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Hon. Barbara J. Rothstein

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

ESTATE OF SILME E. DOMINGO,	)	
<u>et al.</u> ,	)	
	)	
Plaintiffs,	)	C.A. No. 82-1055R
	)	
v.	)	
	)	STATEMENT OF INTEREST
REPUBLIC OF THE PHILIPPINES,	)	OF THE UNITED STATES
<u>et al.</u> ,	)	REGARDING PLAINTIFFS'
	)	MOTION TO COMPEL THE
Defendants.	)	DEPOSITION OF RAUL
	)	<u>MANGLAPUS</u>

1. This Statement of Interest is filed by the Attorney General of the United States pursuant to Section 517, Title 28, of the United States Code. It is well established that the United States enjoys the right to inform the courts of its views in proceedings in which it has an interest. See, e.g., International Products Corp. v. Koons, 325 F.2d 403, 408 (2d Cir. 1963). Accordingly, we wish to inform the Court of the following views of the United States.

2. The United States understands that on December 21, 1988, this Court ordered that Raul Manglapus, the Secretary of Foreign Affairs for the Republic of the Philippines, could be

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1 deposed by plaintiffs on matters related to his previous period  
2 of residence in the United States as an opponent of the Marcos  
3 regime, but that such order did not address the time and place of  
4 the deposition. The United States further understands that, on  
5 June 1, 1989, plaintiffs took the further step of serving a  
6 subpoena on Secretary Manglapus for him to be deposed during his  
7 recent visit to the United States, and that plaintiffs now seek  
8 an order requiring Secretary Manglapus to return to the United  
9 States for the purpose of such deposition.

10 3. The United States notes that, insofar as the requested  
11 order is premised upon the subpoena recently served on Secretary  
12 Manglapus, the foreign minister of a friendly foreign state, a  
13 question could be raised regarding his immunity from such  
14 subpoena. The Schooner Exchange v. McFaddon, 11 U.S. (7 Cranch  
15 116) 74, 86-87 (1812); Domingo v. Marcos, No. C82-1055V (W.D.  
16 Wash., Dec. 23, 1982); Chong Boon Kim v. Yim Young Shik, Civ. No.  
17 12565 (Cir. Ct., 1st Dir. Ha. 1963), cited at 58 Am. J. Int'l L.,  
18 1986 (1964); Restatement (Second) of the Law of Foreign  
19 Relations, Section 66. In view of this Court's earlier order,  
20 however, and on the further understanding that the Government of  
21 the Philippines and Secretary Manglapus himself are willing for  
22 him to be deposed on matters relating to his period of residence  
23 in the United States as a private citizen, provided only that the  
24 time and place are convenient, the United States does not express  
25 any view on whether Secretary Manglapus may enjoy any form of  
26 immunity from the jurisdiction of the courts of the United States

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1 in connection with these proceedings. Our silence on these or  
2 any other issues in these proceedings should not be taken as an  
3 indication of our views.

4 4. The United States is, nonetheless, of the view that it  
5 would be appropriate for the Court, to the extent consistent with  
6 principles of fairness to the parties concerned and with the  
7 needs of the Court, to be receptive to proposals that such  
8 deposition be scheduled at a time and place convenient to the  
9 Foreign Secretary, and such other proposals as may be made in  
10 order to minimize the intrusion on the performance of Secretary  
11 Manglapus' official duties or on the dignity of his office.

12 5. In general, as the Supreme Court stated in Societe  
13 Nationale Industrielle Aerospatiale v. United States District  
14 Court for the Southern District of Iowa, "we have long recognized  
15 the demands of comity in suits involving foreign states, either  
16 as parties or as sovereigns with a coordinate interest in the  
17 litigation. See Hilton v. Guyot, 159 U.S. 113 (1895). American  
18 courts should therefore take care to demonstrate due respect  
19 . . . for any sovereign interest expressed by a foreign state."  
20 \_\_\_ U.S. \_\_\_, 107 S.Ct. 2542, 2551 (1987). In keeping with  
21 principles of international comity, we believe that it is  
22 appropriate to seek to accommodate the schedule and duties of a  
23 high-level foreign official in such matters. The compelling of  
24 personal discovery with respect to a Foreign Secretary of another  
25 nation is in any event a novel and exceptional circumstance, with  
26 ~~significant potential for implicating the foreign policy~~

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1 interests of the United States. Not only is such accommodation  
2 important in the interests of bilateral relations with the  
3 country concerned, but it is also important in terms of the  
4 treatment which we would expect to be granted by foreign courts  
5 to the United States Secretary of State.

6 Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Statement Of Interest Of The United States Regarding Plaintiffs' Motion To Compel The Deposition Of Raul Manglapus were served on July 14, 1989 by first class mail, postage prepaid upon:

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