


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 NOV -9 P3:49

RECEIVED BY: _____ 

SENATE 12th
P.S. Resolution No. _____

Introduced by Senator Francis N. Pangilinan

A RESOLUTION EXHORTING THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES TO ADOPT THE NECESSARY COURSES OF ACTION FOR THE IMMEDIATE CLEANUP, RESTORATION, AND DETOXIFICATION OF THE SUBIC NAVAL BASE AND CLARK FIELD AIR BASE, INCLUDING TAKING THE APPROPRIATE LEGAL ACTION BEFORE THE INTERNATIONAL COURT OF JUSTICE AGAINST THE GOVERNMENT OF THE UNITED STATES OF AMERICA IF NECESSARY

WHEREAS, Subic Bay Naval Base and Clark Field Air Base have been relinquished and turned over by the United States of America to the Republic of the Philippines since 1992 when the Senate of the Philippines rejected the renewal of a base agreement with the United States of America;

WHEREAS, the investigations conducted by the Senate Committees on Environment and Natural Resources, Health and Demography, and Foreign Relations of the Eleventh Congress on the toxic contamination of the Subic Bay Naval Base and Clark Field Air Base yielded the following findings:

- (a) there is substantial environmental contamination in the Subic Bay Naval Base and Clark Field Air Base;
- (b) the United States Government has knowledge of the existence and location of known and potential contaminated sites in the Subic Bay Naval Base and Clark Field Air Base;
- (c) the hazardous activities, operations and improper waste management practices engaged in by the United States Government within the military bases under its effective control involved appreciable or foreseeable risk of causing environmental harm;
- (d) the United States Government is presumed to know or had the means of knowing that such hazardous activities, operations and improper waste management practices

- were carried out by the United States forces within the military bases over which it had effective control and unhampered access;
- (e) the environmental damage caused in Subic Bay Naval Base and Clark Field Air Base was substantial and had serious adverse ecological, human health and economic implications for the residents within the area and for the Philippines in general;
 - (f) the hazardous activities, operations and improper waste management practices engaged in by the United States forces within the military bases caused the environmental damage;
 - (g) the 1947 Military Bases Agreement, as amended, did not grant any license or authority to the United States to commit acts of tort by indiscriminately disposing of toxic and hazardous wastes as it pleases, destroy the environment and endanger the lives of Filipino citizens in exchange for non-renewable buildings and structures;
 - (h) inasmuch as the activities conducted within the military bases and under the effective control of the United States caused substantial harm, the United States has the corresponding duty to repair and compensate for such damage;
 - (i) despite allegations to the effect that the matter of reparation and compensation for toxic contamination is a purely moral question, there is sufficient basis to submit to an international body the legal question concerning the interpretation of Article VII of the 1988 Manglapus-Schultz Memorandum of Agreement amending Article XVIII of the 1947 Military Bases Agreement;
 - (j) despite allegations to the effect that the matter of reparation and compensation for toxic contamination is a purely moral question, there is sufficient basis under customary international law for a cause of action against the United States for failing to ensure that the activities conducted by the United States forces within the Subic Bay Naval Base and Clark Field Air Base were carried out in such a manner as not to cause harm to the Philippines and its citizens;

WHEREAS, the Senate Committees on Environment and Natural Resources, Health and Demography, and Foreign Relations of the Eleventh Congress recommended the implementation of the following courses of action, as proposed by the Department of Foreign Affairs, Department of Health, Department of Environment and Natural Resources:

- (a) negotiate with the United States Government, through diplomatic channels, on the remediation of the areas affected with toxic waste contamination and to initiate preventive and curative measures in order to suppress the rising number of the victims of toxic waste contamination in Subic Naval Base and Clark Field Air Base at the expense of the former. It should be negotiated along the lines of, or pursuant to, Principle 13 of the 1992 Rio Declaration on Environment and Development, of which the United States is a signatory, which provides that, "States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.";
- (b) pursue, through diplomatic channels, the creation of a Joint RP-US Task Force that will conduct a thorough examination of the extent of toxic waste contamination in Subic Bay Naval Base and Clark Field Air Base, determine the ill effects thereof to the inhabitants, and implement the much-needed remediation over these areas at the expense of the United States Government;
- (c) in the event that the United States should refuse to effect a remediation on the toxic wastes that the latter left in the former bases of Subic Bay Naval Base and Clark Field Air Base, to recommend to the Chief Executive the filing of a suit, in behalf of the Republic of the Philippines, against the United States of America before the International Court of Justice pursuant to the principles of customary international law for failing to ensure that the activities conducted by the United States forces within the former Subic Bay Naval Base and Clark Field Air Base were carried out in such a manner as not to cause harm to the Philippines and its citizens, and for a judicious and authoritative interpretation of Article VII of the 1988 Manglapus-Schultz Memorandum of Agreement amending Article XVIII of the 1947 Military Bases Agreement;
- (d) continue its efforts in protecting the people from the ill-effects of toxic waste contamination in Subic Bay Naval Base and Clark Field Air Base;
- (e) continue strengthening the capability of its regional hospital, particularly the Jose Lingad Memorial, in managing, diagnosing and treatment of patients with

- illnesses that may be attributed to the toxic wastes found in said areas;
- (f) continue conducting a comprehensive health impact assessment and epidemiological surveillance studies to validate and monitor the reported illnesses among the residents in the vicinity;
 - (g) recommend to the Philippine Task Force on Hazardous Wastes to close down the identified contaminated areas;
 - (h) work closely with the Philippine Nuclear Research Institute to determine the levels of radioactivity in the identified areas;
 - (i) enforce the provisions of Republic Act No. 6969 otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act" to forestall the repetition of similar subsequent toxic waste contamination throughout the country;
 - (j) effect the treatment of wells in the affected areas through chlorination or other scientific methods within or which may hereafter fall within the disposal of the agency;
 - (k) continuously conduct analytic research and study on the toxic waste issue;
 - (l) study further the environmental impact assessment on the areas affected by the toxic waste contamination;
 - (m) declare a state of environmental calamity in the specific areas affected with toxic waste contamination and direct the relocation of persons still residing within these areas;
 - (n) submit to an international body, in behalf of the Republic of the Philippines, the question concerning the interpretation of Article VII of the 1988 Manglapus-Schultz Memorandum of Agreement amending Article XVII of the 1947 Military Bases Agreement in view of the differences in opinion by the United States and the Philippines, and the refusal of the United States to admit liability; and
 - (o) in the event that the United States Government should refuse to effect a remediation on the toxic wastes in the Subic Bay Naval Base and Clark Field Air Base, to file a suit, in behalf of the Republic of the Philippines, against the United States of America before the International Court of Justice pursuant to the principles of customary international law for failing to ensure that the activities conducted by the United States forces within the former military bases were carried out in such a manner as not to cause harm to the Philippines and its citizens;

WHEREAS, the foregoing recommendations of the Senate Committees on Environment and Natural Resources, Health and Demography, and Foreign Relations of the Eleventh Congress have not been fully implemented to date;

WHEREAS, the Binictican, Boton, and Malawaan Rivers running through the Subic Naval Base have reportedly been contaminated by toxins from the base;

WHEREAS, there has been numerous reports of deaths and illnesses resulting from exposure to toxic wastes in the Subic Bay Naval Base and the Clark Field Air Base;

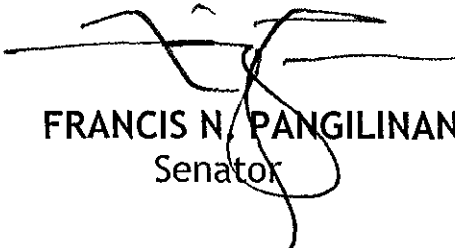
WHEREAS, pollution in the Subic Bay Naval Base and Clark Field Air Base can permeate the environment outside the vicinities of these bases and increase the number of potential victims of these toxic wastes;

WHEREAS, there is an immediate need to clean up and arrest the environmental degradation and health hazards brought about by the toxic wastes left in these former American military bases;

WHEREAS, as recommended by the Senate Committee on Foreign Relations of the Eleventh Congress, the United States Government must be held responsible for the toxic contamination of the Subic Bay Naval Base and Clark Field Air Base pursuant to the principles of customary international law for failing to ensure that the activities conducted by the United States forces within the former bases were carried out in such a manner as not to cause harm to the Philippines and its citizens;

RESOLVED, AS IT IS HEREBY RESOLVED, That the Senate exhorts the Government of the Republic of the Philippines to adopt the necessary courses of action for the immediate cleanup, restoration, and detoxification of the Subic Bay Naval Base and Clark Field Air Base in accordance with the recommendations of the Senate Committees on Environment and Natural Resources, Health and Demography, and Foreign Relations of the Eleventh Congress, including taking the appropriate legal action before the International Court of Justice against the Government of the United States of America.

Adopted,


FRANCIS N. PANGILINAN
Senator