

# A U.S.-Philippine Policy Option for the South China Sea

by

Lieutenant Colonel Joe Daniels Bookard  
United States Army



United States Army War College  
Class of 2014

DISTRIBUTION STATEMENT: A

Approved for Public Release  
Distribution is Unlimited

This manuscript is submitted in partial fulfillment of the requirements of the Master of Strategic Studies Degree. The views expressed in this student academic research paper are those of the author and do not reflect the official policy or position of the Department of the Army, Department of Defense, or the U.S. Government.

The U.S. Army War College is accredited by the Commission on Higher Education of the Middle States Association of Colleges and Schools, 3624 Market Street, Philadelphia, PA 19104, (215) 662-5606. The Commission on Higher Education is an institutional accrediting agency recognized by the U.S. Secretary of Education and the Council for Higher Education Accreditation.

**REPORT DOCUMENTATION PAGE**

Form Approved--OMB No. 0704-0188

The public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0188), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. **PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS.**

<b>1. REPORT DATE (DD-MM-YYYY)</b> 15-04-2014		<b>2. REPORT TYPE</b> STRATEGY RESEARCH PROJECT		<b>3. DATES COVERED (From - To)</b>	
<b>4. TITLE AND SUBTITLE</b> A U.S.-Philippine Policy Option for the South China Sea				<b>5a. CONTRACT NUMBER</b>	
				<b>5b. GRANT NUMBER</b>	
				<b>5c. PROGRAM ELEMENT NUMBER</b>	
<b>6. AUTHOR(S)</b> Lieutenant Colonel Joe Daniels Bookard United States Army				<b>5d. PROJECT NUMBER</b>	
				<b>5e. TASK NUMBER</b>	
				<b>5f. WORK UNIT NUMBER</b>	
<b>7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)</b> Dr. David Lai Strategic Studies Institute				<b>8. PERFORMING ORGANIZATION REPORT NUMBER</b>	
<b>9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)</b> U.S. Army War College, 122 Forbes Avenue, Carlisle, PA 17013				<b>10. SPONSOR/MONITOR'S ACRONYM(S)</b>	
				<b>11. SPONSOR/MONITOR'S REPORT NUMBER(S)</b>	
<b>12. DISTRIBUTION / AVAILABILITY STATEMENT</b> Distribution A: Approved for Public Release. Distribution is Unlimited.					
<b>13. SUPPLEMENTARY NOTES</b> Word Count: 5,160					
<b>14. ABSTRACT</b> Since taking office, the Obama Administration has pursued a policy to expand its role in Asia by rebalancing diplomatic, military, and economic resources to the Asia-Pacific region. An important part of the rebalancing has been on Southeast Asia. In addition to the economic and strategic interests, the United States is also concerned with conflicts in the South China Sea surrounding Philippine-China territorial disputes. These concerns present significant security challenges for vital U.S. national interests in the Asia-Pacific, specifically in the Southeast Asia region. This writing raises a challenging question: how can the U.S. honor its treaty obligation to the Philippines without getting into an armed conflict with China in the Philippine-China territorial dispute in the South China Sea? The analysis will show, the U.S. can maintain regional security in the South China Sea without getting involved in three ways: by continuing its alliances and military-military aid with the Philippines, by investing in modernizing and training the Philippines Armed Forces, and by empowering the ASEAN as a collective security body. This policy option allows Southeast Asian states to resolve South China Sea territory and maritime disputes with China.					
<b>15. SUBJECT TERMS</b> Southeast Asia, ASEAN, Maritime Disputes, Sovereignty, Mutual Defense Treaty, Nine Dashed Line, UNCLOS					
<b>16. SECURITY CLASSIFICATION OF:</b>			<b>17. LIMITATION OF ABSTRACT</b>	<b>18. NUMBER OF PAGES</b> 31	<b>19a. NAME OF RESPONSIBLE PERSON</b>
<b>a. REPORT</b> UU	<b>b. ABSTRACT</b> UU	<b>c. THIS PAGE</b> UU			<b>19b. TELEPHONE NUMBER (w/ area code)</b>



USAWC STRATEGY RESEARCH PROJECT

**A U.S.-Philippine Policy Option for the South China Sea**

by

Lieutenant Colonel Joe Daniels Bookard  
United States Army

Dr. David Lai  
Strategic Studies Institute  
Project Adviser

This manuscript is submitted in partial fulfillment of the requirements of the Master of Strategic Studies Degree. The U.S. Army War College is accredited by the Commission on Higher Education of the Middle States Association of Colleges and Schools, 3624 Market Street, Philadelphia, PA 19104, (215) 662-5606. The Commission on Higher Education is an institutional accrediting agency recognized by the U.S. Secretary of Education and the Council for Higher Education Accreditation.

The views expressed in this student academic research paper are those of the author and do not reflect the official policy or position of the Department of the Army, Department of Defense, or the United States Government.

U.S. Army War College  
CARLISLE BARRACKS, PENNSYLVANIA 17013



## **Abstract**

Title: A U.S.-Philippine Policy Option for the South China Sea

Report Date: 15 April 2014

Page Count: 31

Word Count: 5,160

Key Terms: Southeast Asia, ASEAN, Maritime Disputes, Sovereignty, Mutual Defense Treaty, Nine Dashed Line, UNCLOS

Classification: Unclassified

Since taking office, the Obama Administration has pursued a policy to expand its role in Asia by rebalancing diplomatic, military, and economic resources to the Asia-Pacific region. An important part of the rebalancing has been on Southeast Asia. In addition to the economic and strategic interests, the United States is also concerned with conflicts in the South China Sea surrounding Philippine-China territorial disputes. These concerns present significant security challenges for vital U.S. national interests in the Asia-Pacific, specifically in the Southeast Asia region. This writing raises a challenging question: how can the U.S. honor its treaty obligation to the Philippines without getting into an armed conflict with China in the Philippine-China territorial dispute in the South China Sea? The analysis will show, the U.S. can maintain regional security in the South China Sea without getting involved in three ways: by continuing its alliances and military-military aid with the Philippines, by investing in modernizing and training the Philippines Armed Forces, and by empowering the ASEAN as a collective security body. This policy option allows Southeast Asian states to resolve South China Sea territory and maritime disputes with China.



## **A U.S.-Philippine Policy Option for the South China Sea**

Since taking office, the Obama Administration has pursued a policy to expand its role in Asia by rebalancing diplomatic, military, and economic resources to the Asia-Pacific region. An important part of the rebalancing has been on Southeast Asia. In addition to the economic and strategic interests, the United States is also concerned with conflicts in the South China Sea. These concerns present significant security challenges for three vital U.S. national interests in the Asia-Pacific, specifically in the Southeast Asia region.<sup>1</sup>

During a 2014 Committee on Foreign Affairs testimony, Assistant Secretary of State Daniel Russel stated the three vital U.S. interests concerning Asia-Pacific are; the promotion of economic and free trade agreements, the continuation of the U.S. as a global strategic partner, and to maintain a stabilizing military presence in the region. These interests are vital as they support the U.S. ability to maintain open inclusive free trade agreements (FTA) guided by the respect of the rules of international law. Additionally, they allow unimpeded access to commercial sea-lanes through freedom of navigation.<sup>2</sup> In addition to these vital Asia-Pacific interests, Secretary Russel testified that U.S. policy objectives with respect to the Philippines are maintaining the U.S.-Philippine alliance; enhancing security and stability in the South China Sea; and assisting the Armed Forces of the Philippines (AFP) in counterterrorism, maritime, and modernization.”<sup>3</sup>

A major U.S. concern in Southeast Asia and the South China Sea is China’s aggressive behavior surrounding maritime and territorial disputes. China’s behavior is reflected on its insistence on the “nine-dashed line” as the scope of its claim on the territorial and maritime interests in the South China Sea. China’s claims are in conflict

with its maritime neighbors around the South China Sea, such as the Philippines, Vietnam, Malaysia, Brunei, and Indonesia, and run into conflict with international legal practices on territorial disputes.<sup>4</sup>

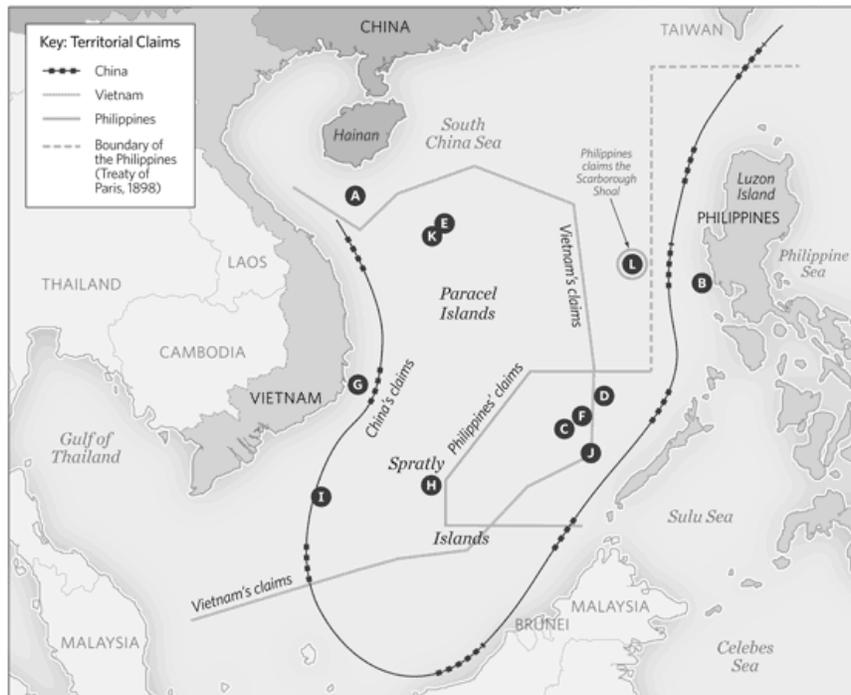
The U.S. takes no position on China's sovereignty claims on territorial features off China's mainland, and considers China's "nine-dashed line" to be inconsistent with international law. The legal inconsistency occurs when China's maritime rights not based from Chinese claimed land features. Thus, the U.S. position is challenging in the case of the China-Philippine territorial dispute, because the latter is a U.S. treaty ally.<sup>5</sup>

China's actions are threatening to smaller states with weak militaries in the South China Sea neighborhood. For example, China used force against Vietnam in the fight for the Paracel Islands in 1974; Chinese military ousted Philippine forces from the Mischief Reef in 1995; and the Chinese attack on Vietnamese forces near the Fiery Cross Reef in 1999; are examples of China's territory claims. Additionally, the U.S. Department of Defense has reported 29 maritime incidents between China and the United States and Southeast Asian states from 2009 to 2012 (see Figure 1). Six of those incidents are with the Philippines. Because it is a treaty ally and trading partner with the U.S., the United States is concerned with the Philippines' dispute with China. While China does not instigate all of these territorial and maritime disputes, the fact remains that China has a credible military and a robust economy to support its heavy-handed dealing with its neighbors; and China is becoming more assertive. The United States is concerned with this new development. One can make an argument that without any credible security assurance in the South China Sea, the claimants will remain concerned over the assertive Chinese actions.

## China's Disruptive Activities in the South China Sea

Since 2009, Chinese vessels have been involved in a growing number of aggressive incidents in the disputed waters of the South China Sea.

- A March 2009.** Chinese vessels harass USNS *Impeccable*
- B June 2009.** Chinese submarine collides with the sonar cable of the USS *John McCain*
- C February 2011.** Chinese frigate fires at Philippine fishing boats
- D March 2011.** Chinese patrol boats attempt to ram a Philippine government energy research vessel
- E May 2011.** China unilaterally announces four-month fishing ban for northern part of South China Sea
- F May 2011.** Chinese vessels lay steel posts and buoys
- G May 2011.** Maritime security vessel from China cuts the cables of an exploration ship from Vietnam
- H May 2011.** Chinese military vessels use guns to threaten crews of four Vietnamese fishing boats
- I June 2011.** Three Chinese vessels disabled cables of a PetroVietnam oil survey ship, the *Viking 2*
- J December 2011.** Two Chinese civilian ships and Chinese naval vessel seen in Philippine territorial waters
- K March 2012.** China detains 21 Vietnamese fishermen in the Paracel Islands for seven weeks, sparking a diplomatic row
- L April 2012.** Chinese fishing at the Scarborough Shoal prompts an ongoing standoff between Philippine patrol vessels and Chinese surveillance ships. The shoal is 124 nautical miles from Luzon Island, well within the Philippine Exclusive Economic Zone (EEZ)



Sources: U.S. Department of Defense, "Military and Security Developments Involving the People's Republic of China 2010," [http://www.defense.gov/pubs/pdfs/2010\\_CMPR\\_Final.pdf](http://www.defense.gov/pubs/pdfs/2010_CMPR_Final.pdf) (accessed February 27, 2012); Martin Stuart-Fox, *A Short History of China and Southeast Asia* (Sydney: Allen & Unwin, 2003), map by R.B. Cribb, "Territorial claims in the South China Sea," p. 217; and Heritage Foundation research.

Figure 1. South China Sea Disputes (2009-2012)

Against this backdrop, this writing raises a challenging question: how can the U.S. honor its treaty obligation to the Philippines without getting into an armed conflict with China in the Philippine-China territorial dispute in the South China Sea?

This paper has the following organization: first, it provides a discussion of American influence in the Philippines from the Spanish American War through 1946, the end of the Pacific War.

Next, it provides an overview of the U.S.-Philippines Mutual Defense Treaty (MDT) and the Mutual Logistic Support Agreement (MLSA). This overview describes present day U.S. policy commitments between the Philippine and the American government.

Third, it provides an overview highlighting similarities between the Southeast Asian Treaty Organization (SEATO) and the Association of Southeast Asian Nations (ASEAN). This overview discusses the possibility whether collective security can work within Southeast Asia, specifically the South China Sea. This analysis of collective security provides a framework for regional security that was considered in 1950 by the Philippine President Quirino. A collective security framework is a potential approach for resolving maritime disputes in the South China Sea.

Finally, the paper provides an overview of the fundamental issues affecting U.S. policy in Southeast Asia along with a description of the current U.S. diplomatic and economic conditions in the region. This overview provides a foundation for developing a broader U.S.-Philippine policy objective. The discussion of American influence in the Philippines and current U.S.-Philippine policy commitments provides thoughts on creating a policy option for the United States to maintain regional security in Southeast Asia in general and the South China Sea in particular. This option will allow limited U.S. involvement to support the Philippines if armed conflict over a maritime dispute with China occurs.

#### American Influence in the Philippines

It is important to understand the impact of American influence in the Philippines and why every American President since Truman has publicly recognized the

importance of this bond. This relationship has a direct impact on the Philippines' expectation of the U.S. to provide support for its Mutual Defense Treaty if conflict arises.

American influence in the Philippines has a deep and complex past that dates back to the Spanish-American War. In 1898, Commodore Dewey won a victory over the Spanish fleet in the Manila Bay. With this defeat came U.S. occupation of Manila and a negotiated settlement termed the Treaty of Paris. Article III of the Treaty outlined Philippine sovereign territory as the "archipelago known as the Philippine Islands, and comprehending the islands lying within the following line, etc..."<sup>6</sup>

The Filipinos resisted American colonialism by protesting and exciting armed violence against the U.S. military force on the island. As part of the stability operations after the war, the U.S. considered options on how the Philippines could self-govern under colony rule. Two commissions (Schurman and Taft) were formed to provide recommendations to President McKinley, the U.S. President at the time. In January 1899, President McKinley selected Dr. Gould Schurman to investigate the conditions on the Philippines. McKinley charged the commission with identifying the best method to provide American law and order that would allow the Filipino people to develop functional systems of governance. The Schurman Commission gave McKinley four recommendations:

- Civilian control of the Philippines should be under an American Governor.
- The Governor would have a Filipino civil service staff to facilitate restoration of order.
- The U.S. should create institutions such as schools, banks, and religious organizations to support the Philippines ability to self govern.

- The Filipino people were not ready for their independence.<sup>7</sup>

With these recommendations in 1900, McKinley appointed William Taft to lead the second commission, the Taft Commission. This commission would serve as the basis for the Filipino government. In addition to leading the committee, McKinley appointed Taft as the first American Governor of the Philippines from 1900-1904. Taft began establishing legislative and judicial systems to replace Spanish laws and municipal codes with American colony policy.

During Taft's time as governor, in 1902, the American Congress passed the Cooper Bill. This bill allowed all Spanish inhabitants to become citizens of the Philippines but not the U.S. The bill also established the U.S. Bill of Rights as the municipal code for the Filipino people.<sup>8</sup> As early as the 1900s, the American Navy had the ability to navigate freely in the Pacific, an ability which created trade opportunities with China and other Asian states. This freedom of access to trade markets was a precursor to today's U.S. vital interest of promotion of economic and trade and to maintaining a credible diplomatic and military presence in the Pacific region.

Then, in 1934, the U.S. Congress passed the Tydings–McDuffie Act. This act, also known as the Philippine Independence Act, outlined a 10-year transitional period to a Philippine Constitution. During this period, the U.S. would transition its interest to a Filipino government before granting the Philippines their independence. Also, during this transitional period the US would maintain military forces in the Philippines; furthermore, the American President had the ability to call into military service all military forces of the Philippine government. Additionally, the act permitted the maintenance of US naval bases, within this region, for two years after independence.”<sup>9</sup>

Thirty-five years before the start of the war in Europe, the Philippines remained a U.S. sovereign territory. The Philippines had not advanced its military capability beyond local police duties. The Philippines had no formidable defense or military capable of defeating the Japanese, other than the U.S. forces stationed on the island. After bombing Pearl Harbor in 1941, Japan immediately bombed and assaulted the Philippines as well. With no credible military defense, the American soldiers on the Philippines surrendered to the Japanese, leading to Japanese occupation of the Philippine islands for nearly three years. In 1945, the U.S. reclaimed the Philippines, and in 1946, at the end of the War in the Pacific, President Truman ended 48 years of American colonial rule over the Philippines and granted them sovereignty.<sup>10</sup> This was the beginning of the Philippines dependency on American security and was the foundation of the U.S.-Philippines Mutual Defense Treaty.

The U.S. has supported, nurtured, and secured the Philippines for well over 100 years. The Americanization of the Filipino government has made it difficult for the Philippines to cut all interests with the United States, specifically in terms of security. The American security requirements for the Philippines continue today with two formal agreements: the Mutual Defense Treaty (MDT) and the Mutual Logistics Support Agreement (MLSA). These two agreements keep the U.S. diplomatically, militarily, and economically tied to the Philippines, thus creating an option for the Philippines to choose to either invest in modernizing its military forces or depend on American security.

#### U.S.-Philippines Mutual Defense Treaty and Mutual Logistical Support Agreement

In 1951, the Philippines signed the MDT with the U.S., which stated that an armed attack in the Pacific on either state is an attack on the other. Article V of the MDT

describes an armed attack as “an attack on either of the Parties is deemed to include an armed attack on the metropolitan territory of either of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.”<sup>11</sup>

As early as 1958, the Philippines asked the U.S. for clarification of article V of the MDT, specifically to clarify what level and what type of support the U.S. would provide. No official clarification has ever been given nor has the U.S. supported the Philippines with military forces during armed territorial or maritime disputes. Official White House communiqué from U.S. President Eisenhower through the Johnson administrations suggested to the Filipino government that the interpretation of Article V of the MDT “was... attack on the Philippines is an attack on the United States.”<sup>12</sup> These statement went beyond the meaning of the treaty and lasted through the end of President Johnson’s administration in 1968. The exception to this interpretation of the U.S.-Philippine MDT support was President Kennedy, who made no official statement concerning the U.S.-Philippine MDT during his term of office. The next three Presidential administrations refocused the U.S.-Philippine bilateral engagements back onto the vagueness of the terms as written in Article V of the MDT and did not state that an “attack on the Philippines is an attack on the United States.”<sup>13</sup>

As tensions grew over the U.S. involvement in Vietnam War, the U.S. Congress reexamined its foreign policy in Southeast Asia. The Senate Armed Service Committee (SASC) questioned the usefulness of the Philippine MDT and whether or not the U.S. should honor its commitments beyond moral obligations. The true concerns were about whether the U.S. would provide support if the Philippines provoked aggression with its

neighbors, mainly Japan and China, or if an external attack on a Philippine island occurred where no American soldiers were stationed.<sup>14</sup> From 1968-1975, neither the U.S. President nor the SASC suggested new legislation regarding the MDT. It became apparent to the Philippines that it was no longer vital to the U.S., a fact which was made evident by the decrease of U.S. commitment in Southeast Asia because of the defeat in Vietnam. Additionally, U.S. foreign policy and strategic interests began shifting toward Europe and the Soviet Union.

Since the signing of the MDT, America's military commitments in the Philippines have gradually increased. Unfortunately, anti-American sentiment among the Filipino people has increased as well. The past memories of American and Japanese occupations, with no Filipino sovereignty, may be the basis for a 1991 Philippine Senate decision not to extend a 10-year, \$200 million dollar land lease with the U.S. This non-renewal required the American Navy to withdraw over 40,000 soldiers and families. Although the relocation was disruptive, the U.S. did not lobby hard to keep forces on the island because it has credible presence in Guam, Japan, South Korea, and Australia. The non-renewal of the Subic Bay Naval base was a way for the Philippine government to protect its sovereignty. Additionally, it began a period of increased U.S. diplomatic and military efforts to strengthen its partnerships with the Philippines.<sup>15</sup>

Another document that keeps the U.S. deeply connected to the Philippines is the Mutual Logistics Support Agreement (MLSA). Originally signed in 2002 and renewed every five years, this agreement provides the U.S. military with access to Philippine infrastructure. The agreement compensates the Filipino government for providing refueling, billeting, and U.S. troop transportation during joint military exercises in the

region. The agreement is temporary and does not allow for the transfer of weapon systems between the states.<sup>16</sup> However, the MSLA provides benefits similar to those accrued with a permanent U.S. military base on the Philippines.<sup>17</sup>

In strengthening the Armed Forces of the Philippines' capabilities, since 2002, the U.S. provided the Philippines over \$500 million in U.S foreign military financing (FMF) and military aid. Additionally, in December 2013, John Kerry, U.S. Secretary of State, pledged the Philippines \$40 million dollars in maritime security assistance and an opportunity to negotiate the increased rotation of American forces through the island.<sup>18</sup> Secretary Kerry also assured the Philippines and its neighbors that the U.S. is fully committed to security of the Philippines and the region. This support enables Philippine military modernization and ability to secure its states interests.

#### Origins of Southeast Asia Collective Security: SEATO and ASEAN

In forming a framework for how the Association of Southeast Asian Nations (ASEAN) can provide collective security, the vision of former Philippine President Quirino and the Southeast Asia Treaty Organization (SEATO) are crucial. Both highlight the willingness Southeast Asian states had for collective security.

At the end of the Pacific War, Quirino recognized that Japan would not be easily converted from a militaristic state into a functioning democracy. Quirino sought to make Japan an ally he feared another attack and wanted to prevent the spread of communism.<sup>19</sup> One year before the 1951 U.S.-Philippine Mutual Defense Treaty was signed, Quirino lobbied with other Southeast Asian states to create a long-term institution for mutual security in the Pacific. The vision was to include Asian nations, regardless of ideology, who would collectively share in the security and prevention of the spread of communism in Southeast Asia. Quirino originally thought inclusion of all

nations regardless of ideology would be functional; he later chose to only include nations that did not support communism. Although Quirino's efforts to establish this security cooperation failed, the U.S. adopted elements from his vision of Southeast Asian regional security and regional stability into SEATO.

In 1954, the U.S. welcomed seven states into SEATO. The purpose of SEATO was to prevent the spread of communism in the Pacific, and collectively contain Japan and China. The initial challenges with SEATO included low participation, with only three Southeast Asian states as members, and criticism as a "new form of Western colonialism."<sup>20</sup> Additionally, the cultural and language barriers created problems in achieving group goals. The SEATO dissolved in 1977; however, it was the precursor for the Association of Southeast Asian Nations (ASEAN) in many ways. First, the ASEAN encouraged all Southeast Asian states to become members. In addition, both ASEAN and SEATO use pragmatic approaches in decision-making and the practice of non-interference when dealing with the resolution of other state matters.

This paper will not discuss how effective or ineffective ASEAN is; however collectively the ASEANs organizational structure has the capacity to resolve Philippines maritime and territorial disputes with China. Since its establishment in 1967, ASEAN aims are to promote "cooperation in the economic, social, cultural, ... and the promotion of regional peace and stability through abiding respect for justice and the rule of law and adherence to the principles of the United Nations Charter."<sup>21</sup>

The U.S investments in building partner capacity with ASEAN states date back to 1984. These investments protect the economic well being of its treaty partners, Thailand and the Philippines, who are also ASEAN members. These investments in FMF and

MLSA in ASEAN can help the U.S. guarantee an environment that prevents miscommunications and hedges that regional sovereignty disputes with China can be resolved. In other words, similar to the SEATO in the 1960s, a strong U.S.–Philippine and ASEAN alliance enhances maritime regional security in Southeast Asia. These alliances can balance fear of an aggressive China and the perception of an uncertain role of the U.S. in the region. Unfortunately, the many bilateral agreements with ASEAN states complicate security matters as the organizations execute decisions based on unanimity. Another complication with ASEAN is that at times consensus between ASEAN states is not possible as individual states may place their interests before the collective groups' regional issues.

#### U.S. Southeast Asia Regional Policy Issues

In understanding the current U.S.-Philippine policy commitments through the MDT and the MSLA, it is necessary to discuss three fundamental U.S. Southeast Asian regional policy issues that affect US policy objectives in the South China Sea. Assistant Secretary Russell, states the issues as:

- The potential of denied access to its markets caused by Chinese maritime and territorial disputes.
- The need for access to key strategic waterways for the U.S. Navy in the South China Sea.
- The support of U.S. treaty allies and other partners of the U.S. that border the South China Sea.

First, if maritime dispute claimants are denied access or freedom of navigation to these sea lanes of communication, ASEAN economies will be significantly disrupted as

most of their revenues come from seaborne import and export trade. Denied or disruptive access is defined as inappropriate ship to ship confrontation, maritime piracy, threat or execution of aggressive seaborne maneuvers. These acts may escalate into armed conflicts for fear of their safety. The disruption to the freedom of navigation to these regional markets (energy resources, fishing, minerals, industrial, etc.) will affect 40 percent of the world population (2.7 billion people) and 44 percent of global free trade (\$16.8 trillion) between the Asian and American free trade markets.<sup>22</sup> Thus, the impact of denied access to regional markets within the South China Sea means loss of U.S. revenue and its credibility to regional allies. Ultimately, it creates a perception that the U.S. is unable or unwilling to support its ally treaty obligations and is unable to secure its interests in the Pacific.

Secondly, the South China Sea is a key strategic waterway for the U.S. Navy. In addition to being, a strategic waterway the freedom of navigation in the region is also contentious. The United States and China disagree over the right of U.S. and ally state military vessels to operate in China's two-hundred-mile exclusive economic zone (EEZ). The root cause of this disagreement is that the U.S. does not recognize China's nine-dashed line that extends over seaborne access routes in the South China Sea.<sup>23</sup> These tensions are shaping—and being shaped by—rising apprehensions about the growth of China's military power and its regional intentions. China has embarked on a substantial modernization of its naval capabilities to enforce its South China Sea sovereignty claims within its nine-dashed line by force if necessary.<sup>24</sup> At the same time, it is developing capabilities that would put U.S. forces in the region at risk for conflict, thus potentially denying access to the U.S. Navy in the western Pacific.<sup>25</sup>

Finally, U.S. policy in the South China Sea is supporting U.S. treaty allies and other partners of the U.S. that border the South China Sea. China's drive towards economic interdependence and its interest in Free Trade Agreements (FTA) within the Pacific creates an environment where China may become the dominant power that would threaten U.S. interests and global access in the South China Sea and the Southeast Asia region. China's aggressive growth, robust regional military capabilities, and economic opportunities may compel ASEAN member states with weak militaries to form alliances with China.<sup>26</sup> These alliances, made in the interest of self-preservation, may emanate from a perception (fear) that the U.S. will lose its significant influence in the region in the face of China's aggressive development. The loss of U.S. influence comes from an assumption that the U.S. will not respond militarily if an ally's sovereignty is challenged in armed conflict.

Thus, China's aggressive expansion coupled with territorial sovereignty claims in the South China Sea creates a potential flashpoint for armed conflict. Southeast Asia is home to two U.S. treaty partners (Thailand and the Philippines), and the Philippines is the only treaty ally that borders the South China Sea. The U.S.-Philippines MDT backed by a forward U.S. military presence is the only credible security deterrent for the Filipino people to counter maritime territorial disputes with China. An important part of this treaty, often overlooked, is Article II, which states that the US and the Philippines will both develop and sustain a capacity to resist armed attacks.<sup>27</sup> The U.S. can leverage Article II of the MDT by creating more opportunities to invest in the Armed Forces of the Philippines, and other allies' military capabilities.

## U.S.-Philippine South China Sea Policy Option

The recommended U.S. policy option is to increase the Philippine military capacity to provide a minimum credible force to prevent maritime and territorial disputes. The military objective is to increase ASEAN partnerships with the Philippines military to maintain regional security and assured freedom of navigation to the sea-lanes of communications in the South China Sea. This focus allows the U.S. to maintain its MDT obligations with the Philippines without becoming directly involved.<sup>28</sup> It also sends a message to opposing states that would deny U.S. diplomatic or economic access to the region. The policy option and military objective support the U.S. national interests concerning Southeast Asia: the promotion of economic and free trade agreements, promotion of a rules-based international order, and maintain regional access (freedom of navigation) to the global commons within the South China Sea.<sup>29</sup> These interests align with both the U.S. National Military Strategy (NMS) and the U.S. Defense Strategic Guidance (DSG). The NMS describes the importance of being aware of the growing economic engines of Asian states and their large spending rapidly modernizing militaries articulates the need of assured access to and freedom of maneuver within the global commons.<sup>30</sup> The DSG emphasizes maintaining peace, stability, and the free flow of commerce in the Pacific region, thus underpinning the need for the rebalance of military capability in the region. The DSG also states that the U.S. must provide a capability to project power into areas where its access and freedom to operate are challenged.<sup>31</sup>

The application of diplomatic, economic, and military instruments of national power link this policy option to core U.S. national interests. The four diplomatic recommendations are:

- The U.S. President, senior U.S. Cabinet members, and the Department of State officials along with the senior leaders from the Department of Defense are critical in building, and in most cases repairing, the trust between the U.S., and China. These senior U.S. officials will conduct high-level engagements with Southeast Asian leaders to develop a clearer understanding of their future roles in resolving South China Sea maritime security concerns that arise.
- The President of the United States continues his bilateral engagements with senior leaders of China and his multilateral engagements with ASEAN member states promoting three goals:
  - China and ASEAN states working together peacefully to not complicate, not escalate, and not occupy uninhabited islands of territorial disputed features;
  - the U.S. maintaining its presence in the Southeast Asia region based on its long-term commitments;
  - all parties in the Southeast Asia region will exercise self-restraint in the conduct of activities that would undermine stability.

There is no time limit for conducting these engagements.

- The third recommendation is that the U.S. House Committee on Foreign Affairs strongly encourages China and ASEAN member states to continue developing the South China Sea code of conduct. China and ASEAN states committed adhering to this code of conduct after signing the 2002 ASEAN Declaration on the Conduct of Parties in the South China Sea. The ASEAN

Declaration on the Conduct of Parties is important as it promotes a clearer understanding of the rules of behavior and identifies communication hotlines and emergency procedures for preventing incidents in sensitive areas.<sup>32</sup>

- Finally, the U.S. should clarify its requirements in the 1951 U.S.-Philippines Mutual Defense Treaty. Clarification is needed in Article V, specifically *“Each Party recognizes that an armed attack in the Pacific Area on either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common dangers in accordance with its constitutional processes.”* A clear understanding of this statement will allow the Philippines to assume an appropriate level of security risk related to securing their national interests.<sup>33</sup>

In terms of economics, this policy option requires senior U.S. Cabinet officials to continue support of ongoing U.S.-ASEAN Expanded Economic Engagement (E3). This economic cooperation is similar to the Asia-Pacific Economic Cooperation (APEC) and is designed to expand trade ties between the United States and ASEAN. It also creates new business opportunities and jobs in the Pacific. Additionally, the U.S. President remains committed to the U.S.-Asia-Pacific Comprehensive Energy Partnership, promoting the development of new and sustainable energy markets in the region. This partnership promotes the need for a more aggressive approach in resolving energy-rich land-sea claims in the region.

In terms of U.S. military support to the Philippines, increased USPACOM multilateral engagements and exercises in the region are necessary to reaffirm U.S. commitment to regional security. Multinational exercises conducted with the Philippines

and other ASEAN states strengthen their military capacity to secure its interests. This action shows U.S. resolve to ASEAN members and demonstrates that the U.S. will have a continued presence in the Pacific region. These PACOM exercises along with senior U.S., Filipino, and ASEAN military leader conferences are opportunities to develop trust beyond diplomatic approaches. Additional efforts in conducting military joint planning with China and ASEAN officials on natural disasters and anti-piracy training reduces unintentionally denying freedom of navigation and access for the U.S. and its allies in the region.

Increased dialogue between the U.S. Ambassador to ASEAN and Filipino leaders promotes regional cooperation and economic development. Through bilateral engagements, the U.S. Ambassador to ASEAN and senior U.S. Cabinet officials should strongly encourage the ASEAN Secretary General to resolve its member states' maritime and territorial disputes. This legitimizes ASEAN and the ASEAN Secretary General as a credible organization that can collectively resolve Southeast Asian states disputes. It also limits regional matters going before the U.N. or NATO.

In developing this policy option, we must consider its feasibility, suitability, acceptability and associated risk for implementation by U.S. policy makers, ASEAN members, and allies in the Pacific.

### Feasibility

This policy is feasible as it is already on going by senior U.S. Cabinet and Defense officials as well as officials from the Pacific region. Elevated bilateral engagements by the President of the United States and the presidents of the ten ASEAN states' encourage their continual participation in regional forums such as ASEAN, APEC, and E3. These forums are necessary condition setters for territorial

dispute discussions. Their continual participation builds consensus on how to maintain regional security without a large U.S. involvement. It also reduces pressure on ASEAN states to enter into a bilateral security agreement with China that could potentially block U.S. access into the region. The personal involvement and participation of the U.S. President conveys the importance of U.S. security priorities in the region. It also reaffirms U.S. support for a peaceful resolution of maritime and territorial disputes. The conduct of joint multilateral exercises in the region reaffirms the U.S. position of freedom of navigation and, therefore, provides a credible forward military presence in the region. Empowering the ASEAN Secretary General positions the organization to share cooperation in resolving regional issues without international involvement.

#### Acceptability

This policy is acceptable as it provides the U.S., allies, partners of the U.S., and ASEAN states greater flexibility and increased responsibility in maintaining regional security. The policy supports international laws for freedom of navigation and international expectations that states will peacefully resolve territorial claims bilaterally. The policy also encourages joint development of resources in disputed areas with and through ASEAN members and China.

#### Suitability

This strategic approach is suitable as it encourages ASEAN members to resolve regional territorial disputes with China. This policy also promotes the continuation of U.S. military operations and multilateral security cooperation with ASEAN members. This policy option supports the U.S. and Philippines ability to maintain regional access in the South China Sea. Additionally, this policy option allows the Philippines and other

Southeast Asian states their right to operate freely without the fear of attack by China over sovereignty claims. The risks associated with this policy are:

- ASEAN states all have different levels of political and economic development, and the organization depends on consensus.
- Also, divergent national interests may compel states to place their interests above the regional interests.
- The need to encourage ASEAN to revise its policy of non-intervention in favor of a policy that considers intervention will create tensions as well.
- Finally, the continual discussion of providing a credible force to deter regional conflicts over territorial disputes that deny free flowing trade and access to its global commons will also prove challenging.

As the analysis of this paper shows, the U.S. can maintain regional security in the South China Sea without getting involved in three ways: by continuing its alliances and military-military aid with the Philippines, by investing in modernizing and training the Philippines Armed Forces, and by empowering the ASEAN as a collective security body. This policy option allows Southeast Asian states to resolve South China Sea territory and maritime disputes with China.

#### Endnotes

<sup>1</sup> Ralph A. Cossa et al., *The United States and the Asia-Pacific Region: Security Strategy for the Obama Administration* (Washington, DC: Center for a New American Security, 2008), 23-29, 33, 41-42, 65-75.

<sup>2</sup> Assistant Secretary of State for East Asian and Pacific Affairs Danny Russel, in testimony before the House Committee on Foreign Affairs *America's Future in Asia: Rebalancing to Manage Sovereignty Disputes* (Washington, DC: February 5, 2014).

<sup>3</sup> *Ibid.*,...and administrative reform efforts; supporting the peace process in Muslim areas of Mindanao; promoting broad-based economic growth.

<sup>4</sup>Assistant Secretary of State for East Asian and Pacific Affairs Danny Russell, in testimony before the House Committee on Foreign Affairs on February 5, 2014 said, "Under international law, maritime claims in the South China Sea must be derived from land features. Any use of the 'nine-dash line' by China to claim maritime rights not based on claimed land features would be inconsistent with international law. The international community would welcome China to clarify or adjust its nine-dash line claim to bring it in accordance with the international law of the sea."

<sup>5</sup> Ibid.

<sup>6</sup> The below passage provides a detailed explanation of the Philippine territory as described in the Treaty of Paris. A line running from west to east along or near the twentieth parallel of north latitude, and through the middle of the navigable channel of Bachi, from the one hundred and eighteenth (118th) to the one hundred and twenty-seventh (127th) degree meridian of longitude east of Greenwich, thence along the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich to the parallel of four degrees and forty five minutes (4 [degree symbol] 45') north latitude, thence along the parallel of four degrees and forty five minutes (4 [degree symbol] 45') north latitude to its intersection with the meridian of longitude one hundred and nineteen degrees and thirty five minutes (119 [degree symbol] 35') east of Greenwich, thence along the meridian of longitude one hundred and nineteen degrees and thirty five minutes (119 [degree symbol] 35') east of Greenwich to the parallel of latitude seven degrees and forty minutes (7 [degree symbol] 40') north, thence along the parallel of latitude of seven degrees and forty minutes (7 [degree symbol] 40') north to its intersection with the one hundred and sixteenth (116th) degree meridian of longitude east of Greenwich, thence by a direct line to the intersection of the tenth (10th) degree parallel of north latitude with the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich, and thence along the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich to the point of beginning.

<sup>7</sup> Claude A. Buss, *The United States and the Philippines* (Stanford, CA: Hoover Institution on War, Revolution and Peace, 1977), 1-4.

<sup>8</sup> Ibid., 5.

<sup>9</sup> Ibid., 15.

<sup>10</sup> Ibid., 21-28.

<sup>11</sup> *U.S.-Philippine Mutual Defense Treaty (MDT)*, [http://avalon.law.yale.edu/20th\\_century/phil001.asp](http://avalon.law.yale.edu/20th_century/phil001.asp), (accessed March 28, 2014).

<sup>12</sup> Ibid., 114.

<sup>13</sup> John Wholley and Gerhard Peters, *The American Presidency Project*, "Proclamation 2695 - Independence of the Philippines," <http://www.presidency.ucsb.edu/ws/?pid=58813>, (accessed April 10, 2014).

<sup>14</sup> Ibid., 114-116.

<sup>15</sup> U.S. Department of State, "Philippines," <http://www.state.gov/r/pa/ei/bgn/2794.htm> (accessed April 4, 2014).

<sup>16</sup> Mutual Logistics Support Agreement (MLSA) (Rp-Us- 01), Between The Department Of Defense Of The United States Of America And The Department Of National Defense Of The Republic Of The Philippines, <http://www.State.Gov/Documents/Organization/132080.Pdf> (accessed April 4, 2014).

<sup>17</sup> Ibid.

<sup>18</sup> Jose Katigbak, "US Hikes Foreign Aid to Philippines," *The Philippine Star*, April 28, 2013, <http://www.philstar.com/headlines/2013/04/28/935744/us-hikes-foreign-aid-phi> (accessed April 6, 2014).

<sup>19</sup> Ibid., 28.

<sup>20</sup> South East Asia Treaty Organization, <http://history.state.gov/milestones/1953-1960/seato> (accessed April 2014).

<sup>21</sup> South East Asia Treaty Organization, <http://history.state.gov/milestones/1953-1960/seato> (accessed April 2014).

<sup>22</sup> APEC, <http://www.apec.org/About-Us/About-APEC/Achievements-and-Benefits.aspx> (accessed February 23, 2014).

<sup>23</sup> Assistant Secretary Russel, *America's Future in Asia: Rebalancing to manage Sovereignty Disputes*. (Washington, D.C: February 5, 2014).

<sup>24</sup> Assistant Secretary Russel, *America's Future in Asia: Rebalancing to manage Sovereignty Disputes*. (Washington, D.C: February 5, 2014).

<sup>25</sup> Ibid.

<sup>26</sup> Michael McDevitt, *The South China Sea and U.S. Policy Options*. (American Foreign Policy Interests, 2013). 175-184.

<sup>27</sup> U.S. Department of State, Philippines, <http://www.state.gov/r/pa/ei/bgn/2794.htm> (accessed February, 23 2014).

<sup>28</sup> Assistant Secretary Russel, *America's Future in Asia: Rebalancing to manage Sovereignty Disputes*. (Washington, D.C: February 5, 2014).

<sup>29</sup> Ralph A. Cossa, Brad Glosserman, *The United States and the Asia-Pacific Region: Security Strategy for the Obama Administration*. (Center for a New American Security, 2008). 41-42, 65-75.

<sup>30</sup> M.G. Mullen. 2012 *The National Military Strategy: Redefining The American Military Leadership*. 2-4.

<sup>31</sup> Leon E. Panetta, *Sustaining U.S. Global Leadership: Priorities for 21<sup>st</sup> Century Defense*. (January 2, 2012), 2-4.

<sup>32</sup> U.S.-Philippine, Mutual Defense Treaty (MDT), [http://avalon.law.yale.edu/20th\\_century/phil001.asp](http://avalon.law.yale.edu/20th_century/phil001.asp), (accessed March 28, 2014).

<sup>33</sup> *Ibid.*, Article V.