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THE SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

27 SEP 1976

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Philippine Base Negotiations

As you are considering the State Department memorandum on the Philippines I would like to alert you to my concerns regarding our important defense relationship with this Western Pacific ally.

Defense agrees with the State Department memorandum on the importance of the issues in Philippine base negotiations. We concur with the levels of security assistance proposed by State. In the light of the inflexible negotiating tactics utilized by the Philippines to date I would put special emphasis on State's recommendation that the US make no commitments until we are sure that our forthcoming attitude will produce assurances of an agreement which satisfies essential US military requirements. Our major objective is that any new agreement be adequately protective of those requirements including:

1. Integrated Facilities -- operating areas, facilities and land areas at Clark Airbase, Subic Naval Complex and San Miguel Communications Station.
2. Operational Control -- US determination of purposes of facilities, force levels, conduct of base operations, armament configurations  
-- exclusive US security at our facilities and participation wherever else necessary and free access within and between the facilities.
3. Integrity of Forces -- jurisdiction over official duty cases and offenses solely involving the US and exemption from Philippine taxes and customs.
4. Tenure -- sufficient duration to assure continuity of US regional defense posture.

I am particularly concerned about the Philippine refusal to continue negotiations until we give them assurances they find satisfactory on the disputed Reed Bank area of the South China Sea. Both of the responses to the Philippine Aide Memoire proposed by State would serve to embellish the 1951 Mutual Defense Treaty: the first by placing a limitation on its applicability to the Reed Bank; and the second by explicitly expanding its coverage to include protection of resource extraction activities there. State has noted that there are considerable risks to either approach. I believe that the

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risks inherent in the first option, in effect retreating from our treaty commitment in the Pacific, are so great as to rule it out of consideration.

The second option is an imaginative attempt to develop a more forthcoming response distinguishing between strong Philippine claims to a portion of the continental shelf and much more dubious claims to the nearby Spratley Islands. A forthcoming reply would obviously serve Defense objectives by paving the way for a successful bases agreement. I believe, however, that you should be alert to the risks in such an expanded commitment. These include increased tensions with the PRC and Vietnam, potential involvement of US forces in armed hostilities, adverse US domestic reaction to this expansive view of our treaty commitments and adverse impact on positions regarding territorial disputes elsewhere. The difficulties of delineating the area and activities to be covered greatly complicate the practical application of this interpretation. In my view our base rights position in the Philippines would have to be much more precarious than is the case to justify taking such risks.

There is, moreover, an alternative to State's two options. It would involve a positive restatement of our present treaty obligations which also preserves US flexibility to determine its response to a particular incident as circumstances warrant. Our answer should emphasize what the Philippines are doing rather than where in the disputed area they may be doing it and should include the following:

The United States Government reaffirms its commitment to fulfill its obligations under the Mutual Defense Treaty of 1951. It considers its obligations under the treaty to apply to the entire territory of the Philippines and not just to United States forces and facilities there. It does not consider a continental shelf to be part of any country's territory as the term "territory" is used in Article V of the 1951 treaty. The United States also reaffirms its obligation under the treaty to respond to an attack on the armed forces, public vessels and aircraft of the Philippine forces in the Pacific, including the Reed Bank, as long as their presence is consistent with the provisions of the 1951 treaty, particularly Article I regarding peaceful settlement of disputes and refraining from the threat or use of force.

If Marcos does not find this forthcoming and legitimate reaffirmation of our views to be sufficient, I propose that the US accept that position and agree to defer negotiations.

SIGNED  
DONALD RUMSFELD

Spec Asst

