

Note No. BFO-028-03

13 May 2003

Excellency:

I have the honor to acknowledge receipt of Your Excellency's Note No. 0470 of 9 May, 2003 reading as follows:

“I have the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of the Republic of the Philippines regarding the surrender of persons to international tribunals.

“Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

“Considering that the Parties have each expressed their intention to, where appropriate, investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

“I have the honor to propose the following agreement:

“1. For purposes of this Agreement, “persons” are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.

“2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

(a) be surrendered or transferred by any means to any international tribunal for any purpose, unless such tribunal has been established by the UN Security Council, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to any international tribunal, unless such tribunal has been established by the UN Security Council.

His Excellency

FRANCIS J. RICCIARDONE, JR.

Ambassador Extraordinary and Plenipotentiary

Embassy of the United States of America
Manila

“3. When the United States extradites, surrenders, or otherwise transfers a person of the Philippines to a third country, the United States will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, absent the express consent of the Government of the Republic of the Philippines.

“4. When the Government of the Republic of the Philippines extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of the Philippines will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, absent the express consent of the Government of the United States.

“5. This Agreement shall remain in force until one year after the date on which one party notifies the other of its intent to terminate the Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

“If the proposal set forth herein is acceptable to the Government of the Republic of the Philippines, this note and Your Excellency's affirmative note in reply shall constitute an agreement between our two Governments which shall enter into force on the date of Your Excellency's note.”

I am pleased to inform Your Excellency that the undertakings contained in the above-quoted note are acceptable to my Government, and that Your Excellency's note and this reply thereto constitute an Agreement between our two Governments effective immediately.

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

(signed)

BLAS P. OPLE
Secretary of Foreign Affairs