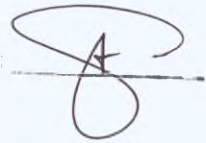


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23 MAY -2 P4 :38

SENATE

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P.S. RES. NO. 584

Introduced by **Senator Francis "Tol" N. Tolentino**

RESOLUTION

URGING THE EXECUTIVE DEPARTMENT TO PUSH FOR THE AMENDMENT AND STRENGTHENING OF THE MUTUAL DEFENSE TREATY (MDT) WITH THE UNITED STATES OF AMERICA AND OTHER ANCILLARY TREATIES AND AGREEMENTS IN RELATION THERETO.

Whereas, on 12 May 2023 or just ten (10) days from now, we will be celebrating the 71st anniversary of the Senate concurrence to the Mutual Defense Treaty (MDT) between the Republic of the Philippines and the United States of America;

Whereas, said treaty was signed in Washington on 30 August 1951 and concurred by the Senate, through Senate Resolution No. 84 on 12 May 1952. The Philippine instrument of ratification was signed by the President on 27 August 1952 and the Mutual Defense Treaty became effective on 27 August 1952 upon the exchange of ratification between the Parties;¹

Whereas, the Mutual Defense Treaty provides in Article IV thereof:

ARTICLE IV. Each Party recognizes that an armed attack in the Pacific area on either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common dangers in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations, such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

Whereas, on what constitute armed attack, Article V states the following:

¹<https://www.officialgazette.gov.ph/1951/08/30/mutual-defense-treaty-between-the-republic-of-the-philippines-and-the-united-states-of-america-august-30-1951/>

ARTICLE V. For the purpose of Article IV, an armed attack on either of the Parties is deemed to include an armed attack on the metropolitan territory of either of the Parties, or on the Island territories under its jurisdiction in the Pacific Ocean, its armed forces, public vessels or aircraft in the Pacific.

Whereas, in *Lim vs Executive Secretary*,² the Supreme Court said “The MDT has been described as the "core" of the defense relationship between the Philippines and its traditional ally, the United States. Its aim is to enhance the strategic and technological capabilities of our armed forces through joint training with its American counterparts; the "Balikatan" is the largest such training exercise directly supporting the MDT's objectives”;

Whereas, to further enhance the Mutual Defense Treaty, former President Joseph E. Estrada through the Secretary of Foreign Affairs ratified the Visiting Forces Agreement (VFA) on 5 October 1998. Subsequently, on 27 May 1999, the VFA was approved by the Senate, by a two-thirds (2/3) vote of its members and it entered into force on 1 June 1999;

Whereas, the VFA provides the "regulatory mechanism" by which "United States military and civilian personnel [may visit] temporarily in the Philippines in connection with activities approved by the Philippine Government."³ Further, “[i]t is the VFA which gives continued relevance to the MDT despite the passage of years. Its primary goal is to facilitate the promotion of optimal cooperation between American and Philippine military forces in the event of an attack by a common foe.”⁴

Whereas, on 6 June 2014, former President Benigno S. Aquino III ratified the Enhanced Defense Cooperation Agreement (EDCA). In *Saguisag vs Executive Secretary*,⁵ the Supreme Court stated that “EDCA authorizes the U.S. military forces to have access to and conduct activities within certain "Agreed Locations" in the country. It was not transmitted to the Senate on the executive's understanding that to do so was no longer necessary.”

Whereas, in a meeting with President Ferdinand Marcos Jr. in New York last September 2022, President Biden reaffirmed the United States’ ironclad commitment to the defense of the Philippines. The leaders also discussed the situation in the South China Sea and underscored their support for freedom of navigation and overflight and the peaceful resolution of disputes;⁶

² G.R. No. 151445, April 11, 2002

³ *Lim vs Executive Secretary*, G.R. No. 151445, April 11, 2002

⁴ *Lim vs Executive Secretary*, G.R. No. 151445, April 11, 2002

⁵ G.R. No. 212426, January 12, 2016

⁶ Readout of President Biden's Meeting with Philippine President Ferdinand Marcos Jr., September 22, 2022.

Whereas, while in Manila last February 2023, US Secretary of Defense Lloyd J. Austin III stated that “the U.S. commitment to Philippine security is ironclad, and that the Mutual Defense Treaty extends to Philippine armed forces, public vessels, or aircraft anywhere in the South China Sea”;⁷

Whereas, in press statement last 29 April 2023, the US State Department reiterated that “[t]he United States stands with our Philippine allies in upholding the rules-based international maritime order and reaffirms that an armed attack in the Pacific, which includes the South China Sea, on Philippine armed forces, public vessels, or aircraft, including those of the Coast Guard, would invoke U.S. mutual defense commitments under Article IV of the 1951 U.S. Philippines Mutual Defense Treaty;”⁸

Whereas, in an online interview, U.S. Admiral Samuel Paparo vowed to curb Beijing’s maritime provocations and stand ready to come to the Philippines’ assistance, in the latter’s exercise of their sovereign rights in their Exclusive Economic Zone (EEZ);⁹

Whereas, in light of the recent incidents involving the Chinese Coast Guard against both our Filipino fishermen and Philippine Coast Guard in the West Philippine Sea, there is a need to strengthen our position in the said area by solidifying and enhancing our present defense agreements with countries having similar interest in the WPS, to preserve not only our interest therein but also maintaining the safety and stability of the region as well as the balance of power therein;

Whereas, the Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations;¹⁰

Whereas, equally important is the declared policy to secure the sovereignty of the State and the integrity of the national territory;¹¹

Whereas, His Excellency President Ferdinand R. Marcos Jr. is on an official visit to Washington, D.C. from 30 April to 04 May 2023 with the aim of reaffirming the special relationship between the Philippines and the United States. The President’s itinerary will begin on 01 May with a meeting with U.S. President Joe Biden, followed by an expanded meeting with key Cabinet officials, this is the opportune time for the Philippines to move for the amendment not only of the seventy-one-year-old Mutual Defense Treaty but also the VFA and the EDCA; *Now therefore*,

⁷<https://www.defense.gov/News/Releases/Release/Article/3286507/readout-of-secretary-of-defense-lloyd-j-austin-iii-meeting-with-philippine-seni/>

⁸<https://www.state.gov/u-s-support-for-the-philippines-in-the-south-china-sea-4/>

⁹<https://asia.nikkei.com/Editor-s-Picks/Interview/U.S.-ready-to-aid-Philippine-resupplies-in-South-China-Sea-admiral>

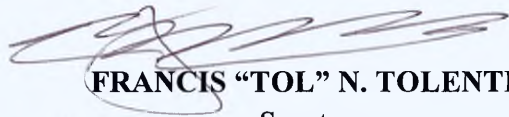
¹⁰ Article II, Section 2- 1987 Constitution.

¹¹ Article II, Section 3- 1987 Constitution

Be it resolved, as it is hereby resolved, to urge the Philippine government to push for the expansion and strengthening of the current Mutual Defense Treaty with the United States of America (USA) and propose the inclusion of the following amendments to said treaty, to wit:

1. Expansion of the definition of “metropolitan territory” to explicitly include “other territories where the Philippines exercises sovereign rights including the West Philippine Sea”;
2. Inclusion of “cyberattacks on critical infrastructure and other vital installations of the government and environmental destruction” in the definition of “armed attacks” made towards the Philippines that will activate the MDT; and
3. Include a provision in the treaty, including the VFA and the EDCA, specifying the payment by the USA government to the local government units of the Philippines that will host EDCA sites of a commensurate compensation in the form of a financial assistance that will be used by the affected LGUs for their development.

Adopted,



FRANCIS “TOL” N. TOLENTINO
Senator