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INTRODUCED BY SENATOR FRANCIS "TOL" N. TOLENTINO

RESOLUTION
URGING THE EXECUTIVE DEPARTMENT TO AUGMENT EXISTING DEFENSE
AGREEMENTS WITH THE UNITED STATES OF AMERICA

WHEREAS, the 1951 Mutual Defense Treaty (MDT) is a commitment of the Philippines and the United States of America (US) "to respond to any external armed attack on their territory, armed forces, public vessels, and aircraft" The accord enjoins both nations to support each other in the event of external attacks. Notably, a review of the MDT was ordered by Defense Secretary Delfin Lorenzana on 28 December 2018. Hence in 2019, both countries started to enter into "low level discussions";¹

TAKING INTO CONSIDERATION that the Visiting Forces Agreement (VFA) replaced the defunct US-Philippine Military Bases Agreement, the VFA provides for the guidelines to govern visits of military personnel, and further defines the rights of the United States and the Philippine government in the matter of criminal jurisdiction, movement of vessel and aircraft, and importation and exportation of equipment, materials and supplies;

FURTHER TAKING INTO CONSIDERATION that on 28 April 2014, in a bid to enhance cooperative capacities and efforts in humanitarian assistance and disaster relief, the Philippines and US executed an Enhanced Defense Cooperation Agreement (EDCA) to implement the MDT and the VFA. The EDCA was designed to promote interoperability, capacity-building towards military modernization, strengthening external defense, maritime security and awareness, and Humanitarian Assistance and Disaster Response (HADR);

MINDFUL that on 11 February 2020, the Philippines notified the US that it intended to withdraw from VFA. On 14 June 2021, Foreign Affairs Secretary Teodoro Locsin Jr. made an announcement that "the President conveyed to us his decision to extend the suspension of the abrogation of the Visiting Forces Agreement for another six months, or until 2022, while he studies, and both sides further address his concerns regarding particular aspects of the agreement";²

¹ <https://cnnphilippines.com/news/2019/11/19/delfin-lorenzana-mark-esper-mutual-defense-treaty.html>

² <https://www.rappler.com/nation/duterte-again-extends-visiting-forces-agreement-june-2021>

EMPHASIZING that the US has reaffirmed its commitment to the MDT when Secretary of State Antony Blinken made the comment in a written statement marking the fifth anniversary of the ruling by an arbitration tribunal repudiating China's vast territorial claims in West Philippine Sea that the US also reaffirms "that an armed attack on Philippine armed forces, public vessels, or aircraft in the South China Sea would invoke U.S. mutual defense commitments under Article IV of the 1951 U.S.-Philippines Mutual Defense Treaty";³

RECOGNIZING that *Saguisag v. Ochoa* (G.R. No. 212426, January 12, 2016) underscored that as the sole organ of our foreign relations and the constitutionally assigned chief architect of our foreign policy, the President is vested with the exclusive power to conduct and manage the country's relations with other states and governments;

PURSUANT TO international law, the text of a treaty may be amended in accordance with the amendment provisions in the treaty itself or in accordance with Chapter IV of the 1969 Vienna Convention on the Law of Treaties. Nevertheless, if the treaty does not specify any amendment procedures, the parties may negotiate a new treaty or agreement amending the existing treaty;⁴

AS MAY BE GLEANED from previous renegotiation agreements on taxation,⁵ amendments of treaties are primarily initiated by the relevant agency or agencies of the Executive Branch and are submitted to the President for ratification;

CONSIDERING the growing threat of COVID-19 and its expanding variants, there is a need to reexamine the Humanitarian Assistance and Disaster Response aspect of the EDCA. The possibility of a supplementary defense cooperation agreement that would include humanitarian assistance in times of health emergencies (i.e provision of health supplies and equipment, inoculation of vaccines and assistance of medical health officers) could be taken into consideration;

PREVIOUSLY, the American military bases also provided the Philippines ready access to US equipment and assistance. The bilateral arrangements between the two countries assured the security of the Philippines against external attack, allowed the Philippines and other friendly nations in Southeast Asia to pursue economic growth without disabling military expenditures; and added stability to the West Philippine Sea region;⁶

STRESSING that under Section 25, Article XVIII of the 1987 Constitution, any agreement on military Bases, foreign military bases, troops, or facilities shall not be allowed in the Philippines except under a treaty;

UNDERSCORING that defense ties with the US remains important, not only with regard to the Philippine's foreign policy but also its internal affairs and other regional

³ <https://www.reuters.com/world/china/us-repeats-warning-china-against-attack-philippine-forces-2021-07-12/>

⁴ https://www.cbd.int/abs/doc/treatyhandbook_en.pdf

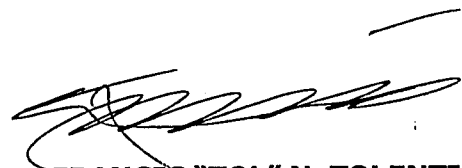
⁵ <https://www.dof.gov.ph/philippines-signs-amended-tax-treaty-with-germany/>

⁶ <https://www.heritage.org/report/the-key-role-us-bases-the-philippines>

geopolitical concerns, primarily in its defense capacity-building to address traditional and non-traditional threats. The US military provides vital security to the Philippines amid growing tensions over maritime sovereignty. The alliance allows the Philippines and the US to efficiently execute their objectives in preserving the stability and peace in the volatile region;⁷

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved, to urge the Executive Department to supplement and enhance existing defense agreements and to explore the feasibility of further strengthening the Mutual Defense Treaty with the United States of America, consistent with the Philippine Constitution, to bolster bilateral defense relations, with our national security and interests as our foremost priority.

Adopted,



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⁷ <https://www.cfr.org/backgrounder/us-philippines-defense-alliance>