MEMORANDUM TO THE PRESIDENT

Subject: United States Commitments Regarding the Defense of South Viet-Nam

June 23, 1965

I. By \(\text{DECLASSIFIED}\) Authority \(\text{State Letter 12-15-7V}\)

The Nature of our Legal Commitment

1. The Southeast Asia Collective Defense Treaty, when read together with its protocol, provides that in the event of "aggression by means of armed attack" against South Viet-Nam each party will "act to meet the common danger in accordance with its constitutional processes."

2. The United States has determined* that there has been such aggression against South Viet-Nam, which has brought this Treaty obligation into operation. Although other SEATO powers are providing assistance to South Viet-Nam, the United States, to the best of our knowledge

* The determination that North Viet-Nam was committing "aggression by armed attack" was explicitly stated in the so-called "White Paper" entitled "Aggression from the North" issued by the Department of State in February 1965.
knowledge, is the only one that has made this determination. There has been no decision by the SEATO members to act collectively "to meet the common danger" in Viet-Nam.

3. Since South Viet-Nam is not a party to the Southeast Asia Treaty, our obligation under the Treaty does not run directly to South Viet-Nam. Authorities on international law generally agree that only parties (and not "third-party beneficiaries") acquire rights under a treaty. However, since the United States has determined that there has been "aggression" against South Viet-Nam within the meaning of the Treaty, our assistance to the South Vietnamese Government to meet that aggression is in discharge of our treaty obligation.

4. Our provision of military assistance to South Viet-Nam is consistent with the United Nations Charter. Article 51 of the Charter recognizes the inherent right of individual and collective self-defense—although it does not impose an obligation of collective defense on UN Members.
5. In addition to its treaty responsibilities with respect to South Viet-Nam, the United States has repeatedly promised the Government of South Viet-Nam to assist it in its struggle against aggression. These promises have been embodied in a series of messages and statements, beginning in October 1954 when President Eisenhower promised to aid "the Government of Viet-Nam in developing and maintaining a strong, viable state, capable of resisting attempted subversion and aggression through military means." The implied -- and frequently expressed -- conditions to the provision of United States assistance have been (a) the continuing request of the South Vietnamese Government for such assistance and (b) its will and ability to use that assistance effectively.
II.

Consequences of Withdrawal

1. The consequences of an abrupt withdrawal of our assistance from South Viet-Nam should be judged not in juridical terms but in terms of its effect on the credibility of our commitments throughout the world. The relevant questions would be:

   a. To what extent would such withdrawal impair the confidence of other small nations on the periphery of Communist power that the United States had the will and resources to help them prevent a Communist takeover?

   b. To what extent would such withdrawal shake the faith of our partners in other security treaties—whether in Latin America, Europe, the Far East or elsewhere—that we would and could meet our treaty obligations?

   c. To what extent would such withdrawal reduce the prestige of the United States and hence diminish its power and effectiveness in its dealings with other governments?

2. The
2. The answers to these questions would not depend on the differences or similarities in the nature of our legal commitments. Our obligations under the North Atlantic Treaty, for example, are quite different from our responsibilities for Viet-Nam under SEATO, since we have obligations running directly to each of our NATO partners to take action, including the use of armed force, in the event of an armed attack on any NATO power.

Our obligations to West Berlin are covered not only by Articles 5 and 6 of the North Atlantic Treaty but by our status as an occupying power pursuant to the unconditional surrender of Germany at the end of World War II.

We are obligated directly to the other American republics under the Rio Treaty of 1947 to come to their assistance in the event of armed attack.

3. In the longer term, we must judge a decision to withdraw assistance from South Viet-Nam primarily in terms of its effect on the ability of the United States to
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is not an easy one. France could draw from Indochina
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-116x505] fails to discharge its role of leadership there is no other
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was not a great power and other nations did not depend
on France for their own security. The United States

is not an easy one. France could withdraw from Indochina
to maintain its role of world leadership. That role

was not a great power and other nations did not depend
on France for their own security. The United States
must, however, always act with the consciousness that if
fails to discharge its role of leadership there is no other
world power capable of taking its place.