

LETTERS ROGATORY

*Exchange of notes at Washington and Manchester, Mass., August 5 and 7, 1901; declaration signed at Washington November 7, 1901 Entered into force November 28, 1901*¹

Treaty Series 395

EXCHANGE OF NOTES

The Secretary of State to the Spanish Minister

AUGUST 5, 1901

SIR: I have the honor to acknowledge the receipt of your personal note of the 30th ultimo to Dr. Hill, Assistant Secretary of State, in which you advise him that your Government is disposed to conclude by an exchange of notes the agreement (suggested in your memorandum of April 18th last and this Department's of June 5th last) for the purpose of dispensing with the authentication of signatures affixed to letters rogatory issuing from Spanish courts to those of Porto Rico and the Philippines, and from the courts of Porto Rico and the Philippines to those of Spain, if the letters rogatory shall be transmitted through the diplomatic channel.

In reply I have the honor to quote the memoranda exchanged as follows:

[TRANSLATION]

“LEGATION OF SPAIN
“April 18, 1901

“The Spanish Government does not require the signatures of United States authorities intervening in the execution of rogatory commissions, issued from Spain to be authenticated; and in reciprocity of this measure, is anxious that the United States Government should not in the future require the authentication of signatures of Spanish officials who execute American rogatory commissions in Spain.

“As all these documents are transmitted from the two governments through the diplomatic channel, the Spanish Government considers that this fact should alone guarantee their authenticity.”

¹ Date of publication in Madrid Gazette.

“DEPARTMENT OF STATE
 “WASHINGTON, June 5, 1901

“The Department of State submitted to the Secretary of War and the Governor of Porto Rico the memorandum of the Spanish Minister, dated April 18 last, suggesting that, as letters rogatory passing between the courts of the United States and Spain were transmitted through the diplomatic channel, the authentication of the officials executing the letters might be dispensed with.

“Copies of letters from the officers above mentioned are enclosed, from which it appears that in Cuba, the Philippines and Porto Rico the authentications will be dispensed with, so long as the letters pass through the diplomatic channel. The vast majority of the letters rogatory transmitted between the two governments will thus be relieved from the burden of authentication. As regards the letters, however, exchanged between the courts of the United States, of the States of the Union and of the organized Territories, it will not be possible for this Department to make any such arrangement, as the execution of the letters must take place in accordance with the provisions of the laws of the United States, of the State or Territory, respectively, and in compliance with the rules of the executing court.

“The Department of State would be glad to know whether the arrangement offered is satisfactory to the Spanish Government.”

An acknowledgment by you of the present note, acquiescing in the arrangement proposed, so far as Porto Rico, the Philippines and Spain are concerned, will be regarded by this Government as completing the agreement.

Accept, etc.,

ALVEY A. ADEE
Acting Secretary

The Spanish Minister to the Secretary of State

[TRANSLATION]

LEGATION OF SPAIN
 MANCHESTER, MASS.
August 7, 1901

MR. SECRETARY: I have the honor to acknowledge the reception of the note of your Department dated the 5th instant by which you advise me that the Government of the United States accepts the proposition of that of H. M. to the effect, that, as regards Porto Rico and the Philippines, the authentication of the signatures of the officials who intervene in the execution of letters rogatory passing between Spain and the said countries and vice versa, through the diplomatic channel, be hereafter dispensed with.

I transcribe hereinbelow the memorandum that I had the honor of sending to Your Excellency on the 18th of April last, and the reply, dated June 5, that I received from the Department.

[For text of memorandums, see U.S. note, above.]

In conformity with Your Excellency's statement in the note which I have the honor to answer, I agree, in the name of the Government of His Majesty, to consider the proposed arrangement as completed by the present exchange of notes, but I must give you notice that it cannot go into effect in Spain until it shall have been published in the "Gaceta de Madrid", that is to say after the time required for the transmission to Spain and the subsequent printing of the text.

I avail, etc.,

ARCOS

DECLARATION

The undersigned, on behalf of their respective Governments and in accordance with the notes they exchanged on the 5th and 7th of August last, have agreed upon the following declaration:

The signatures of officials who officiate in the execution of rogatory commissions addressed by the Courts of Porto Rico and the Philippine Islands to those of Spain, or by the Spanish Courts to those of Porto Rico and the Philippine Islands, transmitted through the diplomatic channel, will not require authentication.

Done in duplicate at Washington this 7th day of November, 1901.

JOHN HAY
EL DUQUE DE ARCOS