force of this Agreement to July 3, 1954, both dates inclusive, United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol to this Agreement entered, or withdrawn from

warehouse, in the Philippines for consumption, and Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol entered, or withdrawn from warehouse, in the United States for consumption, shall be admitted into the Philippines and the United States, respectively, free of ordinary customs duty.

2. The ordinary customs duty to be collected on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol, which during the following portions of the period from July 4, 1954, to July 3, 1974, both dates inclusive, are entered, or withdrawn from warehouse, in the Philippines for consumption, and on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, other than those specified in Items D to G, both inclusive, of the Schedule to Article II, which during such portions of such period are entered, or withdrawn from warehouse, in the United States for consumption, shall be determined by applying the following percentages of the Philippine duty as defined in Subparagraph (h) of Paragraph 1 of the Protocol, and of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol, respectively:

(a) During the period from July 4, 1954, to December 31, 1954, both dates inclusive, five per centum.

(b) During the calendar year 1955, ten per centum

(c) During each calendar year after the calendar year 1955 until and including the calendar year 1972, a percentage equal to the percentage for the preceding calendar year increased by five per centum of the Philippine duty and the United States duty, respectively, as so defined.

(d) During the period from January 1, 1973, to July 3, 1974, both dates inclusive, one hundred per centum

Revised Agreement, ARTICLE I, Paragraphs 3, 4, 5, 6 and 7

3. Customs duties on United States articles, and on Philippine articles, other than ordinary customs duties, shall be determined without regard to the provisions of Paragraphs 1 and 2 of this Article, but shall be subject to the provisions of Paragraph 4 of this Article

4. With respect to United States articles imported into the Philippines, and with respect to Philippine articles imported into the United States, no duty on, or in connection with, importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product

of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles. As used in this Paragraph, the term "duty" includes taxes, fees, charges, or exactions, imposed, or in connection with, importation, but does not include internal taxes or ordinary customs duties.

5. With respect to products of the United States which do not come within the definition of United States articles, imported into the Philippines, duty on, or in connection with, importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country. As used in this Paragraph, the term "duty" includes taxes, fees, charges, or exactions, imposed on, or in connection with, importation, but does not include internal taxes.

6. With respect to products of the Philippines, which do not come within the definition of Philippine articles, imported into the United States, no duty on, or in connection with, importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country (except Cuba), or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country (except Cuba). As used in this Paragraph, the term "duty" includes taxes, fees, charges, exactions, imposed on, or in connection with, importation, but does not include internal taxes.

7. Notwithstanding the provisions of Paragraph 1 of this Article, the Philippines shall impose a temporary special import tax, in lieu of the present tax on the sale of foreign exchange, on any article or product imported or brought into the Philippines, irrespective of source; provided that such special levy is applied in a non-discriminatory manner pursuant to Paragraphs 4 and 5 of this Article, that the initial tax is at a rate no higher than the present rate of the foreign exchange tax, and that the tax shall be progressively reduced at a rate no less rapid than that specified in the following Schedule. If, as a result of applying this Schedule, the total revenue from Philippine customs duties and from the special import tax on goods coming from the United States is less in any calendar year than the proceeds from the exchange tax on such goods during the calendar year 1955, no reduction need be made in the special import tax for the next succeeding calendar year, and, if necessary to restore revenues collected on the importation of United States goods to the level of the exchange tax on such goods in calendar year 1955, the Philippines may increase the rate for such succeeding calendar year to any previous level provided for in this Schedule which is considered to be necessary to restore such revenues to the amount collected from the exchange tax on United States goods in calendar year 1955. Rates for the special import

levy in subsequent years shall be fixed in accordance with the schedules specified in this Article, except as the Philippine Government may determine that higher rates are necessary to maintain the abovementioned level of revenues from the importation of United States goods. In this event, such rate shall be determined by the Philippine Government, after consultation with the United States Government, at a level of the Schedule calculated to cover any anticipated deficiency arising from the operation of this provision.

SCHEDULE FOR REDUCING SPECIAL IMPORT TAX

- (a) After December 31, 1956, ninety per centum.
- (b) After December 31, 1957, eighty per centum.
- (c) After December 31, 1958, seventy per centum.
- (d) After December 31, 1959, sixty per centum.
- (e) After December 31, 1960, fifty per centum.
- (f) After December 31, 1961, forty per centum.
- (g) After December 31, 1962, thirty per centum.
- (h) After December 31, 1963, twenty per centum.
- (i) After December 31, 1964, ten per centum.
- (j) On and after January 1, 1966, nil.

1946 Agreement, ARTICLE I, Paragraphs 3, 4, 5, and 6 are included without change in the Revised Agreement. The 1946 Agreement, ARTICLE I did not contain a provision comparable to Paragraph 7. See pp. 10-11, 26-28.

Revised Agreement, ARTICLE II, Paragraph 1.

1. During the period from January 1, 1956, to December 31, 1973, both dates inclusive, the total amount of the articles falling within one of the classes specified in Items A and A-1 of the Schedule to this Paragraph, which are Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, and which, in any calendar year may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amounts specified in such Schedule as to each class of articles. During the period from January 1, 1956,

to December 31, 1973, both dates inclusive, the total amount of the articles falling within the class specified in Item B of the Schedule to this Paragraph which are the product of the Philippines, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amount specified in such Schedule as to such class of articles. During the period from January 1, 1974, to July 3, 1974, both dates inclusive, the total amounts referred to in the preceding sentences of this Paragraph shall not exceed one-half of the amount specified in such Schedule with respect to each class of articles, respectively. The establishment herein of the limitations on the amounts of Philippine raw and refined sugar that may be entered, or withdrawn from warehouse in the United States for consumption, shall be without prejudice to any increases which the Congress of the United States might allocate to the Philippines in the future. The following Schedule to Paragraph 1 shall constitute an integral part thereof.

SCHEDULE OF ABSOLUTE QUOTAS

Item	Classes of Articles	Amounts
A	Sugars	952,000 short tons
	A-1 of which not to exceed...t..... may be refined sugars, meaning "direct consumption sugar" as defined in Section 101 of the Sugar Act of 1948, as amended, of the United States, which is set forth in part as Annex I to this Agreement.	56,000 short tons
B	Cordage, including yarns,.....t..... twines (including binding twine described in Paragraph 1622 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex II to this Agreement), cords, cordage, rope and cable, tarred or untarred, wholly or in chief value of Manila (abaca) or other fiber	6,000,000 lbs.

1946 Agreement, ARTICLE II, Paragraph 1. See pp. 12-13.

1. During the period from January 1, 1946, to December 31, 1973, both dates inclusive, the total amount of the articles falling within one of the classes specified in Items A and A-1, and C to G, both inclusive, of the Schedule to this Article which are Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption shall not exceed the amounts specified in such Schedule as to each class of

articles. During the period from January 1, 1946, to December 31, 1973, both dates inclusive, the total amount of the articles falling within the class specified in Item B of the Schedule to this Article which are the product of the Philippines, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amounts specified in such Schedule as to such class of articles. During the period from January 1, 1974, to July 3, 1974, both dates inclusive, the total amounts referred to in the preceding sentences of this Paragraph shall not exceed one-half of the amount specified in such Schedule with respect to each class of articles, respectively.

Revised Agreement, ARTICLE II, Paragraph 2

2. Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol falling within one of the classes specified in the items included in the Schedule to this Paragraph, which, during the following portions of the period from January 1, 1956, to December 31, 1973, both dates inclusive; are entered, or withdrawn from warehouse in the United States for consumption, shall be free of ordinary customs duty, in quantities determined by applying the following percentages to the amounts specified in such Schedule as to each such class of articles:

(a) During each of the calendar years 1956 to 1958, inclusive, ninety-five per centum.

(b) During each of the calendar years 1959 to 1961, inclusive, ninety per centum.

(c) During each of the calendar years 1962 to 1964, inclusive, eighty per centum.

(d) During each of the calendar years 1965 to 1967, inclusive, sixty per centum.

(e) During each of the calendar years 1968 to 1970, inclusive, forty per centum.

(f) During each of the calendar years 1971 to 1973, inclusive, twenty per centum.

(g) On and after January 1, 1974, nil.

The following Schedule to Paragraph 2, shall constitute an integral part thereof:

SCHEDULE OF TARIFF QUOTAS

Item	Classes or Articles	Amounts
A	Cigars (exclusive of cigarettes, . t. cheroots of all kinds, and paper cigars and cigarettes, including wrappers).	200, 000, 000 cigars
B	Scrap tobacco and stemmed and unstemmed filler tobacco described in Paragraph 602 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex III to this Agreement.	6, 500, 000 lbst
C	Coconut Oil	200, 000 long tons
D	Buttons of pearl or shell	850, 000 gross

The quantities shown in the Schedule to this Paragraph represent base quantities for the purposes of computing the tariff-free quota and are not absolute quotas. Any such Philippine article so entered, or withdrawn from warehouse, in excess of the duty-free quota provided in this Paragraph shall be subject to one hundred per centum of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol

1946 Agreement, ARTICLE II, Paragraph 2. Seetp. 12.

2. Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol falling within one of the classes specified in Items D to G, both inclusive, of the Schedule to this Article, which during the following portions of the period from January 1, 1946, to December 31, 1973, both dates inclusive, are entered, or withdrawn from warehouse, in the United States for consumption, shall be free of ordinary customs duty, in quantities determined by applying the following percentages of the amounts specified in such Schedule as to each such class of articles:

(a) During each of the calendar years 1946 to 1954, one hundred per centum

(b) During the calendar year 1955, ninety-five per centum.

(c) During each calendar year after the calendar year 1955, until and including the calendar year 1973, a percentage equal to the percentage for the preceding calendar year decreased by five per centum of such specified amounts.

Any such Philippine article so entered or withdrawn from waree house in excess of the duty-free quota provided in this Paragraph shall be subject to one hundred per centum of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocole

1946 Agreement, ARTICLE II, Schedule. See p. 12e

The following Schedule to Article II shall constitute an integral part thereof:

I Numerical Item	II Commodity Description	III All Quantities
A	Sugars.	952, 000 short tons
A-1	May be refined sugars, meaning, 'direct-consumption sugar' as defined in Section 101 of the Sugar Act of 1937 of the United States, which is set forth in part as Annex I to this Agreement	Not to exceed 56,000 short tons
B	Cordage, including yarns, twines (including binding twines described in Paragraph 1622 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex II of this Agreement), cords, cordage, rope, and cable, tarred or untarred, wholly or in chief value of Manila (abaca) or other hard fiber.	6, 000, 000 lbs.
C	Rice, including rice meal, flour, polish and bran.	1, 040, 000 lbs.
D	Cigars (exclusive of cigarettes, cheroots of all kinds, and paper cigars and cigarettes, including wrappers).	200,000,000 cigars

I Numerical Item	II Commodity Description	III All Quantities
E	Scrap tobacco, and stemmed and un-stemmed filler tobacco described in Paragraph 602 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex III to this Agreement	6, 500, 000 lbse
F	Coconut oil	200, 000 long tons
G	Buttons of pearl or shell	850, 000 gross

1946 Agreement, ARTICLE II, Paragraph 3. The Revised Agreement does not provide for allocation of Philippine quotas in the United States market among Philippine producers. See p. 12.

3. Each of the quotas provided for in Paragraphs 1 and 2 of this Article for articles falling within one of the classes specified in Items A-1 and B, and D to G, each inclusive, of the Schedule to this Article shall be allocated annually by the Philippines to the manufacturers in the Philippines in the calendar year 1940 of products of a class for which such quota is established, and whose products of such class were exported to the United States during such calendar year, or their successors in interest, proportionately on the basis of the amount of products of such class produced by each such manufacturer (or in the case of such successor in interest, the amount of the products of such class produced by his predecessor in interest) which was exported to the United States during the following period: (a) In the case of Items A-1 and D to G, each inclusive, the calendar year 1940, and (b) In the case of Item B, the twelve months immediately preceding the inauguration of the Commonwealth of the Philippines. The quota provided for in Paragraph 1 of this Article for unrefined sugar specified in Item A of such Schedule, including that required to manufacture the refined sugar specified in Item A-1 of the Schedule, shall be allotted annually by the Philippines to the sugar-producing mills and plantation owners in the Philippines in the calendar year 1940 whose sugars were

exported to the United States during such calendar year, or their successors in interest, proportionately on the basis of their average annual production (or in the case of such a successor in interest, the average annual production of his predecessor in interest) for the calendar years 1931, 1932, and 1933, and the amount of sugars which may be so exported shall be allocated in each year between each mill and the plantation owners on the basis of the proportion of sugars to which each mill and the plantation owners are respectively entitled, in accordance with any milling agreements between them, or any extension, modification, or renewal thereof

1946 Agreement, ARTICLE II, Paragraph 4. The Revised Agreement does not provide for allocation of Philippine quotas in the United States market among Philippine producers. See p. 12.

4. The holder of any allotment under law existing on April 29, 1946, including his successor in interest, and the holder of any allotment under any of the quotas which are provided for in Paragraphs 1 and 2 of this Article the allocation of which is provided for in Paragraph 3 of this Article, may transfer or assign all or any amount of such allotment on such terms as may be agreeable to the parties in interest. If, after the first nine months of any calendar year, the holder of any allotment, for the year, under any of the quotas referred to in the preceding sentence, is or will be unable for any reason to export to the United States all of his allotment, in time to fulfill the quota for that year, that amount of such allotment which it is established by sufficient evidence cannot be so exported during the remainder of the calendar year may be apportioned by the Philippine Government to other holders of allotments under the same quota, or in such other manner as will insure the fulfillment of the quota for that year: Provided, That no transfer or assignment or reallocation under the provisions of this Paragraph shall diminish the allotment to which the holder may be entitled in any subsequent calendar year

Revised Agreement, ARTICLE III e

1. Except as otherwise provided in Article II or in Paragraph 2 of this Article, neither country shall impose restrictions or prohibitions on the importation of any article of the other country, or on the exportation of any

article to the territories of the other country, unless the importation of the like article of, or the exportation of the like article to, all third countries is similarly restricted or prohibited. If either country imposes quantitative restrictions on the importation or exportation of any article in which the other country has an important interest and if it makes allotments to any third country, it shall afford such other country a share proportionate to the amount of the article, by quantity or value, supplied by or to it during a previous representative period, due consideration being given to any special factors affecting the trade in such article.

2. (a) Notwithstanding the provisions of Paragraph 1 of this Article, with respect to quotas on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol or with respect to quotas on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol (other than the articles for which quotas are provided in Paragraph 1 Article II) a quota may be established only if -

- 1) The President of the country desiring to impose the quota, after investigation, finds and proclaims that, as the result of preferential treatment accorded pursuant to this Agreement, any article of the other country is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive articles; or
- 2) The President of the country desiring to impose the quota finds that such action is necessary to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or, in the event its monetary reserves are very low, to achieve a reasonable rate of increase in its reserves.

(b) Any quota imposed for any twelve-month period under (a) 1) above for the purpose of protective domestic industry shall not be less than the amount determined by the President of the importing country as the total amount of the articles of such class which, during the twelve months preceding entry into effect of the quota, was entered, or withdrawn from warehouse, for consumption, after deduction of the amount by which he finds domestic production can be increased during the twelve-month period of the quota; or if the quota is established for any period other than a twelve-month period, it shall not be less than a proportionate amount.

(c) Each Party agrees not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities, the exclusion of which would seriously impair regular channels of trade, or restrictions which would prevent the importation of commercial samples, or prevent compliance with patent, trademark, copyright, or similar procedures.

(d) Any quota established pursuant to this Paragraph shall not continue in effect longer than necessary to achieve the purposes for its imposition, at which time the President of the country imposing the quota, following investigation, shall find and proclaim that the conditions which gave rise to the establishment of such quota no longer exist.

3. Either country taking action pursuant to the provisions of this Article shall give notice to the other country as far in advance as may be practicable, and shall afford it an opportunity to consult in respect of the proposed action. It is understood that this right of consultation does not imply that the consent of the other country to the establishment of the quota is needed in order for the quota to be put into effect.

1946 Agreement ARTICLE III. See p. 14.

1. With respect to quotas on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol (other than the quotas provided for in Paragraphs 1 and 2 of Article II, and other than quotas established in conjunction with quantitative limitations, applicable to products of all foreign countries, on imports of like articles), the United States will not establish any such quota for any period before January 1, 1948, and for any part of the period from January 1, 1948, to July 3, 1974, both dates inclusive, it will establish such a quota only if —

- (a) The President of the United States, after investigation, finds and proclaims that such Philippine articles are coming, or are likely to come, into substantial competition with like articles the product of the United States;
- (b) The quota for any Philippine article as so defined for any twelve-month period is not less than the amount determined by the President as the total amount of Philippine articles of such class which (during the twelve months ended on the last day of the month preceding the month in which occurred the date proclaimed by the President as the date of the beginning of the investigation) was entered, or withdrawn from warehouse, in the United States for consumption; or, if the quota is established for any period other than a twelve-month period, is not less than a proportionate amount.

Any quota established pursuant to this Paragraph shall not continue in effect after the President, following investigation, finds and proclaims that the conditions which gave rise to the establishment of such quota no longer exist.

2. If the President of the United States finds that the allocation of any quota established pursuant to Paragraph 1 of this Article is necessary to make the application of the quota just and reasonable between the United States and the Philippines, he shall, in such proclamation or a subsequent proclamation, provide the basis for such allocation, and if he exercises such right, the Philippines will promptly put and keep in effect, on the basis proclaimed by the President of the United States, the allocation of such quota.

Revised Agreement, ARTICLE IV, Paragraphs 1 and 2.

1. With respect to articles which are products of the United States coming into the Philippines, or with respect to articles manufactured in the Philippines wholly or in part from such articles, no internal tax shall be —

(a) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of the Philippines, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles;

(b) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles.

Where an internal tax is imposed with respect to an article which is the product of a foreign country to compensate for an internal tax imposed (1) with respect to a like article which is the product of the Philippines, or (2) with respect to materials used in the production of a like article which is the product of the Philippines, if the amount of the internal tax which is collected and paid with respect to the article which is the product of the United States is not in excess of that permitted by Paragraph 1 (b) of Article IV, such collection and payment shall not be regarded as in violation of the first sentence of this Paragraph.

2. With respect to articles which are products of the Philippines coming into the United States or with respect to articles manufactured in the United States wholly or in part from such articles, no internal tax shall be —

(a) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of the United States, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles;

(b) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles.

Where an internal tax is imposed with respect to an article which is the product of a foreign country to compensate for an internal tax imposed (1) with respect to a like article which is the product of the United States, or (2) with respect to materials used in the production of a like article which is the product of the United States if, the amount of the internal tax which is collected and paid with respect to the article which is the product of the Philippines is not in excess of that permitted by Paragraph 2 (b) of Article IV, such collection and payment shall not be regarded as in violation of the first sentence of this Paragraph. This Paragraph shall not apply to the taxes imposed under sections 4591, 4812, or 4831 of the Internal Revenue Code of the United States which are set forth in part as Annexes IV, V, and VI of this Agreement.

1946 Agreement, ARTICLE IV, Paragraphs 1 and 2 are included without change in the Revised Agreement

1946 Agreement, ARTICLE IV, Paragraph 3 was deleted in the Revised Agreement See p. 14.

3. No export tax shall be imposed or collected by the United States on articles exported to the Philippines, or by the Philippines on articles exported to the United States.

Revised Agreement, ARTICLE IV, Paragraphs 3 and 4.

3. No processing tax or other internal tax shall be imposed or collected in the United States or in the Philippines with respect to articles coming into such country for the official use of the Government of the Philippines or of the United States, respectively, or any department or agency thereof.

4. No processing tax or other internal tax shall be imposed or collected in the United States with respect to Manila (abaca) fiber not dressed or manufactured in any manner.

1946 Agreement, ARTICLE IV, Paragraphs 4 and 5 are included without change in the Revised Agreement as Paragraphs 3 and 4 respectively of Article IV.

Revised Agreement, ARTICLE IV, Paragraph 5.

5. The United States will not reduce the preference of two cents per pound provided in Section 4513 of the Internal Revenue Code of the United States (relating to processing taxes on coconut oil, etc.), which is set forth as Annex VII to this Agreement, with respect to articles "wholly the production of the Philippine Islands" or articles "produced wholly from materials the growth or production of the Philippine Islands"; except that it may suspend the provisions of Section 4511 (b) of the Internal Revenue Code of the United States, during any period as to which the President of the United States, after consultation with the President of the Philippines, finds that adequate supplies of neither copra nor coconut oil, the product of the Philippines, are readily available for processing in the United States.

1946 Agreement, ARTICLE IV, Paragraph 6 appears with minor changes as Article IV, Paragraph 5 of the Revised Agreement. The 1946 Agreement referred to the relevant sections of the Internal Revenue Code of the United States in force in 1946.

1946 Agreement, ARTICLE V, was deleted from the Revised Agreement. See p. 11.

The value of Philippine currency in relation to the United States dollar shall not be changed, the convertibility of Philippine pesos into United States dollars shall not be suspended, and no restrictions shall be imposed on the transfer of funds from the Philippines to the United States except by agreement with the President of the United States.

Revised Agreement, ARTICLE V

The Republic of the Philippines will take the necessary legislative and executive actions, prior to, or at the time of, the entry into force of the revisions of this Agreement authorized by the Congress of the Philippines and the Congress of the United States in 1955, to enact and implement legislation similar to that already enacted by the Congress of the United States as Public Law 419, 83rd Congress, Chapter 323, 2nd Session, to facilitate the entry of Philippine traders.

1946 Agreement, ARTICLE VI, Paragraphs 1 and 2 .

These provisions were replaced by ARTICLE V of the Revised Agreement which provides for reciprocity in the treatment by each country of "traders" from the other countryr

1. Any citizen of the United States who actually resided in the Philippines, and any citizen of the Philippines who actually resided in the United States, for a continuous period of three years during the period of forty-two months ending November 30, 1941, if entering the country of such former residence during the periodr from July 4, 1946, to July 3, 1951, both dates inclusive, for the purpose of resuming residence therein, shall for the purposes of the immigration laws, be considered a non-quota immigrantr After such admission as a non-quota immigrant he shall, for the purpose of the immigration and naturalization laws, be considered as lawfully admitted to such country for permanent residence. The benefits of this Paragraph shall also apply to the wife of any such citizen of the United States, if she is also a citizen thereof, and to his unmarried children under eighteen yearsrof age, and to the wife of any such citizen of the Philippines, if she is also a citizen thereof or is eligible for United States citizenship, and to his unmarried children under eighteen years of age, if such wife or children of such citizen of the United States or of such citizen of the Philippines are accompanying or following to join him during such period.r This Paragraph shall not apply to a citizen of the Philippines admitted to the Territory of Hawaii, without an immigration or passport visa, under the provisions of Paragraph (1) of Section 8(a) of the Act of March 24, 1934, of the United States which is set forth as Annex VIII to this Agreementr

2. There shall be permitted to enter the Philippines, without regard to any numerical limitations under the laws of the Philippines, in each of the calendar years 1946 to 1951, both inclusive, one thousand two hundred citizens of the United States, each of whom shall be entitled to remain in the Philippines for five yearsr

Revised Agreement, ARTICLE VI

1. The disposition , exploitation, development, and utilization of all agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces and sources of potential

energy, and other natural resources of either Party and the operation of public utilities, shall, if open to any person, be open to citizens of the other Party and to all forms of business enterprise owned or controlled, directly or indirectly, by citizens of such other Party in the same manner as to and under the same conditions imposed upon citizens or corporations or associations owned or controlled by citizens of the Party granting the right.

2. The rights provided for in Paragraph 1 may be exercised, in the case of citizens of the Philippines with respect to natural resources in the United States which are subject to Federal control or regulations, only through the medium of a corporation organized under the laws of the United States or one of the States thereof and likewise, in the case of citizens of the United States with respect to natural resources in the public domain in the Philippines, only through the medium of a corporation organized under the laws of the Philippines and at least 60 per cent of the capital stock of which is owned or controlled by citizens of the United States. This provision, however, does not affect the right of citizens of the United States to acquire or own private agricultural lands in the Philippines or of citizens of the Philippines to acquire or own land in the United States which is subject to the jurisdiction of the United States and not within the jurisdiction of any State and which is not within the public domain. The Philippines reserves the right to dispose of its public lands in small quantities on especially favorable terms exclusively to actual settlers or other users who are its own citizens. The United States reserves the right to dispose of its public lands in small quantities on especially favorable terms exclusively to actual settlers or other users who are its own citizens or aliens who have declared their intention to become citizens. Each Party reserves the right to limit the extent to which aliens may engage in fishing or engage in enterprises which furnish communications services and air or water transport. The United States also reserves the right to limit the extent to which aliens may own land in its outlying territories and possessions, but the Philippines will extend to American nationals who are residents of any of those outlying territories and possessions only the same rights, with respect to ownership of lands, which are granted therein to citizens of the Philippines. The rights provided for in this Paragraph shall not, however, be exercised by either Party so as to derogate from the rights previously acquired by citizens or corporations or associations owned or controlled by citizens of the other Party,

3. The United States of America reserves the rights of the several States of the United States to limit the extent to which citizens or corporations or associations owned or controlled by citizens of the Philippines may engage in the activities specified in this Article. The Republic of the Philippines reserves the power to deny any of the rights specified in this Article to citizens of the United States who are citizens of States, or to

corporations or associations at least 60 per cent of whose capital stock or capital is owned or controlled by citizens of States, which deny like rights to citizens of the Philippines, or to corporations or associations which are owned or controlled by citizens of the Philippines. The exercise of this reservation on the part of the Philippines shall not affect previously acquired rights, provided that in the event that any State of the United States of America should in the future impose restrictions which would deny to citizens or corporations or associations owned or controlled by citizens of the Philippines the right to continue to engage in activities in which they were engaged therein at the time of the imposition of such restrictions, the Republic of the Philippines shall be free to apply like limitations to the citizens or corporation or associations owned or controlled by citizens of such States.

1946 Agreement, ARTICLE VII, Paragraphs 1 and 2. See p. 13.

1. The disposition, exploitation, development, and utilization of all agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces and sources of potential energy, and other natural resources of the Philippines, and the operation of public utilities, shall, if open to any person, be open to citizens of the United States and to all forms of business enterprise owned or controlled, directly or indirectly, by United States citizens, except that (for the period prior to the amendment of the Constitution of the Philippines referred to in Paragraph 2 of this Article) the Philippines shall not be required to comply with such part of the foregoing provisions of this sentence as are in conflict with such Constitution.

2. The Government of the Philippines will promptly take such steps as are necessary to secure the amendment of the Constitution of the Philippines so as to permit the taking effect as laws of the Philippines of such part of the provisions of Paragraph 1 of this Article as is in conflict with such Constitution before such amendment.

Revised Agreement, ARTICLE VII

1. The Republic of the Philippines and the United States of America each agrees not to discriminate in any manner, with respect to their engaging in business activities, against the citizens or any form of business enterprise owned or controlled by citizens of the other, and that new

limitations imposed by either Party upon the extent to which aliens are accorded national treatment with respect to carrying on business activities within its territories, shall not be applied as against enterprises owned or controlled by citizens of the other party which are engaged in such activities therein at the time such new limitations are adopted, nor shall such new limitations be applied to American citizens or corporations or associations owned or controlled by American citizens whose States do not impose like limitation on citizens or corporations or associations owned or controlled by citizens of the Republic of the Philippines.

2. The United States of America reserves the rights of the several States of the United States to limit the extent to which citizens or corporations or associations owned or controlled by citizens of the Philippines may engage in any business activities. The Republic of the Philippines reserves the power to deny any rights to engage in business activities to citizens of the United States who are citizens of States, or to corporations or associations at least 60 per cent of the capital stock or capital of which is owned or controlled by citizens of States, which deny like rights to citizens of the Philippines or to corporations or associations owned or controlled by citizens of the Philippine. The exercise of this reservation on the part of the Philippines shall not affect previously acquired rights, provided that in the event that any State of the United States of America should in the future impose restrictions which would deny to citizens or corporations or associations owned or controlled by citizens of the Philippines the right to continue to engage in business activities in which they were engaged therein at the time of the imposition of such restrictions the Republic of the Philippines shall be free to apply like limitations to the citizens or corporations or associations owned or controlled by citizens of such States.

1946 Agreement contains no comparable provision.
See pp. 28-32.

Revised Agreement, ARTICLE VIII

Nothing in this Agreement shall be construed:

(1) to require either Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(2) to prevent either Party from taking any action which it considers necessary for the protection of its essential security interests —

(a) relating to fissionable materials or the materials from which they are derived;

(b) relating to the traffic in arms, ammunition, and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(c) taken in time of war or other emergency in international relations; or

(3) to prevent either Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security;

1946 Agreement contains no comparable provision.

Revised Agreement, ARTICLE IX, Paragraph 1.

1. Upon the taking effect of this Agreement, and upon the taking effect of the revisions thereof authorized by the Congress of the Philippines and the Congress of the United States in 1955, the provisions placing obligations on the United States: (a) if in effect as laws of the United States at the time of such taking effect, shall continue in effect as laws of the United States during the effectiveness of the Agreement; or (b) if not so in effect, shall take effect and continue in effect as laws of the United States during the effectiveness of the Agreement. The Philippines will continue in effect as laws of the Philippines, during the effectiveness of this Agreement, the provisions thereof placing obligations on the Philippines.

1946 Agreement, ARTICLE VIII, Paragraph 1.

1. Upon the taking effect of this Agreement the provisions thereof placing obligations on the United States: (a) if in effect as laws of the United States at the time this Agreement takes effect, shall continue in effect as laws of the United States during the effectiveness of the Agreement; or (b) if not so in effect at the time the Agreement takes effect, shall take effect and continue in effect as laws of the United States during the effectiveness of the Agreement. The Philippines will continue in effect as laws of the Philippines, during the effectiveness of this Agreement, the provisions thereof placing obligations on the Philippines, except as is otherwise provided in Paragraph 1 of Article VII.

Revised Agreement, ARTICLE IX, Paragraph 2.

2. The Philippines and the United States will promptly enact, and shall keep in effect during the effectiveness of this Agreement, such legislation as may be necessary to supplement the laws of the Philippines and the United States, respectively, referred to in Paragraph 1 of this Article, and to implement the provisions of such laws and the provisions of this Agreement placing obligations on the Philippines and the United States, respectively.

1946 Agreement, ARTICLE VIII, Paragraphs 2 and 3.

Note that Paragraph 2 of the 1946 Agreement includes a Philippine commitment to enact legislation implementing the allocation of Philippine quotas in the United States market among Philippine producers as provided in ARTICLE II of the 1946 Agreements

2. The United States and the Philippines will promptly enact, and shall keep in effect during the effectiveness of this Agreement, such legislation as may be necessary to supplement the laws of the United States and the Philippines, respectively, referred to in Paragraph 1 of this Article, and to implement the provisions of such laws and the provisions of this Agreement placing obligations on the United States and the Philippines, respectively. Moreover, the Philippines will promptly enact, and keep in force and effect during the effectiveness of this Agreement, such legislation as may be necessary to put and keep in effect during the effectiveness of this Agreement, the allocation, reallocation, transfer, and assignment of quotas on the basis provided for in Paragraphs 3 and 4 of Article II; and, if the United States exercises the right to establish quotas pursuant to Paragraph I of Article III and provide for the allocation thereof pursuant to Paragraph 2 of the same Article, the Philippines will promptly enact, and keep in force during the period for which each such quota is established, such legislation as is necessary to put and keep in effect, on the basis provided by the United States, the allocation of such quotas.

3. The Philippines agree to assist the United States in carrying out Title I of the Philippine Rehabilitation Act of 1946 of the United States by providing that the following acts relative to such Title

shall be offenses under the laws of the Philippines, and that, upon conviction thereof, the penalties attached to such offenses shall be enforced:

(a) Whoever, in the Philippines or elsewhere, makes any statement or representation knowing it to be false, or whoever willfully and fraudulently over-values loss of or damage to property for the purpose of obtaining for himself or for any claimant any compensation pursuant to such Title, or for the purpose of influencing in any way the action of the Philippine War Damage Commission of the United States with respect to any claim for compensation pursuant to such Title, or for the purpose of obtaining money, property, or anything of value under such Title, shall be punished by a fine of not more than the equivalent, in the currency of the Philippines, of five thousand dollars, United States currency, or by imprisonment for not more than two years, or both, and shall not receive any payments or other benefits under such Title and, if any payment or benefit shall have been made or granted, such Commission shall take such action as may be necessary to recover the same.

(b) Whoever, in the Philippines or elsewhere, pays or offers to pay, or promises to pay, or receives, on account of services rendered or to be rendered in connection with any claim for compensation under such Title, any remuneration in excess of five per centum of the compensation paid by the Philippine War Damage Commission of the United States on account of such claim, shall be deemed guilty of a misdemeanor and shall be fined not more than the equivalent, in the currency of the Philippines, of five thousand dollars, United States currency, or imprisonment for not more than twelve months, or both, and, if any such payment or benefit shall have been made or granted, such Commission shall take such action as may be necessary to recover the same, and, in addition thereto, any such claimant shall forfeit all rights under such Title.

Revised Agreement, ARTICLE X:

The Philippines and the United States agree to consult with each other with respect to any questions as to the interpretation or the application of this Agreement, concerning which either Government may make representations to the other. Not later than July 1, 1971, the Philippines and the United

agree to consult with each other as to joint problems which may arise as a result or in anticipation of the termination of this Agreements

1946 Agreement, ARTICLE IX

The United States and the Philippines agree to consult with each other with respect to any questions as to the interpretation or the application of this Agreement, concerning which either Government may make representations to the others

Revised Agreement, ARTICLE XI.

1. This Agreement shall have no effect after July 3, 1974. It may be terminated by either the Philippines or the United States at any time, upon not less than five years' written notices. If the President of the Philippines or the President of the United States determines and proclaims that the other country has adopted or applied measures or practices which would operate to nullify or impair any right or obligation provided for in this Agreement, then the Agreement may be terminated upon not less than six months' written notice.

2. The revisions of this Agreement authorized by the Congress of the Philippines and the Congress of the United States in 1955 shall enter into force on January 1, 1956.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Agreement and have affixed hereunto their sealss

Done in duplicate in the English language at Washington, this sixth day of September, one thousand nine hundred and fifty-fives

1946 Agreement, ARTICLE X. See pp. 30-31.

1. The Philippine Trade Act of 1946 of the United States having authorized the President of the United States to enter into this Agreement, and the Congress of the United States having enacted such legislation as may be necessary to make the provisions thereof placing obligations on the United States take effect as laws of the United States, this Agreement shall take effect unless and until the Congress of the Philippines accepts it by law and has enacted such legislation as may be necessary to make all provisions hereof placing obligations on the Philippines take effect as laws of the Philippines, except as is otherwise provided in Paragraph 1 of Article VII. This Agreement

shall then be proclaimed by the President of the United States and by the President of the Philippines, and shall enter into force on the day following the date of such proclamations, or, if they are issued on different dates, on the day following the later in dates

2. This Agreement shall have no effect after July 3, 1974. It may be terminated by either the United States or the Philippines at any time, upon not less than five years' written notices. If the President of the United States or the President of the Philippines determines and proclaims that the other country has adopted or applied measures or practices which would operate to nullify or impair any right or obligation provided for in this Agreement, then the Agreement may be terminated upon not less than six months' written notices

3. If the President of the United States determines that a reasonable time for the making of the Amendment to the Constitution of the Philippines referred to in Paragraph 2 of Article VII has elapsed, but that such Amendment has not been made, he shall so proclaim and this Agreement shall have no effect after the date of such proclamation.

4. If the President of the United States determines and proclaims, after consultation with the President of the Philippines, that the Philippines or any of its political subdivisions or the Philippine Government is in any manner discriminating against citizens of the United States or any form of United States business enterprise, then the President of the United States shall have the right to suspend the effectiveness of the whole or any portion of this Agreement. If the President of the United States subsequently determines and proclaims, after consultation with the President of the Philippines, that the discriminations which was the basis for such suspension (a) has ceased, such suspension shall end; or (b) has not ceased after the lapse of a time determined by the President of the United States to be reasonable, then the President of the United States shall have the right to terminate this Agreement upon not less than six months' written notice.

In witness whereof the President of the Philippines and the Plenipotentiary of the President of the United States have signed this Agreement and have affixed hereunto their seals.

Done in duplicate in the English language at Manila, this fourth day of July, one thousand nine hundred and forty-six.

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