

SEATO Treaty as Basis for U.S. Role in Vietnam

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To the Editor:

In his Nobel Prize lecture, Solzhenitzyn remarked that one of the prime attributes of "the new barbarism" is to render international agreements illusory, as if they had never existed. The recent letters of Messrs. Crown and Standard and of David Mandel document his point.

Mr. Mandel says the SEATO treaty requires the consent of all signatories voting before the provisions of Article IV, paragraph 1, become operative. The treaty provides that in the event of armed attack on any state protected by it, "each party" will act to meet the common danger. The obligations of the treaty are expressly made "separate" as well as "joint."

Messrs. Crown and Standard claim it is a "specious afterthought" to say that the treaty is a basis for our role in Vietnam because, they allege, SEATO was not mentioned as a source of American policy until March 4, 1966.

At least since May 11, 1957, both the Presidency and Congress have repeatedly found that North Vietnamese participation in the war against South Vietnam constituted an "armed attack" under the treaty and that we should therefore assist the self-defense of South Vietnam, in what throughout the period was generally considered to be our own national interest.

In taking this position, Eisenhower and his successors exercised the President's constitutional responsibility to interpret treaties in the first instance—a responsibility established by a line of precedents beginning in 1793 with Washington's construction of the treaty with France. Congress backed the view of SEATO taken by four

Presidents. One has only to recall the text of the Tonkin Gulf Resolution, and the debates which preceded its passage in 1964—two years before the date mentioned by Messrs. Crown and Standard—to realize how astonishing their contention is.

Johnson's message to Congress and statement to Congressional leaders of May 4, 1965, and George Ball's speech of May 5, 1965, to the SEATO Council explicitly rest on the treaty and the Tonkin Gulf Resolution. Johnson made it clear that the supplemental appropriations bill he submitted at that time was not a routine matter. "Each member of Congress who supports this request," he said, "is also voting to persist in our effort to halt Communist aggression in South Vietnam."

Messrs. Crown and Standard say that SEATO is not mentioned in the State Department memorandum of March 8, 1965, or in Johnson's speech at Johns Hopkins on Aug. 7, 1965. The State Department's memorandum—whatever weight it may have as an authoritative statement of the President's policy as compared with his own—is predicated on South Vietnam's right of self-defense under the United Nations Charter and on the right of other nations to assist it, in this case through "regional collective defense efforts," i.e., through SEATO. And in his Johns Hopkins speech, answering the question, "Why are we in Vietnam?", Johnson said, "We are there because we have a promise to keep. . . . [We] have made a national pledge to help South Vietnam defend its independence."

Messrs. Crown and Standard also assert that the length and scale of the Indochina war take it outside the category of "limited, undeclared war."

This mistakes the distinction between general and limited war in international law and in our own constitutional law. Our national experience includes many prolonged and costly campaigns—in Korea, the Philippines and in the Mediterranean—conducted as undeclared and limited wars to redress violations of international law.

EUGENE V. ROSTOW
New Haven, Oct. 27, 1972

To the Editor:

The Oct. 7 letter from former Ambassador John Cabot criticizing the rationale of your editorial stand on the war reflects very likely the confusion throughout the Department of State during Mr. Cabot's career.

Contrary to his statement that the SEATO pact of 1954, which was one of the on-and-off excuses given for our military intervention in the Vietnamese civil strife, was an agreement "pledging us to the defense of 'South Vietnam,'" this treaty in no wise categorically pledged us to the all-out military intervention in the defense of any set of protagonists.

This was especially true of the State of Vietnam, a regime fashioned by the French in 1949 which had its name changed to Republic of Vietnam after coming under the complete support of the United States. This State of Vietnam—more properly and legally the southern zone of Vietnam under temporary jurisdictional control of the French Union—was not a member of SEATO. It was one-sidedly declared by the United States to be a "protocol state" within the terms of the treaty. This dignified word meant nothing other than that the United States gratuitously assumed the "right" to intervene in Vietnamese affairs.

For Mr. Cabot further to assert that the "U.S.S.R. and China are united in trying to destroy South Vietnam" is but to state the obvious: that American violence and military interference elicited a counteraction from the Marxist giants. This counteraction has been confined to the provision of logistic support and has never involved the physical intervention of Russians or Chinese. In timing it followed our intervention by years, and in volume it has been, and is, infinitesimal compared with the United States effort to maintain in power and fight the battles of the minority group of politicians which is the Saigon regime, led by the North Vietnamese Thieu and Ky.

L. EDWARD SHUCK JR.
Bowling Green, Ohio, Oct. 29, 1972