

DRAFT

VICE PRESIDENT MONDALE &
AND PRES MARCOS
WITH STAFF.

(11:00 AM to 12:05 PM
May 3
Malacunan)

SECRET/EXDIS

Marcos: Would you like to open?

Mondale: Thank you, Mr. President. I would like to express on behalf of President Carter our appreciation for making this meeting possible. I have already conveyed to you a letter from President Carter in that regard. We look forward to this opportunity to meet with you.

Marcos: I wish to accept formally the letter from President Carter and to express my gratitude for the kind thoughts expressed therein. We are happy that the Vice President has time for these talks on issues in the economic and security areas. I am aware of the very busy schedules of the political leaders of the U.S. I wish to express our thanks and gratitude for these talks. President Carter expressed in his letter the desire to review base negotiations, economic issues, and human rights matters. The letter, therefore, seems to set forth our agenda. On the subject of the base negotiations, I believe we are preparing a paper which should be considered our counter-proposal to the proposals already submitted by the U.S., including that on compensation. I suggest that we proceed now to confirm what we have already agreed upon.

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Jurisdiction is one of the thorniest unresolved issues. We have presented a proposal which follows the so-called Japanese formula. On the issue of sovereignty, we have accepted those areas at the bases which the U.S. wishes to retain. For example, at Clark 52,000 hectares would be under the exclusive control of the Philippine base commander. 4,500 hectares will be retained for the U.S. forces.

Enrile: This is correct, the U.S. commander will have the built-up areas and certain portions of the communication area.

Marcos: The U.S. side submitted maps concerning the various bases. For Subic, the built-up area to be retained by the U.S. would be 6,000 hectares. The controversial points in the proposal are: at Clark the U.S. proposal was to secure the communications area.

Enrile: There are several areas. For example, at Clark there is the communication area and the State Department Regional Relay Facility. There are the proposals for San Miguel and for Wallace. For Wallace the U.S. has proposed to convert a portion of the base for non-military purposes, that is, for the VOA.

Marcos: There is also the question of Camp John Hay which is an R&R facility.

Marcos: In the Subic area, there is....

Enrile: Our proposal is for the entire area to be reverted, except for the 6,000 hectare built-up area. The U.S. wants the waters, Grande Island, and the watershed. We proposed that the watershed be reverted but that there be a joint management plan. In the case of the bay waters, we are taking over the entire area, but will provide assurances that a certain portion (of the bay waters) will be available to the U.S., for example, for anchorages, access, and operations. For Grande Island, we will take over but the facilities will be run by the U.S.

Holbrooke: The clarification provided this morning on the Philippine position is consistent with our previous understanding of that position. This represents the clear progress that has taken place in negotiations since 1976. We now need to identify the process by which we can proceed. We need to decide whether to address certain issues, now, leaving some others for later.

Marcos: The fundamental issue is that of sovereignty. And this seems to have been largely settled by

the U.S. proposal. We now want the manifestations of sovereignty spelled out. Both sides were to work on rules and regulations for the Philippine base commander and the U.S. commander. It was agreed that both sides would work this out. If there is a desire to have a general agreement on this, I am prepared to do so.

Mondale: I understand that there is basically an agreement in principle to have a Philippine base commander and to fly the Philippine flag. On the other side, we want to work out clearly defined operational arrangements. Because we do agree in principle on this, we are coming closer to detailed agreement. It would seem to make sense to me to have our top military negotiators work to settle these issues quickly. I am suggesting that we proceed on a military-to-military basis.

Holbrooke: We are suggesting that this would seem to be the logical next step after the Aide-Memoires.

Marcos: Can we implement the symbols of sovereignty now? This question came up when Ambassador Newsom was here.

Mondale: I would like to suggest we make clear we are not claiming sovereignty and that we would look forward to an agreement which would provide for Philippine

command and for the Philippine flag and which would provide for continued U.S. control over the areas we require. This would seem to be a package we could agree to.

Marcos: We have an agreed proposal which came from the U.S. (February 13 proposal).

(Marcos then read from the draft Aide-Memoire of February 13, reading the following sub-paragraphs:)

A. The sovereignty of the Philippine extends to the bases, which are Philippine military bases. The Philippines authorizes the United States to use facilities within the bases.

B. The boundaries of Philippine military bases and United States facilities therein are depicted, but not definitively, on the attached maps. Exact boundaries shall be agreed upon by the Mutual Defense Board, after a joint survey to be conducted by representatives of the two Governments.

C. The bases shall be under the command of Philippine commanders who shall have duties, authority and responsibilities relating to the bases and to Philippine components therein. United States commanders shall exercise command and control over

United States military personnel, over civilian personnel in the employ of United States Forces, over United States equipment and material, over military operations involving United States Forces and over United States facilities. Unhampered conduct of United States military operations and effective use of United States facilities shall be assured.

D. Philippine Commanders shall have responsibility for security of bases and United States commanders shall have responsibility for security of United States facilities.

H. In every fifth anniversary year from the date of this modification and until the termination of the Military Bases Agreement there shall be begun and completed a complete and thorough review and reassessment of the Agreement including its objectives, its provisions, its duration, and the manner of implementation to assure that the Agreement continues to serve the mutual interests of both parties.

Mondale: We have suggested that the Philippine base commander and the U.S. commander be the designated representatives to work out the details in melding the two

principles (Philippine sovereignty and unhampered U.S. command and control over areas it needs). In this way we can make concrete progress rather than simply thrashing out principles. When they work out the details, those details can be submitted to the diplomatic level.

Marcos: We agree except the question of jurisdiction cannot be worked out by the commanders.

Mondale: We have agreed in principle on the issue of sovereignty. Now there is the difficult issue of compensation. We have very serious problems on amounts and the Congress is absolutely opposed to multi-year agreements. I worked on the Turkish Agreement. We have had to abandon the agreement on Turkey. By the way, the Government of Turkey voluntarily agreed to abandon it. Instead, we propose for the Philippines to commit ourselves to a best faith effort. But for multi-year financing there are severe constraints. On the jurisdiction issue, maybe Dick (Holbrooke) or Mort (Abramowitz) could comment on the Japanese formula.

Marcos: Here is our position. The Philippines proposes that when jurisdiction over a criminal offense committed by a member of the U.S. Armed Forces or a member of the U.S. civilian component or a

dependent, is not resolved by agreement of both governments, the issue should be decided by the Philippine court which has jurisdiction over the offense. In this manner, the issue will be decided objectively on the basis of evidence. This was our last position as developed and submitted by Justice Secretary Abad Santos and Solicitor General Mendoza.

Abramowitz: I think we would have difficulty with this formulation. This has been a very difficult matter. I am not sure what you mean by the Japanese formula.

Mendoza: It is defined in the SOFA as "where a member of the United States Armed Forces or the civilian component is charged with an offense, a certificate issued by or on behalf of his commanding officer stating that the alleged offense, if committed by him, arose out of an act or omission done in the performance of official duty, shall, in any judicial proceedings, be sufficient evidence of the fact unless the contrary is proved."

Abramowitz: There is an agreed minute that any evidence to the contrary must be submitted to a joint committee. The Japanese formula has two parts. One in the SOFA and a separate minute.

Marcos: The open provision and the secret understanding?

Abramowitz: Not secret, but separate.

Marcos: We did not know about the agreed minute.

Abramowitz: It is not a secret, it is just separate.

Mondale: This is a difficult issue which may be around for a while. Our experts should sit down and work on this. I recall we had the very difficult Girard case in Japan which created a major problem. I recognize that the issue of jurisdiction is an emotional one.

Marcos: If we want an understanding, we may have to set this issue aside. Do we want a joint statement on the bases issue?

Mondale: Perhaps I could appoint a drafter to see what sort of statement might be developed.

Marcos: On our side we will select Solicitor General Mendoza and Defense Secretary Enrile to participate in the drafting.

Marcos: We will then talk about compensation later.

Marcos: I would also want to take up the question of help for the areas around the bases. I refer to Olongapo and Angeles. I hope we can have agreement on help for these areas.

Mondale: I think we can push for progress in those areas. I cannot be specific today on how this might be done. We will move ahead.

Marcos: Can we make specific concrete proposals now?

Mondale: Do you have proposals in mind?

Marcos: We are working on human settlements and employment for people around the bases. This will include a study of rules and regulations within the bases. Some of the jobs on the bases may have to be restructured according to our Department of Labor. Then there is the question of small and medium-sized industries. Self-employment is a basic reform of the New Society. Our Secretaries of Labor, Agriculture and Industry will be ready to submit specific proposals, perhaps in a week.

Mondale: I will report to the AID Director, and the President, that we will want to make a positive response. I cannot make specific proposals at this time. We will look forward to receiving your proposals.

Abramowitz: It is our understanding that you are looking for ways to alleviate problems outside the bases. That you are looking for economic and social proposals outside the bases areas.

Marcos: Yes, that is right.

Holbrooke: We are talking of two things. I understand the need to help with areas outside the bases. I assume we are not talking about industry which

is inside the bases.

Marcos: Yes, we are talking about areas outside the bases.

Marcos: The other matter is economic. We have an Aide-Memoire. The issues are well known. Philippine mahogany and coconut oil, the bilateral textile agreement, the countervailing duty on garment exports. We will not have time to talk about the air agreement. We hope that the original U.S. offer on coconut oil for zero duty can be revived. On mahogany, we understand that there is a legislative constraint.

Mondale: On Mahogany plywood, we have offered to go from 20 percent to 8 percent. That is the maximum we can go under current law. On coconut oil, I Have advised the President that our offer is for zero duty.

Our total MTN offers affect \$300 million of your business with us. There is a great deal of resistance at home to our offers. We will persevere, but in order to do so, we need your offers. We are not asking for reciprocity; developing countries should not be required to provide reciprocity. But to sustain our generous offer, I need to emphasize that it would be helpful

for us to receive your counter-offer. Our hope is for a breakthrough on the MTN in July. If not, there will be increasing protectionist sentiment. We need to make progress on the MTN, if we are to get those results which ensure an open trading system.

Marcos: We can talk about soyabeans. We can offer 81 items. The new items are soyabeans, we can bind at 10 percent; manufactured tobacco, we can reduce. We made these offers on April 27 to the U.S. team.

Mondale: This is something that our STR will respond. I don't want to get into a position of negotiating trade items. Now, we have some other matters on economic cooperation.

Mondale: We have discussed the MTN and GATT. Regarding the countervailing duty on garments, the Treasury is to make a preliminary finding on May 7. If it is positive, then the next six months the Treasury will talk to you on a satisfactory solution. I wish to assure you of our understanding of your situation.

Romulo: I took this matter up with Ambassador on March 26. (Secretary Romulo then read his Aide-Memoire which is reported in Manila , March . Aide-Memoire points out that Philippine textile and garment exports are already subject to quantitative

restrictions. U.S. countervailing duty violates GATT provisions providing that subsidy must injure domestic industry. Absolute prohibition of subsidy without injury requirement is particularly harmful to developing countries.)

Mondale: I thank you for your statement and will relay it to the Treasury.

On the textile agreement, we have already agreed that we will hold negotiations the third week in May.

Another matter. ASEAN is a hopeful and progressive development, and since there is a special relationship between the United States and the Philippines, we would hope that the US/ASEAN meeting in August will be at the ministerial level. You have already made a statement that you accept....

Romulo: But we need to consult other ASEAN countries.

Mondale: We are anxious that the meeting be at the ministerial level. The President can then participate.

Romulo: We will discuss the question at the ASEAN Foreign Ministers meeting on June 15-16. Last year we met with Cooper who did a good job.

Mondale: I'll make the same point in Bangkok.

Romulo: It's Thailand which is withhold^{ing} its approval of a ministerial meeting.

Mondale: Reason?

Romulo: It's their neighbors (Vietnam and Cambodia). Upadit has said so, but you can persuade him. He will come along. What is important that the meeting should warrant the participation of ministers. We will be discussing eight or nine projects. Singapore is in favor of the ministerial.

Mondale: I'm glad to hear the progress made. You may be sure that the President will participate.

Tanco: We still have two trade matters--plywood and mahogany.

Mondale: On plywood, our offer is to go from 20 percent to 8 percent.

Heginbotham: In addition, there is an offer from 10 percent to 4 percent on veneer. I wish to emphasize that all offers and all cuts apply to every exporting country, including Korea and Taiwan. There is no discrimination.

Tanco: The U.S. has not responded to six products requested by the Philippines. Canned pineapple, fruit flavors and syrups, cane sugar, pineapple juice, pineapple concentrates, and scrap tobacco.

Mondale: Our STR will do so with yours. I am not going to take them up here.

Marcos: The U.S. panel has taken note of our six products.

Mondale: On sugar, we will ratify the International Sugar Agreement. We believe the ISA should be the basis for the international sugar market. It is also the basis for our sugar policy. We are impressed by your willingness and readiness to explore unconventional energy. One of the loans which we are signing today is on energy. We would like to offer that the Department of Energy send a technical team to the Philippines to work on projects with you, on your various energy efforts.

Romulo: Is your Department of Energy working? Established?

Mondale: Yes. We will have a fundamental energy bill which will touch every facet of energy--imports, pricing, coal, nonconventional, etc.

Marcos: We are interested in your offer. Secretary of Energy Velasco is in the United States now, borrowing \$21 million for geothermal energy development.

Mondale: Then I don't need to offer help.

Marcos: You are already helping. Your private sector. Union Oil is doing geothermal work, \$40 million worth. You can send them, or we will ^{SEND} ~~send~~ Velasco.

Mondale: We will be glad to have them come here.

Marcos: Secretary Tuvera--please get in touch with Velasco and the Department of Energy.

Mondale: We'll cable Secretary Schlesinger immediately so that he can arrange to meet with your Secretary of Energy.

Marcos: If you send word to him, then they will meet.

Mondale: Let's see whether it'll work. I would like to mention that Landsat facilities could be made available.

Marcos: We are already taking advantage of your Landsat program--Image 100. We are the only country in SoutheastAsia using Landsat.

Heginbotham: Landsat has new capability--C and D.

Tanco: The main users of Landsat facilities are the Departments of Agriculture and Natural Resources.

Mondale: I would appreciate a memo on what Landsat could do for you. Our ecological experts say that deforestation is more widespread and severe than anyone can imagine. Landsat could help find out the real situation.

Tanco: We will prepare a memo for you.

Mondale: That's all the subjects which we wish to discuss.

Marcos I would like to emphasize that we have ~~complied~~^{and} complied with the American side of the termination of the Laurel-Langley agreement. Rights acquired under Laurel-Langley by Americans terminated with the end of the agreement in 1974. On the land question, however, we promised no escheat proceedings if by May 28, 1975 U.S. firms had submitted bona fide proposals ~~divestment~~ to divest their lands. Presidential Decree 307 created a cabinet committee on divestment which ended its work in December 1977. Presidential Decree 471 provided for leaseback of donated or divested lands for 25 years with option of renewal for another 25 years. This decree met ~~agankafn agankaganagana~~ the legal opinion of Secretary Abad ~~Abad~~ Santos, on lease periods of 10 years. Donor taxes ~~www~~ were also exempted. Presidential Decree 713

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allowed U.S. citizens (particularly former Philippine citizens) with 20^m years of residence to hold onto their residential lands.

On trade, the retail trade law was amended, ^{am} to permit foreigners to maintain hotels and restaurants, sell industrial equipment, etc. Notwithstanding the Supreme Court ruling on anti-dumping^{m4}, Presidential Decree 715 allows foreigners to be directors in nationalized areas in proportion to their holdings, including public utilities. Hitherto, aliens were disqualified from such positions.

Service Contracts. Foreigners are now allowed to explore for natural resources (until then limited to Filipinos).

I want to call your attention to these actions by the Philippine Government. There was an understanding with Ambassador Sullivan, and I want you to know that we have complied on our part.

Romulo No congressional approval. Our actions are not "subject to congressional approval."

Marcos I once asked Ambassaddr Newsom "what if C ongress?" Newsom said, we expect Congress will approve.

Mondale I would like to cite Bismarck's remark on sausages and laws. We shouldn't watch either being made.

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Marcos The joint statement. Will it be only on sovereignty?

Mondale I plan to have a press conference afterwards, and I'll say something on Angeles and Olangopo, and the WS/ASEAN ministerial. These are the two points I'll make. The rest will be describing the AID agreements which we will sign, and MTN. I'll supply you with a copy of my statement. You'll probably be the only one who'll read it.

Romulo Better it comes from you. The press ~~will not read ours.~~ will not read ours.

Mondale This is the first time I am being charged with ~~him~~ being a friend of the press.

Marcos We covered a lot of ground.

Mondale On the joint statement, our drafting group will consist of Holbrook, Abramowitz, and Armacost.

Marcos : We are also ready to begin work on detailed talks. General Espino and his staff have their papers ready.

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