

Philippine Supreme Court declares US basing deal constitutional

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13 January 2016

By a vote of 10-4, with one abstention, the Philippine Supreme Court ruled on Tuesday that the Enhanced Defense Cooperation Agreement (EDCA), an executive agreement between Manila and Washington for the unlimited basing of US forces and weaponry in the country, was constitutional.

Philippine Defense Secretary Voltaire Gazmin and US Ambassador to the Philippines Philip Goldberg signed the EDCA in April 2014 during a state visit by President Obama to Manila. Implementation of the basing deal has been delayed by nearly two years, as the Supreme Court reviewed two appeals questioning the constitutionality of the agreement.

The January 12 decision approving the basing deal was timed to coincide with a meeting, called the 2+2 Summit, held at the State Department in Washington between US Secretary of State John Kerry, Secretary of Defense Ashton Carter and their Philippine counterparts, Albert del Rosario and Voltaire Gazmin.

During a joint press conference all four secretaries hailed the approval of the EDCA as marking a significant development in US-Philippine relations. When the EDCA was initially signed, Washington issued public disclaimers that the basing deal was not about confrontation with China. This pretense has now been dropped.

Carter made clear that the basing deal was about “our intention to fly, sail, and operate wherever international law allows, whether it be the South China Sea or anywhere else around the world. And the Philippines—and the EDCA decision by the Supreme Court gives us new opportunities here—also is strengthening its role in maritime security, and in that connection we’re working and now have new opportunities to work with the Philippines.”

Carter went on to state that the US would be

implementing the EDCA—i.e., constructing bases and deploying forces—“very soon.” He stated “we’re working on this right now” and that the 2+2 meeting was holding discussions to this effect—“very practical ones over the next couple of hours.”

US Senator John McCain, chair of the Senate Armed Services Committee, also met with Gazmin and del Rosario. He escalated the official attack on China, stating that “as Manila finds itself the target of Chinese coercion in the West Philippine Sea and is looking to Washington for leadership, this agreement will give us new tools to deepen our alliance with the Philippines, expand engagement with the Philippine Armed Forces, and enhance our presence in Southeast Asia.”

The EDCA basing deal is a key component of Washington’s ‘pivot to Asia,’ the drive to militarily contain China and subordinate its economy to US interests.

The United States seized the Philippines as a colony in 1898, launching a bloody, decade-long war to suppress the population. The conflict is estimated to have resulted in the deaths of 200,000 Filipinos from causes directly related to combat. The death toll grows to 1.5 million when the impact of diseases caused by the American policy of forcing large portions of the population into concentration camps is included.

With the formal granting of independence to the Philippines on July 4, 1946, the US maintained its military hold in the region through its sprawling bases in the country, particularly Subic Naval Base and Clark Air Base. Throughout the colonial period, a primary function of the US military presence in the Philippines was to ensure by force of arms that Washington had access to Chinese markets and could dictate the terms of US capitalism in the trading ports of Guangzhou and Shanghai. In the wake of the 1949 Chinese revolution,

the US bases in the Philippines were used to militarily contain and menace Beijing.

When in 1991, Mt Pinatubo buried much of the Clark base under pyroclastic ash over ten feet deep, and then the Philippine Senate voted 12-11 not to renew the US basing lease in the country, Washington lost these strategic military bases.

The EDCA provides the legal framework for the re-establishment of a vast US military presence in the country. The spare, 10-page document authorizes the deployment of unlimited numbers of US forces and weaponry in the Philippines at an unspecified number of “agreed locations.” Subic Bay has been selected as one of these locations. Filipinos will not be allowed to enter any US-controlled location. Just one Filipino military representative will be allowed access, and only with permission secured in advance from the US commander.

In addition to the “agreed locations,” US forces are guaranteed access to all “public land and facilities (including roads, ports, and airfields), including those owned or controlled by local government.”

American forces and civilian contractors will be under the extraterritorial jurisdiction of the US government. Should they be accused of a crime, the Philippine legal system will have no jurisdiction over them.

Washington will pay no rent for the use of these facilities and “agreed locations.” Should US forces vacate a facility, Manila is legally obligated to remunerate Washington for any “improvements” that may have been made.

The EDCA is effectively an end run around the Philippine Constitution, which bans the presence of any foreign troops or bases in the country without the approval of a treaty by a two-thirds majority of the Senate. An examination of the agreement demonstrates that “agreed location” is but a legal euphemism for a base, and “rotational presence” means nothing less than military occupation.

Two cases were filed against the EDCA before the Philippine Supreme Court. Both were signed by leading representatives of the front organizations of the Maoist Communist Party of the Philippines (CPP), and both were flimsy. As the *World Socialist Web Site* has demonstrated, the CPP is playing an instrumental role in supporting the US war drive against China, by

attempting to whip up an anti-Chinese hysteria over the South China Sea in the name of “national sovereignty.”

Given the flagrant unconstitutionality of the deal, the weak character of these appeals is striking. The signatories based their case largely on the claim that Washington was not committed to go to war with China and that therefore the EDCA would not enhance Philippine maritime security.

A far more serious challenge to the EDCA came from the Philippine Senate itself, which passed a resolution in November 2015 that the EDCA was a treaty and thus “requires Senate concurrence in order to be valid and effective.”

The full text of the Supreme Court decision has not yet been made available, but the spokesperson for the court, Theodore Te, made clear that the majority decision of the court directly refuted the Senate resolution.

Tuesday’s decision gives the legal green light to the implementation of the EDCA, which will potentially entail the deployment of tens of thousands of US forces to the Philippines, in direct confrontation with China. It is a major milestone in the imperialist drive to war.



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