



# U.S. Policy in Asia— Perspectives for the Future

Proceedings from a RAND Corporation  
Conference in Early 2017

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## Preface

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This document summarizes the proceedings and findings of a conference on U.S. policy in Asia titled *Pivot to Asia? U.S. Policy in Asia Under the Trump Administration*, which was held at the RAND Corporation in January 2017. The conference's objectives were to examine the arenas of U.S.–Asia engagement, develop an understanding of the outcomes of past interaction, and make the case for the terms of future engagement. The conference covered climate change, trade and investment, national security, human rights, and macroeconomic issues. The conference papers included in this document represent the views of their respective authors and were not subject to RAND's research and quality assurance processes.

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## Summary

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This document summarizes the proceedings and findings of a conference on U.S. policy in Asia titled *Pivot to Asia? U.S. Policy in Asia Under the Trump Administration*, which was held at the RAND Corporation in January 2017. The conference’s objectives were to examine the arenas of U.S.–Asia engagement, develop an understanding of the outcomes of past interaction, and make the case for the terms of future engagement. The conference covered climate change, trade and investment, national security, human rights, and macroeconomic issues. During the conference, individuals presented their papers, and a round of moderated feedback and discussion took place. As a result of the conference proceedings, papers were revised, and the final versions are included here as Chapters One through Nine. This section incorporates the critiques and comments made during the conference. The conference papers included in this document represent the views of their respective authors and were not subject to RAND’s research and quality assurance processes.

The U.S. commitment to an active role in Asia has continued under the Trump administration. It has been evident, even from the early days, that the administration has chosen not to inherit the all-encompassing nature of Barack Obama’s “Pivot to Asia” unchanged. In some cases—such as the Trans-Pacific Partnership (TPP) and the 2015 United Nations (UN) Paris Agreement on climate change at the 21st Conference of the Parties (COP21) (which is global but involves Asian, and particularly Chinese, interests)—the United States has withdrawn and, indeed, seems to have put economic and climate change issues on the back burner. In other cases, such as on human rights issues, the United States may participate but is unlikely to retain the lead role. However, in some cases that the Obama administration de-emphasized, such as the Belt and Road Initiative, the Trump administration seems to be willing to consider the terms of engagement. Some regions that were priorities for Obama, such as South Asia, have lost salience. The Trump administration has devoted considerable administrative capacity to such national security issues as the situation in the Korean peninsula, although there have been limited changes on the ground.

These changes make it hard to describe the Trump administration’s Asia policy in simple terms. However, it is equally hard to imagine that there will be no American engagement in each of these areas. For example, the United States has historically played a leading and active role in coordinating its macroeconomic policies with those of other countries. As part of this effort, consultations with leading Asian countries, notably China and Japan, have been ongoing for several years. If the United States chooses to “go it alone” in macroeconomic policymaking, the outcomes are likely to be significantly negative for all countries, including the United States itself.



The other question is how Asia will respond. The emerging trends suggest that there will be some structural changes. For example, on climate change, China and India have responded to the American withdrawal from COP21 by reaffirming their commitment to it. This, in combination with Europe's continuing support for COP21, suggests that a new leadership structure could emerge over time, with Asia playing a more prominent role. On trade, the American withdrawal from the TPP seems to have created a vacuum, with the affected countries, such as Japan and Vietnam, seemingly unwilling to fill the gap. This is likely to continue, and for good reason. None of the remaining TPP countries has the volume of trade with each other that they have with the United States, nor do they have the high standards of business practices that the United States has. Efforts to create a *TPP-11* (i.e., the original 12 TPP countries minus the United States) have been made, but the lack of progress after several months of negotiations suggests that the efforts are at least partly designed for domestic public consumption, given how much political capital was expended on the original partnership by officials in these countries.

Conference participants agreed that, under the administration of President Donald Trump, significant changes were under way in several of these areas. While the dimensions of these changes are still emerging, Asia's dynamism and the risks that a lack of collaboration might pose for both the United States and Asia argue for a continued U.S. leadership role in the region.

In the following sections, we summarize specific areas of focus at the conference, including climate change; trade, foreign direct investment, and intellectual property; national security; human rights; and macroeconomic issues.

## Climate Change

In her paper, "The Outlook for U.S. Engagement on Climate Change in Asia," Joanna Lewis of Georgetown University discusses U.S. policy on climate change and how it has shaped relations with China and India. She notes that the failure of the UN to concur on a global climate agreement at the Copenhagen summit in 2009 triggered a decision by the United States to seek bilateral agreements with China and India—the three main individual emitters of greenhouse gases (GHGs). Initially, each party sought to agree on the terms of engagement. These terms were seen as confidence-building measures as much as technical measures and led to the COP21 agreement. China and the United States were the driving forces of COP21, which has become the guiding arrangement over time, and as of May 2017 counted 174 countries as signatories, including India and Japan.

Lewis notes that the U.S.–China relationship is of particular strategic importance to climate change because clean energy cooperation has become the centerpiece of the bilateral relationship. This has happened over a period of time. The United States and China, the world's two largest individual emitters of GHGs, have been cooperating on climate change and clean energy for several decades. Indeed, Lewis notes, "[s]ince 2009, this cooperation has been greatly enhanced and expanded, resulting in thousands of people from both countries working together

to do collaborative research, to share experiences and information, and to develop commercial ventures to deploy clean energy technology.” The current high-level engagement between the leaders of the two countries—including through the Strategic and Economic Dialogue—allows them to discuss politically sensitive issues, from trade barriers to international security, and it ensures that the two largest national economies in the world have a diplomatic means of defusing potential conflict.

In this context, climate change and clean energy have been powerful, unifying issues in the U.S.–China bilateral relationship. There may be no other issue where both countries have more interests in common, in terms of their concerns about mitigating the economic impacts facing both climate-vulnerable communities and domestic coal communities and their desires to diversify their energy mix. While both countries collaborate in research and development (R&D) activities related to numerous clean energy technologies, they each also strive to be global leaders in developing these new energy industries, which have increasingly become a source of competition in the marketplace. Launched in 2013, the Climate Change Working Group (CCWG) was extremely important for creating a forum for dialogue in advance of the Paris negotiations. Without the CCWG, communications would likely have been more difficult in the run-up to the Paris negotiations, as had been the case in Copenhagen. Indeed, the successful outcome of the Paris negotiations was due in large part to the fact that the leaders of China and the United States were on the same page.

At the technical level, solid progress has been made on clean energy technology cooperation in the CCWG and beyond. Almost all bilateral agreements (including those signed long before the Copenhagen meeting in 2009) have been continued and expanded to cover nearly every issue of importance in the energy and climate area.

Now that there are so many tracks for technical cooperation between the two countries, there is actually some concern about coordination across them. On the U.S. side, interagency coordination has become increasingly complex, because cooperation involves multiple agencies working on related topics. In addition, some of the more promising tracks have garnered less attention in recent years. For example, the U.S.–China Clean Energy Research Center—perhaps the most ambitious of the clean energy cooperation mechanisms—has been expanded from three to five tracks, requiring the coordination of hundreds of researchers and projects and millions of dollars of funding to ensure successful research outcomes.

The Paris Agreement on climate change was the centerpiece of U.S.–China cooperation. Both countries made significant commitments to emissions reduction in advance of the Paris meeting, and this had a major global impact. Lewis notes that by the time leaders gathered in Paris at COP21 in December 2015, 180 countries representing nearly 95 percent of global emissions had already announced their own climate targets. This was crucial to building the international momentum that led to a successful new agreement.

The climate goals embodied in COP21 align with the domestic policy strategies of China and India, as well as with those of other leading carbon dioxide (CO<sub>2</sub>) emitters in Asia and Europe,

whereas U.S. domestic policy is less aligned. This suggests that Asian countries will continue to implement ambitious domestic climate policy goals even if the United States were to back away from its Paris commitments. If the United States continues to participate in global climate change negotiations, Lewis suggests that there are some opportunities for cooperation between the United States and China, such as shaping the use of public finance for low carbon investment. With India, where cooperation is in earlier stages, opportunities lie in helping India reform its energy sector to introduce regulations that help lower emissions and in technical cooperation on alternative fuels and the more efficient use of coal.

In her paper, “Climate Change: How Asian Countries Are Responding to the Problem and How They View U.S. Climate Policy,” Yasuko Kameyama of Japan’s National Institute for Environmental Studies discusses the forces that influenced domestic policymaking on climate change in four countries: Japan, South Korea, Indonesia, and India. She notes that all four countries differ from the United States in that they have a shared recognition that climate change is a serious global threat. By contrast, the U.S. view has differed with time. For example, under President George W. Bush, the United States withdrew from the Kyoto Protocol in 2001, citing “scientific uncertainty” as one of three reasons for withdrawal—the other two reasons included the “economic burden” the agreement imposed on the U.S. economy and its unequal treatment of the United States as compared with developing countries.

However, the four countries differ in terms of their level of urgency, willingness to bear costs, and sense of equity (i.e., how emission reductions and costs should be shared). With regard to Japan, Kameyama notes that the U.S. withdrawal from the Kyoto Protocol led Japan to insist that a new agreement was necessary, because reducing its own GHG emissions (at the time, less than 3 percent of total GHG emissions) would not by itself mitigate global climate change. Japan decided to stay away from further climate change negotiations as a result and played only a marginal role in the negotiations leading up to COP21, to which it is currently a signatory.

Kameyama labels Japan’s climate policy implementation as “not satisfactory,” attributing this largely to Japan’s domestic politics. The leading party, the Liberal Democratic Party, is, according to Kameyama, “closely tied to Japan’s business and industry sector, which has shown little enthusiasm for climate change policy.”

Japan’s strategy for reducing GHG emissions during the 2000s was to increase its use of nuclear power. However, after the Fukushima disaster of 2011, nuclear power reactors were shut down across the country. Japan was able to meet its Kyoto emissions targets not by investing in alternative low-carbon energy sources, but by sequestration of forests and by purchasing emission credits from overseas.

Kameyama is doubtful as to whether Japan will achieve the target it has agreed to in COP21, noting that the target relies on a return to significant reliance on its nuclear power supply, which is politically contentious. Further, the Shinzō Abe government’s deregulation of the electricity market since April 2016 has triggered a large increase in coal-fired power plants, without corresponding measures to price-in the increased carbon emissions of such plants. Meanwhile,

industry continues to oppose climate change measures, arguing that they would reduce Japanese competitiveness. Kameyama concludes that the current “scenario leads to an unhappy ending where Japan would not be able to reach its emission reduction targets.”

With regard to South Korea, Kameyama notes that because of its “heavy reliance on fossil fuel energy” and because its industrial base consists of “heavy industries,” Korea has not managed to control emissions growth. Korea passed the Framework Act on Low Carbon Green Growth in 2010, which is aimed at reducing emissions to defined targets by 2030. Korea, like Japan pre-Fukushima, has relied on nuclear power to reduce the carbon intensity of electricity generation. Unlike Japan post-Fukushima, Korea has continued with this strategy. Kameyama is, however, doubtful that Korea will achieve its emissions reduction target because of the lack of a clear definition of baseline emissions and because of industry opposition to these targets.

With regard to Indonesia, Kameyama notes that although it is a relatively small emitter, Indonesia faces a unique problem: Its carbon emissions have soared because of deforestation and the accompanying underground peatland fires that release large amounts of GHGs into the atmosphere.

As a country rich in carbon-intensive energy resources (oil, coal, and gas), Indonesia shared the U.S. concern under the Bush administration of delaying energy-saving and renewable-energy policies. This changed after forest conservation activities attracted foreign finance to the country. However, it is unlikely that Indonesia will be a leader in supporting climate change policies.

As for India, although it is a small emitter on a per-capita basis, the country has become the third-largest GHG emitter. India has been a strong proponent of the equity position, arguing that developing countries should reduce emissions only when their per-capita emissions approach the levels of developed countries. It has also argued that developed countries should pay for mitigation and adaptation activities in developing countries. COP21 did not reflect these concerns, but India ratified it in September 2016 all the same, apparently after being persuaded to do so by the Obama administration.

As Lewis notes in her paper, the Obama administration supported India’s initiatives to build a renewable energy industry. Kameyama concludes that, combined with the commitments of COP21, India’s move toward decarbonization will continue independent of U.S. policies under the Trump administration.

## Trade, Foreign Direct Investment, and Intellectual Property

A long-standing pillar of the U.S.–Asia relationship has centered around trade and foreign direct investment (FDI). The developed nations of Asia and the United States have benefited from superior intellectual property (IP) stocks. This has been challenged in recent years, both through indigenous development of IP and IP theft. In their paper, “The U.S.–Asia Economic Relationship: Policy Implications of Recent Trends in Trade, Foreign Direct Investment, and

Patenting,” Difei Geng of the University of Arkansas and Kamal Saggi of Vanderbilt University explore how these issues are likely to evolve.

Between 1990 and 2014, Asia’s share of global gross domestic product (GDP) rose from one-quarter to one-third; this reflects China’s share dramatically rising from 7 percent to 40 percent and Japan’s share dramatically declining from 57 percent to 18 percent. Asia’s growth has been built on exports, which were particularly marked after China’s ascension to the World Trade Organization in 2001. Asia now accounts for 40 percent of global exports versus 38 percent for Europe and 8 percent for the United States, with China accounting for the majority of the growth. The United States is the driving force for much of this activity, with Asia accounting for about one-third of U.S. trade, again led by China as both an exporter and importer.

Much of this trade growth has been from manufacturing financed by FDI, with Asia’s share of global FDI stock rising from 16.1 percent in 1995 to 24.4 percent in 2014. However, the U.S. share of FDI in Asia has remained low, with U.S. companies preferring to invest in Europe. From 1990 to 1994, Asia absorbed 14 percent of U.S. FDI flows, but this *fell* to 10 percent from 2010 to 2014.

Asia’s share of global patent applications has also risen, from 49 percent in 1997 to 60 percent in 2014. China accounted for 57 percent of the total in 2014 versus 4.3 percent in 1997; most of this increase came from domestic companies.

These trends show that in trade and FDI, the United States continues to play the role of importer and, to a more limited extent, investor in Asian manufacturing. This is because of the United States’ superior IP and its accumulated stock of capital. Although it is too early to tell, this may change in the future if the quality and quantity of IP developed in Asia improves and as the stock of accumulated capital in Asia expands. Geng and Saggi note that the rise of Asian innovation will likely create new opportunities for increased U.S.–Asia cooperation in the realm of IP, an area hitherto characterized by significant friction between the two regions. They note that a promising trend is the increase in U.S. patents granted to co-inventions that resulted from collaboration between U.S. and Asian researchers.

For the Trump administration, the lesson is that the United States has benefited greatly from its economic relationship with Asia and should look for ways to enhance that engagement. One of these areas is FDI, where the United States has lagged behind other countries in investing in Asia. Another area is U.S. services trade with Asia, which is relatively limited compared with U.S. services trade with Europe and other regions. To enhance this area, the Trump administration could work with Asian countries on improving the protection of property rights, including IP. The TPP would have accomplished that for a limited set of nations in Asia. Perhaps its abandonment, combined with the Trump administration’s preference for bilateral agreements, can lead to a wide-ranging set of agreements that cover trade, investment, and property rights. But Geng and Saggi conclude with caution on the subject of the United States’ continued support for global trade, noting that the end of American involvement in the TPP suggests that the domestic political climate “does not support overly optimistic expectations on this front.”

## National Security

In his paper, “The Future of U.S. Northeast Asia Policy Under Trump,” Prashanth Parameswaran, associate editor of *The Diplomat*, explores how America’s policy toward Northeast Asia will change under the Trump administration. He asserts that there will likely be “four types of change: a narrower focus on a shorter list of threats; a more selective emphasis on vital allies and partners willing to do more to help contend with these specific challenges; a greater willingness to act unilaterally and to use military force; and a higher receptiveness to engaging with strongmen leaders.”

Why might these changes occur? Parameswaran examines the Obama legacy as a primary cause. The Obama administration, which inherited grave crises in Iraq and Afghanistan and a domestic financial crisis, responded with a “long-game” foreign policy that, he argues, rested on five pillars: (1) cultivating current and emerging powers to facilitate greater burden-sharing in a more multipolar world; (2) building multilateral institutions to shape and reinforce rules and norms; (3) preventing unnecessary conflict and facilitating heretofore unrealized cooperation, including with adversaries; (4) expanding the concept of security to include transnational challenges; and (5) using the full range of available U.S. policy options rather than just military force.

While this approach yielded many successes—for instance, preventing Iran from gaining access to nuclear weapons and enhancing cooperation with China on addressing global climate change—it also resulted in failures, such as continued acts of terror by radical Islamists around the world and North Korea’s ongoing development of nuclear weapons and ballistic and cruise missiles. Narrowing the threats and engaging in quick action—unilaterally and with military options if need be—seems to be the preferred response of the Trump administration, an approach described by the administration’s “America First” motto.

How are these changes likely to play out in Northeast Asia? The Trump administration will probably focus more narrowly on addressing a shorter list of threats that directly affect U.S. interests in the Asia-Pacific. These chiefly include a rising China, a nuclear North Korea, and a lurking Islamic State in Southeast Asia. Coalition-building, such as with Japan, is likely to be more threat-specific than general. Partners will be defined “by their contributions rather than regime type and [the administration] will not be opposed to working with Asian strongmen, be they Thailand’s junta led by Prayut Chan-o-cha, Philippine President Rodrigo Duterte, or Russian President Vladimir Putin, in addition to leaders who are more in line with U.S. ideals, such as Japan’s Shinzō Abe or Taiwanese President Tsai Ing-wen.”

Parameswaran views the Trump administration as more likely than the Obama administration to act unilaterally and use military force as a result of the need for quick results rather than Obama’s long-game approach.

With regard to America’s two key strategic relationships in Northeast Asia—Japan and South Korea—Parameswaran argues that the Trump administration “is likely to move toward further

strengthening the U.S.–Japan alliance even as it seeks some adjustments in the burdens both sides have.” The Trump administration has reiterated its recognition of the Senkaku Islands as an integral part of Japan (which is disputed by China), and collaboration on China and North Korea would be natural next steps.

The election of liberal President Moon Jae-in in South Korea might make the Trump administration’s policy in South Korea more difficult because it could pose “additional challenges with respect to policies toward China and North Korea.” While the administration would like to move to strengthen the alliance against North Korea—including through the deployment of the Terminal High Altitude Area Defense (THAAD) system in Korea—and facilitate trilateral cooperation between Japan and South Korea, these initiatives might not be high priorities in Seoul.

With regard to China, Parameswaran argues that “while the Obama administration was bent on managing U.S.–China competition and ensuring that it did not overwhelm the entire relationship and scuttle opportunities for cooperation, the incoming Trump administration appears to be focused more on the competitive aspects of the relationship.” This may be because the cooperative aspects, such as climate change, are less important to the present administration, or because the administration feels that China will not adequately reciprocate a cooperative stance on such issues as North Korea. Consequently, Parameswaran notes that a more confrontational attitude toward China could be in the offing:

Trump’s China approach is thus likely to focus on strengthening U.S. military capabilities, confronting Beijing where needed, and extracting cooperation from Beijing in a more heavy-handed manner. With respect to building up the U.S. military, Trump has said that he will move to repeal sequestration and invest significantly more in defense spending, with lofty goals such as a 350-ship navy in order to check China’s Asian ambitions. Some Trump advisers have said that plans are already in the works for a major naval buildup to counter Beijing, including basing a second aircraft carrier in the region, deploying destroyers, attack submarines and missile defense batteries, expanding or adding new bases in countries like Japan and Australia, and installing air force long-range strike assets in South Korea.

In the short term, the Trump administration may also be more willing to

... confront China when it comes to perceived flashpoints. The United States could try to actively disrupt China’s ongoing expansion and militarization in the South China Sea, as Trump’s Secretary of State Rex Tillerson had suggested both publicly and privately in conversations with senators. The new administration could also move to strengthen ties with Taiwan. Though much of the media coverage has focused on the One China policy and Trump’s post-election phone calls with Tsai and Xi, his lack of clarity on this question may signal a desire to boost relations in other more substantive ways.

The Trump administration might be hoping to extract more cooperation from China in return for avoiding escalating confrontation. In this sense, the Trump administration hopes to gain a

higher payoff in areas of common interest, particularly in North Korea, although with a different balance between engagement and confrontation.

The short-term outcomes of Trump's Northeast Asia policies are likely to be in what happens with North Korea. Parameswaran argues that the "Obama administration's approach of 'strategic patience'—tightening sanctions and boosting deterrence and hoping that Pyongyang returns to the table—has proven ineffective." Any comprehensive strategy for North Korea will incorporate elements of deterrence, pressure, and dialogue to varying degrees, and the Trump administration's approach will be no different. That said, the Trump team has thus far been more vocal about deterrence and pressure rather than engagement, suggesting that we will likely see an initially more hawkish approach than the one adopted by the Obama administration when it came into power. However, Parameswaran argues,

... the gravity of the potential threat as well as the attention shown by the Trump team so far indicates that the administration would also be open to both taking measures to slow down North Korea's program as well as undertaking other asymmetric actions, including investing more in covert programs designed to facilitate the conditions for regime change.

In his paper, "Southeast Asia Policy Under the Trump Administration," Gregory Poling, director of the Asia Maritime Transparency Initiative at the Center for Strategic and International Studies, explores Southeast Asia policy under the Trump administration. He begins by noting that a strategic vision for the role of Southeast Asia in U.S. policy has not been laid out. This contrasts with the Obama administration, which saw Southeast Asia as crucial for U.S. interests "in its own right," championed a rules-based approach to the region, and encouraged "ASEAN [Association of Southeast Asian Nations] centrality as the organizing principle for regional architecture." Indeed, Poling posits that the Trump administration might prefer not to enumerate a strategic vision and may instead prefer to pursue relations with Southeast Asia in a more "transactional manner." Certain long-standing commitments of the Obama administration that helped define Asia policy, such as commitments on climate change and human rights, may be downplayed.

A second aspect of the Trump administration that Poling sees is the "unusually small number of experienced foreign policy professionals (particularly) regarding Southeast Asia." To the extent that the administration has paid attention to the region, he notes that officials have "almost exclusively discussed Asia through the lens of China or, more occasionally, North Korea." This seems to reflect the particular expertise of administration staff, including National Security Adviser H. R. McMaster, Secretary of Defense James Mattis, Secretary of State Rex Tillerson, and the senior Asia official on the team, National Security Council Senior Director for Asia Matthew Pottinger, who was a longtime journalist in China.

Indeed, to the extent that there is a general approach to foreign policy in Asia, it appears to be focused on China. Through his campaign and immediately thereafter, Trump was "consistently



negative about China” on various counts—unfair trade, currency manipulation, attempted dominance of the South China Sea, and influence over North Korea.

Several critical issues in Southeast Asia require deep U.S. attention—such as the maritime disputes in the South China Sea, domestic political crises in several ASEAN states, fallout from the abandonment of the TPP, and the resurgence of terrorism—and they could present major problems for President Trump if not handled proactively.

These issues also inject, as Poling notes, an unprecedented degree of uncertainty into U.S. foreign policy after a period of relative certainty. Take, for example, terrorism. Poling notes that “one of the greatest successes in U.S.–Southeast Asia cooperation over the last two decades has been the effective defanging of the terrorist threat that plagued the region at the start of the twenty-first century.” However, the recent rise of the Islamic State has led to an emerging new threat of terrorism in Southeast Asia. Poling argues that “without concerted counter-radicalization and counterterror efforts, closely coordinated among regional and outside actors, including the United States, Southeast Asia could again become a major haven of Islamist terrorism.”

This uncertainty will force states in Southeast Asia to “make policy without knowing how the United States will align on any given issue.” Southeast Asian nations may prefer to hedge against the possibility of U.S. retrenchment in certain unhelpful ways. For example, the Philippines and Malaysia may seek greater accommodation with China, while other states may view growing Chinese assertiveness in the region as unacceptable and may look for new security alliances, as seen in Indonesia’s approaches to Australia and Vietnam’s search for closer military ties with Japan and India.

Poling concludes by arguing that Southeast Asia is too important for the United States to ignore. He notes that U.S. companies have nearly four times more investment in Southeast Asia than in China and ten times more than in India. Combined with rising growth rates in Southeast Asia, he argues that the region’s importance to the United States will increase, even while the economies of the West, Japan, and China slow. Furthermore, with several security issues arising from internal politics and terrorism, Southeast Asia “will demand the Trump administration’s attention sooner or later. Likely political crises in the countries of the region will make those issues much harder to tackle. It would be best for the administration to proactively develop policies for the region before external events force it to do so.”

Evan Laksmana, of the Center for Strategic and International Studies, Indonesia, discusses three hypotheses behind Southeast Asian states’ military spending in the post–Cold War period in his paper, titled “Why is Southeast Asia Rearming? An Empirical Assessment.” The justification for the topic is twofold. First, Southeast Asian states collectively are among the world’s largest spenders on defense. Second, the literature has identified regional forces as important drivers for their military spending. Given these two factors, Laksmana argues that a regional approach, rather than a country-specific one, makes sense.

As outlined in this paper, three regional forces may be influencing military spending. First, there is the external threat: China's rising military and aggressive behavior. Second, there are market forces at work. As their economies grow, states can afford to spend more on defense and rely on imports for hardware. On the supply side, there is an adequate number of international suppliers willing to fulfill this demand. Third, there is the need for military modernization—states need to upgrade their aging equipment to meet day-to-day operational demands.

Laksmana focuses most of his paper on addressing whether the China threat is the driver for defense spending. He notes that, while each of the ten Southeast Asian states is unlikely to match China's defense spending, their logic for spending more in the face of the China threat is to raise the deterrence value to China.

If the China threat is real, Laksmana notes that we ought to observe one or more of the following actions when states raise their defense spending in response: (1) the rise in spending (on procurement of equipment) should be commensurate with the rise in China's own spending; (2) procurement strategies should match the threat (e.g., in the kinds of equipment purchased); (3) states would avoid importing arms from China; and (4) states would develop strategies, operational concepts, and force structures for a possible conflict with China.

If market forces are important, we should observe (1) reliance on a small number of foreign suppliers by each country; (2) supplier commitment to countries, including accepting localization requirements; and (3) competition among suppliers based on price rather than attributes.

Finally, if military modernization is important, we should observe (1) spending on upgrading or replacing existing platforms and (2) large allocations to platform spending relative to total spending.

Of course, as Laksmana argues, multiple forces may be at work, and the observables may support more than one of the three hypotheses. For example, he notes that "it is entirely plausible that for some Southeast Asian states, while 'militarily balancing' against China may be a strategic imperative, the manner through which they could proceed may be structurally constrained by their import-dependent force structure as well as their aging platforms."

Turning to the empirical analysis, Laksmana finds that the proportion of defense spending on operations and maintenance and personnel is dominant, accounting for about 80 percent of the average defense budget since 2012 (and projected to 2021), while procurement accounts for most of the rest, with relatively small allocations for R&D (which likely reflects the overwhelming dependence on foreign suppliers). Procurement and R&D accounted for spending of about \$1 billion annually between 2012 and 2016. By comparison, Japan spent \$7 billion and India spent \$10 billion annually on average on procurement since 2014, while South Korea is expected to spend \$10 billion in 2017 alone on defense modernization.

Further, a comparison of Cold War (1950–1990) spending by Southeast Asian states on imported military technology and equipment with that of the post–Cold War period (1991–2015) shows a relatively unchanged annual figure in constant dollars across all the states, with some variations. This is in contrast to the rise in China's own defense spending. These findings suggest

that the China threat was not considered serious by Southeast Asian states in strategizing defense spending.

An examination of the types of imported defense equipment shows that spending in the post–Cold War period has gone into a few key types of platforms, notably aircraft; ships; sensors or command, control, communications, computers, intelligence, surveillance, and reconnaissance capabilities; and missiles. There is an emphasis on building naval capabilities in particular. Laksmana attributes this to the rise in maritime challenges related to law enforcement, such as piracy, trafficking, and illegal fishing—which are not directly related to a China threat—and to the increasing deployment of naval assets for purposes other than protecting sovereignty.

Turning to the military modernization hypothesis, Laksmana examines the average age of imported military technology and discovers that, as of 2016, the average age exceeds 20 years for almost all Southeast Asian states (except for Myanmar, which is 19.7 years). Given that most military platforms have an average age of 20–25 years, military modernization appears to be a necessity.

Support for the market forces hypothesis is found in the number of suppliers, which remains small and almost constant in both the Cold War and post–Cold War periods for each state. This partly reflects “lock in” because of the high costs of changing platforms, but, given the steadiness over the long term, it indicates support for the market forces hypothesis. The United States is the largest supplier, followed by Russia and China. China is a significant post–Cold War supplier only to Thailand and Indonesia.

Laksmana concludes that there is “little support for the China threat argument” and that the data suggest more support for both the market forces and military modernization hypotheses. Laksmana acknowledges that separating the latter two hypotheses will require additional data on modernization projects within countries and access to suppliers’ market share data, which were outside the scope of the paper.

## Human Rights

In her paper, “Human Rights and U.S. Policy in Asia,” Sophie Richardson of Human Rights Watch notes that since the late 1970s, the United States has identified minimizing or ending human rights violations around the world as a foreign policy priority. She asserts that, while “U.S. governments never intended that human rights would replace or even surpass other foreign policy concerns, such as national security or trade,” the reality is that in the face of complex challenges, “all too often they have merely given lip service to human rights in favor of other concerns.”

As in the Cold War era, China’s growing economic power and regional assertiveness present the challenges of dealing with China’s human rights infringements and balancing concerns about human rights with China’s growing influence in many countries. As Richardson notes,

[w]hile it is not axiomatic that respecting rights in other parts of Asia cements ties to the U.S., the abusive nature of governments in Burma,<sup>1</sup> Cambodia, North Korea, the Philippines, and Thailand means that the U.S. faces far more complex and less certain relations with each—particularly in the face of competition with China for regional relations, which places no value on whether another government is rights-respecting.

Richardson assesses how U.S. relations with Asian states have been shaped by human rights policies. She discusses the history of legal reforms to protect human reforms in China. Despite these reforms, Richardson argues that “many of the commitments exist only on paper and are not meaningful protections of human rights, particularly when the exercise of those rights is seen as a threat to the authorities.” Chronicling several cases of human rights violations, she argues that the abuses of human rights appear to have increased under the regime of President Xi Jinping.

To understand Chinese trends in human rights, Richardson notes the following underlying driving forces:

- **A growing national security rationale, leading to a large increase in the domestic security apparatus.** Richardson notes that “[t]he contents of these laws directly contravene some of Beijing’s most fundamental human rights obligations: the right to a fair trial, including access to family members and counsel of choice, and the right to peaceful expression. Impunity for security forces when they commit human rights or simple criminal or procedural violations is almost total.”
- **Increasing willingness to use the legal system as an instrument of Communist Party power.** After a period of reforms that promoted the legal system as a way to protect human rights from the 1980s onwards, the reformist trends began to reverse in the mid-2000s. Recent restrictions include limits “on the kinds of cases lawyers could take up, the expectations that judges consult with Party authorities on ‘sensitive’ cases, and whether and how independent lawyers could practice outside a firm.” Richardson notes that judges often “refuse to take seriously defendants’ allegations of mistreatment and ignore clear evidence of mistreatment; arguably, most important to deterring similar behavior in the future, police and detention center officials are rarely held accountable for the mistreatment of defendants.”
- **Shrinking space for free expression.** While censorship of traditional media has continued in China, the government has developed tight controls over internet-based media, including firewalls, banning several social media sites, and restricting access to Virtual Private Networks. The current environment is captured by a statement in February 2016 during a visit to the headquarters of People’s Daily, Xinhua, and China Central Television, when President Xi stated: “All news media run by the party must work to speak for the party’s will and its propositions, and protect the party’s authority and unity.”

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<sup>1</sup> In 1989, the ruling military junta changed the country’s name from Burma to Myanmar. The usage thereafter was political: Burma was used by the pro-democracy faction, while Myanmar was seen as a recognition of the military junta’s rule. Recently, this distinction has become less pronounced: Native speakers use Myanmar in formal or literary documents and Burma in everyday language. The two are used interchangeably in the papers in this document, although Myanmar is standard usage for RAND.

Richardson notes that China has also increased controls over the judiciary and free expression in Hong Kong and refused to “fulfill the promise of universal suffrage in the territory, as articulated by the Basic Law.” Furthermore, Chinese authorities have pressured countries to return those of its citizens who have sought asylum overseas. China has even been willing to dispatch members of its security apparatus in pursuit of allegedly corrupt officials who have fled abroad, a possible cover for human rights abuses.

Richardson notes that while a few countries, including the United States, have quietly indicated their dismay at such behavior to Chinese authorities, no country has yet sought to prosecute that conduct. The dilemma is that China classifies its actions as protecting its national security, making it difficult for the United States and other countries to determine otherwise and try to prevent such behavior. In fact, as Richardson notes, “the U.S. has often claimed it has limited leverage to improve the human rights situation in China—a claim it rarely makes about economic or trade challenges, security threats, or other problems in the bilateral relationship.” One risk to such behavior, she notes, is that it raises the possibility that the United States could be seen as complicit in serious human rights violations in China.

Richardson believes that more could be done. She notes that China needs

. . . international cooperation on a host of issues[:] [T]hey are worried about their long-term rule, and they loathe public embarrassment. And they are dependent on the outside world for markets governed by robust institutions, free-thinking institutions of higher learning, second passports if the political tide turns against them, and international banks in which to stash their money. All of these realities should be exploited to protect and promote human rights.

Among other measures, Richardson notes that Human Rights Watch (HRW) has called for adding an explicit human rights component—at the same level that issues like economic and trade policy enjoy—to the U.S.-China Strategic and Economic Dialogue. HRW has also called for the United States to deny visas to known human rights abusers and impose sanctions. However, the extent to which the Trump administration will be willing to take these steps in the face of likely sharp opposition from China is not clear.

Richardson discusses the complexities of dealing with human rights issues in a number of other Asian countries. In North Korea, where human rights abuses are also deep and rampant, the three biggest issues facing the incoming administration are (1) how to better integrate human rights issues into larger diplomatic efforts, (2) how to maintain diplomatic momentum at the UN level on advancing the regime’s accountability, and (3) how to better incorporate human rights and protection issues into contingency planning for a regime collapse. The issue is that North Korea is already a heavily sanctioned country. Short of military intervention, there may be little that can be done.

In Myanmar, where human rights abuses continue despite a political transition to a more liberal regime, the challenge is countering Chinese presence. Chinese presence seems to have

restricted past American interventions to calls for improving respect for human rights and has prevented the United States from pursuing sanctions or other transactional restrictions.

In the Philippines, a U.S. ally, the rising illiberalism of the Duterte regime poses a similar dilemma for the United States in the face of rising Chinese influence. The United States has been largely unwilling to press the case for human rights. In Thailand, another U.S. ally, a military junta with “little tolerance for basic civil and political rights,” according to Richardson, also faces little pressure on human rights from the United States. The situation is similar in Cambodia, where human rights have in recent years been under immense strain in the regime of Hun Sen. While Cambodia is not a U.S. ally, the state continues to receive U.S. aid for its economy and democratization, in an effort to manage China’s influence over Cambodia.

Richardson concludes that, while the United States’ preference is for supporting human rights in the region, the region’s recent track record is mixed, and the United States faces some highly intransigent governments in countries like China and North Korea, as well as a complex situation in which human rights often lose their priority in the face of other, more-complex challenges. She notes that

. . . it is unclear what, if any, emphasis the new U.S. administration will place on human rights at home or abroad. The stakes are high: whether the U.S. will serve as defender—however flawed—of human rights and democratic rule in one of the world’s most critical and dynamic regions, or whether it will uncritically partner with abusive regimes and help cement their rule, will likely have consequences for decades to come.

In his paper, “U.S. Human Rights Policy and Asia: View from the Region,” Michael Davis of the National Endowment for Democracy analyzes the sources of domestic weaknesses that inhibit achieving a high level of respect for human rights in Asia and asks how the United States can support human rights. He notes that it is in the interest of the United States to do so. As he points out, the region’s more established democracies,

such as Japan, South Korea, Taiwan, Indonesia and India, have generally been closely aligned with the United States. For emerging or fragile democracies, such as . . . the Philippines, Myanmar and Thailand, such alignment has tended to strengthen as democratization and associated human rights protections strengthen and weaken when they go the other way.

To make his argument, Davis provides examples of democracies, including in countries where democracy has been fragile, in which constitutional development remains the challenge to human rights. Davis’s core argument is that weak constitutional systems—in design or implementation—are behind human rights failures in Asia. He identifies three “basic institutions of liberal constitutional governance: democracy, human rights, and the rule of law.” Institutions that target human rights abuses, such as national human rights commissions, topic-specific commissions, and corruption-fighting bodies, round out the constitutional framework. Under the heading of indigenization, Davis argues that these institutions should be shaped to address local conditions, with an eye to expanding the tools of local inclusion and accountability.

The U.S. approach to promoting human rights in Asia has been twofold. First, it conducts human rights reporting, particularly through U.S. Department of State annual reports on human rights in countries of the world. Through the *Religious Freedom Report* and related reports, the United States highlights areas of concern in Asia, such as electoral rights, freedom of expression, labor rights, discrimination, rights associated with communal conflict, and the human rights of children, women, and minorities.

The second U.S. approach has been to more explicitly promote human rights through the official arm of the United States Agency for International Development, whose mandate includes the promotion of “political freedom as an integral part of development.”<sup>2</sup> In addition, the United States finances quasi-independent organizations, such as those funded through the National Endowment for Democracy. However, these activities must have host-government approval, which can severely limit their effectiveness.

Several private American organizations also promote human rights. Such organizations are less constrained by host-government requirements, but they are subject to host-country rules on their activities. These organizations tend to focus more narrowly on a specific category of rights—such as electoral, labor, gender, minority, or children’s rights—leaving little room for addressing broader constitutional issues. In the face of growing constitutional crises in the Asian region, much more sustained and focused work on constitutional development appears to be needed.

To illustrate the importance of a constitutionalist approach to human rights, Davis discusses constitutional crises in the Philippines, Thailand, and Myanmar. The Philippines, notes Davis, is a fragile democracy that has long suffered from weak institutional commitments to guard basic human rights. The country has a reasonably well-articulated constitutional design and employs such supplemental institutions as a National Human Rights Commission, the National Commission on Indigenous Peoples, and various other institutions to monitor corruption and human rights. It also uses autonomy arrangements to address the concerns of national ethnic minorities. Civil society is also active with many local human rights nongovernmental organizations.

Yet, Davis notes, the country “endures an almost continuous constitutional crisis due either to weak implementation or lack of resources.” As a result, the Philippines faces persistent and prominent human rights problems, such as extrajudicial killings, disappearances, political prisoners, a weak criminal defense system, weak prosecutorial institutions, trafficking, child prostitution, and impunity in the military. Under President Rodrigo Duterte, the National Human Rights Commission has been officially criticized.

Since 2014, Thailand has been under the leadership of the military following a coup d’état. The interim constitution and martial law decrees, backed by numerous arrests, have severely

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<sup>2</sup> U.S. Department of State, *Enduring Leadership in a Dynamic World, Quadrennial Diplomacy and Development Review*, Washington, D.C., 2015.

limited free expression rights, including freedoms of speech, assembly, the internet, the press, and academic freedom. The *lèse-majesté* law was among the prominent tools of this crackdown, despite historically high levels of civic engagement and popular support for democracy.

Davis attributes this situation to weak institutional support for human rights enforcement, with courts and human rights commissions sometimes captured by the regime in power. The Supreme Court has upheld *lèse-majesté* convictions to enforce tough internet restrictions.

Myanmar is a recent democracy, having held open elections in 2015. The military retains substantial power over parliament and any constitutional amendments that it may pass. Under military rule, human rights violations were extreme and severe. These included violations with respect to the Muslim Rohingya minority. Davis notes that “with the military controlling the defense portfolio it is not clear how much control the NLD [National League for Democracy] government has over military policies respecting the Rohingya but it is increasingly clear this major human rights challenge is raising questions about the NLD’s continuing commitment to human rights.”

Other areas of persistent human rights violations include “high rates of rape and sexual violence, human trafficking, forced labor, a history of police abuse, poor prison conditions, arbitrary arrest and detention, child soldiers, corruption, lack of academic and assembly freedoms, and land rights conflicts.” Part of this, Davis argues, is because of the legacy of a “judiciary that enforced the harsh practices of the past.” It remains “heavily corrupted and lacks independence.” As of 2017, following crises and resignations, the Myanmar National Human Rights Commission “remains in a state of dysfunction.” Unlike in the Philippines and Thailand, civil society is relatively weak.

Davis argues that, for various reasons, these three countries ought to be receptive to U.S. engagement on human rights. The Philippines and Thailand are U.S. allies and have a long history of close relations with the United States, while Myanmar is keen to open its doors to U.S. investment and has tilted away from China in recent years.

Noting that popular protests to meet human rights challenges often lack an adequate understanding of constitutional goals, Davis sets out a list of recommendations for U.S. engagement in Asia. These recommendations are to:

1. **Articulate the broad constitutional design.** In particular, it is important to understand the ways in which constitutionalism engenders inclusive politics, including both constraint and empowerment.
2. **Provide assistance to activists and constitution drafters, with an emphasis on putting in place core constitutional fundamentals.** These fundamentals include democracy, human rights, and the rule of law. This should leave scope for indigenization and should be derived from interaction and mutual consultation in a dynamic process that upholds core values.
3. **Confront the arguments of authoritarian regimes.** Davis notes that there are several successful cases of democratization in Asia and that these should be used to



demonstrate “how constitutional institutions can better address cultural and religious concerns and create the conditions for sustained economic development.”

4. **Support inclusive constitution-making and design, with an initial focus on building consensus on constitutional fundamentals.**
5. **Establish national human rights commissions.**
6. **Focus on constitutional implementation through a judicial-driven emphasis on discourse and inclusion.** Davis notes that in emerging democracies, the role of judicial mediation will likely be critical to the survival of the constitutional system.
7. **Support federalism and autonomy in multinational states.** Davis notes that the failure of human rights protections for ethnic groups has been a major challenge across the region. Addressing this issue through constitutional federalism and autonomy early in the process is critical.

Davis concludes by noting that the United States has vast expertise on human rights issues that should be very valuable in Asia. This expertise should be used effectively and is preferable to the current “thin constitutional approach to promoting human rights,” i.e., making changes to a country’s constitution (Davis’ first recommendation listed) without also following up with the remaining recommendations. Davis argues that this broader approach would be welcomed by the population in many Asian countries, especially because nearly every Asian country has committed to some version of constitutionalism.

## Macroeconomic Issues

Ming-Te Sun of the Taiwan Institute for Economic Research and Pei-Shan Kao of Taiwan’s Central Police University’s Department of Border Police explore macroeconomic volatility in East Asia in their paper, “A Discussion on Macroeconomic Volatility in East Asia.” Slowing economic growth is the leading cause of several structural changes in the region, with attendant risks to growth and rising volatility. China is the region’s key player in this process. China previously offered immense opportunities for East Asian economies to create supply chains built around low-cost Chinese labor. But China’s continuing rise has led to it capturing more of the high-value-added work from its erstwhile East Asian collaborators. This had led to the rise of the so-called “red supply chain,” in which the entire supply chain, including high-end work that was previously conducted in East Asia, is moving to China. This has severely affected growth in East Asia.

It has been difficult for East Asian states to reduce their dependence on China, although they are trying to do so by creating new supply chains in Vietnam and other low-cost environments. Sun and Kao show that the foreign trade dependence (FTD) of East Asia on China—the ratio of East Asian countries’ trade volume with China to their own GDP—is continuing to grow. FTD figures for 2015 range from 6.5 percent for Japan (compared with 0.1 percent in 1996) to 16.5 percent for South Korea (9.2 percent in 1996) and to 21.2 percent for Taiwan (16 percent in 1996).

One reason for the continued high FTD is that China is slowly transforming itself into an attractive country for consuming high-end finished goods. This helps exports from East Asian economies, but it also incentivizes them to expand their supply chains within China for high-end work. Sun and Kao provide data to show that manufacturing within China is increasingly concentrated in finished goods. Imports into China for subcontracting work—that is, work in the intermediate stages of the supply chain—decreased from 40 percent of total imports to 26.6 percent between 2006 and 2015.

Apart from the growth of the “red supply chain,” China is trying to build supply chains into low-cost economies outside East Asia. Sun and Kao note the large potential impact of China’s ongoing Belt and Road Initiative, which will connect China by land to Eurasia and by sea to Southeast Asia.

Sun and Kao examine data on trade linkages to assess the potential for supply-chain growth and to find those who might benefit from that growth. To do this, they use the participation in global value chains (PGVC) measure. This measure is calculated by adding backward linkages (foreign value added as a share of gross exports) and forward linkages (domestic value added embodied in foreign exports as a share of gross exports). A high backward linkage would mean that a country’s exports include a greater contribution from value-added imports, while a high forward linkage would mean that exports contain lower domestic–value-added activities.

Sun and Kao find that the PGVC share is high in all of East Asia, ranging from 47.5 percent in Japan to 67.7 percent in Taiwan in 2011, and that it has increased with time. This confirms the intensity of cross-border supply-chain activities as part of the trade mix. However, they show that only Japan has a low backward linkage and a high forward linkage. China, South Korea, and Taiwan all have higher backward linkages and lower forward linkages, suggesting that these three countries have greater potential to rebalance their exports by creating supply chains outside Northeast Asia and China. Interestingly, Sun and Kao use data from the United States to show that its PGVC, as of 2011, is about 40 percent. This suggests that the United States would also be affected deeply if it seeks to rebalance trade away from the region.

Sun and Kao ask what the United States can do in this situation. They note that the abandonment of the TPP by the Trump administration presents Japan and South Korea with the difficult choice of either being marginalized from Asian growth or joining the ASEAN-led Regional Comprehensive Economic Partnership, in which China is the dominant player. In response, Sun and Kao call for the United States to reengage with the Asia-Pacific region, perhaps bilaterally in the initial stages but with a more multilateral approach later.

## Abbreviations

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9/11	September 11, 2001, terrorist attacks
AD	antidumping
AIIB	Asian Infrastructure Investment Bank
APP	Asia-Pacific Partnership on Clean Development and Climate
ASEAN	Association of Southeast Asian Nations
BASIC	Brazil, South Africa, India, and China
BRI	Belt and Road Initiative
C4ISR	command, control, communications, computers, intelligence, surveillance, and reconnaissance
CBDR	common but differentiated responsibility
CCDI	Central Commission on Discipline Inspection (China)
CCWG	Climate Change Working Group
CERC	U.S.–China Clean Energy Research Center
CFC	chlorofluorocarbon
CO <sub>2</sub>	carbon dioxide
COC	code of conduct
COP	Conference of the Parties
DOC	Declaration on the Conduct of Parties in the South China Sea
DoS	U.S. Department of State
DPJ	Democratic Party of Japan
EIG	Environmental Integrity Group
EPA	U.S. Environmental Protection Agency
EU	European Union
FDI	foreign direct investment
FTA	free trade agreement

FTAAP	Free Trade Area of Asia Pacific
FTD	foreign trade dependence
FYP	Five-Year Plan (China)
GCF	Green Climate Fund
GDP	gross domestic product
GEF	Global Environmental Forum
GHG	greenhouse gas
GIS	geographic information system
GP	Ginarte-Park
GWP	global warming potential
HFC	hydrofluorocarbon
HRW	Human Rights Watch
IC	integrated circuit
ICAO	International Civil Aviation Organization
IMF	International Monetary Fund
INDC	intended nationally determined contribution
IP	intellectual property
IPCC	International Panel on Climate Change
IPR	intellectual property rights
IT	information technology
LDP	Liberal Democratic Party (Japan)
MFN	most-favored nation
NATO	North Atlantic Treaty Organization
NCPO	National Council for Peace and Order (Thailand)
NED	National Endowment for Democracy
NGO	nongovernmental organization
NLD	National League for Democracy (Myanmar)
ODOR	One Belt One Road

ODS	ozone-depleting substance
OECD	Organisation for Economic Co-ordination and Development
PACE	Partnership to Advance Clean Energy
PGVC	participation in global value chains
PRC	People's Republic of China
R&D	research and development
RCEP	Regional Comprehensive Economic Partnership
S&ED	Strategic and Economic Dialogue
SIPRI	Stockholm International Peace Research Institute
THAAD	Terminal High Altitude Area Defense
TPP	Trans-Pacific Partnership
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNFCCC	United Nations Framework Convention on Climate Change
USAID	U.S. Agency for International Development
USPTO	U.S. Patent and Trademark Office
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

# Chapter One. The Outlook for U.S. Engagement on Climate Change in Asia

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Joanna Lewis, Georgetown University

## Introduction

The United States has developed partnerships with several countries in the Asia-Pacific region on topics of mutual strategic importance. Over the past eight years, climate change has emerged as one of these strategic issues. Asia is made up of a diverse set of countries which have made different contributions to the climate change problem and have different roles to play in its solution. It is also home to many vulnerable countries that will face the impacts of climate change.

Within Asia, China is of utmost importance in the climate change challenge due to its role as the largest emitter of greenhouse gases in the world. As such, it has become a strategic partner of the United States, the second-largest national emitter of greenhouse gases, in policy discussions surrounding climate change and clean energy. The United States, during the Obama presidency, has pursued an aggressive bilateral agenda to scale up cooperation with China on clean energy and climate change. India, another important emerging economy with rapidly growing greenhouse gas emissions, is also increasingly becoming an important strategic partner for the United States in combating climate change. While the bilateral relationship with India has been somewhat less of a priority for the United States over the past eight years, its importance increased during the last couple of years of the Obama administration, and particularly as countries negotiated a new international climate agreement in Paris at the end of 2015.

This paper examines the past eight years of U.S. climate policy engagement in Asia, focusing on China and India. It then lays out strategic priorities to continue bilateral cooperation with these countries on climate change and discusses the politics of climate engagement and how they may evolve under the Trump administration. Finally, the paper explores the outlook for how the domestic climate change policy strategies of key Asian nations may evolve in the coming years, given potentially significant changes in U.S. domestic climate policy and U.S. engagement on climate change with Asia and the rest of the world.

## U.S. Climate Policy and Engagement in Asia in the Obama Era

The Obama administration made climate change a cornerstone policy issue, particularly during the President's second term. The first term began with the breakdown of the international climate negotiations in Copenhagen in December 2009 and the failure of Congress to pass a bill on

national climate legislation in 2010. This caused a change in course, and a move by the Obama administration to direct the U.S. Environmental Protection Agency (EPA) to regulate carbon dioxide in the June 2013 Climate Action Plan.<sup>1</sup> A cornerstone of the Climate Action Plan would become the Clean Power Plan, the first-ever attempt to regulate carbon dioxide emissions from power plants under the Clean Air Act. Progress on the Clean Power Plan, along with several other policies aimed at reducing emissions from the power and transportation sectors, laid the foundation for the United States to put forth new international climate targets. This renewed domestic focus on climate policy gave the United States the moral authority to engage with key countries in Asia, including China and India, to try to mobilize the adoption of a new global climate treaty.

### *Bilateral Achievements*

#### China

The U.S.-China relationship is of particular strategic importance, and clean energy cooperation has become the centerpiece of the bilateral relationship. The United States and China, the world's two largest emitters of greenhouse gases, have been cooperating on climate change and clean energy for several decades.<sup>2</sup> Since 2009, this cooperation has been greatly enhanced and expanded, resulting in thousands of people from both countries working together to do collaborative research, to share experiences and information, and to develop commercial ventures to deploy clean energy technology.<sup>3</sup>

The current high-level engagement between the leaders of the two sides, including, but not only, through the Strategic and Economic Dialogue, allows both countries to discuss politically sensitive issues, from trade barriers to international security, and it ensures that the two largest national economies in the world have a diplomatic means of defusing potential conflict.<sup>4</sup> Climate change and clean energy has been a powerful, unifying issue in the U.S.-China bilateral relationship. There may be no other issue where both countries have more interests in common, both in terms of their concerns about mitigating the economic impacts facing climate-vulnerable communities and domestic coal communities, and in their desires to diversify their energy mix. While both countries collaborate in research and development (R&D) activities related to numerous clean energy technologies, both countries also strive to be global leaders in the

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<sup>1</sup> White House Press Office, "Remarks by the President on Climate Change," Washington, D.C.: Georgetown University, June 25, 2013.

<sup>2</sup> Joanna I. Lewis, "The State of U.S.-China Relations on Climate Change: Examining the Bilateral and Multilateral Relationship," *China Environment Series*, No. 11, December 2010, pp. 7–39.

<sup>3</sup> U.S. Department of State, "U.S.-China Memorandum of Understanding to Enhance Cooperation on Climate Change, Energy and the Environment," Washington, D.C., July 28, 2009.

<sup>4</sup> Daniel B. Wright and Mercy A. Kuo, "Assessing the U.S.-China Strategic and Economic Dialogue," *The Diplomat*, July 20, 2016.

development of these new energy industries, which has increasingly become a source of competition in the marketplace.

The Climate Change Working Group (CCWG), launched in 2013, was extremely important for creating a forum for dialogue in advance of the Paris negotiations. Without the CCWG, communication would likely have been more difficult in the run-up to the Paris negotiations, as was the case in Copenhagen. Having a clear line of communication ensured a successful outcome in Paris because China and the United States were in constant communication and their leaders were on the same page.

At the technical level, there has been solid progress made on clean energy technology cooperation in the CCWG and beyond. Almost all bilateral agreements (including those signed long before 2009) have been continued and expanded so that almost every issue of importance in the energy and climate area is covered within the bilateral dialogue mechanisms. Now that there are so many tracks for technical cooperation between the two countries, there is actually some concern about coordination across them. On the U.S. side, interagency coordination has become increasingly complex, as cooperation involves multiple agencies working on related topics. In addition, some of the more promising tracks have garnered less attention in recent years. For example, the U.S.-China Clean Energy Research Center (CERC)—perhaps the most ambitious of the clean energy cooperation mechanisms—has been expanded from three tracks to five tracks. This requires coordination of hundreds of researchers and projects and millions of dollars of funding to ensure successful research outcomes.<sup>5</sup>

## India

India's carbon dioxide emissions are still far lower than China's, but they are growing rapidly (see Figures 1.1 and 1.2). India faces many similar challenges to China in that it too is a coal-dependent, developing economy. With substantial differences in governance structures and in national infrastructure, India's climate mitigation challenge is quite different than that of China. India has some 250 million people in a state of energy poverty, without access to electricity or other energy services. Since the climate talks in Copenhagen, India has been a hesitant participant in the international climate negotiations and has frequently split with China in its willingness to take on significant targets as a developing country. India has become an increasingly powerful negotiating force, however, and in Paris it became evident that India had the ability to potentially derail the negotiations if it chose to do so.<sup>6</sup>

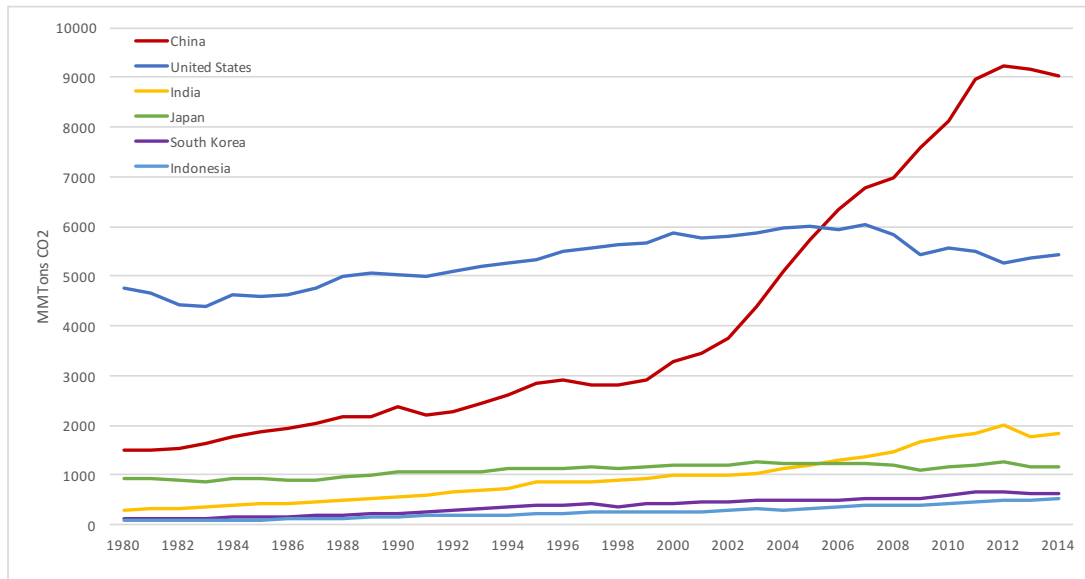
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<sup>5</sup> Joanna I. Lewis, "Managing Intellectual Property Rights in Cross-Border Clean Energy Collaboration: The Case of the U.S.-China Clean Energy Research Center," *Energy Policy*, Vol. 69, June 2014, pp. 546–554.

<sup>6</sup> Navroz K. Dubash and Radhika Khosla, "Why India Has a Point at the Paris Climate Talks," *Time*, December 7, 2015.

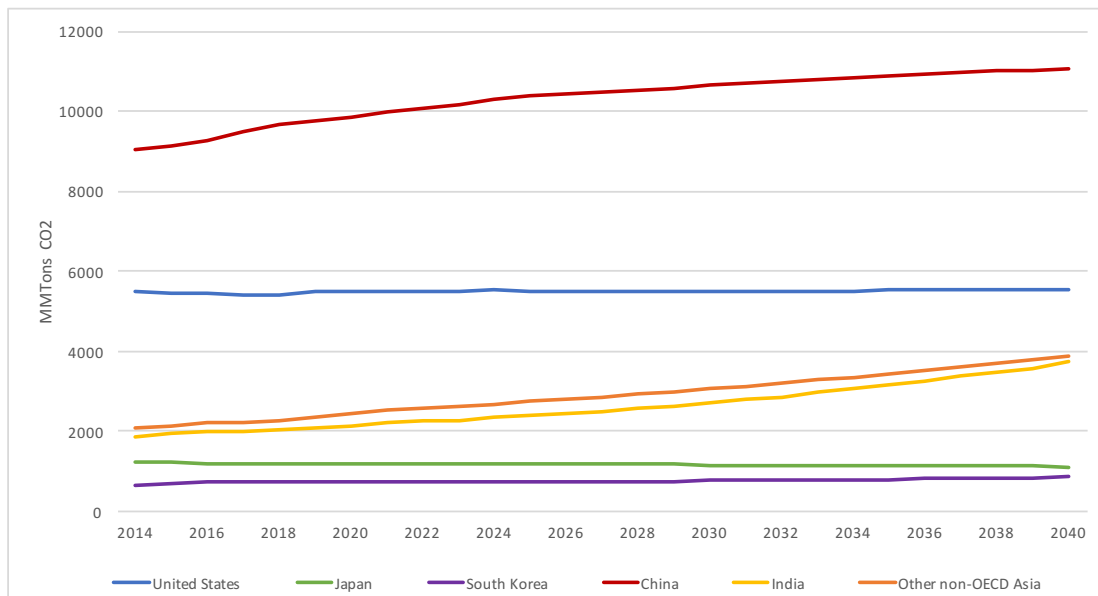


**Figure 1.1. Historic Carbon Dioxide Emissions for the United States and Leading Asian Emitters (1980–2014)**



NOTE: Figure includes total carbon dioxide emissions from the consumption of energy. CO<sub>2</sub> = carbon dioxide.  
 SOURCE: Author compiled using data from Energy Information Administration, "International Energy Statistics," Washington, D.C.: U.S. Department of Energy, 2016b.

**Figure 1.2. Emissions Projections for the United States and Leading Asian Emitters (2014–2040)**



NOTE: Figure includes total carbon dioxide emissions from the consumption of energy.  
 SOURCE: Author compiled using data from Energy Information Administration, "International Energy Outlook 2016," Washington, D.C.: U.S. Department of Energy, 2016a.

In the past eight years, the United States and India have established a wide range of cooperative programs on climate change and clean energy, with cooperation accelerating since 2014 in the run-up to Paris. President Barack Obama and Prime Minister Shri Narendra Modi met three times between September 2014 and June 2016, during which time 17 climate and clean energy programs were established (or, in the case of existing programs, expanded). These include the signature Partnership to Advance Clean Energy (PACE) programs, a variety of measures to promote off-grid solar, bilateral initiatives on air quality and climate resilience, and, most recently, the creation of the U.S.-India Clean Energy Finance initiative and the U.S.-India Catalytic Solar Finance Program. India and the United States also participate in a variety of multilateral initiatives, including the Clean Energy Ministerial, Mission Innovation, and the International Solar Alliance.

At home, India has been scaling up its own ambition to pursue investments in clean energy. It has set impressive renewable energy targets, including plans to install 175 gigawatts of renewable energy by 2022, of which 100 gigawatts would be solar. India's pledge from Paris would significantly increase these targets.

### *International Achievements*

In 2016, there was a concerted shift in the nature of bilateral climate change agreements, moving away from issues of exclusively bilateral importance and toward using the bilateral relationship to shape multilateral responses. The U.S. efforts to reach a global climate deal in Paris through bilateral agreements with China and India is one such example. Two other key areas where bilateral agreements had important implications for global climate action were in the Montreal Protocol and the International Civil Aviation Organization (ICAO).

### *Paris Agreement*

In 2014, the U.S. government made a strategic decision to announce its intended nationally determined contribution (INDC) to the Paris Agreement jointly with China. The United States announced its intention to achieve an economy-wide target of reducing its emissions by 26 percent to 28 percent below its 2005 level by 2025 and to make best efforts to reduce its emissions by 28 percent, while China announced its intention to achieve the peaking of carbon dioxide emissions around 2030 and to make best efforts to peak early and to increase the share of nonfossil fuels in primary energy consumption to around 20 percent by 2030.<sup>7</sup>

The Chinese and U.S. INDCs were a stretch for both countries when they were announced, requiring a high level of domestic ambition. While several components of China's INDC stemmed from domestic policy priorities that were already in place, the peak year was a new and important development. As a result of declining coal use in China in recent years, however, it is

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<sup>7</sup> White House Press Office, "U.S.-China Joint Announcement on Climate Change," Washington, D.C., November 12, 2014.

increasingly looking like 2030 may be a conservative target for China to peak its emissions. In the United States, the targets were directly based on calculations of what the Climate Action Plan could potentially deliver, and the Paris Agreement did not require legally binding mitigation targets in order to avoid the need for Senate ratification.

The joint announcement had a major impact around the world. It was the first time China had come forward so early and so aggressively to announce its climate targets, and the first time the two largest emitters made such an announcement jointly. The announcement set the stage for other countries to announce their own climate targets over the following months, so that by the time leaders gathered in Paris at the 21st Conference of the Parties (COP21) in December 2015, 180 countries representing nearly 95 percent of global emissions had already announced their own climate targets.<sup>8</sup> This was crucial to building the international momentum that led to a successful new agreement being reached.

### Montreal Protocol

The Montreal Protocol on Substances that Deplete the Ozone Layer (a protocol to the Vienna Convention for the Protection of the Ozone Layer) has been hailed as the most successful environmental treaty in history.<sup>9</sup> The Montreal Protocol was universally adopted in 1987, and due to its aggressive targets to phase out ozone-depleting substances (ODSs) and its strong sanctions for countries that do not meet them, it has resulted in substantial reductions in ODSs and evidence that the ozone hole is even starting to heal.<sup>10</sup>

While the Montreal Protocol was not intended to be a climate agreement, sometimes addressing one problem creates unintended consequences, especially when dealing with complex air pollution chemistry and greenhouse gases. The phaseout of chlorofluorocarbons (CFCs) led to the creation of hydrofluorocarbons (HFCs), an ODS substitute that can be up to 10,000 times more potent than carbon dioxide. Taking up the issue of HFCs under the Montreal Protocol was controversial at first, since climate-related negotiations tend to be much more complex and politically charged than the ozone negotiations. But the United States looked to its expanded bilateral relationship with China on climate change issues to mobilize international support.

President Obama and President Xi Jinping first discussed the issue of phasing out HFCs at the Sunnylands summit in June 2013. Between 2013 and 2016, bilateral discussions continued in the context of the CCWG and other forums. Momentum built in the international negotiations to put forth an amendment to the Montreal Protocol to address HFCs. Support for such an amendment was reflected in the U.S.-China joint statement released on March 31, 2016, which

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<sup>8</sup> White House Press Office, “Remarks by President Obama at the First Session of COP21,” Washington, D.C., November 30, 2015.

<sup>9</sup> Patrick Low, “Why the Montreal Protocol Is the Most Successful Climate Agreement Ever,” *South China Morning Post*, October 26, 2016.

<sup>10</sup> Aaron Sidder, “Remember the Ozone Hole? Now There’s Proof It’s Healing,” *National Geographic*, June 30, 2016.

noted that “the Presidents are also committed to working bilaterally and with other countries to achieve successful outcomes this year in related multilateral arenas, including on an HFC amendment under the Montreal Protocol.”<sup>11</sup>

On September 3, 2016, meeting in the lead-up to the G20 summit in Hangzhou, China, both Presidents announced that they were “making their joint goal of a successful outcome more concrete by committing to work together to reach agreement this year on an ambitious and comprehensive HFC amendment with an early freeze date and ambitious phase down schedule, along with increased financial support to assist in implementation.”<sup>12</sup> This highly specific language aimed at guiding the ongoing Montreal Protocol negotiations was released alongside the announcement that both China and the United States had formally joined the Paris Agreement. Then, on October 15, 2016, at the 28th Meeting of the Parties to the Montreal Protocol in Kigali, Rwanda, 197 countries reached an agreement on an amendment to phase down HFCs.

Under the amendment, countries committed to cut the production and consumption of HFCs by more than 80 percent over the next 30 years. The EPA estimates that this phasedown schedule will avoid more than 80 billion metric tons of carbon dioxide–equivalent emissions by 2050, and avoid warming by up to 0.5 degrees Celsius by the end of the century. Developed countries will begin reducing HFC consumption beginning in 2019.<sup>13</sup> Developing countries were notably divided into two groups, with China falling into the first group of countries (which must freeze consumption in 2024), and India falling into the second group (which will not begin freezing emissions until 2028). All developing countries will also be eligible for financial support to aid in their transition away from HFCs.

The roles of both China and India in the Kigali Amendment reflect the increasingly divergent positioning of the two countries in global climate negotiations. Over seven years of negotiations to amend the Montreal Protocol, there were four separate amendment proposals submitted. Three of the proposals (those of the North American, European, and small island states) all advocated an early baseline (2011–2013) and freeze (2021) for developing countries. Only the Indian amendment proposed a later baseline (2028–2030) and freeze (2031).<sup>14</sup>

Ultimately, the Kigali Amendment settled on a compromise between these proposals by separating the developing world into two groups. The first group (China and African, Latin American, and Asian countries) has an early baseline (2020–2022) and freeze (2024), while the second group (India, Pakistan, Iran, Iraq, and Gulf countries) has a later baseline (2024–2026)

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<sup>11</sup> White House Press Office, “U.S.-China Joint Presidential Statement on Climate Change,” Washington, D.C., March 31, 2016a.

<sup>12</sup> White House Press Office, “FACT SHEET: U.S.-China Cooperation on Climate Change,” Washington, D.C., September 3, 2016b.

<sup>13</sup> EPA, “Recent International Developments under the Montreal Protocol,” Policies and Guidance webpage, 2016.

<sup>14</sup> Vaibhav Chaturvedi and Lekha Sridhar, “The Kigali Breakthrough,” *The Indian Express*, October 24, 2016.

and freeze (2028). The Indian government has since stated that the agreement “upholds the principle of Common but Differentiated Responsibilities and Respective Capabilities” and that it “recognizes the development imperatives of high-growth economies like India, and provides a realistic and viable roadmap for the implementation of a phase-out schedule for high global warming potential (GWP) HFCs.”<sup>15</sup>

## ICAO

One category of carbon dioxide emissions that has long been omitted from international climate talks is that of aviation emissions. Airplanes are responsible for about 2.5 percent of global carbon dioxide emissions, but they also emit oxides of nitrogen and produce contrails, the combined effects of which could more than double aviation’s impacts on global warming.<sup>16</sup> Aviation emissions were not included in the Kyoto Protocol or the Paris Agreement, in part due to the challenge of addressing cross-border emissions. Again, China and India have played differing roles, along with the United States, in shaping a global deal.

In their meeting in March 2016, President Obama and President Xi committed to working together to reach a successful outcome in the ongoing negotiations on a global market-based measure for addressing greenhouse gas emissions from international aviation at the ICAO. After close bilateral engagement between the United States and China, as well as extensive multilateral negotiations among ICAO’s member states, an agreement was reached on October 6, 2016.

The ICAO Carbon Offset and Reduction Scheme for International Aviation (CORSIA Resolution) states that countries will cap aviation emissions at 2020 levels by 2027. The rules are voluntary until 2027, however, and countries are encouraged to opt in prior to that date. As of October 12, 2016, 66 states representing more than 86.5 percent of international aviation activity have stated their intention to voluntarily participate in CORSIA. While the United States, the European Union (EU), and China have all agreed to participate in the voluntary phase, Russia and India have both opted out.<sup>17</sup>

Disagreement over how best to handle aviation emissions escalated back in 2012 when the EU’s Emissions Trading System passed its Aviation Directive, which required countries flying into the EU to abide by its carbon regulations. Most countries responded by saying they would not comply, including China, India, and Saudi Arabia, and the U.S. Congress followed suit. The EU subsequently agreed to defer to ICAO to reach a multilateral decision on how aviation emissions should be handled globally, so the new ICAO agreement now essentially supersedes the EU policy.

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<sup>15</sup> Government of India, Ministry of Environment, Forest and Climate Change, “India Welcomes Landmark HFC Agreement at Kigali,” October 15, 2016.

<sup>16</sup> Jessica F. Green, “The World Is About to Get Tough on Aviation Emissions. Here’s What You Need to Know,” *Washington Post*, October 14, 2016.

<sup>17</sup> Green, 2016.

While India ultimately agreed to the mandatory phase of the ICAO agreement, in the days leading up to the decision there were conflicting reports of whether China was siding with India or with the United States. One report stated that the ICAO proposal was not acceptable to India or the three other BASIC countries: Brazil, South Africa, and China.<sup>18</sup> Other reports placed China siding with the United States.<sup>19</sup> Despite pressure from the United States and China, India has said it will not participate in the voluntary phase of the agreement. As 2027 is a long way off, it is very possible that this will be a topic of future bilateral discussions between India and both China and the United States.

This section has demonstrated the value of bilateral engagement in shaping global norms and multilateral agreements. As the new U.S. administration revisits engagement with Asia, these successes in the climate arena stand out as important lessons for how bilateral engagement might continue to evolve on other issues going forward.

## Continuing Bilateral Engagement in Asia: Priorities for the New U.S. Administration

While President-elect Trump's intentions with respect to international engagement on climate change are still taking shape, it is safe to say that they will be markedly different from those of the Obama administration. The preinauguration position of the Trump administration has been that China has been taking advantage of the United States, and therefore the United States should take a much harder line going forward. Presumably this statement applies to recent deals reached on trade and investment, climate change policy, and national security. The president-elect has also said that "the concept of global warming was created by and for the Chinese in order to make U.S. manufacturing non-competitive."<sup>20</sup>

Key appointments in determining the future of bilateral energy and cooperation will include the Secretary of State and the Secretary of Energy. At Secretary of State nominee Rex Tillerson's confirmation hearing on January 11, 2017, when asked about his intentions with respect to the Paris Agreement, he stated that the United States should continue to have a seat at the table in the climate negotiations. This may be a sign that the United States will continue to engage internationally, even if its overall domestic policy objectives change.

Continued bilateral engagement on strategic and economic issues is one way to ensure constructive dialogue, even on topics where both sides fundamentally disagree. Whether the Trump administration opts to continue the Strategic and Economic Dialogue (S&ED) in some

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<sup>18</sup> Express News Service, "Government Nod for Paris Pact, No for Aviation Emission Proposal," *The Indian Express*, September 29, 2016.

<sup>19</sup> Reuters, "Why India Is Holding Out from a Landmark Aviation Climate Deal," *Fortune*, September 27, 2016.

<sup>20</sup> Louis Jacobson, "Yes, Donald Trump Did Call Climate Change a Chinese Hoax," *PolitiFact*, June 3, 2016.

form remains to be seen. Should engagement with China and India continue, recommendations for how the relationship on climate might evolve are described in the next sections.

### *New Areas for Cooperation with China*

Continued high-level engagement with China's leaders should be of the utmost importance to the new administration. The current S&ED allows both countries to discuss politically sensitive issues, from trade barriers to international security, and it ensures that the two largest national economies in the world have a diplomatic means of defusing potential conflict. Cooperation on climate change and clean energy has been a powerful, unifying issue in the U.S.-China bilateral relationship. There may be no other issue where the countries have more common interest, both in terms of their concerns about mitigating the economic impacts facing climate-vulnerable communities and domestic coal communities, and in terms of their desires to be global leaders in the development of new energy industries. Furthermore, a U.S.-China partnership in climate change has played a decisive role in forging multination agreements. Much has been learned from U.S.-China bilateral cooperation on energy and climate change over the past eight years that could benefit expanded bilateral and multilateral partnerships to promote clean energy innovation and deployment around the world. Abandoning these efforts is not in the interest of the United States, or of the rest of the world.

Looking forward, the opportunities for cooperation span beyond the U.S.-China bilateral relationship.

First, after many years of fruitful technical cooperation in the clean energy space, there is a need to critically assess what was accomplished and what lessons have been learned in order to structure future bilateral partnerships more effectively. These lessons will be useful far beyond just the United States and China, as these sorts of partnerships are expanding around the world.

Second, as the role of China in global multilateral financial institutions grows, there is room for both countries to shape the use of public finance for green and low-carbon investment, and to help determine the rules for such investments around the world. As existing multilateral agencies like the World Bank are moving away from financing polluting energy sources, such as coal, China has emerged as an important alternative source of finance that has yet to enact strict lending guidelines on the environment. The United States should encourage China to adopt rules consistent with international best practices in this area. There were announcements made on this topic at the most recent S&ED, but clearly there is still much more work to be done to increase bilateral coordination in this area and to have a larger influence on global norms and practices.

Extensive effort has been put into the U.S.-China relationship on climate and energy, resulting in a far more constructive and cooperative relationship than existed eight years ago. The next administration should prioritize this relationship to ensure that cooperation on high-priority areas can continue and, where possible and as appropriate, be expanded. The focus should be on continuing and strengthening the most successful forums for cooperation and identifying new areas of mutual importance for new cooperative initiatives.

There are several areas where the United States and China could develop new programs of cooperation that would be of mutual interest. These areas include topics ranging from domestic investment environments and bilateral trade in low-carbon goods and technologies to climate-resilient development and national security. As the two largest clean energy economies in the world, the United States and China might mount a joint effort and exchange on job training in key clean energy industries, including in coal communities.

### *New Areas for Cooperation with India*

As the United States is in the early stages of engagement with India on energy and climate issues, now is not the time to abandon these efforts. The role that India can play in making or breaking international consensus, as illustrated by the Montreal Protocol and ICAO, is significant. As a result, the incoming administration should build on existing initiatives and look for ways to increase bilateral efforts with this strategic partner.

A clear way to increase engagement with India is to help it pursue its own clean energy goals. While it has announced aggressive clean energy targets, it is not clear that India will be able to achieve them without significant international assistance. In advance of the Paris climate summit, the United States, Germany, France, and the World Bank have all pledged to support India's clean energy goals, but such support is piecemeal and not well coordinated. Indian leaders, meanwhile, face significant domestic pressure to increase the country's coal capacity in order to reduce energy poverty.

Key to any low-carbon transition in India would be a comprehensive set of reforms of policies and institutions in the energy sector, from eliminating energy subsidies to reforming the utility sector. This area is ripe for expanded cooperation, including between private-sector actors in the United States and India that can help shape the investment environment.

Finally, there are several areas where technical cooperation with India can be expanded. Solar energy is an area where cooperation is extensive, with platforms including PACE-Research, the Solar Energy Research Initiative for India and the United States (SERIIUS), Mission Innovation, and the Indian-led International Solar Alliance. This work can be expanded to include other technical areas, including distributed generation, energy storage, alternatives to diesel fuels, and work on coal power plant efficiency. While India has mandated that new coal power plants must use supercritical technology, its current coal fleet is one of the most inefficient in the world. Working with India to reduce emissions in its coal fleet could have a major impact on efficiency, fuel costs, and air quality without extending the life of the existing coal assets.

### **The Outlook for Climate Policy in Asia**

Asia's leaders are certainly watching the president-elect to see what his positioning on climate change might mean for the future of U.S. climate policy. However, not all countries will be directly influenced by a change in course by the United States. This is particularly true in



China, where an aggressive domestic low-carbon strategy emerged in the middle of the Bush administration during a time of minimal climate policy action in the United States. Discussions on China's national renewable energy law began in 2003, and the law was implemented in 2005. This law, along with numerous other national plans, set the stage for a rapid push to develop China's low-carbon industries.

Regardless of the incoming Trump administration's policy stance on climate change, China is likely to move forward in pursuing its low-carbon development agenda.

India is likewise unlikely to be overly influenced by U.S. climate policy as it pursues its own climate policy agenda, which is primarily driven by the country's energy development needs. However, India has been more easily influenced in international climate negotiations. The absence of pressure on India from the United States could make India a more reluctant participant in the international climate processes, including the Paris Agreement, the Montreal Protocol, and the ICAO scheme.

### *China's Climate Policy*

While China is happy to be viewed as a responsible global actor, China's climate policy is almost entirely domestically motivated. Climate goals align with other key domestic policy strategies, namely meeting growing energy demands, reducing air pollution, and developing new high-technology industries.

China faces many environmental challenges, and its reliance on coal is at the heart of most of them. The bulk of China's air pollution emissions come from the industrial and electricity sectors, and both the human health costs and the economic costs of China's air pollution are very high. Conservative estimates of the cost of illness and premature death associated with ambient air pollution are about 6.5 percent of China's gross domestic product (GDP) per year.<sup>21</sup> While there is a cost to cleaning up the pollution, it is far lower than the costs associated with its impacts.<sup>22</sup>

The push to develop nonfossil sources of energy is enshrined in the most recent five-year plans. The 12th Five-Year Plan (FYP) (2010–2015) included a target to increase nonfossil energy sources (including hydro, nuclear, and renewable energy) to 11.4 percent of total energy use, up from about 8.3 percent in 2010. The 2010 goal was achieved and was increased to 15 percent by 2020 in the 13th FYP (2015–2020).<sup>23</sup> Other relevant 13th FYP clean energy targets

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<sup>21</sup> The World Bank, *China 2030: Building a Modern, Harmonious, and Creative Society*, Washington, D.C., March 23, 2013.

<sup>22</sup> Keith Crane and Zhimin Mao, *Costs of Selected Policies to Address Air Pollution in China*, Santa Monica, Calif.: RAND Corporation, RR-861-TI, 2015.

<sup>23</sup> People's Daily, "Zhang Guobao: 'Twelfth Five' Push to Non-Fossil Energy to Account for 11.4 Percent Share of Primary Energy (张国宝: '十二五'末力争非化石能源占一次能源比重11.4 percent)," *People.com.cn*, January 6, 2011; Deborah Seligsohn and Angel Hsu, "How China's 13th Five-Year Plan Addresses Energy and the Environment," *ChinaFile*, March 10, 2016.

include 200 GW of wind power and 100 GW of solar power by 2020. While renewable energy has been growing quite rapidly over the past decade in China, key technologies are facing serious obstacles. Continued curtailment of wind and solar power and consolidation among technology manufacturers has affected the growth of the industry. Despite these challenges facing the renewables sector, growth is still impressive. The share of nonfossil energy in China's total capacity additions has increased every year since 2013. It is also becoming increasingly likely that coal consumption peaked that year.<sup>24</sup>

China also has carbon intensity targets that aim to reduce carbon dioxide emissions per unit of GDP. These carbon targets have been a cornerstone of the country's climate policy and the pledges made to the United Nations Framework Convention on Climate Change (UNFCCC), first in Copenhagen in 2009 and then in Paris in 2015. China has announced its plans to launch a national carbon emissions trading system in 2017. Seven of China's provinces and municipalities have already been experimenting with pilot "cap-and-trade" programs to regulate carbon dioxide. It is estimated that China's future carbon market could regulate 3–4 billion metric tons of carbon dioxide per year by 2020, which would make it twice as large as the EU Emissions Trading System, with permits estimated to be worth up to 400 billion yuan (U.S. \$65 billion).<sup>25</sup>

Many Chinese government policies aim to promote growth in service industries because of their higher value added to the economy, the potential energy savings, and the environmental quality benefits associated with a shift away from heavy manufacturing. To facilitate this shift in industrial structure, the government explicitly identified a new set of high-value strategic industries as essential to the future of the Chinese economy in the 12th FYP. These industries include the nuclear, solar, wind, and biomass energy technology industries, as well as hybrid and electric vehicles, and energy savings and environmental protection technology industries.<sup>26</sup> These "strategic and emerging" industries are being promoted to replace such former strategic industries as coal and telecom, often referred to as China's pillar industries, which are heavily state-owned and have long benefited from government support.

In the context of a national quest to become a more innovative society, the government is shifting science and technology funding away from pure demonstration to include more R&D, including funding for early-stage and high-risk new energy technologies. If done effectively, the net result of these reforms could have transformative potential and significantly increase China's global competitiveness in the renewable energy technology sectors.

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<sup>24</sup> Simon Evans, "IEA: China Might Have Passed 'Peak Coal' in 2013," *Carbon Brief*, December 19, 2015.

<sup>25</sup> Reuters Beijing, "China to Launch Carbon Market Middle of 2016," *South China Morning Post*, February 4, 2015.

<sup>26</sup> Government of the People's Republic of China (PRC), "State Council Decision on Accelerating the Development of the Strategic Emerging Industries (国务院关于加快培育和发展战略性新兴产业的决定 国发2010, 32号)," Communiqué of the State Council, October 18, 2010; China Direct, "China's Twelfth Five Year Plan (2011–2015)—The Full English Version," webpage, May 11, 2011.

## *India's Climate Policy*

Core to India's climate policy positioning is the belief that any global approach must be equitable for developing countries, in line with their common but differentiated responsibilities—a phrase enshrined in the UNFCCC. While this phrase has evolved to mean different things to different countries over time, it is still frequently used by India to signify that differentiation is necessary in the obligations taken by developed versus developing countries to address climate change due to differing national circumstances. In India's case, a large population and widespread poverty shape these national circumstances.

India has been pursuing an active domestic climate policy strategy for about a decade. The 2006 National Environment Policy set the framework for India's climate strategy of sustainable growth. It was followed by the National Action Plan on Climate Change, implemented through eight National Missions focusing on such different technology areas as solar energy, energy efficiency, and forest management. Most recently, India has ratified the Paris Agreement and adopted climate targets as outlined in its INDC submitted to the UNFCCC in September 2015. Key elements of India's climate targets under the Paris Accord include a goal to reduce the emissions intensity of its GDP by 33 to 35 percent from 2005 levels by 2030 and a goal to achieve about 40-percent cumulative electric power installed capacity sourced from nonfossil fuel-based energy resources by 2030, with international support.<sup>27</sup>

Whereas China's targets are now looking easily achievable, India's targets are looking increasingly ambitious. For example, some have questioned the feasibility of meeting the national solar targets given relatively modest growth in recent years and mediocre domestic solar resources. Yet this has not stopped the Indian government from continuing to raise ambition. At the end of December 2016, the Ministry of Power released the Draft National Electricity Plan, a ten-year blueprint that predicts that 57 percent of India's total electricity capacity will come from nonfossil fuel sources by 2027, which would result in India exceeding its Paris target of 40 percent by 2030.<sup>28</sup>

Like China's, India's carbon emissions are primarily tied to its reliance on coal to power its economy. While coal use may have peaked in China, it is not expected to peak in India for several decades. India's renewable energy push is a positive sign, but wind and solar power development has not been as successful in India as it has been in China. This may change in the coming years as India's growth accelerates and China's slows. India's 2022 renewable energy target represents a rapid increase in renewable energy generation, though it is not expected to be sufficient to keep up with growth in electricity demand.<sup>29</sup>

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<sup>27</sup> Government of India, "India's Intended Nationally Determined Contribution: Working Towards Climate Justice," September 25, 2015.

<sup>28</sup> Central Electricity Authority, "Draft National Electricity Plan," Ministry of Power, Government of India, December 2016.

<sup>29</sup> Climate Analytics, Ecofys, and NewClimate Institute, "India—Climate Action Tracker," November 7, 2017.

## Conclusions

This paper has reviewed the past eight years of U.S. climate policy engagement in Asia, which has been focused primarily on China and has more recently turned to engagement with India. Bilateral engagement in Asia on climate change helped the United States achieve several multilateral outcomes in which it had a stake, including a successful global climate deal in Paris, a new amendment to the Montreal Protocol in Kigali, and a new agreement to address aviation emissions through ICAO. Bilateral cooperation between China and the United States in many core elements of a global climate policy response allowed the two countries to leverage their size and significance to mobilize action from other countries. As India became an increasingly important player and a divergent voice in international climate processes, the United States quickly moved to scale up bilateral engagement there as well, though with somewhat less-ambitious efforts and, consequently, smaller results to date.

As U.S. climate change politics evolve under the new Trump administration, this will most certainly influence U.S. bilateral engagement with Asia. While there are many untapped areas for fruitful cooperation outlined in this paper, it is possible not only that cooperation will not be expanded, but also that existing cooperation will be greatly diminished. If so, the United States will lose the leverage it gained from partnering with China and, to a lesser extent, India, to help shape global climate outcomes.

Even if bilateral engagement is scaled back, domestic climate action in China and India is likely to continue. China has launched sweeping climate change policy initiatives at all levels of government and throughout the economy, and continuing these programs is in the self-interest of China's leadership. India's domestic actions are somewhat less comprehensive but are still quite ambitious, and similarly align well with its domestic poverty alleviation, rural electrification, and air pollution reduction goals.

The next four years will no doubt bring significant changes to the U.S. relationship with Asia, and climate change may no longer be at the center of bilateral or regional discussions. Despite these shifts, emerging Asia, led by China and India, will most certainly continue to implement its ambitious domestic climate policy goals.

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## Chapter Two. Climate Change: How Asian Countries Are Responding to the Problem and How They View U.S. Climate Policy

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### Overview

A nearly global scientific consensus exists that climate change is one of the greatest challenges facing the planet. A study found that 97 percent of scientists believe climate change is caused by humans.<sup>1</sup> Global average temperatures have risen, and occurrences of extreme weather events in various regions are becoming increasingly common. The year 2015 was the warmest year on record, and 2016 further broke that record.<sup>2</sup>

Countries in Asia are deeply involved in the formulation of climate change policies both internationally and domestically, but the ways they are involved differ extensively from one country to another. This short essay examines how some major economies in Asia—namely Japan, the Republic of Korea, Indonesia, and India—have responded to the climate change problem in the last two decades. The latter half of the paper argues how these countries see the responsibility of the United States for partially causing the problem by emitting a relatively large amount of greenhouse gases and what kind of role they expect the United States to play in the near future in the area of climate change.

World leaders have discussed ways to mitigate climate change phenomena for nearly three decades, but they have made little tangible progress, at least partially because of tensions between North and South. Rich countries have called on developing countries to participate in multilateral efforts to curb climate change because developing countries' greenhouse gas emissions are expected to increase in the future, whereas poor countries blame rich countries' historical and continued heavy consumption of fossil fuels for causing the problem.<sup>3</sup>

The categorization of “Annex I Parties,” representing developed countries, and “non-Annex I Parties,” representing developing countries, was created by the United Nations Framework Convention on Climate Change (UNFCCC), adopted in 1992. The Kyoto Protocol, adopted in

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<sup>1</sup> Doug Bolton, “97% of Scientists Believe Climate Change is Caused by Humans, Study Finds,” *Independent*, April 13, 2016.

<sup>2</sup> National Aeronautics and Space Administration and National Oceanic and Atmospheric Administration, “NASA, NOAA Data Show 2016 Warmest Year on Record Globally,” press release, January 18, 2017.

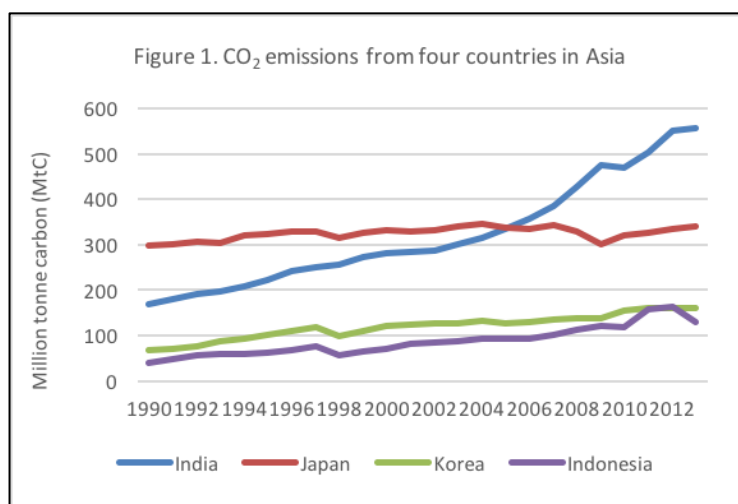
<sup>3</sup> Farhana Yamin and Joanna Depledge, *The International Climate Change Regime: A Guide to Rules, Institutions and Procedures*, Cambridge, UK: Cambridge University Press, 2004.

1997, continued using the same categorization and set emission limitation targets for Annex I Parties only. The Kyoto Protocol did not enter into force until 2005, only after almost all Annex I countries had ratified the protocol. The United States was one of the few Annex I countries that did not ratify the protocol. Annex I countries bound by the Kyoto Protocol did not want the same rules to be applied for the years beyond 2012, the end of the first commitment period.

Negotiations on a new international framework to replace the Kyoto Protocol took eight years. The Paris Agreement, which was adopted in December 2015 and entered into force in November 2016, changed the rules of the game.<sup>4</sup> Now, all countries that signed the Paris Agreement are required to set their respective emission targets and to implement policies to achieve them.

Figure 2.1 illustrates the carbon dioxide (CO<sub>2</sub>) emission trends in the four countries discussed in this paper since 1990. Japan's emissions have been almost stable, while emissions in Korea and Indonesia have slowly increased. India's absolute emissions have already surpassed those of Japan.

**Figure 2.1. CO<sub>2</sub> Emissions from Four Countries in Asia**



SOURCE: Data on CO<sub>2</sub> emissions were retrieved from the Carbon Dioxide Information Analysis Center, 2016.

## Japan

Japan is the only Annex I country in Asia. Under the 1997 Kyoto Protocol, Japan and other Annex I countries were obligated to reduce their greenhouse gas emissions for the five years between 2008 and 2012. Rates of reduction were differentiated according to each country's national circumstances: Japan's target was a 6-percent reduction from 1990 levels, whereas the

<sup>4</sup> D. Bodansky, "The Legal Character of the Paris Agreement," *Review of European, Comparative & International Environmental Law*, Vol. 25, No. 2, 2016, pp. 142–150.

target was 7 percent for the United States and 8 percent for the European Union (EU). Japan took this target seriously and started implementing various policies and measures to achieve the target.

After the United States under the Bush administration withdrew from the Kyoto Protocol in 2001, however, many Japanese stakeholders began to officially criticize the Kyoto Protocol for not covering emissions from major emitters, particularly the United States and China.<sup>5</sup> Without those two countries, the Kyoto Protocol's emission reduction commitment would not be effective in mitigating global climate change because it covered less than 30 percent of the world's total greenhouse gas emissions. Japan and other Annex I countries started insisting on a new international agreement that included all countries. Japan was the most persistent on this point. Japan's position during those years was that it would aim at achieving its emission reduction target only if all major emitters participated in the same regime with meaningful commitments. At COP16, held in 2010, Japan announced its intention not to participate in the second commitment period of the Kyoto Protocol that set emission limitation targets for Annex I countries between 2013 and 2020. Along with Russia and New Zealand, Japan officially made the decision to stay away from the second commitment period without withdrawing from the Kyoto Protocol. Japan played only a small role during the multilateral negotiations leading up to COP21, which resulted in the Paris Agreement, adopted in December 2015.

Although Japan was faithful to its obligations under the Kyoto Protocol and remained a party to the protocol (mainly because its ancient city of Kyoto was enshrined in the name of the agreement), its climate policy implementation and the actual trends in emissions over the past two decades are not satisfactory. Japan's politics, mostly dominated by the Liberal Democratic Party (LDP), are closely tied to its business and industry sector, which has shown little enthusiasm for climate change policy. The position of Japanese industry has been that Japan is one of the most energy-efficient countries in the world, so there is little potential for additional reduction of CO<sub>2</sub> emissions. Therefore, most policy efforts regarding CO<sub>2</sub> emission reduction during the 2000s aimed to increase the use of nuclear power to replace fossil fuel power plants for electricity generation. Renewable energy, such as solar and wind power, was perceived to be too expensive to implement, and, thus, the share of renewable energy, with the exception of traditional hydro power, was less than 1 percent of total energy consumption in Japan until recently. The policy of heavy reliance on nuclear power was nullified in March 2011 by the Fukushima Daiichi nuclear power plant accident caused by a serious earthquake and accompanying tsunami. Only after all of the nuclear power plants in Japan were shut down in 2012 did the Japanese government start implementing feed-in tariffs and other support measures to increase the use of renewable energy, particularly solar power. Japan was able to fulfill its Kyoto target of a 6-percent reduction from 1990 levels without reducing its absolute emissions at home. Absolute emissions were 1.4 percent above 1990 levels. Sequestration by forests

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<sup>5</sup> Yasuko Kameyama, *Climate Change Policy in Japan: From the 1980s to 2015*, Abingdon: Routledge, 2017.

contributed to a 3.8-percent subtraction from emissions, and a 5.9-percent reduction was permitted by purchasing emission credits from overseas.

Japan's first emission reduction target for 2020, determined under the LDP administration in June 2009, was "a 15-percent reduction from 2005 levels." Although this target was lauded by the prime minister of the time as ambitious and achievable, it was actually not substantially different from the Kyoto target of a 6-percent reduction from 1990 levels because Japan's emissions had increased by nearly 8 percent between 1990 and 2005. After the Democratic Party of Japan (DPJ) won the election in August 2009, the administration set a new target for 2020, which was "a 25-percent reduction from 1990 levels, on the condition that all major countries set similarly ambitious targets." This was the most ambitious emission target that was officially addressed by the Japanese government, but one of the largest issues was that it relied heavily on nuclear power to achieve the target. With the earthquake in 2011 and another election that returned ruling power to the LDP, the Japanese government again reconsidered the 2020 target and changed it to "a 3.8-percent reduction from 2005 levels." That target was in no way ambitious, as data from 2014 show that Japan's emissions were already reduced by 2.4 percent from 2005 without restoration of nuclear power.

Japan's intended nationally determined contribution (INDC) (hereafter, emission reduction target) for 2030 is currently "a 26-percent emission reduction from 2013 levels." The base year 2013 was chosen because it was the year with the largest emission. Prime Minister Shinzō Abe was advised by government officials that all countries should select the year with the highest emissions as their respective base year so that emission reduction percentages would look more ambitious than they would otherwise.<sup>6</sup> This target assumes that nuclear power plants will supply 20–22 percent of total electricity by 2030. There is still strong opposition from citizens on the use of nuclear power plants, and there has been no explanation from the government about how Japan plans to achieve the target in the event that the government fails to persuade the citizens to allow all existing nuclear power plants to be reopened.

Although Japan was the country that most strongly insisted on agreeing to a new framework in which all countries participate, it has remained quiet after the adoption of the Paris Agreement in December 2015. In Japan, there were still some groups that had opposed the stringent climate change mitigation policies and had used the nonparticipation of the United States to justify their positions. Now that the Paris Agreement included all major emitters, as Japan had demanded, these stakeholders lost their justification for Japan's inaction. These stakeholders are particularly unhappy with the agreement's long-term goal of holding the increase in the global average temperature to 2 or 1.5 degrees Celsius above preindustrial levels and holding a balance between emissions and sequestration of greenhouse gases by end of this century. Japan did not help the Paris Agreement's early entry into force, which actually happened on November 4, 2016. Only

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<sup>6</sup> Nippon Keizai Shimbun, "Ondanka Gasu Sakugen no Shusho Shiji, Sanpou ni Hairyo [Prime Minister's Instruction on GHG Emission Reduction, Consideration of Three Instructions]," May 2, 2015.

after the EU ratified the agreement in October did the Japanese government become anxious about not prioritizing ratification. Japan ratified the Paris Agreement on November 8, 2016.

A new problem arising in Japan is the increase in the number of coal-fired power plants. Deregulation of the electricity market started in April 2016, and people started choosing the cheapest electricity, which has resulted in many new small-size coal-fired power plants being built. There are currently more than 40 applications awaiting government approval for construction of new coal-fired power plants.<sup>7</sup> The Ministry of the Environment has commented that carbon pricing is needed to reflect climate change concerns in the electricity market, but it has not been successful in implementing any relevant policies. Japanese industries and individuals welcome inexpensive energy rather than environmentally sound energy.

As Japan is a big trading partner of the United States, deregulation in the United States under the Trump administration could cause Japanese industries to be less competitive internationally. In such a case, Japanese industries will pressure the government to follow the United States and further deregulate the energy sector to lower energy prices. This scenario leads to an unhappy ending, where Japan would not be able to reach its emission reduction targets.

## Republic of Korea

The Republic of Korea (hereafter, South Korea) achieved long-term economic growth between the 1960s and the 2000s. It is categorized as a non-Annex I country because it was not an Organisation for Economic Co-operation and Development (OECD) member country at the time of the adoption of the UNFCCC in 1992. For this reason, South Korea was not obligated to limit its greenhouse gas emissions under the Kyoto Protocol. This situation was eventually criticized by some Annex I countries (for example, Russia) that had experienced economic downturns after they were categorized as Annex I countries but still had to commit to Kyoto targets. At the time of negotiations up to the adoption of the Kyoto Protocol, the basic idea of a “commitment period” was that the period would be revisited every five years, and countries with relatively high economic performance, such as South Korea, would be included in the group of Annex I countries and obligated to set emission reduction targets. The reality, however, was that the United States withdrew from the protocol, and no non-Annex I countries wanted to be included with the group of Annex I countries.

South Korea continued to stay a non-Annex I country, while at the same time beginning to exert other diplomatic efforts to show its willingness to contribute to tackling climate change. In 2000, South Korea, with Mexico, joined a new negotiating group called the “Environmental Integrity Group” (EIG), established by Switzerland. Those three countries—which were not

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<sup>7</sup> Andrew Follett, “Japan Infuriating Enviros by Building 45 New Coal Power Plants,” *The Daily Caller*, 2017; Yuka Obayashi and Ami Miyazaki, “New Coal Power Plants May Block Japan’s Carbon Emissions Goal: Minister,” Reuters, June 29, 2017; Babs McHugh, “Japanese Government Planning to Build 45 New Coal Fired Power Stations to Diversify Supply,” ABC News, January 31, 2017.

members of other negotiating groups in the UNFCCC—aimed at emphasizing the need to achieve “environmental integrity” in the outcomes of climate change negotiations and to be able to formulate positions different from those of other non-Annex I countries.<sup>8</sup> A South Korean diplomat, Ban Ki-moon, who was elected as the eighth Secretary-General of the United Nations (UN) in 2006 and stayed in the position until 2016, participated in all Conferences of the Parties (COPs) to the UNFCCC during his administration and hosted high-level UN meetings in New York on climate change several times. The new chair of the International Panel on Climate Change (IPCC) as of 2016 is Dr. Hoesung Lee, a professor at Korea University. These efforts have brought South Korea a “green” image and have enhanced its international prestige in the area of environmental conservation.

On the other hand, internally, South Korea has not managed to control its emission growth. Its greenhouse gas emissions have been growing continuously since 1990. This is due to heavy reliance on fossil fuel energy, and also to having heavy industries at the core of its economic growth. The “Committee on Global Warming Measures” was established in 1998 in the South Korean government, and “The 1st Comprehensive Measures to Respond to UNFCCC” were set for the three years between 1999 and 2001. These comprehensive measures have been rolled over every three years, but the measures stipulate only voluntary actions for climate mitigation and do not set concrete emission limitation targets.

The first action taken by the government was aimed at passing a bill called “Global Warming Measures Law” in 1999, but this action was blocked by opposition from industry and some within the government responsible for economic growth. Similar attempts were made again in 2001 and 2004, but they also failed. Finally, the “Framework Act on Low Carbon Green Growth” was enacted in 2010. The act obligated the government to set emission reduction targets and implement measures necessary to meet the targets. The first greenhouse gas emission target for South Korea was “to reduce national greenhouse gas emissions by 30 percent from the business-as-usual emissions by 2020.” However, it will be difficult to assess whether this target is met, because there was neither an authorized definition nor a level of “business-as-usual” emissions. There is ample room for the Korean government to create a fast-growing emission scenario and call it “business as usual.” In 2015, South Korea decided on its emission reduction target for 2030: to reduce its emissions by 37 percent below business-as-usual emissions of 850.6 Mt-CO<sub>2</sub>eq, a target that is rated “inadequate” by a noted research project on emission targets.<sup>9</sup>

As for the source of energy, South Korea is similar to Japan in its pre-2011 period, heavily relying on nuclear power to reduce the carbon intensity of electricity. The country’s economy is

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<sup>8</sup> The origins of the EIG lie in the aftermath of the Kyoto Protocol negotiations, where Switzerland found itself outside of any group. In many ways, the group members share little in terms of national circumstances except for the fact that they do not belong to any other groups. The EIG negotiates together where the group members have a common position (Yamin and Depledge, 2004, pp. 47–48).

<sup>9</sup> Climate Action Tracker, “South Korea,” 2016.

based on energy intensive industries, and it is currently the fifth-largest oil importer.<sup>10</sup> From the foreign policy aspect, the United States is a very important diplomatic partner for South Korea in terms of its relationship with North Korea. The foreign policy section will not send out a formal accusation toward the Trump administration for not taking action against climate change. On the other hand, there is a side of Korean foreign policy where, as was proven by the efforts of high-level individuals, Korea wants to be seen as a green, environmentally aware country. Korea will thus continue to convey such a national image without harming its economic activities.

## Indonesia

Indonesia used to be a relatively small developing country in terms of its greenhouse gas emissions. However, its unique problem related to climate change is deforestation. Forest burning to clear land for cultivation and underground peatland fires have led to huge releases of CO<sub>2</sub> into the atmosphere. Emissions from forestry and other land-use sectors account for about 60 percent of total greenhouse gas emissions in Indonesia.<sup>11</sup> In addition, a rapid increase in population and rapid economic growth have contributed to further increasing emissions.

Indonesia was not a hard negotiator in the realm of climate change during the 20th century. It was a member of the G77+China, consisting of nearly 100 developing nations. Entering the 21st century, the G77+China became a less coordinated negotiating group as an increasing number of developing countries started asserting their respective national views. Indonesia was not an exception. In 2005, Papua New Guinea and Costa Rica jointly submitted a proposal to formulate a methodology to take into account countries' efforts to reduce deforestation. Two years later, Indonesia hosted the COP13 to the UNFCCC in Bali and adopted the Bali Action Plan, in which the aforementioned proposal was successfully reflected as "reduction of emissions from deforestation and forest degradation in developing countries," later dubbed REDD+. Indonesia is one of the countries that has benefited the most from REDD+–related activities up to today. Much of the support from developed countries and nongovernmental organizations to conserve forests in Indonesia has become more tangible and more effective than in past years.

Emissions of CO<sub>2</sub> from fossil fuel combustion are still relatively small in per capita terms, but are likely to grow if no policies are implemented. Unlike Japan and South Korea, where most fossil fuels have to be imported, Indonesia is a resource-abundant country. It has large coal, oil, and gas reserves and, thus, there is less incentive for people to save energy. The Indonesian government has provided energy subsidies with the rationale that citizens should benefit from domestic production of fossil fuels through their low prices. As a consequence, Indonesia's primary energy demand almost doubled between 1990 and 2008, and the subsidies placed a large

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<sup>10</sup> International Energy Agency, *Energy Policies of IEA Countries: The Republic of Korea*, 2012.

<sup>11</sup> The share of emissions from the land-use sector within national total emissions is notably high in Indonesia when compared with other countries, such as the United States (13 percent) and Japan (5 percent).

burden onto Indonesia's national budget.<sup>12</sup> Indonesia made a drastic change in its subsidy policy in 2014 and 2015 and fully removed the subsidies on gasoline and diesel. Fuel prices increased by nearly 40 percent from previous years, but the effect on energy demand is yet to be observed.

Indonesia's pledge for its emission target for 2020, announced in 2009, is "a 26-percent reduction from business as usual" without international support, and "a 41-percent reduction from business as usual" with international support. Its emission target for 2030 includes an unconditional target of 29 percent below business-as-usual levels and a conditional 41-percent reduction below business-as-usual levels with sufficient international support. As in South Korea, these targets are based on comparison with a business-as-usual scenario, which make the targets difficult to evaluate. Most actions or plans to achieve these targets are in the forest and other land-use sectors, and some studies have evaluated Indonesia's emission targets as effective in decreasing the speed of deforestation in the country, but perhaps not in reducing emissions from fossil fuel combustion.<sup>13</sup>

Historically, Indonesia was part of the G77+China and criticized the United States and other rich countries for causing the climate change problem. On the other hand, Indonesia had a common interest with other fossil fuel-exporting countries and with the United States with respect to delaying energy-saving or renewable-energy policies. A change of mindset occurred in Indonesia after forest conservation activities began to attract financial support from abroad. Indonesia thus stays away from making a clear assessment of climate actions in the United States. Regardless of progress made in the United States concerning climate change mitigation, Indonesia will be happy to receive financial support from the United States and other developed countries to reduce deforestation. In other words, efforts that would be taken by Indonesia to reduce emissions will depend on the level of international assistance, not on how much the United States and other developed countries will be doing domestically.

## India

Many experts see India as a country that will start increasing greenhouse gas emissions dramatically in the near future. The current population of 1.3 billion is expected to surpass that of China and reach more than 1.5 billion by 2030.<sup>14</sup> Although its per capita emissions are currently only about one-tenth of those of the United States, India's emissions are expected to grow in relation to population growth and increased industrialization.

India's position from the early days of international negotiations on climate change was that developed countries should be responsible for mitigating greenhouse gas emissions and for

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<sup>12</sup> Asian Development Bank, *Fossil Fuel Subsidies in Indonesia: Trends, Impacts, and Reforms*, Manila, Philippines, 2015.

<sup>13</sup> Climate Action Tracker, "Indonesia," 2016.

<sup>14</sup> United Nations, Department of Economic and Social Affairs, Population Division, *World Population Prospects: The 2015 Revision*, New York, 2015.



helping developing countries adapt to the adverse impacts of climate change, because climate change is mainly a consequence of the rich countries' cumulative emissions. This thinking was linked to a well-known principle called "common but differentiated responsibility" (CBDR), which many environmental treaties are based on. It was the Indian government that established the "Green Group" of developing countries during COP1 in 1995 and drafted a COP decision that ultimately led to the "Berlin Mandate," a mandate to initiate a new round of negotiations that resulted in the adoption of the Kyoto Protocol. The Berlin Mandate clearly stated that there would be no new commitments for developing countries.

After the United States withdrew from the Kyoto Protocol and many developed countries started to call for an alternative framework that included all countries, India formed a loose collaboration with Brazil, China, and South Africa—the BASIC group—to consider their views. Their negotiating positions were not coordinated among themselves, so the group was not a formal negotiating group, but nonetheless their activities influenced the UNFCCC negotiations to act against requests from developed countries for major emerging economies to shoulder part of the burden to reduce emissions. In 2009, India proposed a new financial mechanism called the "Green Climate Fund" (GCF) to support both mitigation and adaptation activities in developing countries. Until then, there had been several kinds of funding mechanisms under UNFCCC, but the amount of money was too small to fulfill the objectives. The new funding mechanism was officially established, and operation started the following year.

As for negotiations before the Paris Agreement, India was one of the leading countries of the G77 group against demolishing the historical responsibility of developed countries, and called for maintaining a clear division between Annex I and non-Annex I countries' commitments. The Paris Agreement decided not to make such a distinction. Similarly, India wanted a clear indication in the Paris Agreement of quantitative collective targets with respect to the amount of financial assistance from developed countries for the post-2020 period. This was also not acceptable to the developed countries, and the guidance was stated in the COP decision, rather than in the Paris Agreement. Overall, India was not able to fully reflect the positions of developing countries and was not happy with the result. The following year, however, the Obama administration persuaded India to accept the agreement, and India ratified the Paris Agreement in September 2016.

India's foreign policy related to climate change is heavily influenced by the North-South dimension of world politics, but there are many opportunities and great potential for India to receive foreign aid to support climate change mitigation and adaptation activities. First and foremost, poverty reduction is a priority in India. Even today, almost one-quarter of the energy consumed in India comes from biomass and waste. Firewood, crop residues, and dung are often used for cooking. A shift to modern energy sources is a prerequisite for, as well as a consequence of, the alleviation of poverty, because women and children will be able to use their time doing things other than collecting firewood and crop residues. Meanwhile, India has huge coal reserves. This is the biggest source of energy and provides more than half of the total energy

consumed. As people shift to new sources of energy, it should not be coal, but rather renewable energy, such as solar and wind power. The Indian government acknowledges this and seeks foreign support to enhance its shift to renewable energy. The Ministry of Non-Conventional Energy Sources (MNES), established in 1992, was renamed the Ministry of New and Renewable Energy (MNRE) in 2006. In the last decade, wind power has been the predominant contributor to the growing share of renewable energy in India. In addition, the National Solar Mission, launched in 2010, has a targeted deployment of 20 GW of grid-connected solar power by 2022, 2 GW of off-grid solar applications by 2022, and 20 million square meters of solar thermal collector area. In mid-2015, the Indian cabinet approved the revision of the second target from 20 GW to 100 GW by 2022.<sup>15</sup> This is an ambitious target, but India has made good progress toward reaching it.

In 2009, India pledged to reduce the emissions intensity of its gross domestic product (GDP) by 20–25 percent by 2020 in comparison to the 2005 level. India's targets to be achieved by the year 2030, pledged for the Paris Agreement, are to further lower the emissions intensity of its GDP by 33–35 percent below 2005 levels; to increase the share of nonfossil fuel-based power generation capacity to 40 percent of installed electric power capacity (equivalent to 26–30 percent of generation in 2030); and to create an additional cumulative carbon sink of 2.5–3 Gt-CO<sub>2</sub>eq through additional forest and tree cover. Aiming at these targets ensures a decoupling of GDP from greenhouse gas emissions.

All that said, India's move toward decarbonization of energy will continue independent of the United States' inaction to reduce its emissions. On the other hand, it is most likely that India will strengthen its criticism of the United States if the Trump administration decides to pull financial support for activities under the UNFCCC. Private investment toward renewable energy facilities in developing nations is on the increase, but official government funding still plays a central role in addressing effective climate change mitigation policies.

## Asian Views on the United States in the Climate Change Debate: Past, Present, and Under the New Administration

In general, Asian countries see the United States as a rich country that relies heavily on fossil fuel energy. As one of the most industrialized countries that has historically used large amounts of fossil fuel, the United States is expected to take a leading role in reducing its greenhouse gas emissions by enhancing renewable energy, changing lifestyles, and spreading technologies to significantly improve energy efficiency.<sup>16</sup>

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<sup>15</sup> Ministry of New and Renewable Energy, "Chapter 4: National Solar Mission," *Annual Report 2016*, 2016.

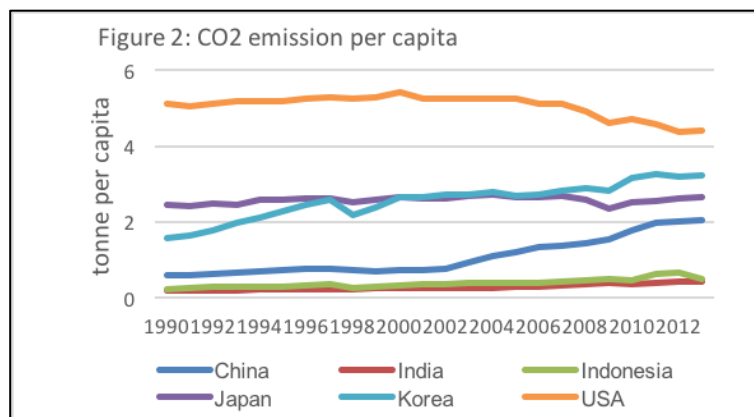
<sup>16</sup> Countries rarely criticize other countries by name in the realm of multilateral climate change negotiations, but equity has been a major concern of developing countries. Here, equity is often expressed in terms of per capita emissions, per capita energy use, or GDP per capita. See, for instance, Luiz Pinguelli-Rosa and Mohan Munasinghe, eds., *Ethics, Equity and International Negotiation on Climate Change*, Cheltenham, UK: Edward Elgar, 2002.

There are contrasting views in Japan regarding the United States' position on climate change. Those who prefer to see more-ambitious climate mitigation policies in Japan have seen the United States as a laggard country, a country that offered excuses to Japanese politicians—and to energy-intensive industries that lobbied those politicians—for not making efforts to reduce emissions in Japan. These pro-environmentalists have supported the positions taken by the EU and have urged the Japanese government to follow the EU position instead of the U.S. position and to contribute to global efforts to tackle climate change. They were happy when then-Prime Minister Junichiro Koizumi decided that Japan would remain as a party to the Kyoto Protocol when the United States withdrew in 2001. They welcomed the arrival of the Obama administration and its eight years of efforts to take the lead in the realm of climate change, proposing the Clean Power Plan, developing cooperative bilateral dialogues with China, and achieving the successful outcome of the Kigali Amendment to the Montreal Protocol in October 2016 to phase down hydrofluorocarbons (HFCs), a group of organic compounds that replaced ozone-depleting substances but with a significant global warming potential. They were also happy with the outcome of the COP21: the adoption of the Paris Agreement. Now that all countries, including the two largest emitters, are part of the agreement, there should be no excuses for Japan's inaction. The result of the presidential election in the United States in November 2016 was a shock for these people, but many consider that the United States' energy policies have already begun to shift in the direction of low-carbon development and, therefore, that emission reductions in some forerunning states (such as California) and investments in low-carbon technologies by the private sector will continue independent of the new Trump administration.

Meanwhile, others in Japan did not consider it worthwhile to reduce emissions in Japan as long as the United States and China were not taking action. These anti-climate stakeholders insisted that Japan was responsible for a mere 3–4 percent of global emissions, so climate change cannot be mitigated by Japan's efforts without the cooperation of these huge emitters. These people had considered the United States a close ally to Japan, and they were against international commitments under the Kyoto Protocol that set absolute emission reduction targets for fear of having restrictions placed on their economic activities. They argued that Japan should follow the United States and withdraw from the Kyoto Protocol when the Bush administration withdrew. They continued to be happy during the Obama administration because the Republicans held the majority in the Congress and, thus, they believed that the United States would not be able to agree to any ambitious international agreements. They started to become nervous after the adoption of the Paris Agreement, but have renewed their faith in the United States' inaction under the new administration. Prime Minister Abe has already expended tremendous effort to build a good relationship with President Trump for many reasons other than climate change, most notably for security and trade-related matters, but this good relationship may result in Abe's negligence in implementation of climate change policies in Japan.

Among the three non–Annex I countries considered in this essay, India took a leadership role among developing countries and criticized the inaction of developed countries. Developing countries are concerned about the equity dimension of the problem. Equity is a notion that can be measured by a series of different types of indicators, such as emissions per GDP and GDP per capita.<sup>17</sup> Among these measurements, developing countries consider “per capita emissions” to be the most decisive measurement for equity. India had insisted on inserting this measurement from an early stage of negotiations up to the adoption of the UNFCCC in 1992. As Figure 2.2 shows, the United States is one of the world’s top emitters, with per capita emissions almost twice those of many other developed countries, including Japan and EU member countries (not shown in the figure). This is because of intensive daily use of energy for heating houses and transportation. The view of developing countries is that all individuals have an equal right to emit. If the people of China and India were to emit as much per capita as the people of the United States, global emissions would nearly double instantly. That is the fundamental reason why developing countries insist that the United States should reduce its emissions before the it urges non–Annex I countries to limit their emission growth.

**Figure 2.2. CO2 Emissions Per Capita**



SOURCE: Data on CO<sub>2</sub> emissions were retrieved from the Carbon Dioxide Information Analysis Center, 2016.

India and many other developing countries also consider the UN to be the place to negotiate and develop multilateral agreements on climate change.<sup>18</sup> This is mostly due to the fact that the UN’s voting rules and procedures are advantageous to developing countries compared with those of other multilateral forums, such as the World Bank. Financial mechanisms under the UNFCCC

<sup>17</sup> Niklas Höhne, Hanna Fekete, Christian Ellermann, and Sandra Freitas, *Differentiated Mitigation Commitments in a New Climate Agreement*, LDC Paper Series, January 2014.

<sup>18</sup> Tariq Osman Hyder, “Looking Back to See Forward,” in Irving M. Mintzer and J. Amber Leonard, eds., *Negotiating Climate Change: The Inside Story of the Rio Convention*, Cambridge, UK: Cambridge University Press, 1994, pp. 201–226.

in the early stages were initiated by the Global Environmental Forum (GEF), which was an organization under the World Bank. Developing countries criticized the slow procedures of the GEF in releasing funding for climate mitigation and adaptation actions in developing countries and continuously requested the establishment of a new financial mechanism independent of the GEF. The establishment of the GCF under the UNFCCC in 2010 as a funding mechanism outside the control of the World Bank Group was a victory of hard negotiations by India and other major developing countries. The GCF is headquartered in the Songdo International Business District of Incheon City in South Korea. The GCF has been successful in attracting public and private finance for climate mitigation and adaptation actions in developing countries.

Back in July 2005, the Bush administration established a new forum called the Asia-Pacific Partnership on Clean Development and Climate (APP). The forum started with six countries in the region: Australia, China, India, Japan, South Korea, and the United States, with Canada joining later. The APP's main goal was to accelerate the use of more-energy efficient, cleaner technologies and mitigate climate change without undermining economic development. There was no official explanation, but many suspected that this was an attempt by the United States to set up a multilateral cooperative mechanism outside the UN to be able to commence bilateral technological cooperation with Asian countries without being controlled by the UNFCCC.<sup>19</sup> China and India did not deny receiving support via the APP network, but that did not mean that they would shift away from the UNFCCC.

The victory of Donald Trump in the 2016 U.S. presidential election has cast a huge shadow of uncertainty over the future of climate change policies, both inside and outside the United States. Will President Trump attempt to do things like former President George W. Bush did during his administration, withdrawing from the Kyoto Protocol and establishing a new forum outside UNFCCC to replace the UN-based multilateral regime? How will Asian economies respond this time?

The news of the U.S. presidential election took over discussions under way at the COP22 held in November 2016 in Marrakech. During his presidential campaign, Mr. Trump said that climate change is a Chinese-made hoax,<sup>20</sup> that he was looking for a fast exit from the Paris Agreement, and that he would cancel billions of dollars in payments to UNFCCC programs. This news dampened the eagerness of COP22 participants to implement the Paris Agreement to curb climate change. French president François Hollande, who attended the High-Level Segment of COP22, urged Trump and his government to respect the Paris Agreement that had been signed by more than 190 countries and is regarded as irreversible, and to follow strategies for low-

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<sup>19</sup> Harro van Asselt, *The Fragmentation of Global Climate Governance: Consequences and Management of Regime Interactions*, Cheltenham, UK: Edward Elgar, 2014.

<sup>20</sup> Edward Wong, "Trump Has Called Climate Change a Chinese Hoax. Beijing Says It Is Anything But," *New York Times*, 2016.

carbon development.<sup>21</sup> Entering 2017, President Trump appointed noted climate change denier Scott Pruitt as the new Administrator of the U.S. Environmental Protection Agency (EPA). Mr. Pruitt is the former Attorney General of the state of Oklahoma, which sued to fight the EPA's climate change policies, such as the Clean Power Plan. The new Secretary of State is Rex Tillerson, who served as the chairman and CEO of Exxon Mobile. With these appointees, we cannot expect any leading role of the United States on climate change, even outside of the UNFCCC regime.

One difference between now and 16 years ago—when the United States under the Bush administration withdrew from the Kyoto Protocol—is that all countries, including developing countries, are now on track toward low-carbon development. The speed may be slower than it should be in order to limit global temperature rise to below 2 or 1.5 degrees Celsius, but all countries consider the reduction of greenhouse gas emissions a must, and that the reduction must be viable without harming economic growth. Independent of the policy preferences of the next president of the United States, a global shift from fossil fuels to cleaner energy will continue for many other reasons. Even in the United States, the coal industry is not as politically influential as it used to be since shale gas started taking over energy markets in the 2000s, and the business sector is profiting by investing in renewable energy and smart grids because these activities are more profitable than coal-related projects.

It will be the same for countries in Asia. China announced that it will continue working toward low-carbon development even if the United States pulls out of the UNFCCC. India and other less-developed countries will also tackle climate mitigation policies at home by hosting projects and investments related to renewable energy and energy-saving that are rapidly driven by the private sector, rather than criticizing the United States or withdrawing from the Paris Agreement. These countries have chosen renewable energy rather than fossil fuels, not only because renewable energy is better for the climate, but also because it is much cleaner energy to mitigate local air pollution, improve indoor air quality, and is less expensive in terms of not having to continue buying fuels after installation. There are a variety of bilateral and regional channels outside the UNFCCC forum that can be used by developing countries to attract new investments to promote low-carbon development.

If any influence of the new Trump administration is to emerge over domestic climate change mitigation policies among the countries of Asia, it will be in Japan and perhaps also in Korea. As mentioned earlier, there are groups in Japan that are hesitant to reduce emissions, and they have justified this position by referring to the U.S. position. They will welcome Trump's new position against setting ambitious—or “unrealistic,” in their terminology—emission reduction targets, will interpret emission targets for 2030 as voluntary, non-legally binding targets, and will call for a halt in Japan's emission reduction policies.

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<sup>21</sup> Kate Samuelson, “Donald Trump Must Respect ‘Irreversible’ Paris Climate Deal, French President Hollande Says,” *Time*, November 15, 2016.

This scenario could benefit the Japanese and U.S. economies in the short term by lowering the price of oil for some years, but it will not lead to any positive outcome in the long term. By clinging to the fossil fuel energy of the 20th-century world, they will fall behind in a race toward a decarbonized world, where renewables become the main source of energy in the 21st century.

## Conclusion

This essay has focused primarily on the climate mitigation—or greenhouse gas reduction—side of climate change policy. On the other hand, the importance of adaptation and discussions on loss and damage has increased in recent years. Extreme weather events are increasing around the world, including in Asia and the United States. As a recent report by the U.S. National Intelligence Council rightly points out, climate change and its resulting effects are likely to pose wide-ranging national security challenges for the United States.<sup>22</sup> Climate change is not merely an environmental, energy, or economic issue, but is also a threat to national security.<sup>23</sup> Conflict over shortages of water and food could increase all over the world. Migration from small island states could increase as the sea level rises. The United States and Asian countries should collaborate in promoting both mitigation and adaptation actions to minimize risks to the people of these countries.

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<sup>22</sup> National Intelligence Council, *Implications for U.S. National Security of Anticipated Climate Change*, 21 NIC WP 2016-01, September 21, 2016.

<sup>23</sup> Stella Schaller, “G7 Workshop on Climate Change, Fragility and International Security in Tokyo,” The Center for Climate & Security, 2017.

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## Chapter Three. The U.S.-Asia Economic Relationship: Policy Implications of Recent Trends in Trade, Foreign Direct Investment, and Patenting

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### Abstract

This paper examines trends in trade, foreign direct investment (FDI), and innovative activity in Asia during 1990–2014, paying special attention to the evolution of the bilateral economic relationship between Asia and the United States. By almost all measures, there has been a fairly remarkable increase in the collective economic clout of Asian countries. In 1990, while Asian countries together accounted for just over 24 percent of global output, by 2014 their share had risen to 34 percent. While per capita income of Asian countries in 1990 was about 7 percent of that of the United States, this ratio increased to over 11 percent in 2014. Over the same period, Asian countries saw their share of world merchandise exports increase rather dramatically (from 25 percent to almost 41 percent). At a bilateral level, trade between the United States and Asia almost doubled from 1990 to 2014 but Asian trade with rest of the world increased to an even greater degree. During 2010–2014, Asian countries attracted roughly 32 percent of global FDI flows and about 23 percent of the global stock of inward FDI now resides in Asia. Investments in research and development (R&D) as well as local patenting activity in Asian countries have also increased significantly. In fact, China alone accounted for approximately 35 percent of all patent applications filed in the world during 2014. Policy friction between the United States and Asia continues to manifest itself in antidumping (AD) duties and in trade disputes filed at the World Trade Organization (WTO). It is noteworthy that, other than South Korea, the United States does not currently have a bilateral trade or investment treaty with any major Asian country. With the fate of the proposed Trans-Pacific Partnership (TPP)—a comprehensive trade agreement between the United States and 11 Pacific Rim countries cutting across a range of issues—now essentially sealed, the future evolution of international economic cooperation between the United States and Asia seems uncertain at best. In light of the evidence discussed in this paper, it seems that, at least within the sphere of international economic policy, the proposed “policy pivot” of the United States toward Asia is yet to take tangible form.

### Introduction and Overview

The continent of Asia comprises 45 countries that differ dramatically in terms of their economic, political, social, and geographic conditions. On the population spectrum, Asia includes such behemoths as China and India as well as such tiny countries as Bahrain and Maldives. While per capita income in most Asian countries is relatively low by global standards,

Asia includes some fairly rich countries, such as Kuwait and Qatar, whose per capita real incomes exceed those of many Western countries.<sup>1</sup> Politically, Asia is remarkably diverse: it includes the world's largest democracy (India), the largest country under the control of a single political party (China), and also small kingdoms, such as Bhutan and Brunei. All of the major religions of the world are present in Asia, many of them having originated there, with Islam and Hinduism being its two most popular faiths. Over 60 percent of the global population resides in Asia and together the United States and Asia account for roughly half of the global economy. Thus, bilateral ties between the United States and Asia affect not just them but also the rest of the world.

Economic and political ties between the United States and Asian countries have a long and checkered history, which includes periods of sustained mutual cooperation as well as episodes of serious conflict. Sometimes, war has given way to robust bilateral trade and cooperation in a fairly short period of time. For example, within a few decades of being embroiled in brutal conflict during the Second World War, the United States and Japan were engaged in significant bilateral trade and investment. Trade between the two countries grew so quickly during the postwar era that their bilateral trade imbalance became a leading policy issue in the United States as early as the 1970s, prompting the development of a huge amount of literature aimed at addressing the “Japan problem.” In some ways, the preoccupation that one witnesses in the United States today regarding its trade with China is reminiscent of past U.S.-Japan trade relations.

In this paper, we study the evolution of the bilateral economic relationship between Asia and the United States over the last 25 years or so (1990–2014). To put this bilateral relationship into context, we begin by examining how Asia's role in the global economy—as measured by its trade and investment ties with the rest of the world—evolved over 1990–2014, a period of remarkable change from a variety of perspectives. We also consider recent changes in R&D investments in Asian countries and in innovative activity, as measured by patenting (both locally and abroad).

With an overview of Asian engagement in the global economy in hand, we turn to a closer examination of the bilateral relationship between the United States and Asia. We also consider policy friction between the United States and Asia as measured by tariffs, AD activity, and international trade disputes adjudicated by the WTO.

Our analysis provides several interesting insights:

- While rapid economic growth in several large countries in Asia (notably China) has substantially increased Asia's global economic clout in terms of its overall economic

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<sup>1</sup> There is large variation in per capita income across Asian countries. For example, in 1990, the ratio of per capita income between the richest country in Asia, i.e., the United Arab Emirates (UAE), and one of the poorest countries (Myanmar) was as high as 576. Although this ratio became smaller in 2014, it remained as high as 146. By contrast, Europe and the Americas exhibit much lower levels of income dispersion.

size, the per capita real income of most Asian countries still lags substantially behind that of rich Western countries.

- The economic pie in Asia has not just grown, it has also been reallocated substantially: China has gained in prominence, particularly relative to Japan, while South Korea has held steady.
- While Asia's exports to the rest of the world in 1990 were roughly twice that of the United States, they grew at a much faster rate so that by 2014, Asian exports were roughly four times that of the United States. On the import side, Asia's rise has also been fairly impressive. While Asia's share of global imports increased from 26.1 percent in 1990–1994 to 37 percent in 2010–2014, that of the United States declined slightly, from 14.8 percent to 12.5 percent.
- Within Asia, the distribution of exports and imports across countries has changed rather dramatically over time: China's share in Asian exports surged from 8 percent in 1990–1994 to 28 percent in 2010–2014, while Japan's share declined from 31.4 percent to 10.5 percent. On the import side, China's share increased from 8.2 percent to 26.5 percent while that of Japan fell from 24.2 percent to 12.2 percent, a clear indication of the growing importance of the Chinese market as a destination for global exports.
- Although the absolute level of trade between Asia and the United States has increased substantially (at an average annual growth rate of roughly 6.6 percent), Asia's share in U.S. foreign trade has been relatively steady at around 36 percent. The share of U.S. imports sourced from Asia has tended to hover around 41 percent and that of U.S. exports destined for Asia is around 30 percent. Thus, from the American perspective, the *relative* importance of Asia over the time period under study has not changed significantly.
- From the Asian perspective, the importance of the U.S. market relative to the rest of the world seems to have actually diminished over time: The United States' share in Asian imports from the rest of the world fell from 14.3 percent in 1995 to just 6.7 percent in 2014, while the percentage of Asian exports sold in the United States also declined rather sharply (from 22.9 percent to 13.2 percent). These figures suggest that, from a trade perspective, Asia has become less reliant on the United States. This change in the global economic landscape could have important implications for the trade policies of both regions. In particular, one wonders whether U.S. trade policy toward Asia needs to become more proactive in terms of strengthening economic ties between the two regions.
- Within Asia, China has replaced Japan as the dominant exporter to the United States: In 1990, the United States sourced 42 percent of its Asian imports from Japan and only about 11 percent from China, but by 2014 the roles of the two countries had essentially been reversed, with the United States sourcing over 45 percent of its Asian imports from China and just over 14 percent from Japan.
- In the domain of FDI, Asia is not (yet) the most important partner of the United States.<sup>2</sup> While FDI flows between Asia and the United States have increased over time, much of the stock of U.S.-owned FDI still lies in Europe. Similarly, the bulk of the FDI stock in

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<sup>2</sup> FDI refers to an investment made in a foreign country to acquire lasting interest in a local enterprise. FDI differs from portfolio investment in that it typically reflects the long-term strategies of investors and tends to be more irreversible in nature, particularly greenfield investment that is generally accompanied by the construction of new plants and investment in new equipment.

the United States is owned by European countries. Among Asian countries, Japan continues to be the largest source of FDI into the United States.

- China and South Korea have significantly increased their investments in R&D, while Japan has sustained its high rate of R&D investment. These are welcome developments, not just from the perspective of the United States, but also that of the rest of the world. Scientific knowledge and technical know-how resulting from these investments will contribute to the global pool of knowledge and help raise living standards worldwide.
- Innovation and patenting links between Asia and the United States are significant and have been increasing over time. Asian countries now account for a majority of the patent applications filed by foreign residents at the United States Patent and Trademark Office (USPTO). These developments might afford new opportunities for increased U.S.-Asian cooperation in the realm of intellectual property, an area that was characterized by significant policy friction between the two regions in the pre-Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) era.
- U.S. most-favored nation (MFN) tariffs have been low for some time and many Asian countries have reduced their tariffs on U.S. products over the last few decades. Yet both regions frequently use AD duties against each other. For example, over 2010–2014, more than three-quarters of the AD cases filed in the United States targeted Asian imports, with China accounting for almost 40 percent of such cases. While AD duties allow governments to temporarily relieve domestic political pressures, they come with significant economic costs and undercut trade liberalization achieved through other channels, such as reductions in import tariffs.
- At the multilateral level, during 2010–2014, more than half of the trade disputes initiated by the United States at the WTO were against Asian countries, while the United States was the defendant in about 30 percent of the disputes initiated by Asian countries. These numbers seem a bit high relative to the degree of bilateral trade between the regions.
- The United States is currently party to 20 free trade agreements (FTAs) with other countries. Less than 25 percent of the total trade of the United States is with countries with whom it has signed such agreements. Furthermore, the United States has signed FTAs with only a few Asian countries, most of them rather small. In fact, the only large Asian country with which the United States has an FTA is South Korea and this agreement was ratified just a few years ago (in 2012). Given the increasing importance of Asia in the global economy, the lack of international trade agreements between the United States and its major trading partners in Asia is a bit puzzling. One wonders whether U.S. trade policy has failed to keep pace with the fundamental changes in the global economic landscape that have occurred over the last 25 years.
- With the fate of the TPP now essentially sealed, it is difficult to see President Obama's proposed "policy pivot" to Asia materializing within the sphere of international economic policy any time in the near future. For that to happen, there would need to be a dramatic turnaround in the current political atmosphere in the United States, which seems to be becoming anti-trade at a fairly alarming rate.

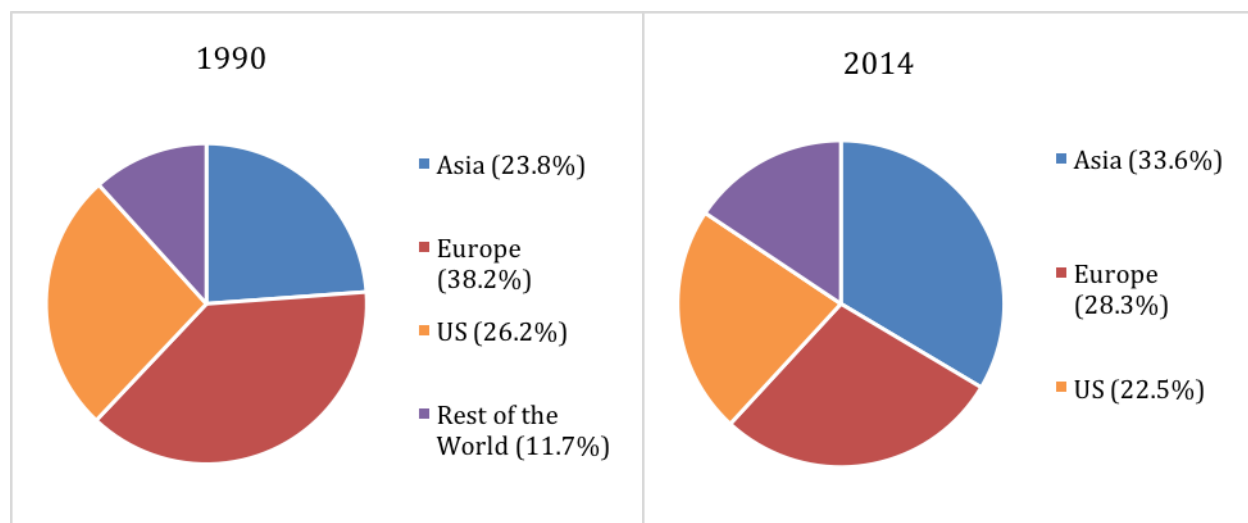
## Asia in the Global Economy

### *Economic Growth in Asia*

Back in 1990, Asian countries together accounted for about one-quarter of global gross domestic product (GDP) and Asia ranked as the third-largest economic continent behind Europe and North America. Due to rapid economic growth in the region, by 2014, Asia's share of the global economy had increased to over one-third. In particular, Asia's annual growth rate of real GDP over 1990–2014 was a healthy 4.1 percent relative to the global growth rate of 2.6 percent.

Asia's rising fortunes are mirrored by the relative decline of Europe, which saw its share of global GDP decline from 38.2 percent in 1990 to 28.3 percent in 2014 (see Figure 3.1). Over the same period, the United States also suffered a decline in its relative economic standing in the world, albeit a more modest one, with its share of global GDP falling from 26.2 percent in 1990 to 22.5 percent in 2014. At a bilateral level, Asia gained significant ground relative to the United States: While in 1990 the Asian economy was a bit smaller than that of the United States, by 2014 it was one-and-a-half times as large as the U.S. economy.

**Figure 3.1. Global Allocation of GDP**

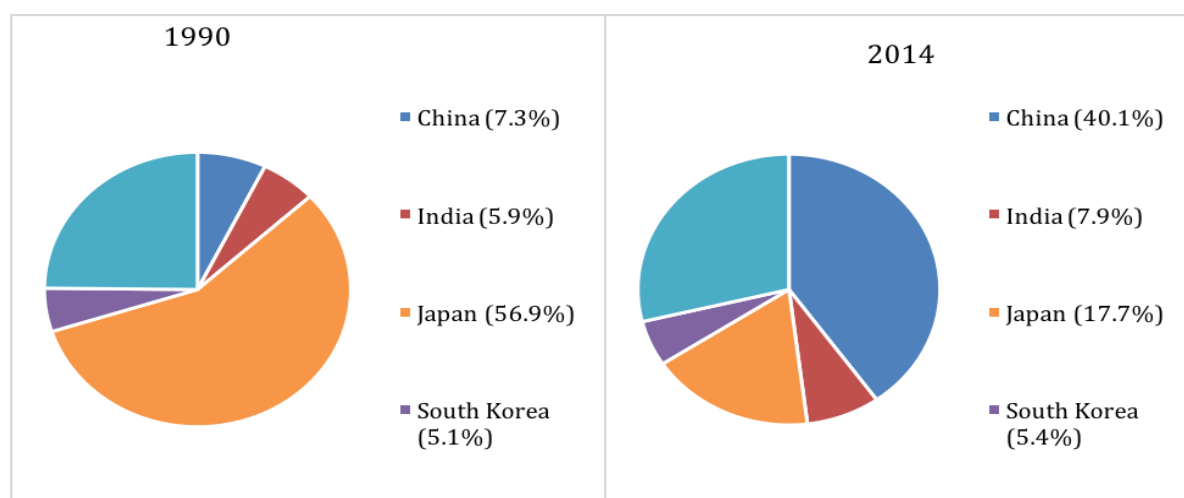


SOURCE: Author's compilation based on United Nations Conference on Trade and Development (UNCTAD), undated.

As one might expect, the rise of Asia was driven in large part by the rapid economic growth of China. Indeed, China's average annual growth rate of real GDP of 10.1 percent (over 1990–2014) was more than twice that of the Asian average growth rate and almost four times the global average growth rate over the same period. China's rapid ascent within Asia is evident from the fact that while it accounted for only 7.3 percent of Asia's total GDP in 1990, its share had surged to 40.1 percent by 2014.

Within Asia, Chinese economic preeminence has come partly at the expense of Japan, whose share of Asian GDP declined significantly from 56.9 percent in 1990 to 17.7 percent in 2014. Figure 3.2 below presents two snapshots that illustrate the reallocation of the Asian economic pie among its major countries over the last 25 years. Other than the remarkable emergence of China and the relative decline of Japan, the shares of other major Asian countries did not change dramatically: India's share increased moderately from about 5.9 percent to 7.9 percent, while that of South Korea remained steady, at about 5 percent.

**Figure 3.2. Allocation of GDP Within Asia**



SOURCE: Author's compilation based on UNCTAD, undated.

Since the living standards of individual citizens are measured more accurately by per capita income, as opposed to the overall size of a country's economy, we show the evolution of per capita real income of Asian countries relative to the United States in Table 3.1.

**Table 3.1. Per Capita Income Relative to the United States (U.S. = 100)**

	1990	1995	2005	2014
China	1.4%	2.2%	4.0%	8.5%
India	1.2%	1.3%	1.6%	2.7%
Indonesia	2.7%	3.4%	3.1%	4.3%
Japan	97.6%	95.1%	82.0%	82.6%
South Korea	26.3%	35.0%	43.0%	54.2%
Asia	6.8%	6.9%	7.0%	9.1%
U.S. per capita GDP (\$)	32,285	34,888	43,924	45,664

SOURCE: Author's compilation based on UNCTAD, undated.

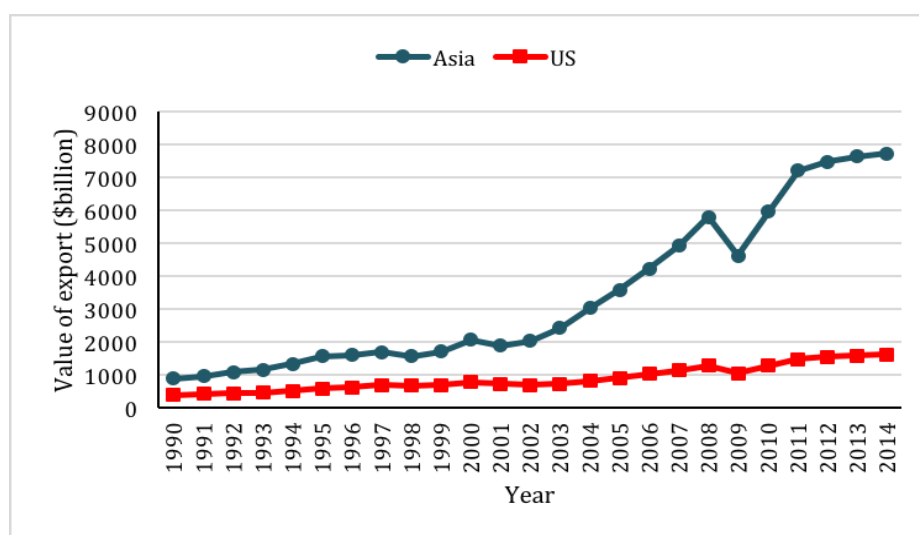


While in 1990, per capita real income in Asia was under 7 percent of that of the United States, by 2014 it was just over 9 percent. This is a fairly modest increase in a base number that was small to begin with. Thus, while Asia has gotten economically larger, on average it has *not* gotten significantly richer, at least not yet. However, much of the increase in the Asian per capita real income was driven by China, whose per capita real income grew at an impressive 9.3 percent over 1990–2014. By contrast, the average growth in per capita real income in Asia was under 3 percent over the same time period. Although China’s per capita real income remains below Asia’s average, the ratio between the two increased from roughly 21 percent in 1990 to 93 percent in 2014 (i.e., Chinese per capita real income in 2014 was roughly equal to the Asian average). Furthermore, China made impressive strides relative to the United States: While in 1990 its per capita real income was only 1.4 percent that of the United States, by 2014 this ratio had increased to 8.5 percent. This is an impressive achievement over a fairly short period of time, especially for a country with over 1 billion citizens.

### *Evolution of Asian Trade*

Over the period under study, Asian involvement in world trade increased in not only absolute terms but also relative to that of the United States.<sup>3</sup> As Figure 3.3 shows, in 1990, Asian exports to the rest of the world were little more than twice that of the United States, but by 2014, they were roughly four times as large.

**Figure 3.3. Value of Merchandise Exports**



SOURCE: Author’s compilation based on UNCTAD, undated.

<sup>3</sup> In the discussion that follows, we focus on merchandise trade. While services are becoming increasingly important in international trade, we do not have good data on the services trade of individual Asian countries.

Due to the rapid growth of its exports, Asia is now a major presence in world trade (see Table 3.2 below). While Asia's share in world merchandise exports was 28.7 percent over 1990–1994, by 2010–2014 its share had totaled 40 percent. In relative terms, both the United States and Europe lost ground to Asia: Europe's share of global exports fell from 47.4 percent over 1990–1994 to 38.4 percent over 2010–2014, while that of the United States declined from 11.9 percent to 8.3 percent.

**Table 3.2. Global Allocation of Merchandise Exports**

	1990–1994	1995–1999	2005–2010	2010–2014
Asia	28.7%	29.6%	35.4%	40.0%
Europe	47.4%	46.0%	43.1%	38.4%
United States	11.9%	12.0%	8.3%	8.3%
World total (current \$ trillions)	1.9	2.7	6.5	9.0

SOURCE: Author's compilation based on UNCTAD, undated.

Asian exports to the rest of the world surged and their distribution across Asian countries also changed significantly. While only 8 percent of Asian exports over 1990–1994 originated in China, China had become the largest exporter in Asia by 2010–2014, accounting for 28 percent of Asian exports. China's increased prominence in Asian exports came partially at the expense of Japan, whose share fell rather precipitously from 31.4 percent to 10.5 percent.<sup>4</sup> Asia's share in world imports increased from 26.1 percent over 1990–1994 to 37 percent over 2010–2014, which is roughly the same as that of Europe, whose share of world imports fell from 47.2 percent to 37.1 percent over the same period, while that of the United States declined from 14.8 percent to 12.5 percent.

It is generally recognized that in today's global economy, trade between subsidiaries and headquarters of multinational firms may account for over one-third of total world trade. Indeed, FDI is the dominant channel through which firms serve their customers in foreign markets and sales of subsidiaries of multinational firms exceed worldwide exports of goods and services. Given this, it is useful to briefly explore Asia's experience with FDI, both in absolute terms and relative to the rest of the world.

### *Flows and Stocks of Foreign Direct Investment*

The key distinguishing feature of FDI is that it transfers control of local enterprises to foreign hands. Sometimes FDI occurs via the establishment of wholly-owned subsidiaries of multinational firms, whereas at other times it involves shared ownership between local and

<sup>4</sup> The absolute value of Japanese exports did increase moderately over this period, but Chinese exports exploded.

foreign firms in the form of international joint ventures. As a result, FDI inflows are valuable, not just because they bring in capital, but also because they are frequently accompanied by international technology transfer. While FDI in the form of mergers and acquisitions is more likely to yield productivity improvements via changes in the management and organization structure of acquired firms, greenfield FDI leads to the introduction of technologies that allow host countries to produce entirely new products or improve their existing production processes.<sup>5</sup>

Over time, Asia has become an increasingly important destination for inflows of global FDI: Asia's share of such inflows increased from 21.7 percent over 1990–1994 to 32 percent over 2010–2014. By contrast, both the United States and Europe saw their shares of global FDI inflows decline. These changes in FDI inflows are also reflected in the allocation of the global stock of FDI. Asia's share of the global FDI stock increased from 16.1 percent in 1995 to 24.4 percent in 2014.

Asia has also become a more important source of FDI even though these outward flows have not increased smoothly over the years. The share of Asia in global FDI outflows increased from 20.6 percent over 1990–1994 to 32.9 percent over 2010–2014. Indeed, Asia's share over the latter period was fairly similar to that of Europe (35.5 percent). Asia's share in global outward FDI stocks also increased significantly (from 12.2 percent in 1991 to 22.2 percent in 2014), while that of the United States and Europe declined.

With this overall picture of Asian engagement in international trade and FDI in mind, we now examine the evolution of innovative and patenting activities in Asia.

### *Innovative Activity and Patent Protection in Asia*

During the Uruguay Round negotiations (1986–1994), China was not a member of the General Agreement on Tariffs and Trade (GATT) and many Asian countries, especially India, were opposed to any strengthening of patent protection in the global economy. But with the ratification of the TRIPS, most developing countries had to significantly alter their intellectual property rights (IPR) policies in order to make them compatible with TRIPS, although they were given a grace period of ten years to implement the requisite changes. For example, India introduced significant patent reforms in 2005. Prior to 2005, India did not recognize product patents for pharmaceuticals. As a result, reverse engineering and imitation were rampant in India and were the key drivers behind the development of its robust pharmaceutical industry. The explicit recognition of product patents in 2005 made an imitation-based development strategy unviable for India. Like many other Asian countries, the focus of policymaking in India now seems to have shifted toward encouraging collaboration with multinational firms in order to

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<sup>5</sup> For extensive surveys of the economic literature exploring the interlinkages between trade, FDI, and international technology transfer, see Kamal Saggi, "Trade, Foreign Direct Investment, and International Technology Transfer: A Survey," *World Bank Research Observer*, Vol. 17, 2002, pp. 191–235; and Kamal Saggi, "Chapter 18: Trade, Intellectual Property Rights, and the World Trade Organization," Kyle Bagwell and Robert Staiger, eds., *Handbook of Commercial Policy*, Amsterdam: Elsevier, 2016.

increase local industry's participation in the global R&D chain, with an eye toward moving local industry from imitation to innovation.

The Ginarte-Park (GP) index is a convenient means of examining the evolution of patent protection in Asia during recent decades. This index synthesizes five separate categories pertaining to a country's patent protection: coverage, membership in such international treaties as TRIPS, duration of protection, enforcement mechanisms, and restrictions (such as compulsory licensing) that limit a patent-holder's control over his or her invention. The index yields a score ranging from 0 to 5, with a higher value indicating stronger patent protection implemented by a country.

Table 3.3 shows the GP index for six major Asian countries in 1990 and 2010. The table also includes the United States as a benchmark since it is considered one of the countries that enforce the most stringent intellectual property (IP) protection. Back in 1990, the GP scores of developing Asian countries, such as China and India, were much lower than those of developed countries such as Japan, let alone the United States, whose score was close to the highest possible level. However, by 2010, the GP scores of developing Asian countries had increased substantially. For example, the GP scores of China and India rose from 1.33 and 1.03 in 1990 to 4.21 and 3.76 in 2010, respectively, indicating a narrowing of the degree of patent protection between major Asian countries and the United States.

**Table 3.3. Ginarte-Park Index, 1990 and 2010**

	1990	2010
China	1.33	4.21
India	1.03	3.76
Japan	3.88	4.67
Malaysia	2.05	3.68
Singapore	2.04	4.21
South Korea	3.69	4.33
United States	4.68	4.88

SOURCE: Email correspondence with Walter Park.

As with trade, Asia has become considerably more active in patenting: In 2014, it accounted for 60 percent of global patent applications, a number that coincides almost exactly with its share of the global population (see Table 3.4). During 1997–2014, Europe's share of global patent applications declined from 22.7 percent to 12.9 percent. By contrast, the United States managed to maintain its footing: Its share of global patent applications even increased slightly, from 19 percent to 21.6 percent.

**Table 3.4. Global Patent Applications**

	1997	2000	2010	2014
Asia	49.1%	46.2%	51.1%	60.0%
Europe	22.7%	23.3%	17.3%	12.9%
United States	19.0%	21.5%	24.7%	21.6%
World total (\$ millions)	1.1	1.4	2.0	2.7

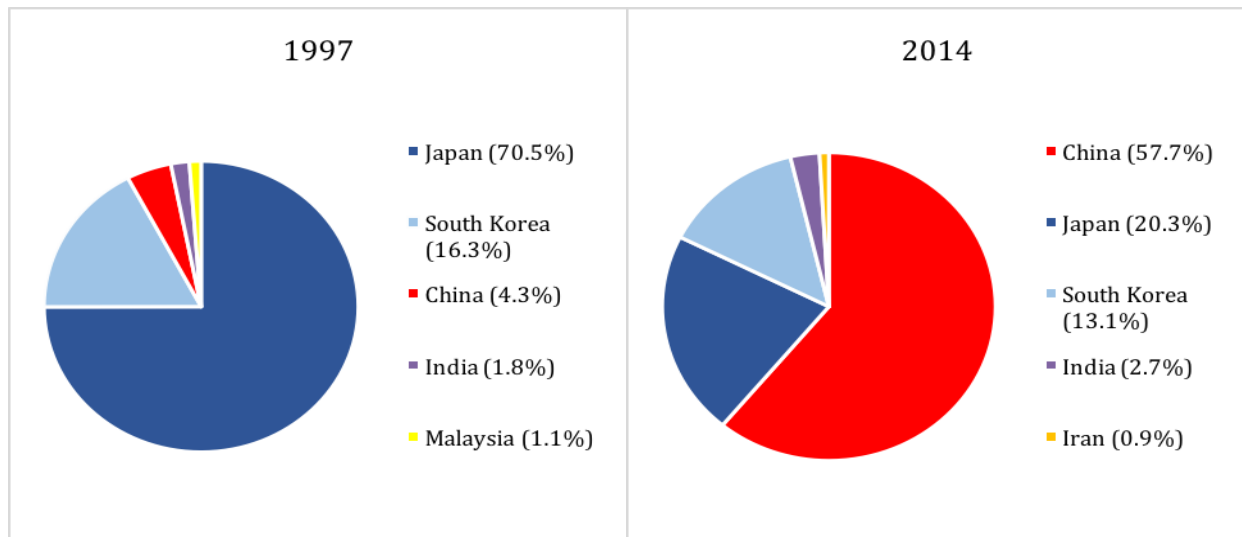
SOURCE: Author's compilation based on World Intellectual Property Organization (WIPO), undated.

Within Asia, the standout performer has been China once again, where patenting activity has surged in recent decades. Back in 1997, China was the third-largest recipient of patent applications in Asia and accounted for only 4.3 percent of Asian patent applications. However, by 2014, China's share had risen to a remarkable 57.7 percent and more patent applications were filed in China than in any other Asian country. In contrast, Japan's share in Asian patent applications fell from an impressive 70.5 percent in 1997 to just 20.3 percent in 2014 (see Figure 3.4). Of course, as Geng and Saggi (2015) note, one should interpret these numbers with some caution. Count data on patent applications (and even grants) tell us virtually nothing about the economic values or the qualities of the underlying technologies. Indeed, Chinese leadership has explicitly recognized that, while the number of patent applications in China has increased sharply in recent decades, the quality of local patent applications remains relatively low.<sup>6</sup>

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<sup>6</sup> The first objective stated in the Chinese Promotion Plan for the Implementation of the National Intellectual Property Strategy is to "improve [the] IP appraisal and assessment system. . . and to shift the focus on IP quantity to IP quality, and boost IP value." Of course, the concern with patent quality is hardly unique to China: Examples abound of trivial inventions that have been granted patents, even in the United States. See Maskus (2012) for some examples of patents granted by the USPTO that have attracted widespread criticism.

**Figure 3.4. Top Five Asian Recipients of Patent Applications**



SOURCE: Author's compilation based on WIPO, undated.

Patent applications can be filed by local or foreign inventors. To better capture the scale of indigenous innovation, it is useful to differentiate between resident and nonresident patent applications. All else equal, a larger share of resident applications indicates relatively more indigenous innovation. Table 3.5 presents the relevant data. Notably, the share of residents in patent applications filed in China increased considerably, from 51.2 percent in 1997 to 79 percent in 2014.

**Table 3.5. Share of Residents in Patent Applications**

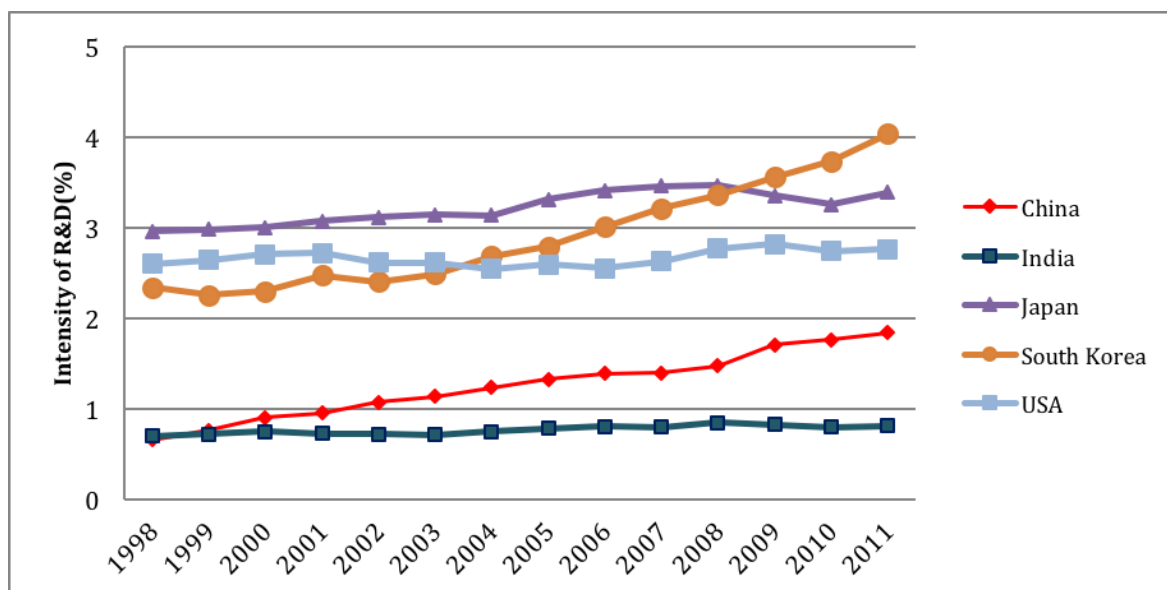
	1997	2014
China	51.2%	79.0%
India	19.0%	20.9%
Japan	87.0%	83.9%
South Korea	72.7%	77.1%
United States	54.1%	49.3%

SOURCE: Author's compilation based on WIPO, undated.

While patent applications and grants measure the output side of the innovation process, it is also useful to examine the input side. Many Asian countries have stepped up their R&D investment and, in recent years, the R&D intensities of Japan and South Korea have even exceeded that of the United States. Among major Asian countries, China exhibited the fastest

growth rate of R&D intensity over 1997–2011.<sup>7</sup> In fact, its R&D intensity tripled over 1997–2011, up from 0.6 percent in 1997 to 1.8 percent in 2011 (see Figure 3.5). Since the Chinese economy has grown remarkably fast, behind the observed increase in R&D intensity lies an impressively large increase in the absolute level of R&D investment. The level of R&D intensity for China, however, remains considerably lower than that of developed countries, such as Japan and South Korea.<sup>8</sup>

**Figure 3.5. National R&D Intensities**



SOURCE: Author's compilation based on World Bank, undated.

## The U.S.-Asia Economic Relationship

### *Trade Between the United States and Asia*

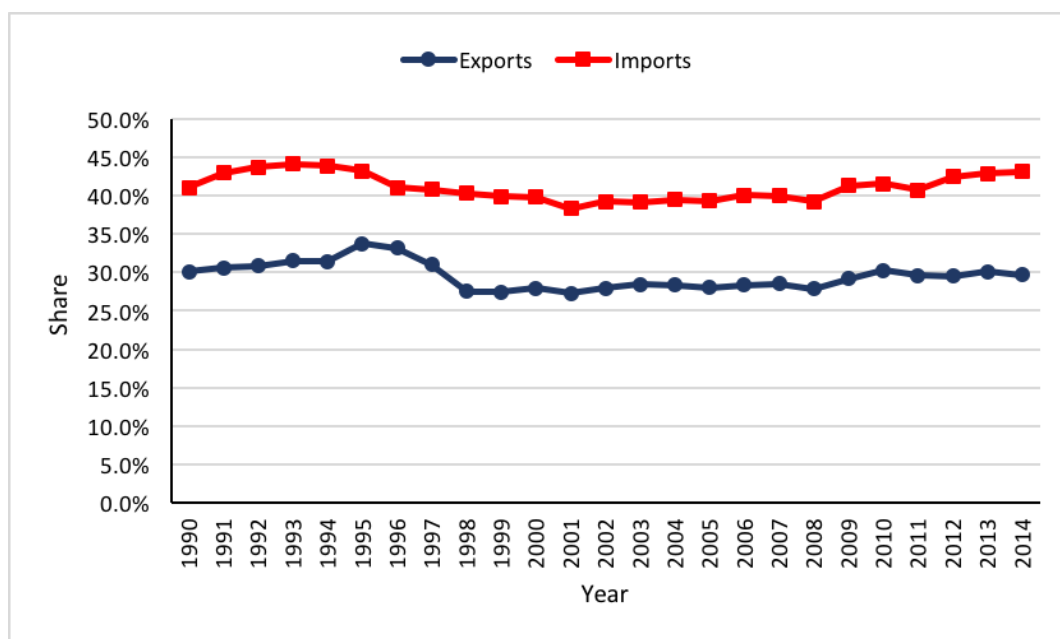
Despite Asia's increasing presence in world trade, its relative importance as a trading partner of the United States did not change significantly over the last 25 years or so. Although the absolute level of trade between Asia and the United States increased substantially (at an average annual growth rate of roughly 6.6 percent), Asia's share in U.S. foreign trade has been relatively steady, at around 36 percent. These trends suggest that Asian economies have been increasingly successful at cultivating new markets for their exports in the rest of the world.

<sup>7</sup> A country's *R&D intensity* is its R&D investment as a percentage of GDP.

<sup>8</sup> In 2011, the absolute level of R&D investment in China was roughly half of that of the United States and about 62 percent of that of Japan. By contrast, Chinese R&D investment in 1997 was only 3 percent of that of the United States and 5 percent of that of Japan. This is a remarkable surge in R&D activity in China over a fairly short period.

The percentage of U.S. imports sourced from Asia has tended to hover around 41 percent and the percentage of U.S. exports destined for Asia at around 30 percent (see Figure 3.6). Thus, from the American perspective, the *relative* importance of Asia over the period under study has not changed significantly.

**Figure 3.6. Asia's Share in U.S. Foreign Trade**



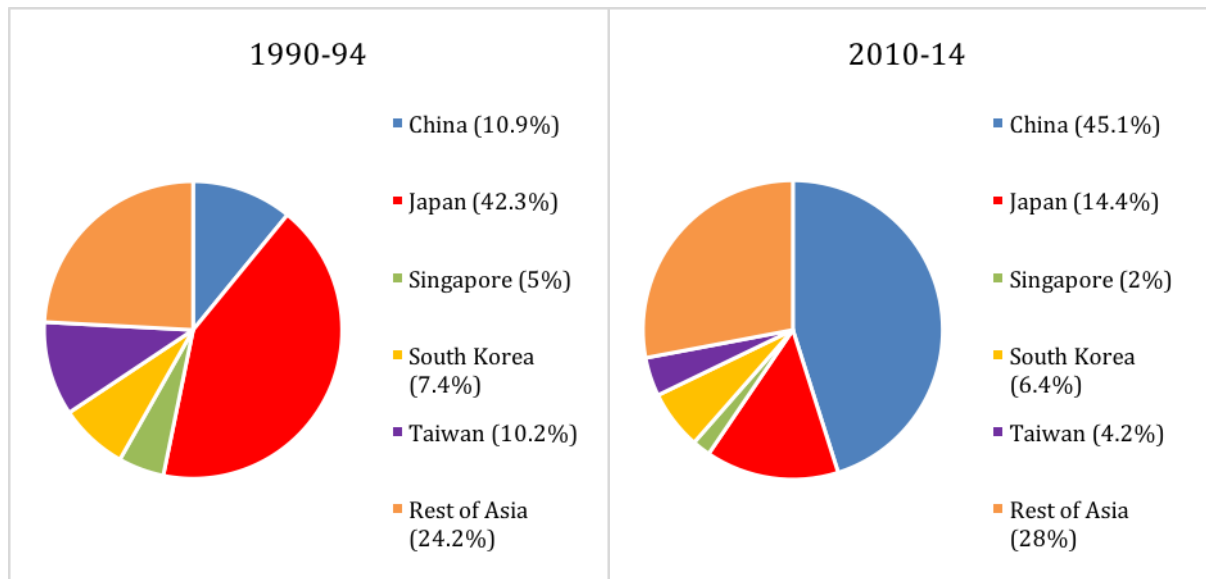
SOURCE: Author's compilation based on U.S. Census Bureau, 2017.

Within Asia, the distribution of U.S.-Asia trade has changed in a rather subtle manner. On one hand, the top trading partners of the United States in Asia have remained fairly consistent over time.<sup>9</sup> On the other hand, the trade shares of individual nations did change significantly. While Japan was the largest Asian trading partner of the United States during 1990–1994, it was replaced by China over 2010–2014 (see Figure 3.7). More notably, China's share of Asian exports to the United States shot up from 10.9 percent over 1990–1994 to 45.1 percent over 2010–2014, while that of Japan fell by almost the same magnitude (from 42.3 percent to 14.4 percent).

<sup>9</sup> Four of the top five Asian exporters to the United States over 1990–1994 remained on the list over 2010–2014. The only exception is Singapore, which was replaced by Saudi Arabia over 2010–2014.

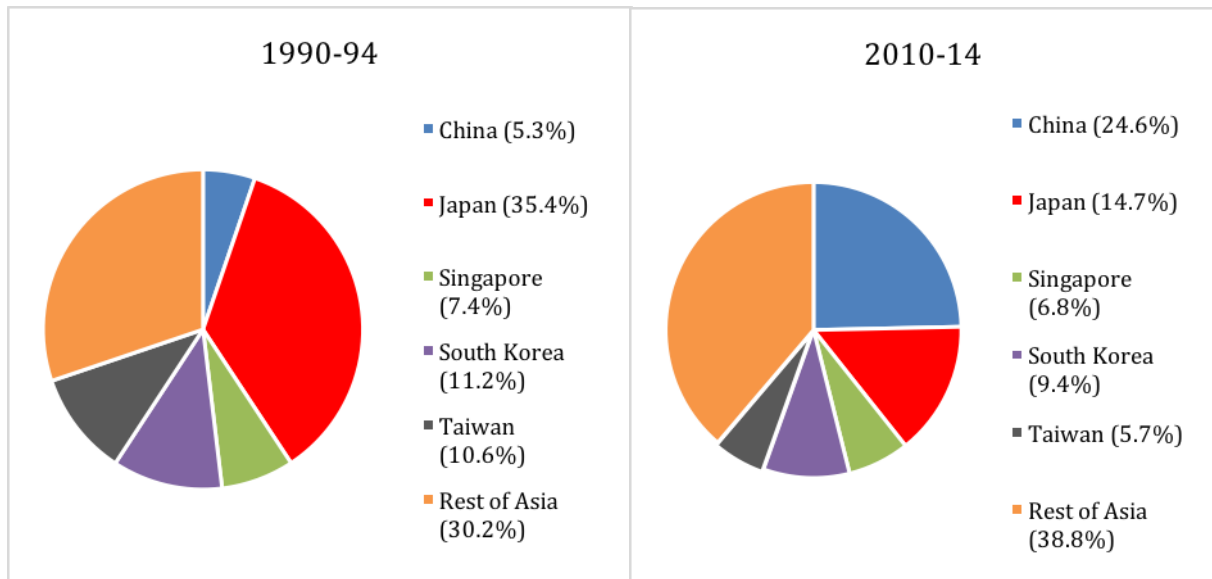


**Figure 3.7. Major Asian Exporters to the United States**



As for Asian imports from the United States, there was only one change to the top five destinations of the United States' exports to Asia: China went from not being on the list in 1990–1994 to becoming the largest Asian importer of U.S. goods over 2010–2014 (see Figure 3.8). In some ways, China's rise as a major importer of American products is even more striking than its emergence as the leading Asian exporter to the United States. Specifically, China's share in Asia's imports from the United States increased rather dramatically, from 5.3 percent over 1990–1994 to almost 25 percent over 2010–2014.

**Figure 3.8. Major Asian Importers from the United States**



SOURCE: Author's compilation based on U.S. Census Bureau, 2017.

It is worth noting that, from the Asian perspective, the relative importance of the U.S. market has declined somewhat over time: The United States' share in Asian imports from the rest of the world fell from 14.3 percent in 1995 to just 6.7 percent in 2014, while the percentage of Asian exports sold in the United States also declined from 22.9 percent to 13.2 percent. These percentages suggest that, from a trade perspective, Asia is becoming increasingly less reliant on the U.S. market.

### *Bilateral FDI between the United States and Asia*

Contrary to what one might expect, Asia's share in the United States' outward FDI flows have actually fallen over time: Over 1990–1994, Asia absorbed roughly 14 percent of U.S. FDI flows, whereas over 2010–2014 its share was roughly 10 percent. Similarly, Asian countries do not account for a significant percentage of the U.S. stock of outward FDI. Asia's share in the United States' outward FDI stocks increased only slightly, from 11.7 percent in 1990 to 12.7 percent in 2014. The bulk of the U.S. FDI stock (i.e., over 50 percent) continues to lie in Europe.

How have individual Asian countries fared in terms of attracting FDI from the United States? Two countries that lie on opposite ends of the size scale seem to have fared particularly well: China and Singapore. China's share of U.S. FDI flows increased from 5.4 percent over 1990–1994 to 10.7 percent over 2010–2014. Even more notable is the fact that China's share of the U.S. outward FDI stock increased from a miniscule 0.7 percent in 1990 to a healthy 11.0 percent in 2014. Singapore's experience seems even more remarkable, especially given its small size: Over 2010–2014, Singapore absorbed more than half of the total U.S. FDI into Asia. As a consequence, Singapore's share of the U.S. FDI stock in Asia stood at an impressive 33.9

percent in 2014. By contrast, Japan accounted for only 16 percent of U.S. outward FDI stock in Asia.

As for FDI flows into the United States, Asia continues to play second fiddle to Europe: While Asia accounted for 22 percent of FDI inflows into the United States over 2010–2014, Europe’s share stood at 61 percent. Among Asian countries, Japan continues to be the largest source of FDI into the United States, although its relative importance has declined over time. While Japan accounted for almost 90 percent of Asian FDI flows into the United States during 1990–1994, its share had declined to 66 percent by 2010–2014.

Data on the stocks of FDI in the United States tell a fairly similar story to the one told by flow data: over two-thirds of the FDI stock in the United States is owned by Europe and Japan continues to be the largest Asian investor, dwarfing other major Asian countries—for example, during 2010–2014, Japan accounted for 76 percent of the inward FDI stock in the United States, whereas South Korea accounted for 8 percent and China for only 2 percent.

On the policy front, there has not been much action in the domain of FDI. Currently, the United States has bilateral investment treaties (BITs) with about 42 countries, only seven of which are from Asia. Furthermore, all of the partner countries from Asia are small. But this may not matter since the United States does not have any BITs with major European nations either. The lack of such treaties might simply reflect the fact that the business and policy environment in major European nations as well as richer Asian countries is already friendly to foreign investors, so there is little need for an investment treaty.

### *Innovation and Patenting Links Between Asia and the United States*

In recent years, Asia has become an increasingly important location for the overseas R&D activities of U.S. multinational firms. Asia’s share of the R&D expenditure of affiliates of U.S. multinationals increased from 11.6 percent in 1997 to 24.1 percent in 2013 (see Table 3.6). At an absolute level, this translated into an R&D expenditure of almost \$12 billion in 2013.

**Table 3.6. Share of R&D Performed by Foreign Affiliates of U.S. Multinationals**

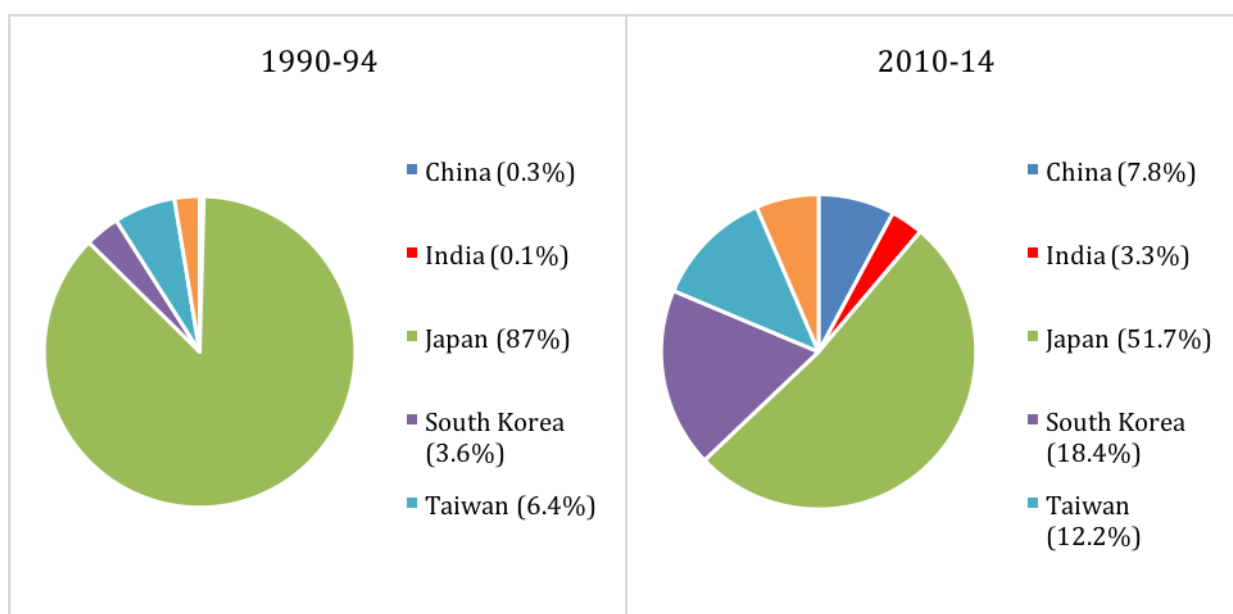
	1997	2005	2010	2013
Asia	11.6%	17.9%	24.0%	24.1%
Canada	12.5%	8.8%	6.9%	6.5%
Europe	68.5%	68.0%	59.9%	61.2%
R&D (current \$ billions)	14.6	27.7	40.0	48.8

SOURCE: Author’s compilation based on Bureau of Economic Analysis, undated.

In recent years, Asian countries have typically accounted for more than half of the patent applications filed at the USPTO. The share of Asian countries in total foreign patent applications filed at the USPTO was already 53.9 percent over 1990–1994. Over time, this share has

increased steadily and it stood at 61.3 percent over 2010–2014. Furthermore, Asian patent applications at the USPTO have become less concentrated over time. During 1990–1994, almost 87 percent of Asian patent applications at the USPTO originated in Japan. But by 2010–2014, Japan’s share had fallen substantially and it accounted for just over 51 percent of Asian patent applications at the USPTO (see Figure 3.9). In the meantime, countries such as China, India, South Korea, and Taiwan have all seen their shares increase. For example, China’s share shot up from a paltry 0.3 percent during 1990–1994 to a respectable 7.8 percent over 2010–2014.

**Figure 3.9. Patent Applications as Shares of Asian Countries at the USPTO**



SOURCE: Author's compilation based on USPTO, 2014.

The data on patents granted by the USPTO tell a very similar story to that on patent applications: During 1990–1994, about 52.6 percent of patents granted to foreigners went to Asia and this share rose to 63.8 percent over 2010–2014.

**Table 3.7. Patent Grants at the USPTO: Shares of Asian Countries**

	1990–1994	1995–1999	2005–2009	2010–2014
China	0.2%	0.2%	1.9%	5.6%
India	0.1%	0.2%	1.1%	2.2%
Japan	90.9%	81.9%	67.6%	58.8%
Singapore	0.1%	0.3%	0.8%	0.9%
South Korea	2.5%	7.2%	13.1%	16.2%
Taiwan	4.5%	7.8%	12.2%	11.9%
Number of grants to Asia	107,152	129,940	169,684	247,396

SOURCE: Author's compilation based on USPTO, 2014.

In a recent paper, Branstetter et al. (2015) examine data on patents issued by the United States to foreign residents and find that a majority of patents granted to Chinese (and Indian) nationals have been to researchers working for subsidiaries of multinational corporations. They argue that the general rise of international co-invention reflects an expanded international division of labor within global R&D networks, much like the slicing of production chains across the world. The authors also compare the quality of patents (as measured by citations) granted to Chinese or Indian indigenous inventions with those granted to (1) co-inventions with inputs from advanced economies and to (2) co-inventions with inputs from advanced economies under the sponsorship of multinational firms. They find that co-invented patents tend to be of higher quality, as do patents developed under the sponsorship of multinationals. These findings suggest that Asia will likely become an increasingly important technological partner of the United States and that this development will be of substantial mutual benefit to both regions.

## Trade Policy: Cooperation and Friction between Asia and the United States

### *Tariffs*

U.S. MFN tariffs have been fairly low for quite some time. The average MFN tariff (weighted by import volumes) of the United States in 1997 was 3.8 percent and it was further reduced to 2.5 percent in 2014. In line with global trends, MFN tariffs in Asian countries have also been declining. Almost all major Asian countries implemented lower MFN applied tariffs in 2014 as compared with 1997. Nevertheless, the extent to which the MFN tariffs fell varied across countries because, for example, countries like Japan and Singapore already had fairly low tariffs in 1997. On the other hand, South Korean tariffs remain fairly high and even exceed those of India (see Table 3.8). Perhaps this was one major motivation behind the recently concluded FTA between the United States and South Korea.

**Table 3.8. Tariffs of Major Asian Importers from the United States**

	All Items		Dutiable Items	
	1997	2014	1997	2014
China	15.9%	4.6%	16.2%	8.5%
Japan	3.8%	1.9%	5.6%	7.6%
South Korea	15.3%	10.0%	15.7%	13.8%
Taiwan	4.4%	1.7%	5.6%	6.4%
Hong Kong	0	0	0	0
Singapore	6.5%	0	10.9%	0
India	23.5%	6.8%	30.5%	10.3%

SOURCE: Author's compilation based on WTO, undated.

While MFN tariffs are applied in a nondiscriminatory manner, AD duties tend to be targeted at finely defined products from specific countries. How has Asia fared in terms of being a target of AD investigations in the United States? We turn to this next.

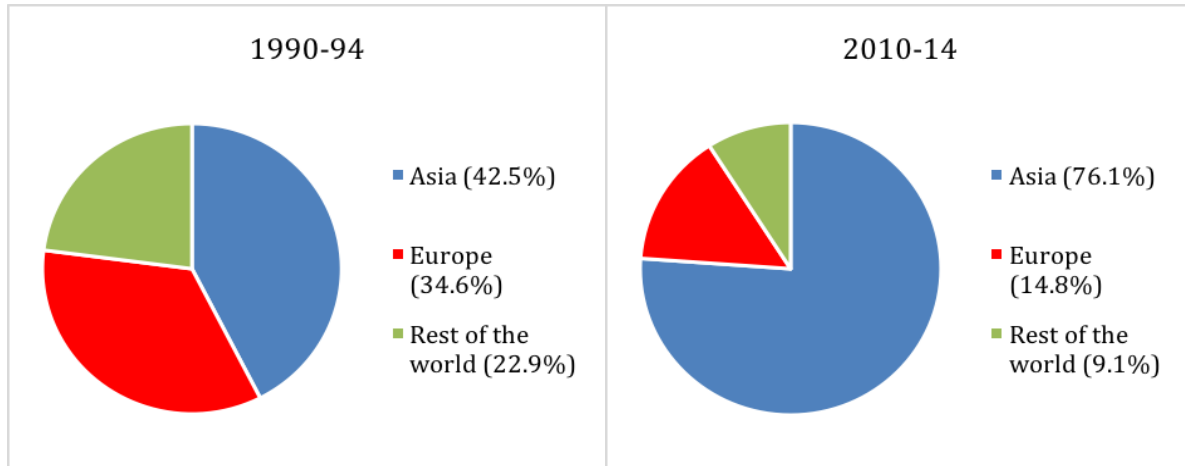
### *Antidumping*

Economists generally consider AD duties to be worse than MFN tariffs, since they tend to be discriminatory in nature, usually targeting the most-efficient sources of foreign supply.<sup>10</sup> For decades, the United States was one of the leading users of AD duties and the extent to which Asian countries have turned to AD duties as a means of trade protection is rather worrisome.

The good news is that the number of AD cases filed in the United States fell from 292 in 1990–1994 to 88 over 2010–2014, a decrease of almost 70 percent. Even though the number of AD cases filed against Asia also declined over time, Asia's share increased from 42.5 percent over 1990–1994 to 76.1 percent over 2010–2014 (see Figure 3.10). As one might expect, China has consistently been targeted more than other Asian countries, with Japan and South Korea being the other two major targets. One way to evaluate these numbers is to compare the incidence of AD with the value of bilateral trade. After all, firms in the United States are more likely to initiate AD cases against countries from which the United States imports more. Indeed, a surge in imports from a specific source typically precedes the initiation of an AD case.

<sup>10</sup> In addition, even in countries with low MFN tariffs (such as the United States), the magnitude of AD duties tends to be quite large.

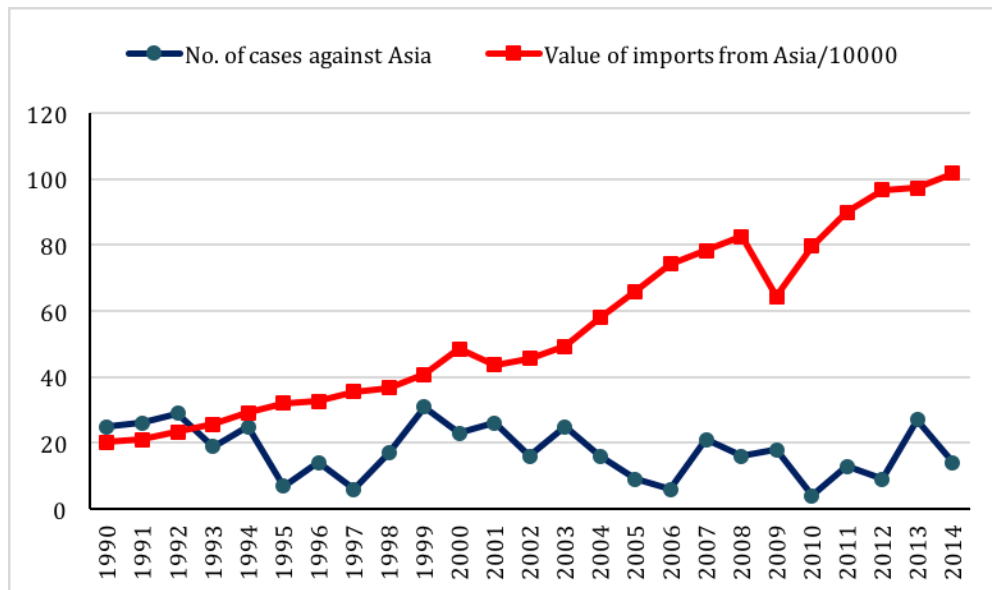
**Figure 3.10. Shares of Antidumping Cases Filed by the United States**



SOURCE: Bown, 2016.

Figure 3.11 plots the absolute value of U.S. imports from Asia against the number of AD cases filed against Asia. The story told by this figure does not seem to indicate a worsening of trade relations: While U.S. imports from Asia surged during 1990–2014, the number of AD cases filed against Asia remained relatively flat, hovering around 20 cases per year.

**Figure 3.11. Antidumping Cases and Value of Imports from Asia (Levels)**

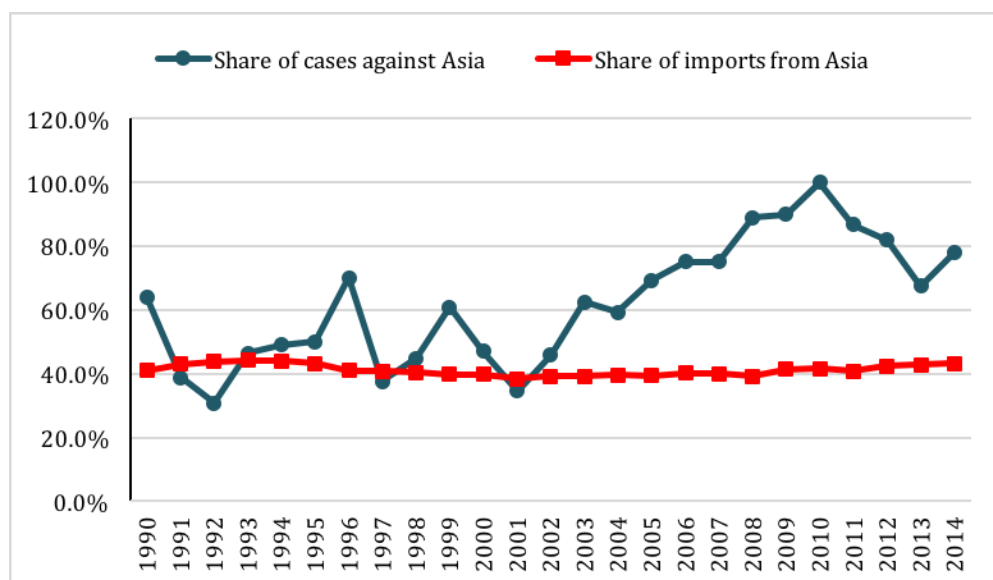


SOURCE: Author's compilation based on Bown, 2016, and U.S. Census Bureau, 2017.

Additional perspective on AD activity in the United States is provided in Figure 3.12, which compares the share of U.S. AD cases against Asia with the share of U.S. imports sourced from

Asia. While Asia has continued to supply roughly 40 percent of U.S. imports throughout the period, its share in U.S. AD cases seems to have actually increased. Thus, the overall picture is that while the total number of AD cases in the United States has fallen over time, in recent years a relatively greater proportion of these cases have indeed tended to target Asian exporters.

**Figure 3.12. Antidumping Cases and Share of U.S. Imports from Asia**



SOURCE: Author's compilation based on Bown, 2016, and U.S. Census Bureau, 2017.

### *Trade Policy Cooperation*

The United States is currently party to 20 FTAs, six of which are with Asian countries. Except for Israel, all agreements with Asian countries were signed after 2000 (see Table 3.9). Perhaps the most-important recent FTA is with South Korea, a country that is moving quickly up the technological ladder but still retains surprisingly high import tariffs. Gaining access to the South Korean market at preferential tariff rates could be attractive to the United States, precisely because its MFN tariffs are relatively high.



**Table 3.9. U.S. FTAs and Trade Shares**

	Enforcement Year	Share in U.S. Trade (2000–2014)
Australia	2005	1.0%
<b>Bahrain</b>	<b>2006</b>	<b>0.0%</b>
Canada	1994	17.8%
Chile	2004	0.6%
Colombia	2012	0.8%
Costa Rica	2009	0.4%
Dominica	2007	0.3%
El Salvador	2006	0.2%
Guatemala	2006	0.3%
Honduras	2006	0.3%
<b>Israel</b>	<b>1985</b>	<b>1.0%</b>
<b>Jordan</b>	<b>2010</b>	<b>0.1%</b>
Mexico	1994	12.2%
Morocco	2006	0.1%
Nicaragua	2006	0.1%
<b>Oman</b>	<b>2009</b>	<b>0.1%</b>
Panama	2012	0.2%
Peru	2009	0.3%
<b>Singapore</b>	<b>2004</b>	<b>1.4%</b>
<b>South Korea</b>	<b>2012</b>	<b>2.8%</b>

NOTE: Asian countries are in bold.

The much-discussed TPP was meant to be a far-reaching agreement between the United States and 11 Pacific Rim countries, cutting across a wide range of issues pertaining to market access, IP, services, investment, and environmental and labor standards. It was historic in its ambition and scale, with the combined GDP of participating countries exceeding \$28 trillion (more than one-third of world GDP).

During the 2016 U.S. presidential election, both Hillary Clinton and Donald Trump expressed opposition to the proposed deal, as did Senate majority leader Mitch McConnell when he refused to take up the ratification of the TPP in Congress. The fatal blow to the TPP was struck by President Trump on January 23, 2017, when he signed an executive order officially pulling the United States out of the TPP. Twelve years of negotiations appeared to have come to nothing and what could have been a signature achievement of Obama’s proposed policy pivot toward the Pacific Rim essentially evaporated into thin air.

It is possible that the framework developed by the TPP and the negotiations conducted during the last few years may eventually end up providing a basis for a future trade deal between Asia and the United States, but that is speculation at this point, particularly when one considers the pressure that President Trump has put on American firms to reduce international outsourcing and production shifting. It is possible that TPP negotiations will continue in the absence of the United States, although it is hard to imagine that the countries that remain on the table will want to pursue the TPP in its current form. Once U.S. interests are excluded from the TPP, the nature of the agreement that is optimal from the perspective of participating countries is likely to be quite different from the one that had been negotiated under U.S. leadership, particularly in the areas of IP, the environment, and labor standards. If an alternative trade deal between the other 11 countries emerges and is very different in character from the TPP, the United States may find itself in a rather regrettable position, having abandoned an agreement that it helped to shape for almost a decade.

### *Trade Disputes at the WTO*

Bilateral trade friction between nations sometimes surfaces in the form of trade disputes at the WTO. Typically, the dispute-settlement process of the WTO comes into play when a pair of countries fails to resolve their disagreement over a policy measure instituted by one that is seen as harmful by the other. Due to the scope of activities that falls under the purview of the various WTO agreements, such bilateral disputes arise over a wide variety of policy measures, ranging from quantitative restrictions on trade, to technical barriers to trade based on product and health standards, and to violations of IP.

During 2007–2011, more than half of the trade disputes initiated by the United States at the WTO were against Asian countries, while the United States was the defendant in about 30 percent of the disputes initiated by Asian countries (see Table 3.10). One way to evaluate these numbers is to compare the incidence of disputes between the United States and Asia with the value of their bilateral trade. After all, if two countries do not trade much with each other, there is little opportunity or reason for them to get tangled in a dispute. The incidence of trade disputes between the United States and Asian countries does seem a bit high (but not significantly so) when evaluated in the context of the degree of bilateral trade between them. Asia accounted for about 36 percent of U.S. imports but was the target of U.S. complaints in about 56 percent of the cases. When viewed from the U.S. perspective, Asian dispute activity appears to be even more skewed: while the United States accounted for under 11 percent of Asian imports in 2007–2011, it was the defendant in almost 30 percent of dispute cases. This might reflect a tit-for-tat strategy on the part of some Asian countries, which may have responded to U.S. complaints by filing trade complaints of their own against the United States.

**Table 3.10. WTO Disputes and Trade**

	1995–1998	1999–2002	2003–2006	2007–2011
Asia's share in U.S. trade	36.9%	34.8%	35.6%	36.1%
Asia's share in U.S.-filed disputes	27.5%	17.8%	22.2%	55.8%
Total number of U.S.-filed disputes	80	45	36	43
U.S. share in Asia's trade	17.4%	17.8%	13.7%	10.6%
U.S. share in Asia-filed disputes	28.0%	55.9%	32.1%	29.3%
Total number of Asia-filed disputes	50	68	53	58

SOURCE: Author's compilation based on WTO, undated, and Bureau of Economic Analysis, undated.

### *Policy Friction over Intellectual Property Issues*

Prior to the ratification of TRIPS, friction between the United States and many Asian nations—especially China and India—over violations of IP were fairly common. For example, both China and India were frequently listed in the Super 301 annual list of trading partners that were deemed to have engaged in unfair trading practices in the eyes of the U.S. government. Does the changing global landscape of innovation imply that international friction over the enforcement of IPR is a thing of the past? This is almost surely not the case, although the nature of the underlying problems seems to have evolved.

Throughout the 1980s and early 1990s, U.S.-China friction over IPR had to do with the widespread imitation of U.S. products and technologies by Chinese firms, as well as the infringement of copyrights. While these issues have not entirely gone away, several new issues have emerged in recent years. For example, one of the major complaints that the U.S. government has expressed about China has to do with its policy of forcing foreign firms to share their technologies with local partners as a precondition for doing business in China. This policy began in 1994, when China started to impose specific technology transfer requirements on foreign firms wishing to enter its local market. In 2009, the Chinese Ministry of Science and Technology upped the ante when it officially promulgated its “indigenous innovation policy,” under which it provided conditions that would determine whether or not new products in six major industries could be viewed as having been the result of indigenous innovation. Only products that were deemed to be indigenous would be included in the catalog of approved government procurement lists, thereby setting up conditions for potential preferential treatment of indigenous innovation.

As Maskus (2012) explains, this focus on indigenous innovation can easily run afoul of the national treatment obligation of TRIPS and raises substantial concern among foreign enterprises owning IPR. In response to these concerns and other external pressures, China circulated a revised and weaker draft of the indigenous innovation policy in 2010. At this time, there is considerable uncertainty regarding the true nature and actual implementation of this policy. Rest

assured, if discrimination against foreign innovators becomes widespread or systemic, one would expect the dispute-settlement process of the WTO to play an active role in refereeing and clarifying this Chinese policy.

The TRIPS-sanctioned policy of compulsory licensing of patents is another area in which disputes between the United States and Asia might arise. For example, in 2012, friction between India and the pharmaceutical multinational Bayer flared up when India issued a compulsory license for Bayer's cancer drug Nexavar. This episode raised the possibility that India could try to use its substantial manufacturing capacity in the area of pharmaceuticals to break patents held by foreign firms, thereby weakening its IPR regime while still maintaining TRIPS compliance. However, since then, India has not issued any further compulsory licenses; in fact, India's Department of Industrial Policy and Promotion recently rejected a request for compulsory licensing because the Indian generic producer (BDR Pharmaceutical) seeking the compulsory license had failed to try to obtain a voluntary license from the patent holder (Bristol-Myers Squibb), as is required under TRIPS rules.

## Concluding Remarks

In this paper, we studied the evolution of the U.S.-Asia bilateral economic relationship over the last 25 years or so and evaluated it in the context of overall Asian engagement with the world economy. During this period, the collective economic clout of Asian countries has grown considerably and economic power has been reallocated substantially within the region: China has gained in prominence relative to Japan, while South Korea has held steady.

Asian exports of goods to the rest of the world have grown much faster than those of the United States and, in 2014, Asian exports were roughly four times that of the United States. China's share of Asian exports surged from 6 percent in 1990–1994 to 28 percent in 2010–2014, while that of Japan declined from 31.4 percent to 10.5 percent. While bilateral trade between Asia and the United States grew at an average annual rate of roughly 6.6 percent, Asia's share in U.S. foreign trade has been relatively steady, at around 36 percent. One possible interpretation of this fact is that the *relative* importance of Asia to the United States over the period under study has not changed significantly. From the Asian perspective, the importance of the U.S. market may actually have declined over time: The United States' share in Asian imports fell from 14.3 percent in 1995 to 6.7 percent in 2014, while the percentage of Asian exports sold in the United States also declined from 22.9 percent to 13.2 percent. These figures indicate that Asia may be becoming less reliant on the U.S. market. If so, the question becomes whether the United States should undertake proactive trade policy measures that would help to counteract this trend.

FDI data do not tell a markedly different story from that told by trade data. While FDI flows between Asia and the United States have grown over time, much of the stock of U.S.-owned FDI abroad is still in Europe. Similarly, the ownership of the bulk of the FDI stock in the United States continues to lie in European hands.

It is in the sphere of innovation and patenting where things are moving the fastest and the pace of change might even increase further in the coming years. Asian countries now account for a majority of the patent applications filed by foreign residents at the USPTO. China, India, and South Korea have amped up their investments in R&D significantly. Sooner or later, these investments are going to translate into higher rates of innovation and patenting. Rather than view this with alarm, the United States ought to welcome these developments. The creation of new knowledge and technologies is not a zero-sum game. While inventors draw temporary economic rents from their inventions (provided their IP is protected), their creations contribute to the global knowledge pool and raise long-run standards of living in the world while also contributing to future innovation.

Indeed, prior to the ratification of TRIPS, a long-standing U.S. complaint was that the imitation of their technologies in the rest of the world (especially in Asia) had created a situation where many countries were free-riding on investments made by its residents. The rise of Asian innovation will likely create new opportunities for increased U.S.-Asia cooperation in the realm of IP, an area characterized by significant policy friction between the two regions in the pre-TRIPS era. Indeed, as noted in this paper, a promising trend in this regard is the increase in U.S. patents granted to co-inventions resulting from collaboration between U.S. and Asian researchers.

Where might American trade policy be headed in the near future? Much rides on this question, but the answer is far from clear. Throughout the postwar period, the United States was a champion of global free trade: it imposed low tariffs on others and pushed for the same in the rest of the world. To date, the United States has not signed very many trade agreements with major Asian countries and is frequently involved in skirmishes in the realms of AD and trade disputes at the WTO. Within a few days of taking office, President Trump officially ended U.S. involvement in the TPP, thereby ending any hope that the protracted negotiations would end up delivering a historic and far-reaching trade agreement between the United States and 11 Pacific Rim countries. Whether the negotiations underlying the TPP can serve as a building block for future trade policy initiatives between the United States and Asia is an open question at this point. All in all, the nature of the current political climate in the United States does not support overly optimistic expectations on this front.

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WTO—*See* World Trade Organization.

## Chapter Four. The Future of U.S. Northeast Asia Policy Under Trump

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Prashanth Parameswaran, *The Diplomat*

### Introduction

As President Donald Trump's new administration settles in, it faces a range of challenges in Northeast Asia, including a resurgent, revisionist Russia, a nuclear North Korea, a rising and increasingly assertive China, and a South Korean ally mired in domestic political turmoil. What can we expect in this administration's approach to Northeast Asia, and to what extent will it represent continuity or change from existing U.S. national security policy toward the region?

This paper argues that, given the Trump administration's foreign policy worldview and the broad outlines of its Asia policy, we are likely to see four types of change: a narrower focus on a shorter list of threats; a more selective emphasis on vital allies and partners willing to do more to help contend with these specific challenges; a greater willingness to act unilaterally and to use military force; and a higher receptiveness to engaging with strongmen leaders. In Northeast Asia, we are likely to see a more confrontational approach toward China, a hawkish view on North Korea, and greater scrutiny on burden-sharing when it comes to the U.S. alliances with Japan and South Korea, even as they continue to be strengthened.

This paper is divided into four main sections. The first section will look at the Obama administration's approach to Asia, particularly Northeast Asia, and the legacy it leaves the incoming Trump administration. The second section will examine Trump's overall worldview and what we might expect from his foreign policy more generally. The third section will delve into how the United States might approach Asia in general and how this approach will affect Northeast Asia in particular. The fourth section will briefly examine uncertainties that remain, looking at key variables that could both shape and alter the administration's initial approach and commitment to Asia.

### The Obama Legacy

When the Obama administration entered office, the United States was bogged down in quagmires in Iraq and Afghanistan, mired in the greatest financial crisis since the Great Depression, and confronted with a range of security challenges, including Al-Qaeda reconstituting itself on the Afghanistan-Pakistan border, a nuclear North Korea, a rising China, and global climate change.



The administration's approach was to fashion what some officials called a "long-game" foreign policy that would not only address short-term crises, but also deal with broader challenges, seize new opportunities, and build the foundations of U.S. power to position it to advance its long-term interests.<sup>1</sup> That approach rested on five pillars: cultivating current and emerging powers to facilitate greater burden-sharing in a more multipolar world; building multilateral institutions to shape and reinforce rules and norms; preventing unnecessary conflict and facilitating heretofore unrealized cooperation, including with adversaries; expanding the concept of security to include transnational challenges; and using the full range of available U.S. policy options rather than just military force.

Those core beliefs drove both the logic for and the execution of the administration's eventual "pivot" or "rebalance" to Asia. At the broadest level, the "rebalance" was a recognition by the Obama administration that Asia, unlike the Middle East, was crucial to the long game given its centrality to U.S. interests and that it therefore warranted more resources, attention, and time even as Washington continued to address concerns in other parts of the world.<sup>2</sup> As a result, the Obama years saw the administration undertake a series of initiatives to reshape and expand U.S. commitment to the region: fashioning a cooperative relationship with China amidst ongoing competition; engaging adversaries like North Korea and Myanmar; strengthening traditional alliances with Japan and South Korea and forming new partnerships with smaller countries like Laos; and investing more in multilateral institutions and forums to tackle transnational challenges.<sup>3</sup>

But as Trump settles into office after his predecessor's two terms, the Obama legacy in Asia appears rather mixed.<sup>4</sup> On one hand, the Obama administration leaves office having reversed the anti-Americanism witnessed in Asia during the George W. Bush years, expanded the U.S. regional alliance and partnership network, extracted unprecedented cooperation from China to make progress on global issues (such as climate change), undertook efforts to stop Iran from acquiring nuclear weapons, and crafted the most-robust sanctions ever placed on North Korea.

On the other hand, its inability to effectively counter Chinese assertiveness in the South China Sea, its failure to pass the Trans-Pacific Partnership (TPP) agreement, and its inaction with regard to crises in other parts of the world, from the humanitarian situation in Syria to the Russian annexation of Crimea, have helped fuel the rise of a more-hawkish U.S. foreign policy approach that could once again undermine America's position for the long game that it helped to build up in the first place.

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<sup>1</sup> Susan Rice, Remarks at the "Passing the Baton" Conference, U.S. Institute of Peace, January 10, 2017.

<sup>2</sup> Hillary Clinton, "America's Pacific Century," *Foreign Policy*, October 11, 2011.

<sup>3</sup> Kurt Campbell, *The Pivot: The Future of American Statecraft in Asia*, New York: Twelve Books, 2016.

<sup>4</sup> For a more detailed treatment, see Prashanth Parameswaran, "U.S. Asia Policy After Obama: Opportunities and Challenges," *Diplomat*, November 8, 2016a.

## Trump's Foreign Policy Worldview

During Trump's presidential campaign, some had suggested that his foreign policy worldview, if implemented, would diverge significantly not just from Obama's vision, but from post-World War II U.S. foreign policy more generally. That would suggest a sea change for America's approach to Asia as well. His advisers, however, have suggested that this interpretation of revolutionary foreign policy change is based on unfair caricatures in spite of attempts made to clarify the president's views.<sup>5</sup> Although it is still unclear how much of his rhetoric will translate into reality, a careful analysis of the speeches, policy positions, and backgrounds of Trump and his key advisers suggest a general worldview and four more-specific tendencies.

Trump's general worldview has been summarized as "America First," a term actually first suggested to him by *New York Times* journalist David Sanger during an interview back in March 2016 and one that he has become rather fond of since.<sup>6</sup> The basic premise of "America First" is simple. Instead of advancing lofty goals like democracy promotion, waging expensive foreign wars and nation-building campaigns, and investing in allies and partners that are not willing to do their fair share, Trump argues that the United States should instead focus on rebuilding its own strength and realizing a narrow set of core interests with a more selective group of countries that share the same objectives.

Trump has since periodically fleshed out this worldview, the broad outlines of which have remained fairly consistent. During his April 27, 2016, address at the Center for the National Interest in Washington, D.C., he argued that U.S. foreign policy in the post-Cold War era had been wasteful, rudderless, unreliable, and ineffective.<sup>7</sup> By contrast, he said he would focus more narrowly on rebuilding America's military and economy, curbing the spread of radical Islam, and fashioning what he called a "new rational American foreign policy."

At a December 6, 2016, victory tour in Fayetteville, North Carolina, he delivered a speech with foreign policy portions centered on the America First message. The same general themes were evident: a narrow focus on rebuilding America's military and economy and fighting radical Islam, a commitment to use military force only if it is in the vital security interests of the United States, and an assessment of potential partners not based on their regime type, but simply on whether they share U.S. goals.<sup>8</sup>

Four more-specific tendencies are evident from this America First worldview as articulated by Trump and his advisers. First, the Trump administration's sense of threat perception appears

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<sup>5</sup> Prashanth Parameswaran, "What Would Trump's Asia Policy Look Like?" *Diplomat*, November 10, 2016b.

<sup>6</sup> David E. Sanger and Maggie Haberman, "In Donald Trump's Worldview, America Comes First, and Everybody Else Pays," *New York Times*, March 26, 2016.

<sup>7</sup> Donald J. Trump, "Trump on Foreign Policy," *National Interest*, April 27, 2016.

<sup>8</sup> NPR Staff, "Trump's Victory Tour Stump Speech, Annotated," NPR, December 7, 2016.

to be higher than that of the Obama administration. That is, even though the Trump team is focused on a much shorter list of threats that would more directly affect U.S. interests—chiefly Islamic radicalism and nonproliferation, with a primary focus on Iran and North Korea, judging from both what his advisers have said and their previous records—there is a sense of immediacy with which these threats need to be confronted.<sup>9</sup>

Second, although Trump, like several previous incoming U.S. presidents, has eschewed engaging in nation-building and starting new wars, his administration also appears to be more inclined to use military force to achieve narrow, vital U.S. interests. Unlike the Obama administration, which remained cautious about using military force relative to other tools in the U.S. foreign policy toolkit, the Trump team has already signaled that it is willing to use the military to secure vital U.S. interests and demonstrate American resolve, whether it be by sending troops to Syria or by confronting China in the South China Sea.<sup>10</sup>

Third, Trump and his team appear to have a more defined opinion of who America's friends and enemies are, and a more restrictive notion of which ones are worthy of investment for the advancement of U.S. interests. While the Obama administration had dismissed these black-and-white distinctions, engaging longtime adversaries like Cuba and Iran while questioning commitments to and positions taken with traditional U.S. allies, like Israel and Saudi Arabia, the Trump team has thus far seemed wedded to a more traditional approach.<sup>11</sup> The administration's emphasis on burden-sharing and addressing a shorter list of security threats also suggests that it will likely focus on investing in a shorter list of vital U.S. allies and partners rather than casting a much wider net, as Obama did.

Finally, the Trump administration has evinced little interest in the advancement of American ideals and instead appears to focus more on advancing narrow U.S. interests in a transactional way. As the scholar Thomas Carothers has noted, Trump himself has mocked the idea of the United States as a democratic exemplar, given its own problems at home; signaled a strikingly friendly approach toward various foreign strongmen; and at times even engaged in the same actions as these strongmen leaders, such as personally attacking journalists and being unwilling to address links between his business interests and his political position. Although previous U.S. presidents have also displayed this tendency in one or two of the aforementioned aspects, in Trump's case, the extent to which this has been demonstrated is striking.<sup>12</sup>

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<sup>9</sup> These two priorities were publicly and privately stated by Trump's advisers even during the campaign, although they only really came to the fore following his election. See, for instance, J. P. Carroll, "This is Trump's Foreign Policy, A Conversation with Top Trump Adviser Dr. Walid Phares," *Daily Caller*, July 4, 2016; and "When It Comes to Foreign Policy, Trump Promises to Put America First," NPR, April 28, 2016.

<sup>10</sup> Dan De Luce and Paul McLeary, "To Crush ISIS, Will Trump Send U.S. Troops into Syria?" *Foreign Policy*, January 8, 2017.

<sup>11</sup> Jeffrey Goldberg, "The Obama Doctrine," *Atlantic*, April 2016.

<sup>12</sup> Thomas Carothers, "Prospects for U.S. Democracy Promotion Under Trump," Carnegie Endowment for International Peace, January 5, 2017.

## Trump's Northeast Asia Policy

What, then, does Trump's foreign policy worldview tell us about how he will act in Asia in general and in Northeast Asia in particular?

This worldview, as well as what we have seen and heard from Trump and his team thus far, lead to some general outlines of what we might expect in U.S. Asia policy and offer a window into how Trump may deal with the major countries in Northeast Asia, namely Japan, South Korea, China, and North Korea. Basically, we can expect Trump's Asia policy to be focused on addressing a short list of specific threats, ranging from North Korea to the Islamic State; cultivating a more selective range of allies and partners and ensuring that they are committed to countering these challenges; and utilizing a mix of bilateral, minilateral, multilateral, and sometimes even unilateral instruments, including military force if needed.

As a result, in Northeast Asia, we are likely to see a more confrontational approach when it comes to addressing challenges, be it China or North Korea, and greater scrutiny on burden-sharing when it comes to America's two alliances, Japan and South Korea, even as they continue to be strengthened.

### *General Outlines*

Although it is certainly true that there is bipartisan consensus on the big tenets of U.S.-Asia policy, Trump's foreign policy worldview, as well as the indications that we have gotten from him and his team about specific issues, give us a sense of the broad outlines of his likely Asia policy and the extent to which we can expect continuity and change in key areas.

First, the Trump administration will focus more narrowly on addressing a shorter list of threats that directly affect U.S. interests in the Asia-Pacific. These chiefly will include a rising China, a nuclear North Korea, and a lurking Islamic State.

Second, though Trump and his team will continue to strengthen U.S. alliances and partnerships, they will invest in countries that will more directly help Washington counter these threats and also ask these actors to contribute more along these lines. We are likely to see clearer coalitions built around specific threats and much greater investment placed on the few countries willing to do more to address these challenges. This could occur either across a range of threats with reliable, capable, traditional allies, such as Japan, or with respect to individual threats like the Islamic State with forward-leaning, newer partners, including Malaysia.<sup>13</sup>

Furthermore, given the lack of interest in the promotion of American ideals, Trump and his team will define its partners by their contributions rather than by regime type and will not be opposed to working with Asian strongmen, be it Thailand's junta, led by Prayut Chan-o-cha, Philippine President Rodrigo Duterte, or Russian President Vladimir Putin, in addition to leaders

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<sup>13</sup> Prashanth Parameswaran, "U.S., Malaysia, and the War Against the Islamic State," *Diplomat*, November 25, 2015.

that are more in line with U.S. ideals, such as Japan's Shinzo Abe or Taiwanese President Tsai Ing-wen. Although other actors within the U.S. foreign policymaking process may exert limits on the development of these relationships, the Trump administration itself will be more willing to work with them to realize American interests.

Finally, while the incoming administration will selectively utilize bilateral, minilateral, and, in some cases, multilateral arrangements to accomplish U.S. objectives, it will also not hesitate to act unilaterally and use military force to confront perceived threats. Whether it be confronting China in the South China Sea or using surgical strikes to undermine North Korea's nuclear program, the Trump administration will likely be more comfortable with the use of force and acting alone than the Obama administration was.

We have already gotten some early indications about how these broad outlines would play out in Trump's Asia policy. In a piece in *Foreign Policy* on the eve of the election, two Trump campaign Asia advisers, Alexander Gray and Peter Navarro, argued that Obama's pivot to Asia was a failure, with the administration overseeing drastic cuts to the U.S. military, unchecked Chinese assertiveness in the East China Sea and South China Sea, a rising North Korean nuclear threat, a loss of U.S. credibility among its allies and partners from Taiwan to the Philippines, and the pursuit of the TPP trade pact, which would only weaken the American economy.<sup>14</sup>

By contrast, Gray and Navarro argued, Trump's Asia policy would be based on rebuilding the foundations of U.S. economic and military power, restoring American credibility in the eyes of its friends and enemies, and asking its allies and partners to contribute their fair share as Washington continues to assume its traditional role as the guarantor of the liberal order in Asia while securing its vital interests.<sup>15</sup> The vision, dubbed "peace through strength"—a phrase dating back to the days of Ronald Reagan—was cleared by the Trump team and is still referred to by his advisers as a guide to the policies the administration is likely to pursue in the region.

### *Northeast Asia-Specific Concerns*

Turning to Northeast Asia-specific concerns, we are likely to see a more confrontational approach toward China, a hawkish view on North Korea, and greater scrutiny on burden-sharing when it comes to the U.S. alliances with Japan and South Korea, even as those alliances continue to be strengthened.

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<sup>14</sup> Alexander Gray and Peter Navarro, "Donald Trump's Peace Through Strength Vision for the Asia-Pacific," *Foreign Policy*, November 7, 2016.

<sup>15</sup> Gray and Navarro, 2016.

## Managing Alliances with Japan and South Korea

During the campaign, Trump repeatedly emphasized the need for America's allies to provide more for their own security.<sup>16</sup> The principle of burden-sharing is far from new and other U.S. presidents, including Obama, raised the same issue. But the manner in which Trump questioned America's commitment to its two Northeast Asian allies—suggesting that Washington could scale down its presence if allies like Japan and South Korea do not pay their fair share for U.S. military bases in their countries and musing about removing the U.S. nuclear umbrella over Tokyo and Seoul—triggered alarm in the two capitals and in Asia more broadly.

Yet, as with many other cases, Trump's statements on the subject confused more than they clarified and thus far have not been reliable indicators of how his Asia policy will actually play out. Members of his team have repeatedly emphasized that these two Northeast Asian alliances will remain at the center of his foreign policy, and that his phone call with South Korean President Park Geun-hye and meeting with Japanese President Shinzo Abe, along with U.S. Secretary of Defense James Mattis' trip to Tokyo and Seoul, have already affirmed this.<sup>17</sup> But at the same time, they have indicated that the administration may also ask Asian allies Japan and South Korea to do more, even as they strengthen these relationships further.<sup>18</sup> As Gray and Navarro noted in their *Foreign Policy* piece, though there is no question about Trump's commitment to America's Asian alliances, he will also want to “simply, pragmatically, and respectfully” discuss additional ways for those governments to chip in.<sup>19</sup>

This suggests that Trump will move to strengthen these two alliances but will also look to place greater scrutiny on burden-sharing where opportunities present themselves. In the case of Japan, that process of adjustment will likely be much more straightforward. Prime Minister Shinzo Abe has been a strong advocate of Japan doing more in the security realm, and Tokyo has already been shouldering more burdens in the alliance through changes to the interpretation of its constitution and increasing its defense spending. Abe, already one of the country's longest-serving prime ministers, also looks all but certain to win an election he will likely call sometime in 2017 that will keep him in office through the end of 2021, giving the new American president a willing partner.

The Trump administration is likely to move toward further strengthening the U.S.-Japan alliance even as it seeks some adjustments in the burdens both sides have, and the path for this is rather clear. The administration has already demonstrated its commitment to strengthening the alliance on the security side through such steps as reiterating the commitment to Article 5's

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<sup>16</sup> David E. Sanger and Jim Yardley, “In Donald Trump's Rise, Allies See New American Approach,” *New York Times*, May 5, 2016.

<sup>17</sup> Michael R. Gordon and Choe Sang-Hun, “Jim Mattis Seeks to Soothe Tensions in Japan and South Korea,” *New York Times*, February 5, 2017.

<sup>18</sup> Author conversation with Trump transition official, November 2016.

<sup>19</sup> Gray and Navarro, 2016.

application to the Senkaku Islands. As we get further into its tenure, there may be movement on other steps, such as furthering implementation of the new defense guidelines and boosting coordination on common challenges like China and North Korea.

At the same time, if the Trump administration follows through on its burden-sharing concerns, it will want to see other alliance-management issues addressed as well.<sup>20</sup> Burden-sharing discussions in the U.S.-Japan alliance would likely not be restricted to just host-nation support arrangements, which Trump had referred to, but would be within the context of other issues too, such as base relocations, defense spending, and easing restrictions on Japan's Self Defense Forces (SDF) within the context of Abe's strategy of making "proactive contributions to peace."

In the case of South Korea, the process of adjustment could end up being more complicated. South Korea is likely to be consumed by domestic political turmoil for much of 2017, with President Park Geun-hye either impeached or serving out the remainder of her term tarnished by scandal. Further down the line, the rise of a progressive government following presidential elections could also pose additional challenges with respect to policies toward China and North Korea, with the United States once again moving right politically while South Korea is moving left, much as was the case during the George W. Bush years, when South Korea was under Kim Dae-jung and Roh Moo-hyun.

The Trump administration's preferred approach would be to further strengthen the U.S.-South Korea alliance early on, even as it seeks some adjustments in the burdens both sides assume. With respect to strengthening the alliance, both sides look like they will move forward with the deployment of the U.S.-led Terminal High Altitude Area Defense (THAAD) system, despite the pressure currently being exerted by Beijing on Seoul.<sup>21</sup> There are also additional opportunities on the security side, including fostering greater cooperation on countering North Korea's asymmetric capabilities, deepening the conversation on extended deterrence, filling remaining alliance capability gaps, and improving Seoul's energy security given its massive dependence on imports.<sup>22</sup>

Even as this strengthening goes on, it does not necessarily mean that the Trump administration will not raise several issues with respect to burden-sharing along the way. Continuity with respect to collaboration does not rule out change with respect to the balance of commitments within that collaboration, especially given Trump's long-standing concerns on this front. An early test will be how hard a bargain it drives on the Special Measures Agreement (SMA), a cost-sharing agreement that requires renegotiation in 2017. More-dramatic moves, like

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<sup>20</sup> Rust Deming, "Remarks at 'The Way Ahead: A Discussion of the U.S.-Japan Relationship Under the Trump-Abe Administrations,'" SAIS, Johns Hopkins University, January 9, 2017.

<sup>21</sup> Sarah Kim, "Trump's Security Adviser Endorses THAAD Placement," *Korea JoongAng Daily*, January 12, 2017.

<sup>22</sup> Mark Lippert, "Remarks at 'U.S.-ROK Alliance: Looking Ahead to the New Administration and Beyond,'" December 5, 2016.

the transfer of wartime Operational Control (OPCON) to put more responsibility in the hands of South Korea, are much less likely, though they may result should the relationship deteriorate drastically.<sup>23</sup> As is the case with Japan, these burden-sharing conversations will occur in the context of broader questions about the alliance rather than in a more-narrow bean-counting perspective. Nonetheless, navigating these adjustments will not be easy for Washington, especially if it is with a South Korean government that either is not aligned on threat perceptions with respect to China and North Korea or acts in ways perceived to damage U.S. interests.

Apart from its approach toward the two alliances individually, the Trump administration has already shown its willingness to continue to facilitate trilateral cooperation with Japan and South Korea, with the meetings and exercises kicking off. But that will depend in part on both Tokyo and Seoul being able to maintain good relations and make advances—such as the conclusion of a long-awaited intelligence-sharing agreement at the end of last year—in spite of periodic irritants. The recent flare-up over the comfort women issue was a warning for the incoming Trump team about how difficult this process can sometimes be.

#### Contending with a More Assertive China

Throughout the presidential campaign and since his election, Trump and his team have signaled that they will adopt a more confrontational approach toward China relative to that of the Obama administration.

Some have dismissed this view as merely a way to initially build up leverage and then adopt a softer line toward Beijing. To be sure, this could be just a more extreme version of the China-bashing we often see before candidates take office, before reality sets in on U.S.-China relations, and at times following a major crisis. Indeed, the 2016 Republican platform, viewed as a signpost for the Trump administration's general approach, represented a stark departure from the optimistic language of the previous platform, blaming the Obama administration's complacency for partly emboldening China's military buildup in the South China Sea amid the erosion of human rights, violations of economic laws, an ideological "return to Maoism," and Taiwan's fragile future.<sup>24</sup>

Furthermore, while the Obama administration was bent on managing U.S.-China competition and ensuring that it did not overwhelm the entire relationship and scuttle opportunities for cooperation, the incoming Trump administration appears to be focused much more on the competitive aspect of the relationship. This is in part because it either does not place as much value on some areas of cooperation, like climate change, or because it reads Beijing as still being much less cooperative than it ought to be on issues like North Korea, in spite of the grave threat that Pyongyang presents. This view is not the Trump administration's alone; it is also shared by a

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<sup>23</sup> Victor Cha, "Trump & the U.S.-ROK Alliance," *cogitASIA* blog, November 11, 2016.

<sup>24</sup> GOP.com, "Republican Platform: America Resurgent," 2016. A separate paragraph is devoted to Taiwan.



growing number of China watchers in Washington who desire both greater cooperation with Beijing and more of a willingness by the United States to confront the Asian giant.

Trump's China approach is thus likely to focus on strengthening U.S. military capabilities, confronting Beijing where needed, and extracting cooperation from Beijing in a more heavy-handed manner. With respect to building up the U.S. military, Trump has said that he will move to repeal sequestration and invest significantly more in defense spending, with such lofty goals as a 350-ship navy to check China's Asian ambitions. Some Trump advisers have said that plans are already in the works for a major naval buildup to counter Beijing, including basing a second aircraft carrier in the region; deploying destroyers, attack submarines, and missile defense batteries; expanding or adding new bases in countries like Japan and Australia; and installing air force long-range strike assets in South Korea.<sup>25</sup>

We could also see the Trump administration confront China when it comes to perceived flashpoints. The United States could try to actively disrupt China's ongoing expansion and militarization in the South China Sea, as Trump's Secretary of State Rex Tillerson had suggested both publicly and privately in conversations with senators.<sup>26</sup> The new administration could also move to strengthen ties with Taiwan. Although much of the media coverage has focused on the "One China" policy and Trump's phone calls with Taiwanese President Tsai and Chinese President Xi Jinping, Trump's lack of clarity on this question may signal a desire to boost relations in other, more substantive ways.<sup>27</sup>

Such perceived infringements to China's core interests could provoke a reaction from Beijing, thereby constituting an early test for the U.S.-China relationship that previous administrations have often encountered. President Xi, who has already proven to be much more risk-prone than his predecessors, will want to appear strong as he looks to consolidate power ahead of the upcoming party congress later on in 2017.

Although some have already dismissed such moves as reckless steps toward inevitable confrontation, Trump team members have argued that they could lead to potential cooperation. As one adviser to the transition team has related in a personal communication to the author, China is more likely to respond to requests for collaboration if Washington first builds up U.S. and allied capabilities and demonstrates American resolve rather than just "speaking loudly and carrying a small stick," as Gray and Navarro accused the Obama administration of doing. "Cooperation and confrontation are not necessarily mutually exclusive," an adviser to the Trump

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<sup>25</sup> David Brunnstrom and Matt Spetalnick, "Trump Team Struggles for Cohesion on Tougher China Policy," *Reuters*, January 14, 2017.

<sup>26</sup> Josh Rogin, "Trump Could Make Obama's Pivot to Asia a Reality," *Washington Post*, January 8, 2017.

<sup>27</sup> Joseph Bosco, "Trump and 'One China': Two Phone Calls, Many Interpretations," *Diplomat*, February 11, 2017. For background information, see Richard C. Bush, "An Open Letter to Donald Trump on the One-China Policy," Brookings Institution blog, December 13, 2016.

team put it, noting that “proper calibration” was the essential ingredient.<sup>28</sup> Such a view gets to the very essence of the Reagan-esque “peace through strength” slogan that the Trump team often touts.

On North Korea, for instance, the Trump team has signaled a willingness to take some tough measures to extract much more cooperation from China than the Obama administration had gotten. If it follows through, it is likely to dangle moves such as the possibility of secondary sanctions on Chinese companies in order to induce the response that it desires from Beijing.

At the same time, Trump’s advisers are also likely to continue efforts to engage Beijing, including ones already institutionalized in an increasingly complex relationship, even if they have not emphasized this aspect of their China policy. The past few administrations all sought a mix of engagement and balancing in their approaches toward China to both address the challenges posed by Beijing’s rise and seize potential opportunities in the bilateral relationship. The Trump administration will not be an exception to this, even if that mix emphasizes much more balancing than engagement. Indeed, some of this is already taking place, with Trump’s call to Xi on February 9, 2017, as well as other high-level interactions between senior officials since.

### Dealing with a Nuclear North Korea

Although Trump’s statements on North Korea run the gamut—he has suggested everything from sitting down for a hamburger with its leader, Kim Jong-un, to ensuring that Pyongyang does not test an intercontinental ballistic missile capable of hitting the United States—he and his team are aware of the threat that North Korea poses. The first intelligence briefing that Trump requested back in December 2016 was reportedly on North Korea, and a few of his top national security advisers have taken a personal interest in the issue.<sup>29</sup>

That is comforting, since the North Korean threat has only increased over the past few years. The Obama administration’s approach of “strategic patience”—tightening sanctions, boosting deterrence, and hoping that Pyongyang returns to the table—has proven ineffective, and North Korea’s battery of missile and nuclear tests have allowed it to cross new thresholds and advance its program. During Kim’s fifth New Year’s address to kick off 2017, he said that North Korea had entered the final stage of preparations for the test launch of an intercontinental ballistic missile, which, if successfully designed and developed, would be able to reach much of the continental United States.<sup>30</sup> Pyongyang has already tested the new administration, carrying out its first ballistic missile test in mid-February 2017, when Trump was meeting Abe in the United States.

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<sup>28</sup> Author conversation with Trump transition official, November 2016.

<sup>29</sup> Tony Munroe and Jack Kim, “North Korea’s Kim Says Close to Test Launch of ICBM,” Reuters, January 1, 2017.

<sup>30</sup> Kim Jong-un, “Kim Jong Un’s 2017 New Year’s Address,” The National Committee on North Korea, January 1, 2017.

U.S. policy options on North Korea are fairly limited, with the range and mix of options both well-known.<sup>31</sup> Any comprehensive strategy for North Korea will incorporate elements of deterrence, pressure, and dialogue to varying degrees, and the Trump administration's approach will be no different.<sup>32</sup> That said, the Trump team has thus far been more vocal about the deterrence and pressure components rather than engagement, suggesting that we will likely see an initially more hawkish approach than the one adopted by the outgoing Obama administration.

Such an approach would be led by a combination of deterrence and pressure. On the deterrence front, one can expect the administration to continue the focus on building out a robust ballistic missile defense system deployed in the United States and in South Korea with THAAD, backed up by the U.S. extended deterrence commitment.<sup>33</sup> In particular, administration officials have already indicated a greater emphasis on boosting homeland missile defense since coming into office. North Korea will also be a focus of ongoing trilateral U.S.-Japan-Korea defense cooperation, with advances being made through the trilateral integrated air-and-defense missile exercise held in June 2016, as well as the much-awaited information-sharing agreement finalized by Tokyo and Seoul.

With respect to pressure, apart from ongoing campaigns targeting select North Korean businesses and diplomatic operations, the chief instrument will continue to be the application of sanctions. The Trump administration had signaled a willingness to push for fuller implementation and enforcement of the Obama administration's North Korea Sanctions and Policy Enhancement Act. It has also said it will not be hesitant to utilize secondary sanctions to target outside entities or companies, even if the move irks China.

On engagement, the initial signals coming out of the Trump team have been rather skeptical of this component of North Korea strategy. That is understandable, given the lack of progress seen during the Obama years. This makes it difficult to see the administration committing early to direct bilateral talks with North Korea, as the Obama administration did when it came into office. Further North Korean provocations early on would presumably make this even more unlikely.

Should Pyongyang indicate that it is willing to come to the table or the opportunity opens for negotiations, the resumption of multilateral talks cannot be ruled out. Both the Bush and Obama administrations demonstrated noticeable shifts in the direction of their initial approach to Pyongyang, and there is no reason to expect that the Trump administration will be immune to this. And should North Korea's capabilities continue to grow, the Trump administration will not

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<sup>31</sup> See Scott A. Snyder, "U.S. Policy Toward North Korea: Weighing the Urgent, the Important, and the Feasible," Council on Foreign Relations blog, November 19, 2015.

<sup>32</sup> Joseph Yun, "North Korea Policy: Where Are We?" Luncheon Address at U.S.-ROK Alliance: Looking Ahead to the Next Administration and Beyond, Center for Strategic and International Studies, December 5, 2016.

<sup>33</sup> Yun, 2016.

want to go into the 2020 presidential election being accused of letting one of America's adversaries acquire the capability to strike the U.S. homeland.

The gravity of the potential threat and the attention shown by the Trump team so far indicates that the administration would also be open to taking measures to slow down North Korea's program and to undertaking other asymmetric actions, including investing more in covert programs designed to facilitate the conditions for regime change. Such discussions have already been under way toward the end of the Obama administration, and the incoming administration could pursue this course if necessary.

## Uncertainties

Even as we attempt to chart out what Trump's Northeast Asia policy might look like based on what we know now, it is important to keep in mind that several key uncertainties still remain. Of these, three are especially notable: how some inconsistencies, contradictions, and unknowns in important policy positions will eventually play out; what the management style will be in the Trump administration; and what sorts of crises and challenges it will face once in office that could lead to a drastic change in the initial positions it adopted.

First, though there are general tendencies in Trump's foreign policy approach broadly and his likely Northeast Asia policy in particular, there are still inconsistencies, contradictions, and unknowns in some important policy positions. For instance, while Russia is clearly seen by most in the national security community as part of the series of threats that the United States faces today, Trump has been downplaying the Russian threat relative to others, like China or the Islamic State, even though some of his advisers disagree with this line. How this gets sorted out, as well as the broader question of how the hierarchy of threats will be determined in the administration remains to be seen, and it will have effects for Northeast Asia policy as well. There are also some unanswered questions on more-specific policy proposals. For example, experts are still wondering how Trump would pay for initiatives like a 350-ship navy while simultaneously undertaking other domestic priorities, like ramped-up infrastructure spending.

Second, while there has been significant attention devoted to individual personalities in the Trump team, the real unanswered question with respect to personnel is what kind of management style Trump will adopt in the White House. That question becomes even more important should Trump take a fairly hands-off approach to foreign policy, which he has not been personally interested in in years past relative to select domestic policy issues. This would open up more room for debate among the diverse set of personalities he has appointed. Management style will influence the coordination of policy, especially on central and contentious issues like China. Although turf wars are not uncommon with respect to China policy, how this plays out under Trump will be interesting to watch, with some individuals like Peter Navarro at the new National Trade Council having views that could shape the initial relationship between Beijing and Washington.

The last uncertainty is the crises or challenges Trump will face while in office. Just as 9/11 consumed Bush's presidency and the humanitarian crisis in Syria haunted Obama's, a similar event could end up reshaping or concretizing the Trump administration's foreign policy worldview in general as well as its approach to Northeast Asia. There is definitely no shortage of such potential crises in Asia, be it a North Korean provocation or U.S.-China tensions in the Taiwan Strait or the South China Sea. But crises can also come from other regions: in particular, Europe and the Middle East. The broader point, though, is this: For all the attention often paid to initial administration approaches, presidents are often defined less by their views at the outset than by how they react to challenges or crises that they encounter once they are in office.

## Conclusion

Despite the oft-cited bipartisan consensus on Asia policy in Washington, Trump's candidacy had initially sparked concern among some that his approach may diverge from post-World War II U.S. foreign policy, with profound effects on how the administration approaches Northeast Asia. In fact, a more careful and considered analysis of his worldview and the broad outlines of its Asia policy early on reveals that the new administration's approach is likely to be more of a mix of continuity and change with respect to confronting threats, collaborating with allies and partners, employing military force, and balancing ideals and interests. In Northeast Asia as well as elsewhere, where the Trump administration starts off may well not be where it ends up, as rhetoric translates into reality, positions start to take shape, and crises erupt. Indeed, given the record of previous administrations, that is perhaps the most-certain continuity we can be sure of.

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## Chapter Five. Southeast Asia Policy Under the Trump Administration

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How will policy toward Southeast Asia change under a Trump presidency? In what ways might it stay the same? The overall foreign policy of the Trump administration remains a work in progress, and this is especially true in Southeast Asia. As a candidate, Donald Trump ran on a populist domestic agenda, and he has remained focused mainly on domestic issues since the election. This is true to some degree for all new presidents—voters cast ballots for largely domestic reasons, making international affairs of secondary importance. But determining the direction of foreign policy in a Trump administration presents unique difficulties.

First, Donald Trump has not expressed a clear strategic vision for U.S. international affairs. It could be argued that not all incoming presidents do, but how Trump’s “Make America Great Again” campaign platform will translate into foreign policy is particularly uncertain. Second, perhaps because of his iconoclastic campaign, the Trump transition team has included an unusually small number of experienced foreign policy professionals who could help develop and express the incoming administration’s strategy. These problems are particularly stark regarding Southeast Asia (and the Asia-Pacific more broadly), which has received far less attention from the new president and his surrogates than the Middle East, Russia, or the North Atlantic Treaty Organization (NATO).

It is important to parse what insights one can from the statements of President Trump and his top advisers regarding foreign policy. But that project yields only incomplete, and often contradictory, answers. The second, and perhaps more useful, exercise in forecasting a Trump policy for Southeast Asia is to examine the unavoidable issues the region will present for the new administration. Even if the Trump government’s preference is an inward-looking, America-first approach, what crises are likely to emerge in Southeast Asia that will demand the White House’s attention? Some of these, like the South China Sea, will require immediate focus. Others—the fallout from the failure of the Obama administration to secure ratification of the Trans-Pacific Partnership (TPP), likely domestic political crises in several Association of Southeast Asian Nations (ASEAN) states, and the resurgence of an Islamist terrorist threat in the region—might seem like less-immediate concerns, but could present major problems for the Trump team if not confronted proactively.

This paper examines the statements made by President Trump and his advisers regarding Southeast Asia, as well as their more general pronouncements on foreign policy and how they might affect the region. It then turns to the signals that could emerge from the region over the course of a Trump presidency and demand the administration’s attention. The South China Sea

disputes top this list, followed by the economic strategy after the collapse of the TPP and the threat of a resurgent Islamist threat in Southeast Asia. The paper closes with a country-by-country look at political crises that could affect the region in the coming years, which will complicate U.S. policymaking and could exacerbate the issues discussed above.

## The Trump Team's Policy Statements

### *Positions of the President*

The foremost problem with explaining President Trump's Southeast Asia policy is that he has not enumerated one, nor have his surrogates. On the very few occasions that he has mentioned Southeast Asia, it has been as a reflection of a broader political theme from his campaign. As a candidate, he once referred to the Philippines, alongside nations like Afghanistan and Syria, as a country that is home to a terrorist threat and from which migrants to the United States might need great scrutiny.<sup>1</sup> He described China's building of artificial islands in the South China Sea as the construction of a military base like the world had never seen and listed it as among those sins made possible by Beijing's economic exploitation of the United States since its accession to the World Trade Organization in 2001—a frequent theme on the campaign trail.<sup>2</sup> He also regularly lambasted the TPP—which includes Brunei, Malaysia, Singapore, and Vietnam—as deeply flawed, but without providing specifics.<sup>3</sup>

As president-elect, Trump responded to the illegal seizure of a U.S. Navy undersea drone by the Chinese navy in the South China Sea by decrying the Obama administration's failure to check Beijing's aggressions, before suggesting that the United States should allow China to keep the drone—a Twitter remark that was never explained.<sup>4</sup> The president-elect also spoke to Philippine President Rodrigo Duterte shortly after his election win. The phone call was described as generally positive but few details were made public. Trump did, however, extend an invitation to Duterte to visit the White House, which raised many eyebrows.<sup>5</sup> Given the Duterte government's violent war on drugs and the Philippine president's public encouragement of thousands of extrajudicial killings by his security forces, any meeting at the White House would spark furor from both sides of the U.S. political spectrum. It is unclear whether President-elect

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<sup>1</sup> Agence France-Presse, "Trump Tags 9 Countries, Including PH, as 'Terrorist Nations,'" *Rappler*, August 6, 2016a.

<sup>2</sup> Linda Qiu, "Donald Trump Weighs in on China's Island-Building in the South China Sea," *Politifact*, April 4, 2016.

<sup>3</sup> Kevin Cirilli and David Knowles, "Trump Likens Trans-Pacific Partnership Trade Deal to Rape," *Bloomberg*, June 28, 2016.

<sup>4</sup> Samuel Osborne, "Donald Trump Says China Should Keep the Seized U.S. Navy Drone," *Independent*, December 18, 2016.

<sup>5</sup> Reuters, "Trump Invites Controversial Philippines Leader Duterte to the White House," *Newsweek*, December 2, 2016.

Trump was aware of those complications ahead of his call with President Duterte—there were no experts on the Philippines or Southeast Asia more generally on his transition team and he reportedly did not speak to the State Department ahead of either that or other early phone calls with world leaders.<sup>6</sup>

Given the scarcity of authoritative statements by the president and his top advisers about Southeast Asia, much of the new administration's likely policy toward the region must be extrapolated from Trump's more general pronouncements about international affairs. Donald Trump's outlook on the United States' place in the world is very different from that of his predecessors. He does not tend to use the traditional vocabulary of international affairs, nor does he appear to ascribe to any of the schools of thought regarding U.S. strategic interests that have predominated since World War II. That may be because he believes U.S. relations with the world should be handled at a tactical, not a strategic, level. Some commentators have noted that Trump believes that relations with foreign states should be pursued in a transactional manner, much as a business deal.<sup>7</sup> Today's alliances might not prove worthwhile tomorrow if a better deal is available. The same applies to today's adversaries. In neither case are there abiding interests at stake, much less concepts like shared norms or values.<sup>8</sup>

This approach to foreign policy might increase the administration's freedom of movement and could help avoid problematic foreign entanglements. It may also free the United States from ideological drivers of policy, including democracy promotion, support for human rights, or defense of a rules-based order, though there will be times when these goals may still be useful means to an end. But it also injects an unprecedented degree of uncertainty into U.S. foreign policy. Such uncertainty is something that President Trump has repeatedly endorsed as a means of increasing leverage.<sup>9</sup> But it will be deeply worrying for other states, including some in Southeast Asia, which will need to make policy without knowing how the United States will align on any given issue. In response, many countries will hedge—hoping for the new administration to play a positive role but preparing for the worst. In Southeast Asia's case, that would mean assuming U.S. retrenchment—a pullback from active economic, diplomatic, and security engagement under a Trump presidency. Some might respond with more accommodation toward China, while others might find that unacceptable and will seek such alternatives as building up indigenous military capabilities and diversifying security partnerships with other states.

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<sup>6</sup> Lauren Said-Moorhouse, "What's Different About Donald Trump's Phone Calls with World Leaders?" CNN, December 2, 2016.

<sup>7</sup> Leon Hadar, "The Limits of Trump's Transactional Foreign Policy," *National Interest*, January 2, 2017; James Kitfield, "The Knowns and Unknowns of Donald Trump's Foreign Policy," *Atlantic*, November 19, 2016.

<sup>8</sup> Hadar, 2017; Kitfield, 2016.

<sup>9</sup> Nick Wadhams, "Trump's 'Unpredictable Starting Now' Foreign Policy Is Here," *Bloomberg*, December 5, 2016.

In addition to a general approach to foreign policy, President Trump has outlined a few positions that, while not specifically related to Southeast Asia, give some insight into how he might approach the region. First, and perhaps most importantly, is the new president's seeming antipathy toward China. Both as a candidate and now as president, Trump has been consistently negative about China, especially in what he sees as its unfair trade relations with the United States and accusations of currency manipulation.<sup>10</sup> His statements about the South China Sea, his accusations that China is capable of reining in North Korea's nuclear ambitions but it refuses to do so,<sup>11</sup> and his questioning of the One China Policy suggest that this antipathy will be reflected in more than just the economic space.<sup>12</sup>

For Southeast Asia, this will be a double-edged sword. President Trump's stated desire to take a strong stand toward China and deter what he perceives as its mistreatment of the United States could lead to a more robust stance in the South China Sea and a desire to boost cooperation with likeminded states who are willing to confront Beijing's aggressive behavior. But such a stance could also provoke more-overt military escalation in the South China Sea and force Southeast Asian states to do something they have assiduously avoided—choose sides between Beijing and Washington.<sup>13</sup> If South China Sea policy is framed as a military standoff between China and the United States over primacy in Asia, it would also play directly into Beijing's narrative that the rise in tensions have been caused by U.S. meddling in pursuit of a containment policy. The Obama administration, despite tactical missteps, recognized this and was always careful to frame U.S. interests in the South China Sea as threefold: defense of the rules-based order, freedom of navigation, and preservation of a stable and secure Asia (including defense of allies).<sup>14</sup> President Trump is dismissive of the first of those interests, and sees the other two through a very different lens than his predecessor, the claimant states, and most other interested parties.

More broadly, Trump's focus on China could signal a fundamental shift in the U.S. approach to the region that will not be welcomed by most in Southeast Asia. Despite many weaknesses, the Obama administration's "pivot" or "rebalance" was successful in one major way, especially in its first term: it situated China policy within a broader Asia strategy, rather than letting Asia

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<sup>10</sup> Reuters, "Trump Calls Chinese 'Grand Champions' of Currency Manipulation," CNBC, February 23, 2017; Jane Perlez and Chris Buckley, "Trump Injects High Risk into Relations with China," *New York Times*, January 24, 2017.

<sup>11</sup> Cristiano Lima, "Trump 'Not Liking' Chinese and North Korean Military Moves," *Politico*, February 23, 2017.

<sup>12</sup> Katie Hunt, Tim Schwarz, and Eric Bradner, "Beijing 'Seriously Concerned' After Trump Questions 'One China' Policy," CNN, December 13, 2016.

<sup>13</sup> See Rosalind Mathieson and Sterling Wong, "U.S.-China Tensions May Force Nations to Choose, Singapore Says," *Bloomberg*, March 1, 2017.

<sup>14</sup> Daniel Russel, "Maritime Disputes in East Asia," testimony before the House Committee on Foreign Affairs, Subcommittee on Asia and the Pacific, Washington, D.C., February 5, 2014; Daniel Russel, "Remarks at the Fifth Annual South China Sea Conference," Washington, D.C.: Center for Strategic and International Studies, July 21, 2015.

strategy be determined by China policy. Southeast Asian states (and ASEAN more generally) received closer attention than at any time since the Vietnam War. The administration saw Southeast Asia, with its vital trade and investment linkages, young and rapidly growing work forces, political dynamism, and geographic location as crucial for U.S. interests in its own right, not just in relation to China.

That difference was a boon for the Obama administration, leading most of the region to welcome greater U.S. engagement. While Chinese leaders often approached Southeast Asian counterparts with paternalism bordering on disdain, Washington took a different tack. This was most obvious in the South China Sea, where Beijing seemed unable to recognize that Southeast Asian countries saw themselves as equal members of the community of nations with rights that must not be trampled on by larger powers. Instead, Chinese leaders assumed that every complaint from Southeast Asia about Chinese activities in the South China Sea could be explained away as merely the voices of puppets being manipulated by the United States or Japan. By the same token, Beijing consistently sought to undermine ASEAN efforts at unity on the issue, seeing it as a stalking horse for foreign intervention and believing that ultimately Asia would be organized around China, not regional institutions. The Obama administration, by contrast, publicly championed the rights of all states to protection under international law and encouraged ASEAN centrality as the organizing principle for regional architecture.<sup>15</sup> The Trump administration has yet to share its predecessor's normative commitment to such principles. It might opportunistically champion ASEAN states, but it may also treat them as bargaining chips in bilateral discussions with Beijing, much as Trump has suggested he would do regarding cooperation with Taiwan and the One China Policy.

Another Trump policy position that is likely to affect Southeast Asia is his perception of free-riding by U.S. allies and his more transactional approach to alliance commitments.<sup>16</sup> In relation to NATO, Japan, and South Korea, Trump has said that U.S. military allies do not pay their fair share to host American forces and, more worryingly, he has suggested that the alliances themselves are open to review based on changing U.S. interests. This should be deeply worrying to any U.S. ally—a security commitment that is dependent on a shifting, unilateral cost-benefit analysis falls short of a military alliance as it has been understood since World War II. But it should be even more worrying for the Philippines and Thailand, which are far less able to pay for U.S. protection and who provide far fewer immediate benefits, in terms of basing and rotational facilities, than do Northeast Asian and European partners. Without any legal or moral commitment from the United States, those alliances could suddenly look very hollow. Potential adversaries, particularly China, will likely reach the same conclusion.

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<sup>15</sup> See Office of the Press Secretary, “Joint Statement of the U.S.-ASEAN Special Leaders’ Summit: Sunnylands Declaration,” Obama White House, February 16, 2016.

<sup>16</sup> Thomas Wright, “Trump’s 19th Century Foreign Policy,” *Politico*, January 20, 2016.

## *Positions of the Trump Team*

The president's advisers, including both his transition team and appointees to senior government positions, have not offered much more clarity on Southeast Asia policy. Among his public advisers during the campaign and the transition, there were no Southeast Asia experts and very few Asia specialists at all. Like Trump himself, senior advisers have almost exclusively discussed Asia through the lens of China or, more occasionally, North Korea. This includes former National Security Adviser Michael Flynn and his replacement, H. R. McMaster, Secretary of Defense James Mattis, and Secretary of State Rex Tillerson. National Security Council Senior Director for Asia Matthew Pottinger was a longtime journalist in China before serving three tours in Afghanistan and Iraq and becoming a close confidante of Flynn. The director of Trump's newly created National Trade Council, Peter Navarro, is an economist who shares the president's views on Chinese economic malfeasance. All of these men presumably have some familiarity with Southeast Asia, but how much and what strategic vision they have for the region is unclear.

Navarro and Alexander Gray, a former congressional staffer recently appointed to the National Trade Council as deputy director for the military industrial base, penned an article in *Foreign Policy* that quickly became the most cited document regarding the new administration's Asia policy (largely by virtue of being the only one).<sup>17</sup> The theme was that President Trump would correct the major weakness of the Obama administration by showing strength in Asia, thereby deterring Chinese aggression in places like the South China Sea and reassuring the region that the United States would remain a resident power. Among their recommendations was a call for rapprochement with the military junta in Thailand; they accused the Obama administration of unnecessarily driving Thailand into the arms of Beijing by its critical response to the 2014 coup. Their premise, that human rights concerns should have no bearing on U.S. military relations, would presumably be welcomed both in Bangkok and by the Duterte government in Manila amid its bloody war on drugs and could also have implications in places like Vietnam and Myanmar.

Navarro and Gray also called for a more active role for Japan in the security affairs of the region, which might be welcomed by some in Southeast Asia, but would be opposed by others because it would raise tensions with China. It is also unclear what they had in mind beyond the steps already being taken by the government of Prime Minister Shinzo Abe, including a nascent but rapidly expanding role in capacity-building, training, and arms sales in Southeast Asia. The authors also voiced support for closer relations with Taiwan—a notion that clearly has support from many on the Trump team and was reflected in the president-elect's historic and highly

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<sup>17</sup> Alexander Gray and Peter Navarro, "Donald Trump's Peace Through Strength Vision for the Asia-Pacific," *Foreign Policy*, November 7, 2016.

controversial call with Taiwanese president Tsai Ing-wen.<sup>18</sup> This makes Southeast Asian states understandably nervous, as a serious deterioration in the cross-Strait relationship risks undermining stability in the entire region. Already Beijing's efforts to punish the Tsai government for its perceived pro-independence stance has affected Singapore, which found itself punished for its long-standing but modest security relationship with Taipei when Chinese authorities impounded Singaporean military vessels transiting Hong Kong after a training exercise in Taiwan.<sup>19</sup>

One other proposal raised by Navarro and Gray could have direct implications for Southeast Asia: their call for a 350-ship U.S. Navy.<sup>20</sup> The idea that the U.S. surface fleet is insufficient for its needs, especially in Asia, is nothing new. And any effort to boost the Navy's strength in the region would be generally welcomed, as nearly every state in the region prefers a strong, resident U.S. military presence as a balance against Beijing. But at a time when the administration also plans to cut taxes, and with budget hawks in the president's own party still playing a role in Congress, the 350-ship target seems extremely unlikely. The administration's eventual plans regarding fleet strength will be worth watching closely. Navarro and Gray's perches at the National Trade Council suggest that they will not be involved in most issues raised in their *Foreign Policy* article, but they should presumably have influence on defense budgeting and procurement.

Overall, the Trump team has not given those watching Southeast Asia policy much in the way of concrete signals to go on when seeking to forecast future U.S. policy. Some likely positions toward the region can be extrapolated from the president's more general statements about foreign policy, or those of his top advisers, but such conclusions are highly speculative and at times contradictory. In fact, it is entirely possible that, with his domestic populist focus and more-immediate headaches in Russia and the Middle East, the president will prefer to leave Asia generally, and Southeast Asia in particular, largely to its own devices. But that will probably prove difficult, if not impossible. Over the next four years, a number of issues in Southeast Asia will demand the White House's attention, and could become full-blown crises if ignored. These are explored in the next section.

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<sup>18</sup> Anne Gearan, Philip Rucker, and Simon Denyer, "Trump's Taiwan Phone Call Was Long Planned, Say People Who Were Involved," *Washington Post*, December 4, 2016.

<sup>19</sup> Bhavan Jaipragas, "Hong Kong to Return Seized Armoured Vehicles to Singapore," *South China Morning Post*, January 24, 2017.

<sup>20</sup> Gray and Navarro, 2016.

## Demands from Southeast Asia

### *The South China Sea*

In the months following a much-anticipated July 12, 2016, ruling in Manila's favor from a tribunal at the Permanent Court of Arbitration in The Hague, optimistic observers in both Asia and the United States predicted that Beijing would be willing to turn a page on the disputes over the South China Sea. But more-recent developments have called that notion into question. Tensions will not only remain for the foreseeable future, but they will likely rise in 2017 and beyond.

While China lashed out at the Philippines' strongest supporters, including Australia, Japan, Singapore, and the United States, it generally sought to lower diplomatic tensions with ASEAN following its resounding legal defeat. On the sidelines of the ASEAN Regional Forum and related meetings in late July 2016, Foreign Minister Wang Yi said that China "[believes] that the temperature surrounding the arbitration case should be lowered. Regarding the South China Sea issues, it's time for all to come back to the right track." He then told reporters that China would seek to conclude a "framework" for a code of conduct (COC) with ASEAN regarding the South China Sea by mid-2017.<sup>21</sup> Chinese media then reported a number of "breakthroughs" reached in an August senior officials' meeting on the implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC). ASEAN and China reportedly agreed to guidelines for a hotline to manage maritime emergencies and to apply the Code for Unplanned Encounters at Sea (CUES) to the South China Sea.<sup>22</sup>

This change of tone from Chinese officials led to high hopes, but more-cautious observers pointed out that, while it is critical that China be offered an opening to deescalate tensions, skepticism is warranted. Both the hotline and the application of CUES to disputed waters had been agreed on at least a year earlier and repeated on multiple occasions since.<sup>23</sup> And regarding a COC, which has been pursued for more than a decade with virtually no progress, any sudden breakthrough seems unlikely. As evidenced by a July 13, 2016, position paper on the South China Sea, Beijing remains unwilling to clarify its claims. That ambiguity makes it impossible to agree on the geographical scope of a COC, or even the current DOC. China has also made a habit of stonewalling discussions on DOC implementation and conclusion of a COC, stretching out negotiations indefinitely to create the appearance without the reality of cooperation. Nor is it clear that Beijing would ever agree to a binding code, or how a nonbinding agreement would be an improvement over the DOC.

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<sup>21</sup> Tan Hui Yee, "China Calls for Fast-Track Talks on Code of Conduct," *Straits Times*, July 26, 2016.

<sup>22</sup> Prashanth Parameswaran, "Beware the Illusions of China-ASEAN South China Sea Breakthroughs," *Diplomat*, August 17, 2016.

<sup>23</sup> Parameswaran, 2016.



Beijing's change in tone toward Manila has been even more striking, but a closer look reveals little substance behind the tonal shift. Rodrigo Duterte's inauguration as president of the Philippines on June 30, 2016, was a windfall for China. Despite earlier hopes that he would moderate anti-American stances expressed during the campaign,<sup>24</sup> Duterte has quickly moved to distance the Philippines from the United States, at least diplomatically, and seeks a new accommodation with Beijing. He has also refused to push for Chinese compliance with the arbitral decision while maintaining that the Philippines will not abandon it.

China's leaders, in turn, feted Duterte during his October visit to Beijing and showered him with roughly \$24 billion in loans and investment pledges.<sup>25</sup> While the focus of the trip was clearly economics, Duterte could not entirely avoid the South China Sea, given expectations among the Philippine public. Despite initial claims that the disputes were not raised during meetings with Chinese officials, Duterte later claimed to have reached a "friendly agreement" on access for Filipino fishermen to Scarborough Shoal, presumably during his one-on-one with President Xi Jinping.<sup>26</sup> Indeed, Filipino fishermen have managed to fish around the disputed shoal without being harassed by the China Coast Guard since late October 2016. Philippine government representatives have hailed this as a return to the status quo that existed at Scarborough prior to China's seizure of the feature in 2012.<sup>27</sup>

In actuality, it appears to be a return to the status quo that has existed for most of the last four years. Filipino fishermen have frequently been able to operate around the outside of the shoal over the last four years, despite the presence of the China Coast Guard and other vessels maintaining administrative control of the feature. Satellite imagery makes clear that the China Coast Guard continues to block the only channel that allows safe access into the lagoon and patrols around the feature. Filipino fishermen are able to operate around the outside of the shoal only at China's forbearance, as they have frequently since China took control.<sup>28</sup> According to the Ministry of Foreign Affairs in Beijing, "The Chinese side has always been exercising normal jurisdiction over Huangyan Dao [Scarborough Shoal]. The situation is and will remain unchanged."<sup>29</sup> Without any formal agreement over access to the shoal, it is unclear whether the

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<sup>24</sup> Germelina Lacorte, "Duterte Says America Will Never Die for PH," *Inquirer*, August 2, 2015.

<sup>25</sup> Andree Calozzo and Cecilia Yap, "China Visit Helps Duterte Reap Funding Deals Worth \$24 Billion," *Bloomberg*, October 21, 2016.

<sup>26</sup> Agence France-Presse, "China, PH in 'Friendly' Understanding on Shoal—Esperon," *Inquirer*, October 31, 2016b.

<sup>27</sup> Trisha Macas, "Palace: Chinese Coast Guard No Longer Chasing Pinoy Fishermen Away from Panatag Shoal," *GMA News*, October 28, 2016.

<sup>28</sup> Asia Maritime Transparency Initiative, "Updated: Imagery Suggests Philippine Fishermen Still Not Entering Scarborough Shoal," October 27, 2016d.

<sup>29</sup> Chinese Ministry of Foreign Affairs, "Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference," October 31, 2016.

situation at Scarborough is a sign of permanent Chinese compliance with that portion of the ruling, or merely a temporary olive branch to the Duterte government.

Whether or not the uneasy new status quo at Scarborough Shoal can be maintained, which seems unlikely given public sentiment in both countries, progress on other issues in the South China Sea seems extremely unlikely. China is not going to abandon the military base it has constructed on Mischief Reef, nor accede to permanent Philippine occupation of Second Thomas Shoal, despite the court ruling on both points. There is also no clear path forward on seabed resource extraction at Reed Bank. The Philippine constitution makes it impossible for the Duterte government to offer Beijing a joint development agreement at Reed Bank. The China National Offshore Oil Corporation and Forum Energy, which currently owns the rights to explore Reed Bank, could enter a commercial agreement, but it would need to be done under Philippine law and recognizing Philippine jurisdiction—something to which Beijing will not agree.<sup>30</sup>

Even more worrying, Beijing's recent diplomatic softening has not been accompanied by any slowdown in its construction of military facilities in the Spratly Islands. Satellite imagery ahead of the ruling revealed ongoing construction of hangar space for 24 fighter jets (a full regiment) and 3–4 larger planes at each of the three largest Chinese artificial islands, at Fiery Cross, Mischief, and Subi reefs.<sup>31</sup> All 72 of the smaller hangars have now been completed, and work continues on the larger hangars, which are most likely intended to host large patrol craft or heavy-lift transport planes (though they could easily accommodate any plane in the People's Liberation Army Air Force, including its long-range bombers). China is clearly not investing in such construction if it does not intend to make use of it. The region should soon expect to see at least rotational deployment of large numbers of Chinese military aircraft to the Spratlys. These will be accompanied by a steady increase in the numbers of Chinese naval, coast guard, and paramilitary ships in the area, which will be able to more easily patrol the Spratlys for long periods because of the docking and support facilities at the three large artificial islands. And finally, China is constructing radar and signals intelligence assets, including already completed high-frequency radar at Cuarteron and Fiery Cross Reef, along with advanced anti-aircraft and anti-missile point defenses and shelters for surface-to-air missile systems in case of conflict.<sup>32</sup>

While the Duterte government seems to be betting everything on China's willingness to negotiate core issues in good faith and change its behavior in the South China Sea, and while Malaysia's Prime Minister Najib Razak feels compelled to seek improved ties with China due to the domestic political turmoil caused by the 1MDB scandal, other regional states are preparing for increasing Chinese assertiveness. Indonesia is discussing joint patrols with Australia and

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<sup>30</sup> Asia Maritime Transparency Initiative, "Podcast: Justice Antonio Carpio on the South China Sea and the Limits of Presidential Power in the Philippines," October 31, 2016e.

<sup>31</sup> Asia Maritime Transparency Initiative, "Build it and They Will Come," August 1, 2016b.

<sup>32</sup> Asia Maritime Transparency Initiative, "Another Piece of the Puzzle," February 22, 2016a; Asia Maritime Transparency Initiative, "China's New Spratly Island Defenses," December 13, 2016f; Asia Maritime Transparency Initiative, "A Look at China's SAM Shelters in the Spratlys," February 23, 2017.

continues to seek close security cooperation with Japan and the United States.<sup>33</sup> Singapore has granted the United States rotational access for P-8 surveillance flights.<sup>34</sup> Vietnam continues to modernize its military and seeks closer security ties with Japan, the United States, and India.<sup>35</sup> Vietnam has also reportedly deployed surface-to-air missile platforms to the Spratlys<sup>36</sup> and satellite imagery shows it is lengthening its runway at Spratly Island in order to accommodate larger assets like its PZL M28B maritime surveillance aircraft and CASA C-295 transport planes.

Despite media narratives to the contrary and an understandable desire to see Chinese diplomatic softening as a sign of a new status quo, most states involved in the South China Sea disputes are preparing for heightened tensions while keeping the door open for China to deescalate. China's recent behavior should be seen as the best indicator of its future intentions. And in the absence of any clarification of China's claims or slowdown in its construction of military facilities, the most reasonable assumption is that Beijing continues to seek control throughout the nine-dash line by coercion, if not by outright use of force. The recent theft of a U.S. Navy drone in an area of the South China Sea outside even Beijing's nine-dash line claim suggests that Chinese operators, if not top leaders in Beijing, are growing bolder in their willingness to interfere with U.S. freedom of navigation.

China has mostly refrained from any major escalation and has softened its rhetoric in recent months, especially toward the Philippines, in order to avoid the worst of the diplomatic fallout from the July 12, 2016, ruling. That effort has been remarkably successful, with China having avoided the widespread censure that many observers expected.<sup>37</sup> But it has not changed its long-term goals for the South China Sea. If the Trump administration does not proactively develop and implement a strategy for the South China Sea, it will be forced to (and not on its own terms) when China's rapidly expanding power projection capabilities inevitably spark a new crisis in those waters.

### *Post-TPP Economic Engagement*

The TPP was the core economic effort of the Obama administration's rebalance to the Asia-Pacific. With its effective death, the United States is left without any multilateral trade and investment strategy to counter Chinese efforts to organize economic architecture in the world's most dynamic region. This is a geostrategic failure that has raised serious questions in Asian

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<sup>33</sup> Rob Taylor, "Australia, Indonesia in Talks Over Joint South China Sea Patrols," *Wall Street Journal*, November 1, 2016.

<sup>34</sup> Sydney J. Freedberg, Jr., "The P-8, Singapore and South China Sea Strategy," *Breaking Defense*, June 6, 2016.

<sup>35</sup> Gregory Poling, "While Courting China, Vietnam Prepares for a Future South China Sea Crisis," *World Politics Review*, September 21, 2016.

<sup>36</sup> Greg Torode, "Exclusive: Vietnam Moves New Rocket Launchers into Disputed South China Sea—Sources," Reuters, August 10, 2016.

<sup>37</sup> Asia Maritime Transparency Initiative, "Who Is Taking Sides After the South China Sea Ruling?" August 15, 2016c.

capitals about U.S. staying power. It adds support to the narrative, pushed by Beijing for the entirety of the Obama administration, that the United States in the wake of the global financial crisis is a declining power masking economic and political weaknesses with a temporary military advantage that will shrink year by year—a fact that will eventually compel it to withdraw from active engagement in Asia. If states in Southeast Asia come to believe that narrative, they will more likely feel compelled to accommodate Beijing, often in ways detrimental to U.S. national interests.

Nor can the U.S. economy succeed without active engagement with Southeast Asia. U.S. companies have nearly four times more investment in Southeast Asia than in China and ten times more than in India.<sup>38</sup> Nations like Cambodia, Malaysia, the Philippines, Thailand, and Vietnam are vital links in global supply chains on which U.S. manufacturers and consumers both depend. And the importance of the region will only grow year by year. Even the most optimistic forecasts show modest economic growth in the United States, Europe, and Japan, and slowing growth in China, which has driven the global economy for two decades. Meanwhile, seven of the ten Southeast Asian economies (excepting only Brunei, Singapore, and Thailand), are projected to enjoy growth rates over 5 percent per year for the foreseeable future.<sup>39</sup> With a young population and a rapidly growing middle class, the region will enjoy a demographic dividend for decades to come, as opposed to aging nations like China that have passed their demographic peaks.

Recognizing the region's economic importance, others will demand U.S. attention to help mitigate the damage done by the TPP's failure. Many countries, particularly Malaysia and Vietnam, invested a substantial amount of political capital to negotiate and ensure domestic ratification of the TPP. They were counting on the agreement to provide an external impetus for needed domestic reforms and, especially in the case of Vietnam, to help mitigate against perceived economic overdependence on China. Without the TPP, they must either accept that dependence, and with it the reduced ability to resist Chinese coercion in areas like the South China Sea, or scramble for alternatives.

Tokyo will likely lead the way in seeking alternative trade and investment arrangements to mitigate the damage done by the TPP's failure. The Abe government put a lot of credibility on the line in order to extract concessions from domestic interest groups to conclude the TPP agreement. Politically, it cannot simply walk away with nothing. And Japan, like other nations, has no interest in seeing China lead the way in determining the rules of the road for trade and investment in Asia, even if Washington has effectively ceded the initiative on that count. Japan, Australia, and the Southeast Asian TPP members will pursue engagement with China, including by negotiating the 18-member Regional Comprehensive Economic Partnership, but they will also seek a patchwork of bilateral and minilateral initiatives to rebuild at least some of the promise of

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<sup>38</sup> U.S.-ASEAN Business Council, "U.S.-ASEAN Investment," December 16, 2016.

<sup>39</sup> Organization for Economic Cooperation and Development, *Economic Outlook for Southeast Asia, China, and India 2016: Enhancing Regional Ties*, Paris: OECD Publishing, 2016, p. 2.

the TPP. They will demand that the Trump administration engage in that effort to some degree, and U.S. economic and strategic interests will be on their side.

### *A Resurgent Islamist Threat*

One of the greatest successes in U.S.-Southeast Asia cooperation over the last two decades has been the effective defanging of the terrorist threat that plagued the region at the start of the 21st century. The George W. Bush administration declared Southeast Asia the second front in the War on Terror in the wake of 9/11 and the 2002 Bali nightclub bombings by Jemaah Islamiyah. Washington invested substantial resources in building partner-nation capacity, gathering and sharing intelligence, and, especially in the Philippines, directly assisting in counterterror operations. The Obama administration continued those efforts, though by 2009 the existential threat had passed. These successes against Jemaah Islamiyah and others, like the Abu Sayyaf group, contributed to political stability in affected states and a renaissance in military-to-military relations with countries like Malaysia and Indonesia, which in part made the advances in security cooperation under the Obama administration possible.

But the rise of the Islamic State has led to an emerging new threat of terrorism in Southeast Asia. Hundreds of Indonesian, Malaysian, and, in smaller numbers, Filipino citizens have traveled to Iraq and Syria to join the fight. When Indonesian and Malaysian mujahideen returned from Afghanistan in the 1990s, they laid the foundation for Jemaah Islamiyah. Returning fighters from Iraq and Syria will pose the same threat, and in greater numbers.<sup>40</sup> Ironically, successes in Iraq and Syria will decrease the danger of the Islamic State establishing a caliphate by holding territory, but may also disperse its threat of violence abroad, including in Southeast Asia.

In addition to returning fighters, Islamic State ideology, spread online and by direct communication with fighters abroad, has already led to the radicalization of some citizens in Southeast Asia, a small number of whom have resorted to low-level terror attacks. A shooting at an Indonesian Starbucks, a bomb attack on a Malaysian nightclub, and a resurgence of terror in the southern Philippines are just some of the more public results.<sup>41</sup> Most recently, a small but coordinated extremist group has emerged among the Rohingya in western Myanmar.<sup>42</sup> They so far remain focused on fighting for ethnic rights, not engaging in international jihad, but the Myanmar government's brutal crackdown in response could further radicalize members of the Rohingya even as it makes their plight a rallying cry for international Islamist groups. Without concerted counter-radicalization and counterterror efforts, closely coordinated among regional

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<sup>40</sup> Joe Cochrane and Thomas Fuller, "Jakarta Attack Raises Fears of ISIS' Spread in Southeast Asia," *New York Times*, January 13, 2016.

<sup>41</sup> "Report Reveals Links of Pro-IS Groups in Mindanao with Indonesia, Malaysia," *Jakarta Post*, October 25, 2016.

<sup>42</sup> International Crisis Group, *Myanmar: A New Muslim Insurgency in Rakhine State*, Report No. 283, December 15, 2016.

and outside actors including the United States, Southeast Asia could again become a major haven for Islamist terrorism.

### *Domestic Political Crises*

Southeast Asia is a region in political transition and, unfortunately, such changes carry both opportunity and danger. A significant portion of the Obama administration's successes in the early years of the rebalance were made possible because of positive political trends in the region. Susilo Bambang Yudhoyono was the first popularly elected (and reelected) Indonesian leader since the fall of Suharto and had a uniquely outward-looking vision for Indonesia, as did his able foreign secretary, Marty Natalegawa. Benigno Aquino was the first modern Philippine president to complete a term without facing an attempted military coup, and his foreign secretary, Albert del Rosario, was doggedly pro-America. In Malaysia, Najib Razak promoted himself as a reformist who would allow greater space for civil liberties. Thailand had emerged from the aftermath of its most recent military coup to elect Yingluck Shinawatra by popular vote and, remarkably, she seemed determined to avoid the royalist backlash that had brought down every democratically elected Thai government for a decade. In Myanmar, a nascent civilian government was tentatively opening the country to the outside world. And even in Vietnam, Prime Minister Nguyen Tan Dung was an economic reformist and the National Assembly was playing an ever-larger role in governance.

Today, Southeast Asia is facing a very different political landscape, with many countries having succumbed to anti-democratic backlashes and others facing a very uncertain future. The Trump administration will need close and effective collaboration with Southeast Asian governments to confront challenges like the South China Sea, regional economic engagement, and the threat of Islamist terrorism. A political crisis in a Southeast Asian state will therefore represent a major hurdle to effectively pursuing U.S. national interests. And given the litany of governance challenges and dangerous political transitions facing the region over the next few years, it seems extremely likely that at least one flashpoint, and probably more, will erupt into a crisis during the Trump administration.

In Thailand, Prime Minister Yingluck was toppled by the military in mid-2014. King Bhumibol Adulyadej died in late 2016, removing a decades-long source of political stability from Thai politics. It remains unclear whether the ruling junta will actually allow civilian elections, which were recently pushed back to 2018.<sup>43</sup> And even if they do, the undemocratic constitution the junta has crafted and its refusal to address any of the underlying political tensions that have plagued the country for the last two decades all but ensure that the next round of crises is a matter of *when*, not *if*.

In Malaysia, Najib the reformer has quickly become Najib the reactionary. After the ruling Barisan Nasional coalition lost the popular vote for the first time in the 2013 general elections,

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<sup>43</sup> "Elections Now Promised for 2018," *Bangkok Post*, February 9, 2017.

Najib rolled back many of his promises of reform and oversaw an ongoing effort to weaken the political opposition, civil society, and independent online media. Today, the country is seized by an ongoing corruption scandal centered on Najib and his government's 1MDB development fund, which is the target of multiple international investigations, including by the U.S. Department of Justice. In response, Najib has purged his own party's leadership, driving even former Prime Minister Mahathir Mohamad to join forces with his former archenemies in the opposition. And most worrying of all, Najib and his government have steadily engaged in racial politics and have elevated the role of political Islam to shore up support among their Malay base.<sup>44</sup> Malaysia has become a racial and religious powder keg, and the next election, to be held in August 2018, could be the spark.

A similar story has unfolded in Cambodia, where Prime Minister Hun Sen's Cambodian People's Party won the 2013 general election but the opposition gained substantial ground and leveled accusations of widespread voter fraud. That resulted in a constitutional crisis that was temporarily resolved when the opposition ended a boycott of parliament in exchange for promised electoral reforms. But more recently, those promises have been broken. Opposition leader Sam Rainsy has fled into exile again and recently stepped down as leader of the Cambodia National Rescue Party. New party leader Kem Sokha only recently emerged from months in hiding to avoid criminal conviction. Other opposition members and civil-society activists have been imprisoned on trumped-up charges, the space for independent media is shrinking, and a prominent political commentator and activist has been murdered under suspicious circumstances. With a national election in 2018 and Hun Sen determined not to give up power to the opposition under any circumstances, the situation could very well worsen substantially.<sup>45</sup>

The Philippines, which many hoped had turned the corner toward democratic consolidation, faces a more uncertain threat than at any point since 2010. President Duterte has not only launched a bloody war on drugs that has elevated extrajudicial killings above the rule of law, but has also shown worrying disdain for the Philippines' democratic institutions and constitutional checks on his authority. He has, at various times, threatened to establish martial law or a revolutionary government. He has also publicly attacked the independence of the Supreme Court, vilified critics like Senator Leila De Lima with public intimidation and personal attacks, supported the overturning of the vice-presidential election to replace Leni Robredo with his friend, Ferdinand "Bongbong" Marcos, Jr., and unleashed an army of online trolls to harass any dissenting voices.<sup>46</sup> If Duterte faces no consolidated opposition, the situation will remain tense but manageable. But it is entirely possible that a failure to fulfill his many (in some cases mutually exclusive) promises to constituents, combined with the seemingly endless carnage of

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<sup>44</sup> "Najib Is Destroying Malaysia, Bringing in Racism: Mahathir," *Straits Times*, December 8, 2016.

<sup>45</sup> Moniroth Morm, "Hun Sen Hints at Military Action if He Loses Cambodia's Election," *Radio Free Asia*, February 22, 2017.

<sup>46</sup> Maria A. Ressa, "Propaganda War: Weaponizing the Internet," *Rappler*, October 3, 2016.

the drug war and an unpopular shift in foreign relations, could cause a rapid deterioration of his popularity. Should the situation deteriorate to the point of mass popular protests or even impeachment proceedings, Duterte seems more likely to provoke a constitutional crisis than to step down, as his predecessor, Joseph Estrada, did in response to the Second EDSA (“People Power II”) Revolution in 2001.<sup>47</sup>

Even in those countries facing less-imminent political challenges, the future seems far from certain. In Myanmar, Aung San Suu Kyi’s civilian government seems completely incapable of reining in the military in its scorched-earth campaign in Rakhine State or in ongoing offensives against ethnic groups in the north.<sup>48</sup> Her administration remains riven with dysfunction, largely due to her refusal to delegate authority, and seems destined to fall far short of the unrealistic expectations placed on it by eager voters. In Indonesia, the sudden rise of the hard-line Islamic Defenders Front as a major political player and the ongoing trial of Jakarta governor Basuki “Ahok” Tjahaja Purnama for blasphemy has seriously undermined the authority of President Joko “Jokowi” Widodo.<sup>49</sup> The president had just seemed to turn a corner, emerging from the long shadow of his party’s leader, former President Megawati Sukarnoputri, and the corruption scandals that plagued the start of his administration, when this new crisis emerged. That former President Susilo Bambang Yudhoyono and former general Prabowo Subianto, who Jokowi defeated for the presidency in 2014, appear to have played a major role in instigating the mass protests that led to Ahok’s trial does not bode well for political stability leading up to the Jakarta gubernatorial election in 2017 and the presidential election in 2019.

## Conclusion

President Trump was elected as a domestic populist, with international affairs of secondary concern. The foreign policy priorities he and his team have enumerated focus mainly on the Middle East, Russia, and China. But Southeast Asia will not be ignored. The president has not said much about the region, and so far, the makeup of the new administration does not suggest that Asia generally, much less Southeast Asia, will be a major focus over the next four years. But every administration is steered by events as much as it steers them. In at least three areas—the South China Sea, economic engagement after the collapse of the TPP, and the growing threat of Islamist terrorism—Southeast Asia will demand the Trump administration’s attention sooner or later. Likely political crises in the countries of the region will make those issues much harder to tackle. It would be best for the administration to proactively develop policies for the region before external events force it to do so.

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<sup>47</sup> “Duterte: No One Can Stop Me from Declaring Martial Law,” *Al Jazeera*, January 15, 2017.

<sup>48</sup> Feliz Solomon, “Aung San Suu Kyi Can’t, or Won’t, Rein in Burma’s Army,” *TIME*, December 5, 2016.

<sup>49</sup> “Ahok: Indonesia’s Religious Tolerance on Trial?” *Al Jazeera*, January 28, 2017.



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## Chapter Six. Why is Southeast Asia Rearming? An Empirical Assessment

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Southeast Asia, if its ten member nations are treated collectively, is now among the top global defense spenders. Regional countries collectively doubled their military spending between 1992 and 2012, mainly to obtain warships, maritime patrol aircraft, radar systems and combat planes, and submarines and naval defense systems.<sup>1</sup> Between 2007 and 2012, the region made up the second-largest military import market worldwide: Singapore accounted for 38 percent, followed by Malaysia (19 percent), Vietnam (13 percent), and Indonesia (12 percent). Aircraft and ships made up 40 percent and 36 percent of imports, respectively, with the remaining imports split between missiles, armored vehicles, and others.<sup>2</sup> Why have Southeast Asian states seemed to be rearming over the past decade? Are they improving their defense capabilities to confront a rising China, or are the activities driven by other considerations, such as the need to replace aging equipment?

This paper addresses these questions by providing a regional, rather than country-specific, overview of Southeast Asia's defense capability development. Specifically, it presents empirical regional patterns of defense spending, weapons import, and force structure. I adopt this approach as I consider military modernization<sup>3</sup> in Southeast Asia as an international outcome rather than a single country's foreign policy decision.<sup>4</sup> Furthermore, a regional overview, especially when placed within broader historical and comparative contexts, allows us to generate specific arguments about the reasons for military buildup and test them across several states within the region. Seeing which arguments travel across the region beyond one or two countries, in turn, allows us to understand the regional context through which we can better locate existing debates

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<sup>1</sup> See John Dowdy, David Chinn, Matteo Mancini, and Jonathan Ng, *Southeast Asia: The Next Growth Opportunity in Defense*, McKinsey Innovation Campus Aerospace and Defense Practice, New York: McKinsey and Company, February 2014.

<sup>2</sup> Dowdy et al., 2014.

<sup>3</sup> In this paper, I use the terms *arms spree*, *defense capability development*, and *military modernization* interchangeably.

<sup>4</sup> This distinction between international outcomes and foreign policy draws from Kenneth Waltz, *Theory of International Politics*, Reading, Mass.: Addison-Wesley, 1979. The key difference between outcomes and foreign policy is that the former can take place with or without states making decisions (or behaving). International outcomes thus can be the result of a state's foreign policy, multiple states interacting, or some other non-foreign policy international events. In other words, international outcomes may be arrived at regardless of the idiosyncratic behavior of states as individual units. See also Colin Elman, "Horses for Courses: Why Not Neorealist Theories of Foreign Policy?" *Security Studies*, Vol. 6, No. 1, 1996, p. 13.

about the “China threat,” for example. After all, dissecting individual procurement decisionmaking processes over time across ten different states is not only impractical, it also dilutes the broader comparative contexts through which we can draw useful lessons about the nature of regional security.

The following sections describe the contending approaches to explaining Southeast Asia’s military modernization and defense spending. Existing research and press reports have proposed at least three approaches that explain the regional pattern:

1. **External threat:** China’s rising military threat and aggressive behavior, especially in the South China Sea, drives regional defense spending and procurement decisions.
2. **Market economics:** the structural dependence on the global defense market drives regional states’ procurement decisions commensurable to their growing economies.
3. **Technological requirement:** Individual armed forces need to replace their aging Cold War-era equipment and platforms to meet day-to-day operational demands.

The second section provides an empirical assessment of Southeast Asia’s defense spending and force posture to better adjudicate between the contending approaches. While the nature of the data and time limitations do not permit me to rigorously test and evaluate the different approaches’ specific claims, the preliminary empirical analysis could help suggest which approach we should pay more attention to. I argue that, on average, Southeast Asian states’ defense modernization activities, perhaps apart from Vietnam, have not by and large been driven by the China threat alone. The final section draws some conclusions and explores their broader policy implications.

## Explaining Southeast Asia’s Rearmament: Contending Approaches

Analysts and scholars have noticed the defense capability development trends in Southeast Asia for over a decade now. In particular, many have been looking at the extent to which regional states have been acquiring new warfighting capabilities, including stand-off precision-strike; long-range airborne and undersea attack; stealth, mobility, and expeditionary warfare; and new control, communications, computing, and reconnaissance networks.<sup>5</sup> Some described these developments as “conventionalization” or “arms dynamic”—something between a full-blown “arms race” and a mere “modernization” of aging platforms.<sup>6</sup> However, labelling the activities

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<sup>5</sup> See for example, Richard A. Bitzinger, “A New Arms Race? Explaining Recent Southeast Asian Military Acquisitions,” *Contemporary Southeast Asia*, Vol. 32, No. 1, April 2010, pp. 63–64; Andrew Tan, *Force Modernisation Trends in Southeast Asia*, Singapore: S. Rajaratnam School of International Studies, RSIS Working Paper No. 59, 2004; and Geoffrey Till, Emrys Chew, and Joshua Ho, eds., *Globalization and Defence in the Asia-Pacific: Arms Across Asia*, London: Routledge, 2009. For the immediate post-Cold War context, see Desmond Ball, “Arms and Affluence: Military Acquisitions in the Asia-Pacific Region,” *International Security*, Vol. 18, No. 3, 1993–1994, pp. 78–112; and Amitav Acharya, *An Arms Race in Post-Cold War Southeast Asia: Prospects for Control*, Singapore: Institute of Southeast Asian Studies, 1994.

<sup>6</sup> See Bernard Fook Weng Loo, “Transforming the Strategic Landscape of Southeast Asia,” *Contemporary Southeast Asia*, Vol. 27, No. 3, December 2005, pp. 388–405; and Bitzinger, 2010, pp. 50–69.



themselves is not equivalent to explaining why they occur in the first place. Furthermore, while scholars seem to agree that Southeast Asia's arms spree is more complex than many assume—as the labelling efforts indicate—their arguments tend to rest on individual countries' specific procurement decisions rather than explaining the regional pattern (on average) as a collective whole.

To be sure, understanding individual procurement decisions within each Southeast Asian state is useful for specific questions pertaining to military policy and defense capability development. For example, domestic political arguments—from the nature of civil-military relations to budgetary corruption or regime prestige—are indeed useful to explain why some countries chose to obtain specific weaponry at a given time in a particular way. But the peculiarities of each procurement project, especially when analyzed sans theoretical frameworks or concepts, give us little analytical purchase to understand the broader regional context in which Southeast Asia collectively modernizes its armed forces. This paper therefore focuses on three contending approaches that explain the regional pattern of arms modernization in Southeast Asia as a whole rather than specific individual procurement decisions. These different approaches, while not necessarily mutually exclusive, often paint conflicting narratives of why Southeast Asia has been rearming.

### *The China Threat*

Media reports and think-tank analysts often identify China's behavior—from the lack of defense budgetary transparency to its "salami slicing" of the South China Sea—as one of the primary reasons behind Southeast Asia's force development. The region's rising defense spending and naval and submarine procurements are often cited as evidence of this argument.<sup>7</sup> The argument that geopolitical logic, especially threats emanating from China, drives arms development in Southeast Asia is certainly not new. Scholars were already warning in the 1990s that there was an "arms boom" in Southeast Asia as U.S. and European arms producers were seeking to sell the region defense hardware in response to Beijing's threats over the South China Sea.<sup>8</sup> While the 1997–1998 Asian financial crisis halted many of the procurement plans, the region's appetite for military hardware seemed to have returned by the mid- to late-2000s, with defense expenditures across Southeast Asia having risen, on average, by nine percent each year since 2009.<sup>9</sup>

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<sup>7</sup> See for example, Elias Groll and Dan De Luce, "China Is Fueling a Submarine Arms Race in the Asia-Pacific," *Foreign Policy*, August 26, 2016.

<sup>8</sup> See Michael T. Klare, "The Arms Trade in the 1990s: Changing Patterns, Rising Dangers," *Third World Quarterly*, Vol. 17, No. 5, 1996, p. 865.

<sup>9</sup> Felix K. Chang, "Comparative Southeast Asian Military Modernization—1," *The Asian Forum*, Vol. 5, No. 6, October 1, 2014.

Moreover, the concern over America's post-9/11 lack of strategic commitment to the region amplifies the concern over China's rising military power and hegemonic behavior. China's massive artificial island-building around the South China Sea in recent years without serious pushback from the United States has been credited with, for example, driving Vietnam's rapid capability development: Its arms imports in 2011–2015 were eight times higher than in the previous five years and it has bought eight combat aircraft, four fast-attack crafts, and four submarines, with a further six frigates and two submarines on order.<sup>10</sup> The Philippines, Indonesia, Malaysia, and Thailand were reported to be beefing up their militaries “in the face of China's increasingly bold incursions” in the region.<sup>11</sup> Additionally, given the uncertainty with both China and the United States, Southeast Asian states are realizing the need to reduce their preexisting dependence on “big American and European arms suppliers.”<sup>12</sup>

In any case, while few believe that Southeast Asian countries on their own could balance China in a tit-for-tat fashion, many consider that the arms spree could increase the cost for China, should it decide to escalate regional tension or even use force.<sup>13</sup> If the China threat argument is to receive support, however, we should observe Southeast Asian countries doing one or all of these activities: (1) raising their defense spending commensurable to China's own spending; (2) tailoring their procurement or capability development strategies, including defense industrial development, to match China's military procurement and/or possible operational plans; (3) preferably not importing weaponry from China as the perceived threat; and (4) developing strategies, operational concepts, and force structure for a possible conflict with China. In short, if the China threat explains Southeast Asia's overall arms spree, we should observe its preeminence in how regional states spend their budgets and how they plan to fight.

### *Import Dependence*

Rather than focusing on the threat factor, other analysts have looked at the commercial factor. They argue that Southeast Asia's military modernization has been driven by the supply side of the equation rather than by the demand side. The end of the Cold War, the 2008 global financial crisis, and the ensuing austerity drive across European states, together with the winding down of the Iraq and Afghanistan wars, have all shifted the global defense market's focus to the Indo-Pacific. Defense companies and arms manufacturers consequently turned to Asian countries, including Southeast Asian states, to temporarily cope with the reduced American and

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<sup>10</sup> Vaishali Gauba, “Asia Defense Spending: New Arms Race in South China Sea,” *CNBC News*, May 21, 2015.

<sup>11</sup> Gauba, 2015. See also Lindsay Murdoch, “Arms Race Explodes as Neighbors Try to Counter China,” *Sydney Morning Herald*, November 19, 2012.

<sup>12</sup> Reuters, “New Focus on Arms Industry Expansion in Southeast Asia,” *New York Times*, August 12, 2014.

<sup>13</sup> Matthew Ribar, “Explaining Southeast Asia's Force Buildup,” *Diplomat*, January 14, 2015.

European demand. A program of arms export deregulation also seemingly accompanied the market shift.<sup>14</sup>

Southeast Asia's defense market may not be large—around two or three billion dollars annually—compared with East Asia (China, Japan, and South Korea). And yet, it remains an attractive defense market. First, as most regional countries lack the necessary defense industrial capacity to produce their own sophisticated weaponry, many of them are structurally dependent on imported platforms and technologies.<sup>15</sup> This dependence, seen in light of the fact that there is no single dominant supplier, makes the market competitive.<sup>16</sup> Second, Southeast Asia is expected to be one of the world's fastest-growing regions, with four states—Indonesia, Malaysia, the Philippines, and Thailand—expected to join the ranks of Asia's group of nations that have a gross domestic product (GDP) exceeding \$1 trillion by 2030.<sup>17</sup> The expectation, therefore, is that fast-growing emerging markets with a less-than-well-developed defense industrial capacity—like Southeast Asia—offer the best opportunities to expand.<sup>18</sup>

Taken collectively, economic growth and import dependence should create a buyer's market mindset in Southeast Asia, allowing global defense companies to drive regional defense spending and procurement decisions. For this argument to be warranted, we should observe the following: (1) regional states continuing their importation of weaponry from relatively the same number of (foreign) supplier countries over time, even as each of their market share varies; (2) global defense companies continuing to push for market penetration, even if it means accommodating difficult offset requirements proposed by the host countries; and (3) the regional arms market gradually becoming more “commoditized,” where competing products (in this case, weaponry) are characterized by standardized, common technology or attributes, rather than by capability uniqueness, resulting in price-based competition. Put differently, if the market argument is correct, we should see a regional pattern where Southeast Asian countries decide their spending and procurement based on the global defense companies' ability to offer the best product, for example, or simply extending their preexisting commitments.

### *The Modernization Argument*

Rather than arguing about the nature of threats or the commercial defense market, some argue that Southeast Asian states simply need to replace their militaries' aging hardware. After

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<sup>14</sup> In the United States, the world's largest arms exporter, oversight of arms exports has been moved from the Department of State to the more business-oriented Department of Commerce. See Ribar, 2015.

<sup>15</sup> See J. N. Mak, “The ASEAN Naval Buildup: Implications for the Regional Order,” *The Pacific Review*, Vol. 8, 1995, p. 304.

<sup>16</sup> Richard Bitzinger, “The Global Arms Market and Commoditization,” *Diplomat*, June 10, 2015.

<sup>17</sup> IHS Markit, “Emerging Markets in Asia Pacific Offer Brightest Prospects for Global FDI, IHS Study Finds,” press release, April 14, 2016.

<sup>18</sup> Andrew Clevenger, “Emerging Markets Offer Growth Opportunities,” *Defense News*, August 30, 2015.

all, regional armed forces obtained most of their military platforms during the Cold War during the 1970s and 1980s, aside from perhaps Singapore, and are now in need of replacements. The Philippines, for instance, has awarded contracts to replace its aging UH-1 Huey helicopters with eight AgustaWestland-109 utility helicopters, while Vietnam is purchasing 12 Sukhoi SU-30MK2V fighters and related equipment from Russia to augment its existing fleet of 12 Sukhoi SU-27s and 12 Sukhoi SU-30MKs.<sup>19</sup> Similar patterns can be observed in Indonesia, Malaysia, and Brunei as well.

If this argument is to have support, we should observe the following: (1) Southeast Asian states, by and large, focusing their spending and procurement on replacing existing platforms and perhaps, due to their commercial shelf life, slightly upgrading them (rather than delivering entirely new capabilities); (2) allocating much of the regional defense budget to replenish aging platforms (rather than to counter external threats or to follow the “push” by global defense companies). In short, the rise in defense spending as well as procurement decisions should largely be driven by technological requirements.

In theory, these contending approaches are not necessarily mutually exclusive. It is entirely plausible that for some Southeast Asian states, while “militarily balancing” against China may be a strategic imperative, the manner through which they could proceed may be structurally constrained by their import-dependent force structure as well as their aging platforms. But this is yet another reason why this paper focuses on regional patterns rather than on country-specific procurement decisions. The regional rather than state level of analysis allows us to evaluate which of the contending approaches better explains the military modernization processes across different states as an international outcome.

The benefits of an historical and regional approach, however, also come with limitations. For one thing, as the defense spending and weapons import data (discussed below) cover more than six decades with patterns that tend to be cumulative, they gloss over many important domestic and regional political events. For another, the data cannot tell us why country *X* decided to procure weapon *Y* on a given Tuesday. In other words, the regional data will tend to dilute individual country nuances over defense policy. These caveats notwithstanding, the following empirical assessment of the force structure development and defense budgetary components should still help us evaluate which of the three approaches are most useful to understand the region.

## Southeast Asia’s Defense Capability Development: An Empirical Assessment

Analyses of Southeast Asia’s defense capability development have invoked or utilized a few key variables to make their claims, including (1) overall defense budget or spending, (2) arms

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<sup>19</sup> Dowdy et al., 2014, p. 9.

procurement or acquisitions, (3) naval or maritime force development, (4) arms imports and foreign suppliers, and (5) technological modernization or replacement. The following sections discuss and disaggregate each of these variables empirically. Most of the data I present here come from two sources: the Stockholm International Peace Research Institute (SIPRI) Arms Transfer database and IHS Jane's individual defense budgetary profiles.<sup>20</sup> They provide the “raw data” on general arms imports and spending projections for Southeast Asia, which I then reconfigure and analyze.

### *What Southeast Asian States Spend Their Defense Budgets On*

As previously mentioned, many reports or analyses arguing for Southeast Asia's rearmament cite the size of regional countries' defense budgets as evidence. However, the defense budget alone is often not very useful to understanding overall defense capability development. After all, there is considerable variation in the rates of increase of their military spending, and this stems from variegated domestic, economic, bureaucratic, and historical reasons. Furthermore, defense budgets are never spent entirely on weaponry alone. We should therefore unpack the defense budget into specific types of activities to understand regional countries' defense spending priorities.

Figure 6.1 presents an overview of how seven Southeast Asian countries (Indonesia, Singapore, Myanmar, Malaysia, Thailand, Vietnam, and the Philippines) spend their defense budgets. It compares four main categories of expenditure—operations and maintenance, personnel, research and development (R&D), and procurement—on average for the last five years (2012 to 2016) as well as their future projection (2017 to 2021). The data underscore that much of the defense budget went to routine expenditures, particularly personnel spending (from salaries and benefits to education and training) as well as operations and maintenance costs. All seven Southeast Asian countries, on average, spent approximately 78 percent of their budget from 2012 to 2016 on these routine expenditures (by 2021, this number will only go down to 75 percent). Meanwhile, the portion of the budget that has gone to new capability development, as seen in R&D as well as in procurement, was only around 19 percent from 2012 to 2016 on average (projected to be 21 percent by 2021).

The budgetary overview therefore suggests that Southeast Asian states only spend roughly one-fifth of their defense budgets on acquiring new warfighting capabilities, whether in terms of replacing aging platforms or developing indigenous defense production capabilities to reduce import dependence. In other words, out of a roughly \$4.6 billion defense budget (over a five-year period between 2012 and 2016), seven Southeast Asian countries spent less than \$1 billion dollars on procurement and R&D. By comparison, Japan spent roughly \$7 billion and India spent \$10 billion annually on average since 2014 on procurement, while South Korea might spend \$10 billion this year alone on defense modernization.

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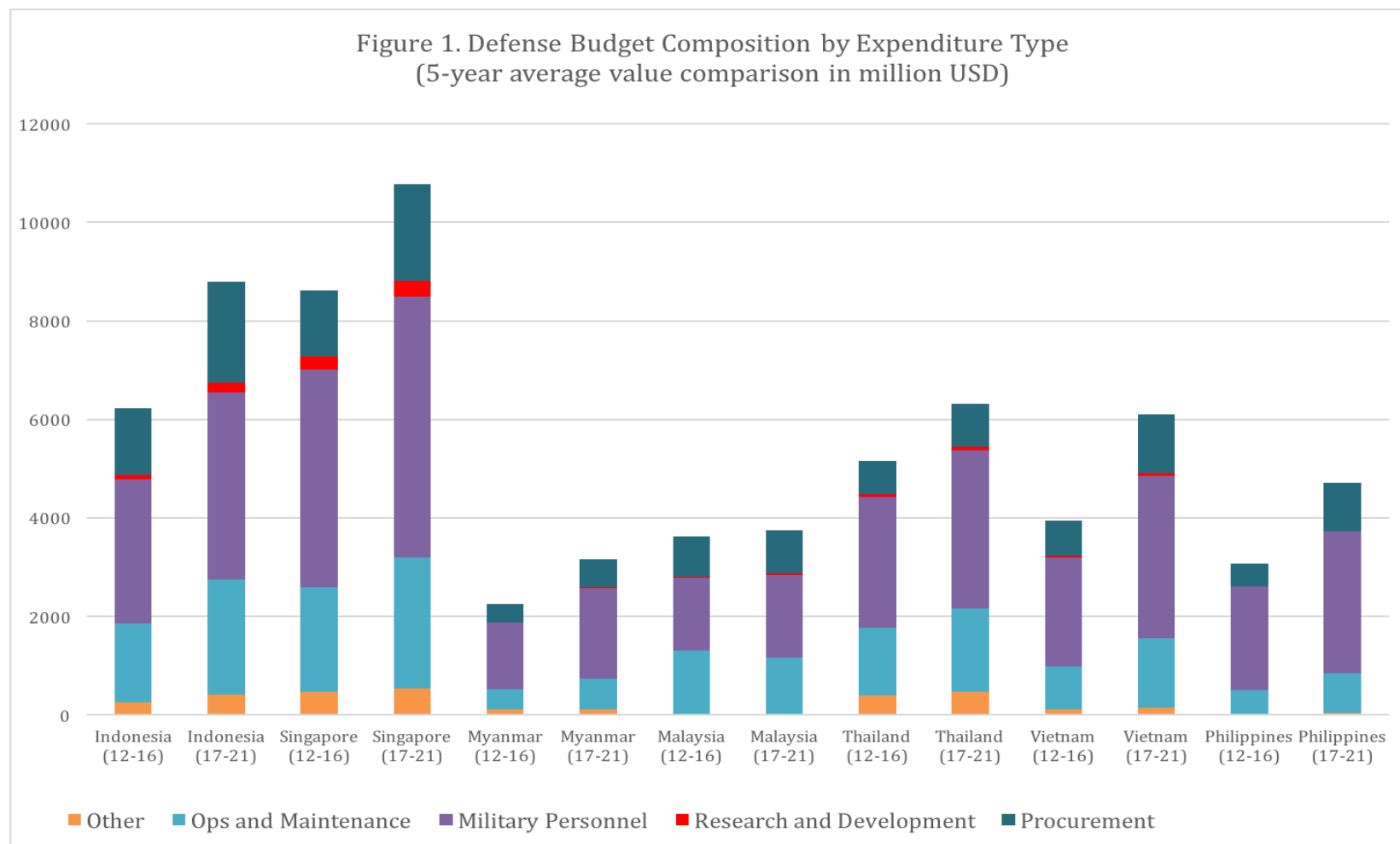
<sup>20</sup> SIPRI, “SIPRI Arms Transfers Database,” database, undated; IHS Jane's, homepage, undated.

Furthermore, the fact that routine expenditures take up to three-quarters of the budget (mostly going to personnel spending) suggests that Southeast Asia either has not been or is unable to engage in direct tit-for-tat military balancing vis-à-vis China's military modernization. Indeed, as the pattern of personnel spending size relative to the defense budget and the relative size of the military seem to have remained roughly the same for two or three decades,<sup>21</sup> one could argue that the rise in defense budget size in recent years might be attributed to the rising cost of maintaining manpower rather than obtaining new technological capabilities. After all, given the historical prominence of the military in the political development of Southeast Asian states, personnel spending has a "path dependent" quality vis-à-vis the overall defense budget as previous efforts to cut manpower have been domestically controversial at best.

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<sup>21</sup> One study in the 1980s noted that Southeast Asian nations spent most of their defense budgets on personnel costs as well as operations and maintenance. See Geoffrey Harris, "The Determinants of Defence Expenditure in the ASEAN Region," *Journal of Peace Research*, Vol. 23, No. 41, 1986, pp. 41–49.

**Figure 6.1. Defense Budget Composition, by Expenditure Type (Five-Year Average Value Comparison in \$ U.S. Millions)**



SOURCE: Author calculation from IHS Jane's data.

One could argue, however, that high-level personnel spending can still be about countering China because it may reflect an effort to improve the overall quality and professionalization of the military for a possible future conflict. However, as Figure 6.2 shows, regional militaries' human capital development, as measured by the amount of money spent per soldier and officer, remains low. Singapore, one of the smallest regional countries with one of the smallest militaries, outstrips others in personnel spending. Vietnam, Myanmar, and Indonesia, the three largest militaries, allocate the least amount of resources because their overall average wage levels are among the lowest in the region. This partially reflects the military's historical experience of fighting internal wars and addressing domestic security concerns; these operational demands tend to require more manpower than high-end technological solutions. In any case, if high-end weaponry forms one-half of the equation of a possible military balance against China and high-quality skill and personnel forms the other half, there is no evidence yet for such directions in Southeast Asia.

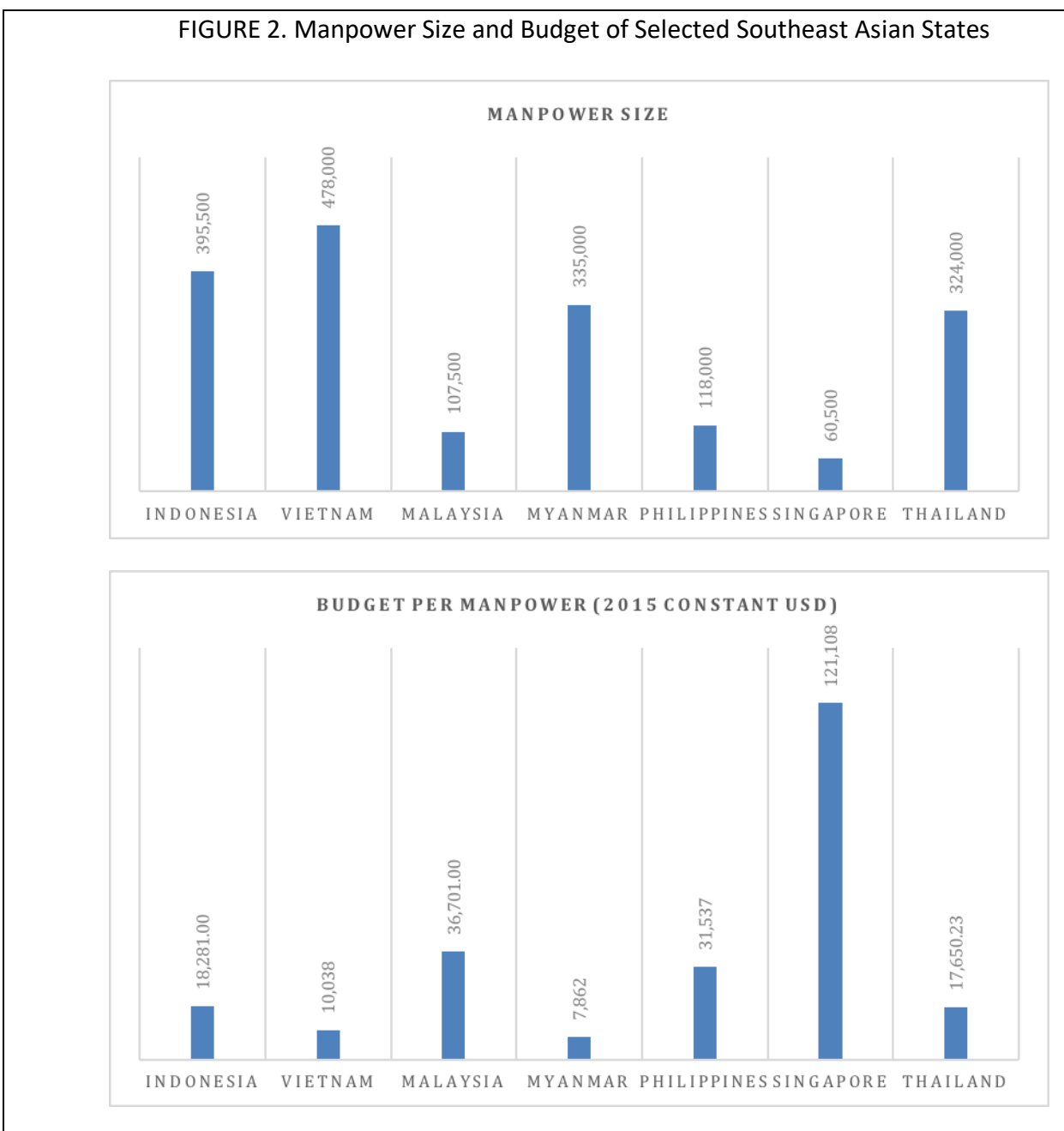
Taken collectively, the Figures 6.1 and 6.2 suggest that: (1) the defense budgets have been allocated—and will continue to be for the foreseeable future—for routine expenditures, primarily personnel spending; and (2) as far as defense capability development goes, the level of human capital among regional militaries remains comparatively low, further constraining the ability to embark on high-end technological modernization—which they can only do in limited fashion in the first place, given their procurement and R&D spending patterns. After all, while the procurement pattern has been on an upward trend (and will continue to be), as Figure 6.3 suggests, the real value remains comparatively small; with Indonesia (\$2.1 billion), Singapore (\$1.9 billion), and Vietnam (\$1.2 billion) possibly leading the way by 2021. These values are significantly lower than what Japan, India, South Korea, and certainly China have spent or will spend on procurement.<sup>168</sup> This lack of budgetary space for procurement is largely a consequence of the routine expenditure size discussed above, regardless of how well the economy goes for the top seven defense spenders in the region.

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<sup>168</sup> In fact, China, South Korea, India, and Japan are the key Asian countries that will drive the lion's share of defense spending, which will allow the region as a whole to account for 37 percent (or around \$109 billion) of accessible international spending by 2024. See Sebastian Sobolev and Alexander Alden, *Top Trends in Defense 2014–2024: Regional Competitions, Economic Development Shape Global Defense Spending*, AVASCENT White Paper, July 2014, p. 2.

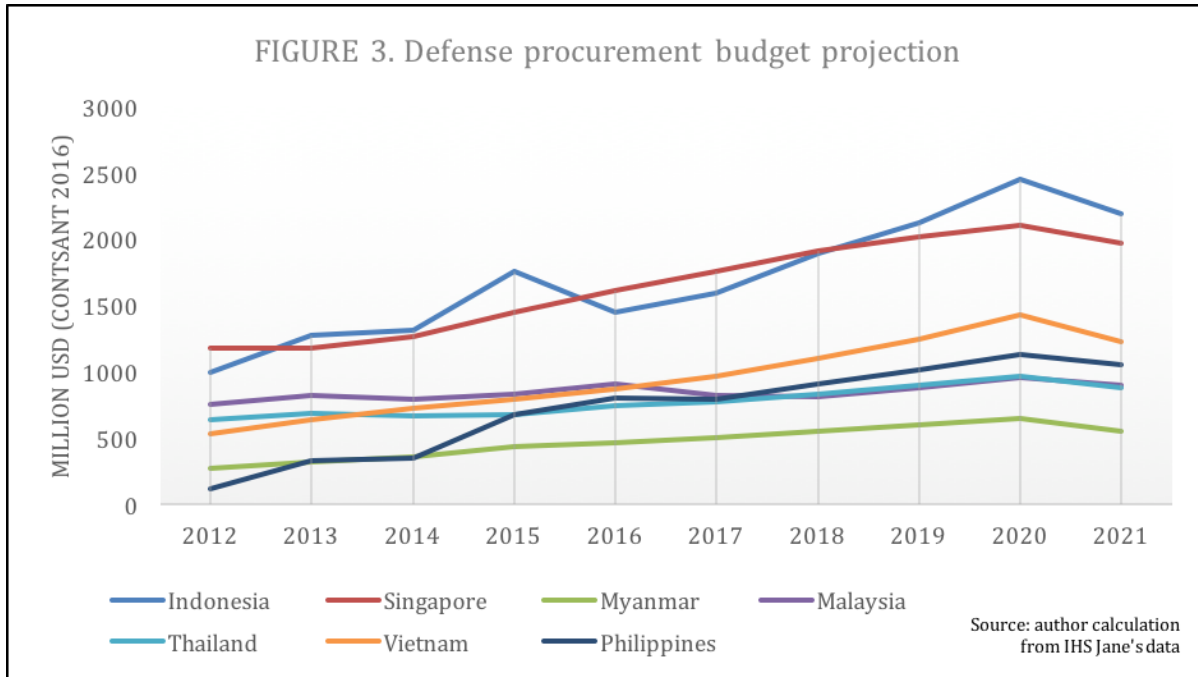


**Figure 6.2. Manpower Size and Budget of Selected Southeast Asian States**



SOURCE: Author calculation based on IHS Jane's data.

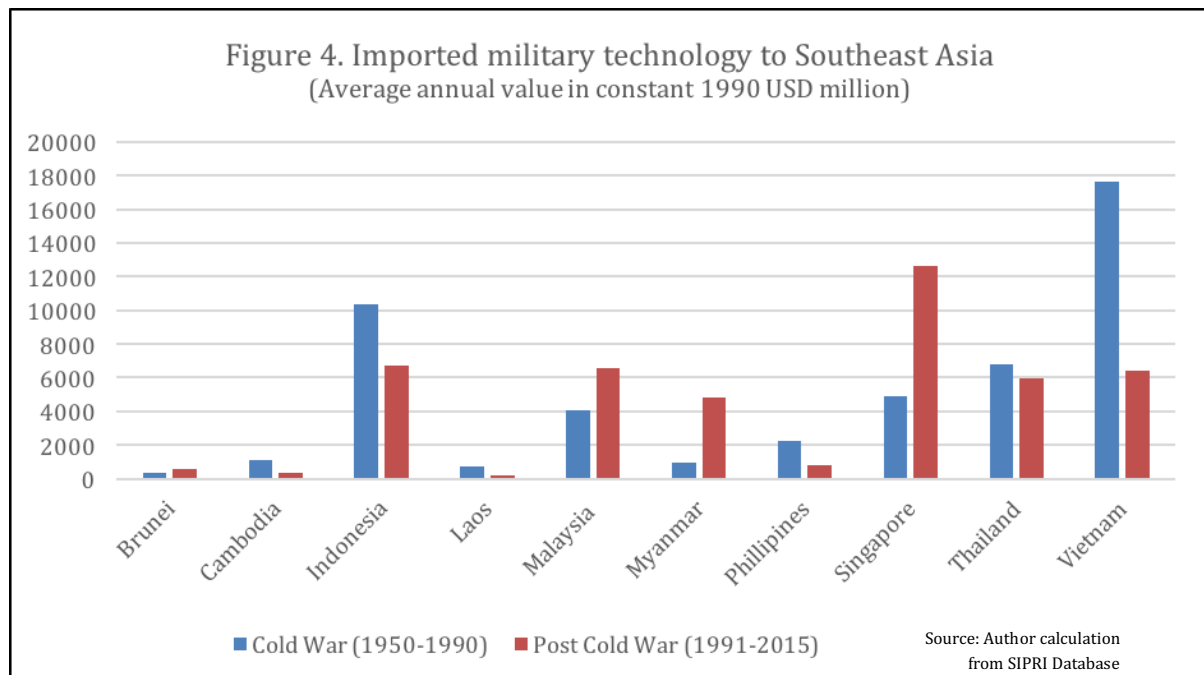
**Figure 6.3. Defense Procurement Budget Projection**



SOURCE: Author calculation based on IHS Jane's data.

While the comparative perspective suggests the unlikelihood of Southeast Asia matching China's military modernization drive dollar-for-dollar, a more complicated picture emerges when we consider the longer historical trend. If we can assume that most of the procurement budget went into imported weaponry (given the low domestic production capacity), then we can consider how much Southeast Asia spent on foreign military technology over time. Figure 6.4 highlights the fact that most countries' post-Cold War procurement expenditures did not dramatically increase to account for the uncertainty of the post-Cold War era. On the face of it, even though there were serious concerns about China's military rise and aggressive behavior in the South China Sea from the mid-1990s onwards (along with doubts over American commitments), only Malaysia, Myanmar, and Singapore spent more, on average, than in the post-Cold War period.

**Figure 6.4. Imported Military Technology to Southeast Asia**



SOURCE: Author calculation based on SIPRI data.

There are several possible interpretations of this pattern. First, the pattern may simply reflect the fact that the Cold War time frame (roughly 40 years) is longer than the current post-Cold War era (roughly 25 years). But if we were to assume that post-Cold War arms spending was more “independent” (i.e., free from bipolarity pressures), and that regional states were genuinely concerned with China, then we should expect to see a wider regional pattern of arms imports exceeding those of the Cold War. After all, most of the Cold War weaponry were “start-up” force structures.

Second, it is possible that the post-Cold War decline reflects the rise in the cost or value of new military technologies (and their growing complexity, requiring a wider range of systems and infrastructure) as well as the competitive nature of the regional defense market. The cost of supporting infrastructure (e.g., training facilities, maintenance depots) may not be fully reflected in procurement expenditures and, because it is more complicated and expensive, most regional countries tend to hold off from buying “wholesale.” In other words, when the Cold War ended, so did the ability of regional states to import weaponry on favorable terms (e.g., through aid programs). But because many of them were already dependent on imported technology, they could only modernize their aging equipment or procure new equipment in retail. After all, they do not possess the budgetary flexibility to engage in sustained multiyear procurement expansion, except perhaps for Singapore.

Third, realizing that a military option is not an economically viable hedge against regional uncertainty, especially against China’s military capability, Southeast Asian countries decided to

respond by investing in multilateral institutions and bilateral strategic partnerships with regional powers from Japan to the United States. Scholars have described these strategies of regional architecture-building and efforts to keep the United States engaged while ensuring other regional powers are involved as “omni-enmeshment” and “soft balancing.”<sup>169</sup> There is indeed some empirical evidence for the growth of multilateralism and even defense regionalism in the post–Cold War and post–Asian financial crisis periods.<sup>170</sup> In other words, Southeast Asian states simply gave up on trying to militarily balance against China in the post–Cold War era and instead opted to focus on diplomatic engagement strategies.

In summary, the defense budgetary patterns suggest that (1) the majority of spending has gone and will continue to go to routine expenditures, primarily to personnel and operations and maintenance; therefore, (2) there has been and will continue to be little budgetary room for high-end imported technological procurement; yet, (3) when the procurement portion is placed in comparative context, Southeast Asia either has not been able to or is unable to engage in tit-for-tat military balance vis-à-vis China’s growing military power, both in terms of technology and funding size; (4) when placed in historical context, Southeast Asia has not hedged against post–Cold War uncertainty by boosting its military capability.

These findings suggest that there is little support for the China threat argument. It appears that Southeast Asia (on average) has not been militarily balancing against China in a tit-for-tat fashion, either because it is unable to economically or because it believes that the diplomatic option is less costly. The exception here is perhaps Vietnam—the only regional country that went to war with China in recent memory—as its policymakers seem to conclude that, even on a small scale, Vietnam’s defense procurement needs to respond to China’s aggressive behavior in the South China Sea. According to a recent assessment, “[n]o country in Southeast Asia has put more military hardware online in the [past decade] as Vietnam. This military modernization has been driven almost exclusively by the threat posed by China over territory in the contested South China Sea.”<sup>171</sup>

While these findings help us rule out the China threat approach for the moment, they do not automatically lend support to the other two approaches—modernization and market economics.

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<sup>169</sup> See Evelyn Goh, “Great Powers and Hierarchical Order in Southeast Asia: Analyzing Regional Security Strategies,” *International Security*, Vol. 32, No. 3, 2008, pp. 113–157; Khong Yuen Foong, “Coping with Strategic Uncertainty: The Role of Institutions and Soft Balancing in Southeast Asia’s Post–Cold War Strategy,” in J. J. Suh, Peter J. Katzenstein, and Allen Carlson, eds., *Rethinking Security in East Asia: Identity, Power, and Efficiency*, Stanford, Calif.: Stanford University Press, 2004, pp. 172–208. See also Moch Faisal Karim and Tanggung Chairil, “Waiting for Hard Balancing: Explaining Southeast Asia’s Balancing Behaviour Against China,” *European Journal of East Asian Studies*, Vol. 15, 2016, pp. 34–61; and Kai He, *Institutional Balancing in the Asia Pacific: Economic Interdependence and China’s Rise*, London: Routledge, 2009.

<sup>170</sup> See, for example, David Capie, “Structures, Shocks and Norm Change: Explaining the Late Rise of Asia’s Defence Diplomacy,” *Contemporary Southeast Asia*, Vol. 35, No. 1, 2013, pp. 1–26; and Evan A. Laksmana, “Regional Order by Other Means? Examining the Rise of Defense Diplomacy in Southeast Asia,” *Asian Security*, Vol. 8, No. 3, 2012, pp. 251–270.

<sup>171</sup> Zachary Abuza and Nguyen Nhat Anh, “Vietnam’s Military Modernization,” *Diplomat*, October 28, 2016.

On the face of it, the above budgetary data suggest that both arguments could receive some support at the regional level. First, given the small procurement funding relative to the overall budget and the average age in which existing platforms came online (discussed further below), it is safe to infer that regional states are likely to take advantage of their improving economies to modernize their militaries. Second, given the lack of dramatic regional change in arms imports after the Cold War, it is plausible to infer that regional countries' import dependence may limit their supplier options (in terms of countries or companies). Building on these preliminary suggestions, the next section will examine the force structure and nature of weapons imports to better assess the approaches.

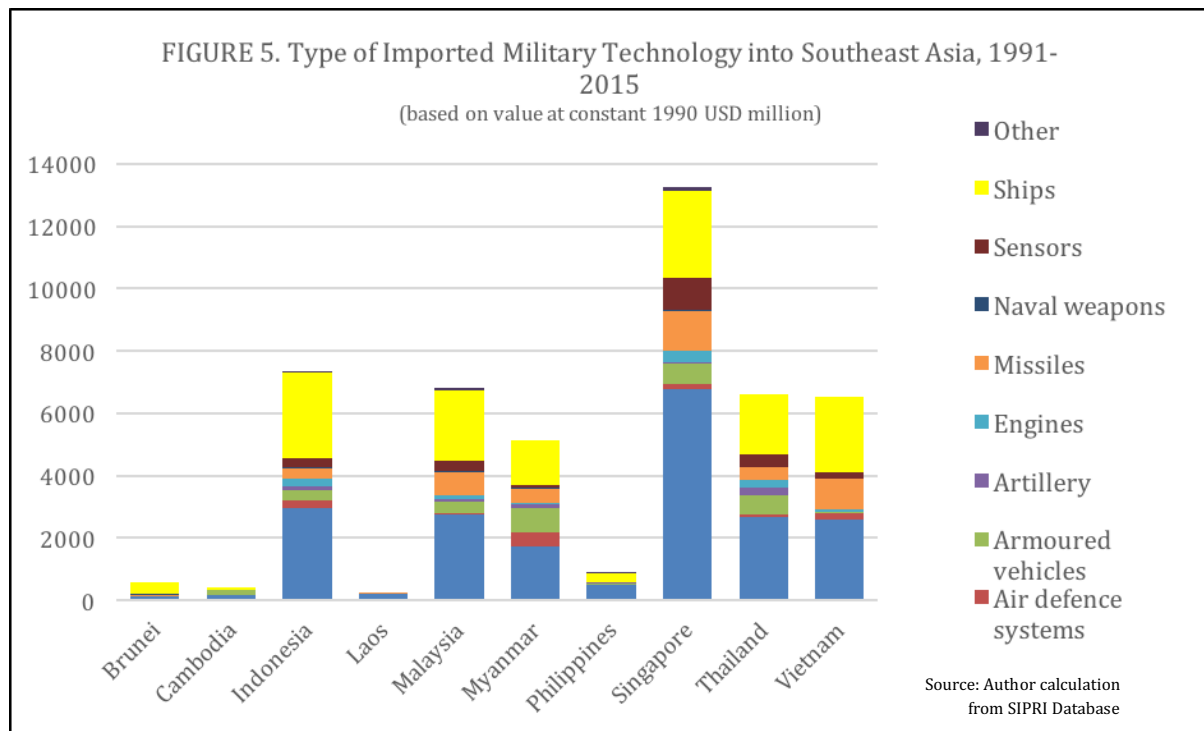
### *What Sort of Military Capability Has Southeast Asia Obtained Thus Far?*

Since the post–Cold War era, most of the arms imports into Southeast Asia (again, assuming that much of technological defense capability development has been largely imported rather than domestically produced),<sup>172</sup> has gone into several key types of platforms, particularly aircraft; ships; sensors or command, control, communications, computers, intelligence, surveillance, and reconnaissance (C4ISR) capabilities; and missiles, as Figure 6.5 suggests. Overall, the focus seems to be on sensory, air, and naval capabilities.

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<sup>172</sup> I treat this as an assumption because we do not yet have the regional fine-grain data for all countries' entire force structure or Orders of Battle that include both domestically produced and imported assets or weaponry. The assumption is further based on the fact that—aside from Singapore, and, to a lesser extent, Malaysia and Indonesia—Southeast Asian countries do not have an independent, large, and sustainable defense industrial base.

**Figure 6.5. Type of Imported Military Technology into Southeast Asia, 1991–2015**



SOURCE: Author calculation based on SIPRI database.

When we zoom further in to the maritime domain, we see a relatively constant force structure of the region's naval forces over the past decade or so for Indonesia, Malaysia, Vietnam, and Singapore, as Figure 6.6 suggests. These patterns suggest an existing structure built on surface combatants and amphibious assault assets. These patterns seem to persist, with a slight increase with Singapore, Malaysia, and Vietnam recently joining Indonesia as submarine operators (and with Thailand planning to do so as well). Recent procurement of new frigates and patrol ships further reinforces this trend of boosting naval capabilities across maritime Southeast Asia.

**Figure 6.6. Major Naval Platforms of Selected Southeast Asian Countries**



One could argue that the growing naval capability and the “combat-centric” force structure support the China threat approach rather than the modernization or market economics approaches. However, there are two other possible interpretations of the pattern that should caution us from fully accepting this argument. First, Southeast Asia’s force posture reflects concerns over a wide range of maritime challenges, from maritime disputes and territorial incursions to countering piracy, trafficking, and illegal fishing. The posture can thus been described as “uncertainty-based” rather than “threat-based.”<sup>173</sup> Furthermore, Southeast Asian states have traditionally been “imitative” in their acquisitions—requiring similar capabilities as their neighbors in terms of surveillance, warning, and intelligence, as well as maritime strike capabilities and rapid-reaction forces.<sup>174</sup>

Second, when we consider the region’s complex strategic environment and the organizational history of the region’s maritime security governance—mainly where navies compete with maritime law enforcement agencies—it is not surprising that naval assets, even frigates, are used for day-to-day patrols and security operations rather than “reserved” for high-end naval battles. This “multi-use” of naval platforms is of course not unique to Southeast Asia. In other words, inferring operational demands and use from the broad categories of naval force posture alone cannot take us very far in evaluating whether Southeast Asia’s military modernization has been directed against China.

Aside from these operational demands, we should also evaluate the extent to which the procurement budget has been designed for or aimed at modernizing military assets. Assuming that most of Southeast Asia’s weaponry is imported rather than domestically built, we could reasonably focus on the age of imported military technology as a measure of the overall age of existing platforms. Figure 6.7 shows the average age of all imported military technology into Southeast Asia as of 2016. Vietnam, Laos, and the Philippines appear to have the oldest weaponry (more than 35 years old, on average). Most platforms typically have a life cycle of around 20 to 25 years after production and delivery (depending on a wide range of variables, from usage rate to supplier availability).<sup>175</sup> The life cycle of aircraft and avionics, for example, is typically around 20 years.<sup>176</sup>

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<sup>173</sup> Mak, 1995, p. 304.

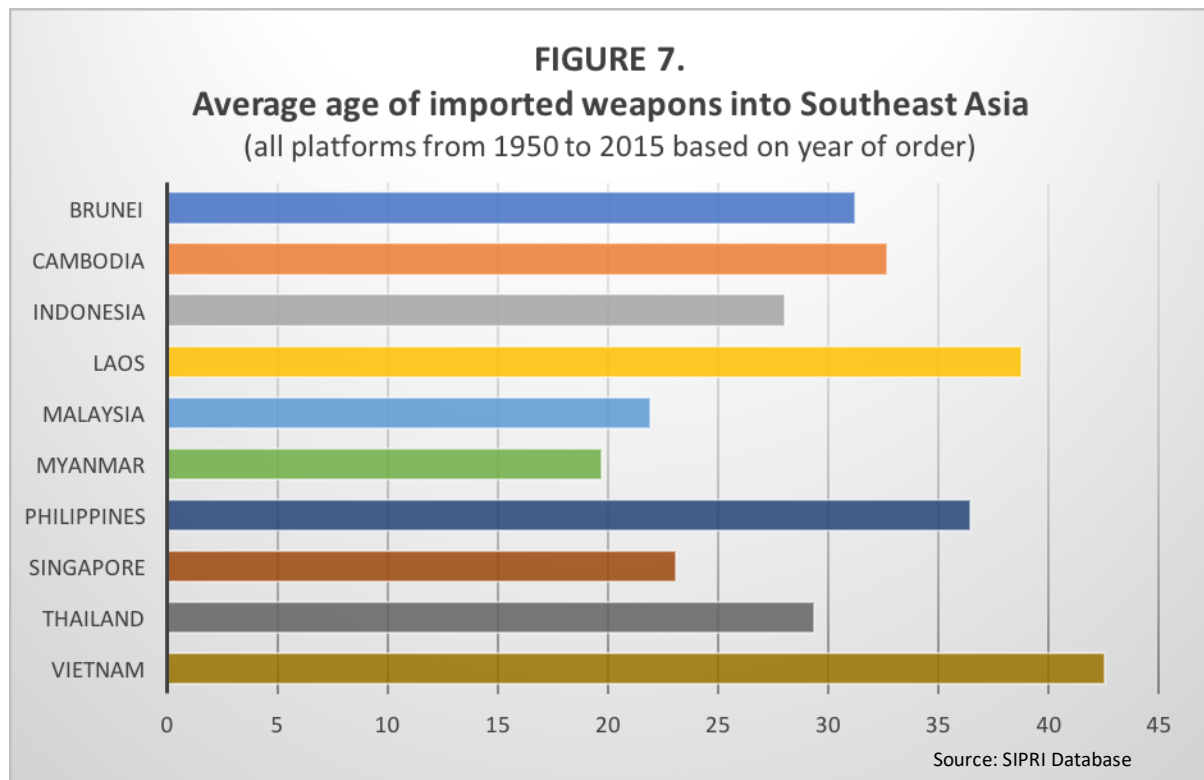
<sup>174</sup> Sheldon Simon, “The Limits of Defense Cooperation in Southeast Asia,” *Journal of Asian and African Studies*, Vol. 33, No. 1, 1998, p. 66.

<sup>175</sup> Simon, 1998, p. 66.

<sup>176</sup> See, for example, Chris Wilkinson, *Obsolescence and Life Cycle Management for Avionics*, New Jersey: William J. Hughes Technical Center, Aviation Research Division, Federal Aviation Administration, November 2015, p. 11.



**Figure 6.7. Average Age of Weapons Imported into Southeast Asia**



SOURCE: Author calculation based on SIPRI database.

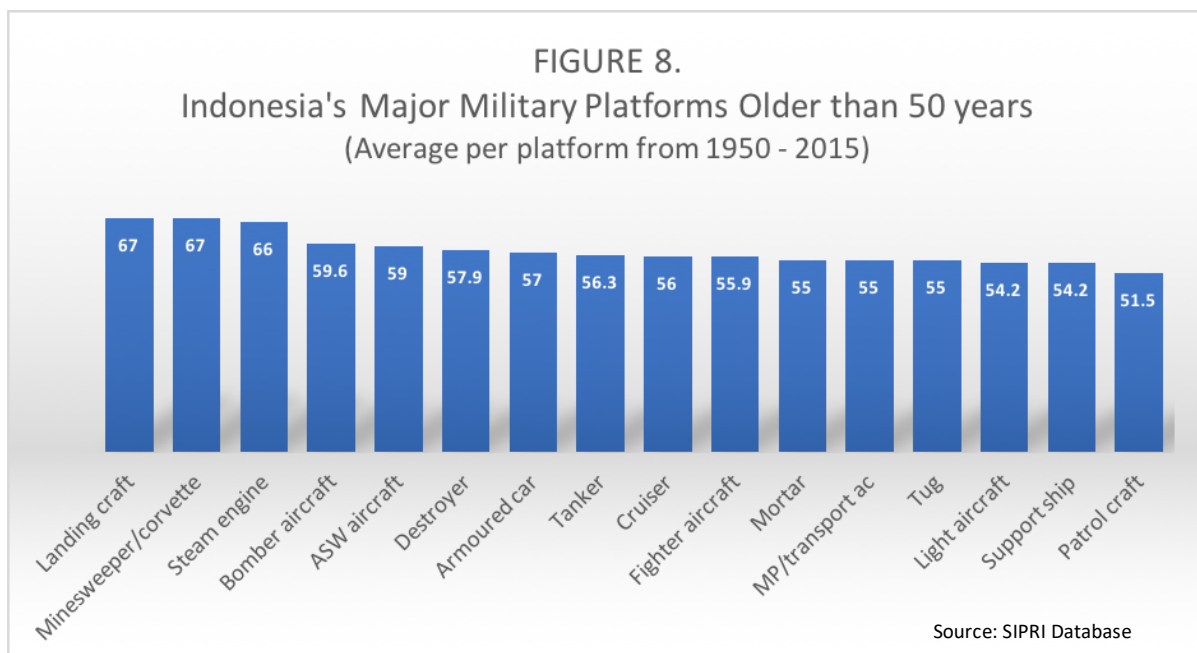
It should be noted, however, that there is a wide diversity in the imported military technology data. Figure 6.7 is based on over 2,500 items (which can be categorized into more than two dozen platforms, from aircraft to engines), imported at different times between 1950 and 2016; the figure calculates the average age of every imported item from its year of order to the end of 2015. The figure nonetheless gives us some sense of the state of imported military technology and platforms in the region and how long they have been around. However, some countries, like Indonesia, may have “younger” platforms but have more-urgent operational demands pushing them to modernize their aging platforms more quickly. Vietnam perhaps exemplifies both the need and the urgency to modernize as soon as possible. Taken collectively, therefore, there seems to be some support for the modernization argument at the regional level, despite variation in how fast and how much they can do, given day-to-day operational challenges and budgetary constraints.

Southeast Asian states also face a path-dependent problem: namely, the highly diverse set of weapons suppliers. Diversity matters because the number of suppliers is associated with the costs pertaining to platform interoperability; education and training; and maintenance, repair, and overhaul systems. In turn, the size of the operational and maintenance cost (and personnel to some extent) relative to the overall defense budget discussed in the previous section will likely

persist, if not increase, further reducing procurement or R&D funding. These problems are path-dependent because of the initial start-up cost when countries first imported platforms and weapon systems requiring an expensive and often sprawling supporting system. The sunk cost borne in doing so often means that there is little incentive to drastically change suppliers—at least for such complex systems as fighter aircraft or frigates—because they would have to consider changing the supporting infrastructure as well.

Therefore, contrary to the official rhetoric calling for defense autarky, or reducing dependence by increasing the number of foreign suppliers, the fact of the matter is that the number of suppliers for each Southeast Asian state has been almost constant since the 1950s. In other words, the number of foreign suppliers providing arms has remained the same for decades, regardless of the Cold War context, as Figure 6.8 demonstrates for Indonesia. In total, there have been 55 different weapons suppliers for ten Southeast Asian states between 1950 and 2015. The supplier diversity, however—on average, each country has 19 different suppliers, ranging from nine in Laos to 32 in Indonesia—has not changed much. One interpretation is that the Cold War bipolarity context into which Southeast Asian states were born “locked in” the different suppliers and made it harder over time to switch, due to budgetary constraints, sunk cost, and import dependence.

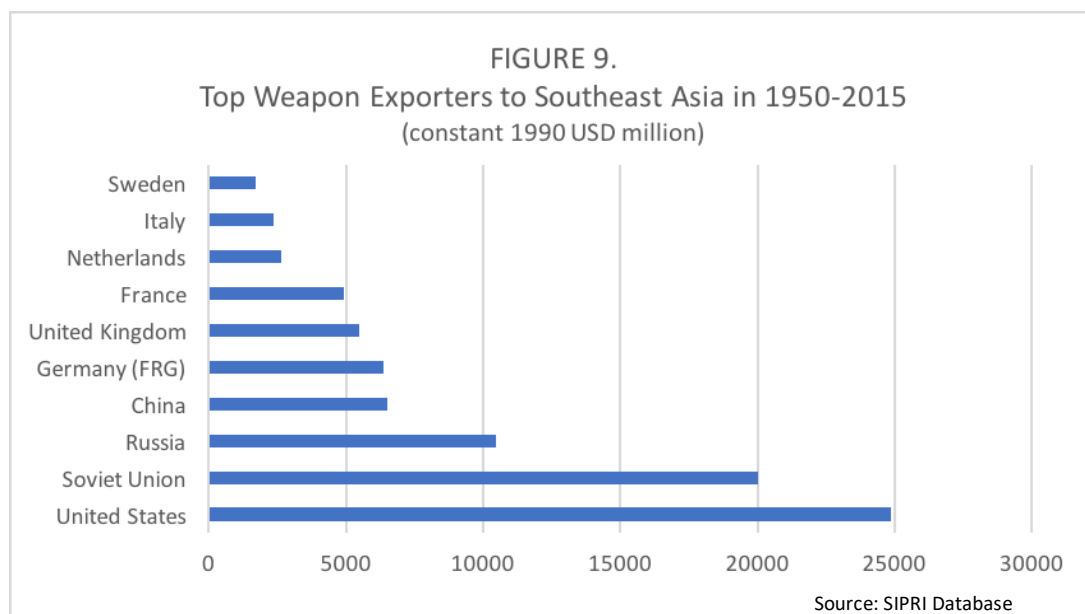
**Figure 6.8. Indonesia’s Major Military Platforms Older than 60 Years (Average per Platform from 1950–2015)**



SOURCE: Author calculation based on SIPRI database.

Figure 6.8 suggests low diversity over time in weapons suppliers in terms of the number and identity of the countries. This, perhaps, is why several countries dominated the Southeast Asian market over time, even if individual countries add one or two new suppliers (for a few platforms), or even if each country's market share fluctuates over time. Of this number, as Figure 6.9 suggests, the United States far outstripped any other supplier in terms of value of imports, although China and Russia combined would overtake this position. But when we consider who comes after China and Russia, the region seems to be dominated by Western (European) suppliers.

**Figure 6.9. Top Weapon Exporters to Southeast Asia, 1950–2015**

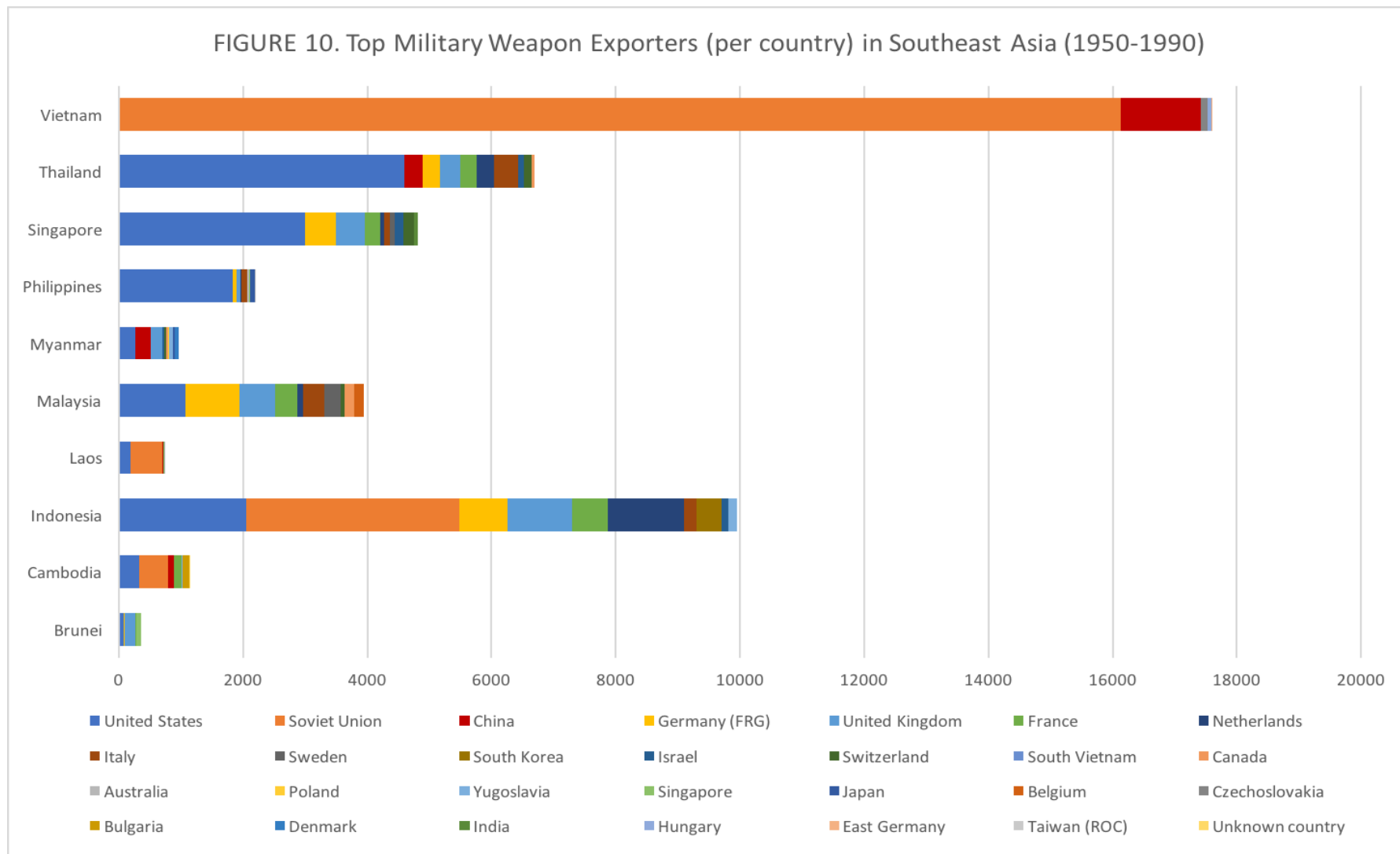


SOURCE: Author calculation based on SIPRI database.

Digging a little deeper, we can see that, despite the relatively constant number of foreign suppliers, their individual market share within Southeast Asian countries fluctuates. This variation is more visible when we compare the Cold War and post–Cold War eras, as Figure 6.10 demonstrates. When analysts talk about supplier diversity in arms import into Southeast Asia, therefore, they need to distinguish between the number and identity of suppliers with their respective market shares. For now, the patterns in Figures 6.9 and 6.10 suggest that there is high diversity in terms of each foreign supplier's market share but low diversity in terms of how many of them are exporting the items. This persistence is arguably expected, given that most replacements of aging military technology will be easier or more affordable when they come from the original supplier. This is especially the case when we consider the fact that Southeast Asian states do not have expansive procurement or R&D budgets. That being said, Figures 6.9

and 6.10 also suggest that the structure of foreign domination is not evenly spread across Southeast Asia.

**Figure 6.10. Top Military Weapon Exporters per Country in Southeast Asia, 1950–1990**



As far as supplier countries go, Russia and China, for example, are primary suppliers in a few countries, like Vietnam, where Russia has about 90 percent of the market share. Meanwhile, the United States seems to control most of the market share in the Philippines and Singapore—despite a drop from around 83 to 56 percent and from 62 to 56 percent, respectively, during the post–Cold War era. European suppliers seem to dominate the region outside of Vietnam, but in smaller shares or market values. Taken collectively, the pattern is clear: There is indeed a variation in terms of each foreign supplier’s market share within individual Southeast Asian states, especially from the Cold War era to the post–Cold War era. The market share variation without the significant addition of new suppliers further suggests that when Southeast Asian states publicly justify their arms imports in defense autarky terms, they simply mean reducing the market of one existing supplier and increasing the share of another existing supplier—not adding new ones.

Taken collectively, the patterns suggest that Southeast Asian states have focused on modernizing their aging platforms, especially those pertaining to naval, air, and sensory or C4ISR capabilities, to better meet their day-to-day operational demands. However, the nature of supplier diversity has largely persisted over time. While there are some changes to the market size of different suppliers in different countries, the total number of weapons suppliers in Southeast Asia is almost unchanged from the 1950s. These findings seem to provide little support for the China threat argument as a driving force for how regional states develop their capabilities or import their weaponry. They also suggest more support for the market economics and technological modernization approaches, as the data on platform age, import dependence, and diversity suggest.

## Conclusions and Broader Policy Implications

The preceding sections offer several findings. First, Southeast Asia has been spending its defense budget on routine expenditures, especially personnel, rather than on new capability development (as the procurement and R&D figures show). While there is merit in arguments claiming that Southeast Asia as a whole is acquiring new warfighting capabilities, especially in the maritime domain, the scale of such activities is very limited and applies only to a small number of countries, like Singapore and Vietnam. Furthermore, within the small portion of procurement, it is unlikely that regional states will be able to spend enough to match China’s military modernization drive.

Second, as the budget space for capital expenditures, especially procurement, remains historically and comparatively low, Southeast Asian states have relied and will continue to rely on the same set of foreign suppliers for their imported arms and weapons systems. While each of these respective suppliers’ market share varies over time, the inability of regional defense industrial bases—perhaps apart from Singapore—to provide the next generation of complex arms and systems means that the region’s structural import dependence will persist. This trend is

reinforced by the increasing need of regional states to replace their aging platforms quicker than before to meet pressing day-to-day operational demands.

These findings, while limited in nature due to data availability, provide us with broader conclusions about the nature of Southeast Asia's defense capability development. First, as far as the strength of the contending approaches goes, there appears to be little support for the China threat argument at the regional level. In fact, while the data show that regional defense spending has increased in the past decade, the budget structure suggests that the rise may be driven by the rising cost of personnel spending. There is no indication that budget size is directly related to China's own rise in defense spending. Regional countries also do not appear to historically tailor their entire procurement plans or warfighting strategies to respond to China, perhaps except for Vietnam. Furthermore, many countries still import their weaponry from China, the region's third-largest supplier.

While there are hardly any public documents or statements made by regional states naming China as a "direct threat," analysts and policymakers are indeed concerned and argue that some of their arms purchases may be directed at China. But, as we can see, the size of states' procurement budgets and their import dependence means that those arguments may just be rhetoric. After all, analysts have pointed out that in some cases, like Indonesia, defense policymakers and military officers may express concern over China to take advantage of the public outcry over the South China Sea to push forward preexisting plans and fend off domestic critics of arms procurement.<sup>177</sup> Behind closed doors, it is hard to believe that defense policymakers in Southeast Asia genuinely consider the region capable to militarily balance China in a tit-for-tat fashion. At best, as Vietnam's modernization plans seem to suggest (and what Singapore might have planned for in the past), some countries are willing to engage in buildup sufficient to inflict substantial cost should China decide to escalate its aggressive behavior.

This is not to say that the region is not concerned with China's aggressive behavior. It simply shows that, at the regional level, the concern has not been translated into a military response—or "internal balancing." Military assistance programs from the United States and other regional powers may be presented as additional help to "counter China," but there is no solid evidence to suggest that these programs are sufficient to allow Southeast Asian states to go toe to toe with China. Indeed, aside from continuing economic engagement—some say to the point of allowing Beijing to raise its stakes in the region's welfare—Southeast Asian states still prefer to deal with China through diplomacy, whether multilaterally through the Association of Southeast Asian Nations (ASEAN) or bilaterally through strategic partnerships with a wider set of regional powers. Taken collectively, nonetheless, when we consider military modernization or arms sprees at the regional level as outcomes, it appears that, on average—beyond one or two countries—there is little support for the China threat approach.

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<sup>177</sup> Evan A. Laksmana, "Is Indonesia 'Militarizing' the South China Sea?" *Jakarta Post*, July 11, 2016.

There appears to be some preliminary support for the military modernization and market dependence approaches, at least as seen through technological force structure and imported weaponry. In the future, fine-grain data on defense companies' market shares (not just their corporate flag country) and data comparing modernization projects (imported or domestically sourced) with new capability developments might allow us to better evaluate these two approaches.

For now, regional states have indeed continued to import their weaponry from almost the same number of foreign suppliers, despite the variation in their respective market shares over time. Recent examples of global defense companies willing to bend over backward to accommodate regional countries' offset requirements also suggest a push by defense companies into the region.<sup>178</sup> The commoditization of the defense market is harder to assess, however, without fine-grain data comparing the values of similar procurement projects across the region over time. Furthermore, the existing data also lend stronger support to the modernization approach. The nature of operational demands, the average number of weapon platforms by 2016 across the region, and the allocation of existing procurement budgets to replace aging platforms all suggest support for the modernization approach.

Finally, while the regional approach provides us an outcomes-based approach, future studies examining procurement decisions over time within one or two Southeast Asian countries can further improve our assessment. In particular, there are several competing models within a broad "domestic politics" argument for explaining military procurement decisionmaking, ranging among the role of elites, corruption, economic development, and state actors' perceptions.<sup>179</sup> One study examining the wider East Asian region, for example, found that economic and bureaucratic budgetary factors are better predictors of regional states' defense policy decisionmaking.<sup>180</sup> Others focus on civil-military relations and the role of the military, taking note of how much a country spends on defense and its relationship to the military's position in domestic politics.<sup>181</sup>

On the economic side, analysts have argued the importance of economic growth and development. One regional scholar, for example, argues that Southeast Asian military spending is about the region's rapid economic growth and the ability to deploy newfound wealth to

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<sup>178</sup> For the business and market perspectives, see, for example, Dowdy et al., 2014; and Deloitte Consulting, *Asia-Pacific Defense Outlook 2015: Tension, Collaboration, Convergence*, 2015. For a longer assessment of the offset policies and Southeast Asia's overall defense capability development, see Richard Bitzinger, *Arming Asia: Technonationalism and Its Impact on Local Defense Industries*, London: Routledge, 2017; and Kogi Balakrishnan and Ron Matthews, "The Role of Offsets in Malaysian Defence Industrialisation," *Defence and Peace Economics*, Vol. 20, No. 4, 2009, pp. 341–358.

<sup>179</sup> See Mohammed Hafiizh Pg Hashim, "An Arms Race in Southeast Asia: The Claims and Realities," *Kyoto Review of Southeast Asia*, Vol. 19, July 2016, p. 19.

<sup>180</sup> Chien-pin Li, "Fear, Greed, or Garage Sale? The Analysis of Military Expenditure in East Asia," *Pacific Review*, Vol. 10, No. 2, 1997, pp. 274–288.

<sup>181</sup> Shamil Shams, "SIPRI: Southeast Asia's Defense Build-Up Is a Balancing Act," *Deutsche Welle*, August 19, 2014.



address a wide range of external and internal security concerns.<sup>182</sup> The flip side of the economic argument is the nature of profits to be made in defense spending. As they are among the most lucrative and nontransparent types of public-sector spending, arms expenditures do not get the necessary public oversight. Defense spending, the argument goes, has been driven by private lobbying and patronage networks.<sup>183</sup> Indeed, there have been numerous scandals among Southeast Asian countries involving arms deals, from Malaysia to Indonesia, Cambodia, and even Singapore.<sup>184</sup> Studies have also noted the correlations between military corruption, subsidized defense industries, and military involvement in politics with defense budgetary boosts as the main domestic elements driving up the budgets.<sup>185</sup>

These different domestic political arguments have yet to be rigorously developed and tested on a single country over time. Yet, explaining an individual country's specific decisionmaking process over some military acquisition projects is a useful analytical complement to the regional overview I have presented in this paper. In any case, the historical and comparative perspective provided here should encourage us to be more circumspect in explaining why and how the region is rearming. Rather than acceptance of conventional wisdom, careful analyses would be more useful as a foundation for policy recommendations pertaining to Asia-Pacific security and the future of America's role in the region.

First, rather than focusing on providing military hardware in small quantities as an effort to explicitly counter China, Washington should focus on deepening its political investment in the region's multilateral institutions, especially those that are ASEAN-driven, such as the East Asia Summit or the ASEAN Defense Ministers' Meeting Plus. Now that the Trans-Pacific Partnership is defunct under Trump, the United States should consider new strategies to develop favorable bilateral trade agreements and regional economic architecture-building. The need for economic engagement is increasingly urgent, given China's regional inroads in this area with its trade and investment promises and numerous infrastructure projects under the One Belt One Road framework.

Second, if Washington insists on boosting military assistance, it should not focus on hardware alone—which will never be sufficient to change the calculus among regional policymakers to militarily balance China anyway. It should invest instead in improving the professional development of the officer corps across the region—i.e., boosting regional

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<sup>182</sup> Cited in "Taking Arms," *The Economist*, February 27, 2016.

<sup>183</sup> See Bridget Welsh, "A Wrong Turn in ASEAN's Arms Race," *Edge Review*, March 22, 2015.

<sup>184</sup> Many Southeast Asian countries score low in Transparency International's Government Defence Anti-Corruption Index. Indonesia, Malaysia, and the Philippines are categorized as countries with "moderate risk" for corruption, while Thailand is a "high risk" country. See Transparency International, "Government Defence Anti-Corruption Index," homepage, undated.

<sup>185</sup> See, for example, Chien-pin Li, 1997; and Muhammad Tariq Majeed and Ronald MacDonald, "Corruption and the Military in Politics: Theory and Evidence from Around the World," Scottish Institute for Research in Economics Discussion Paper, 2010.

militaries' human capital. After all, personnel quality, along with organizational infrastructure, is essential to the generation of effective military power.<sup>186</sup> Additionally, Washington should consider policies to improve regional defense industrial bases—if not bilaterally, then perhaps regionally, through collaboration with such allies as Australia, Japan, and South Korea.

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<sup>186</sup> See, for example, Michael C. Desch, *Power and Military Effectiveness: The Fallacy of Democratic Triumphalism*, Baltimore, Md.: Johns Hopkins University Press, 2008; and Leo J. Blanken, Hy Rothstein, and Jason J. Lepore, eds., *Assessing War: The Challenge of Measuring Success and Failure*, Washington, D.C.: Georgetown University Press, 2015.

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## Chapter Seven. Human Rights and U.S. Policy in Asia

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Sophie Richardson, Human Rights Watch

### Introduction: Why Human Rights Matter to U.S. Foreign Policy in Asia

Since the late 1970s, the United States has identified minimizing or ending human rights violations around the world as a foreign policy priority. Successive administrations have acted on the presumption that rights-respecting governments minimize human suffering and are more transparent and reliable diplomatic, economic, and security partners. They have also recognized that the United States' reputation as a global defender of human rights sets it apart from others and is key to international perceptions of the United States, and they point to the considerable resources the United States has devoted to promoting human rights and supporting civil society over the past three decades.

U.S. administrations never intended that human rights would replace or even surpass other foreign policy concerns, such as national security or trade. But all too often they have merely given lip service to human rights in favor of other concerns, and in doing so they lost sight of the pragmatic and idealistic reasons for promoting human rights abroad. The United States characterized its concern about Cambodia in the latter half of the 1970s and through the early 1990s as driven by concerns about genocide, refugee flows, and repressive rule, yet it was clearly equally motivated by limiting Chinese and Vietnamese influence in Cambodia. U.S. concern about human rights in the Philippines under the despotic rule of Ferdinand Marcos—a longtime U.S. ally—became more pronounced as his rule waned. And there have been human rights crises, from Rwanda to Sudan to Syria, in which the United States has simply opted not to engage robustly.

Countries like China present the United States with a considerable challenge, given the extraordinary complexity of the bilateral relationship and China's growing power. At the same time, this relationship demonstrates clearly the relationship between a host of U.S. interests, human rights, and the rule of law. The Chinese government's relentless efforts to require companies, including American firms, to participate in surveillance, data-sharing, and censorship imperil the freedom of expression of the Chinese population and leave companies at risk of being complicit in serious human rights violations. American consumers remain at risk until the Chinese government emancipates the judicial system to investigate and prosecute those responsible for producing tainted goods, ranging from food to medicine to toys. Achieving U.S. goals on climate change is not simply predicated on China embracing technological changes or enforcing agreed-upon standards, but also on China listening to—rather than persecuting—environmental activists and concerned citizens. The full spectrum of U.S. interests in China is

chronically in jeopardy, so long as that government maintains its chokehold on the mass media, which not only denies people in China access to independent narratives about the United States and its intentions, but also allows the government to stoke nationalist anger when doing so is politically convenient.

While it is not axiomatic that respecting rights in other parts of Asia cements ties to the United States, the abusive nature of governments in Burma, Cambodia, North Korea, the Philippines, and Thailand means that the United States faces far more complex and less certain relations with each—particularly in the face of competition with China for regional relations, which places no value on whether another government is rights-respecting. Resurgent authoritarian regimes in the Philippines and Thailand threaten relationships with long-standing U.S. allies. Burma’s much-heralded transition from military rule—considered something of a diplomatic coup by U.S. officials—is far from complete. That the U.S. “pivot” to Asia placed superficial emphasis on human rights, democracy, or the rule of law has suggested that this is not a serious, consistent priority in U.S. policy.

## China’s Human Rights Obligations

Since 2008, China has been a party to most of the core international human rights treaties, including the Convention against Torture (CAT, 1988), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1980), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR, 2001), among others. 2018 will mark the 20th anniversary of China signing—but not yet ratifying—the International Covenant on Civil and Political Rights (ICCPR). Authorities continue to say they are “studying” the document in order to pave the way toward ratification, but this is commonly understood as a stalling tactic to avoid obligations on many political rights.

In addition, Chinese authorities amended the constitution in 2004 to include an explicit obligation that “the state respects and preserves human rights.” The constitution also includes guarantees of the rights to peaceful expression, to equality among all ethnic groups, and to “normal religious activity.” Other domestic legislation, at least in theory, bans the use in court of evidence obtained through torture<sup>1</sup> and provides protections for victims of domestic violence<sup>2</sup> and those suffering from mental health disorders.<sup>3</sup> In 2007, the Supreme People’s Court began reviewing all death sentences,<sup>4</sup> leading to a handful of high-profile exonerations or sentence commutations—a small but important step toward judicial transparency and resolving gross

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<sup>1</sup> Human Rights Watch, “Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China,” May 13, 2015b.

<sup>2</sup> Maya Wang, “Dispatches: Key Case on China’s Domestic Violence Problem,” Human Rights Watch, April 20, 2015.

<sup>3</sup> Human Rights Watch, “China: End Arbitrary Detention in Mental Health Institutions,” May 3, 2013b.

<sup>4</sup> Human Rights Watch, “China: Issue Moratorium on Executions Before Olympics,” October 8, 2007.



miscarriages of justice. The government is now pursuing its third National Human Rights Action Plan (2009–2010, 2011–2015, and 2016–2020)<sup>5</sup> and is preparing for its third Universal Periodic Review at the United Nations (UN) Human Rights Council in 2018.

How does Beijing describe its own rights record? Authorities continue to say that they must pursue a level of economic development before concerning themselves with civil or political rights and point to the number of people lifted out of poverty or improvements to other socioeconomic indicators, such as life expectancy or per capita income. But this narrative rings increasingly hollow, given that China is now the world's second-largest economy, that there are strong arguments in favor of civil and political rights as essential preconditions for sustainable development, and that it conflates economic growth with economic rights. Relatively little attention is paid to the fact that economic gains have been distributed grossly unevenly, leaving a large number of people at the bottom vulnerable to violations of economic rights, such as the right to the highest obtainable standards of health or housing. In recent years, they have also pointed to the adoption of various laws, constitutional amendments, or legal procedural guarantees. Chinese authorities have abolished some abusive policies or practices, such as Reeducation Through Labor, a system of arbitrary detention, and have relaxed the one-child policy but have always presented those decisions as a means of “perfecting” policy instead of admitting that the practices were fundamentally abusive (both practices also remain in use). When challenged about the treatment of imprisoned peaceful critics or activists, including 2010 Nobel Peace Prize winner Liu Xiaobo,<sup>6</sup> Chinese authorities almost always reply by insisting that those people are criminals.

## The Current Human Rights Situation in China

Despite the progress made in adopting international covenants, enacting new domestic laws, and taking steps toward improving the legal system, many of the commitments exist only on paper and are not meaningful protections of human rights, particularly when the exercise of those rights is seen as a threat to the authorities. Under the leadership of President Xi Jinping, who assumed power in March 2013, human rights have been under sustained assault, such that the gains seen in the 1990s and 2000s are being reversed.<sup>7</sup> Five trends with implications for U.S. policy are highlighted in the following sections.

### *The Growing National Security Rationale*

Increasingly, Chinese authorities, including President Xi, describe their reality in terms of national security, despite China facing no significant and discernible domestic or international

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<sup>5</sup> Human Rights Watch, “China: Human Rights Action Plan Fails to Deliver,” January 11, 2011.

<sup>6</sup> Sophie Richardson, “Filling Liu Xiaobo’s Empty Chair,” Human Rights Watch, December 20, 2016b.

<sup>7</sup> Human Rights Watch, “China: Deepening Assault on Human Rights,” January 12, 2017.

threat. This rationale is used to justify the ongoing expansion of the domestic security apparatus, which began in the lead-up to the 2008 Olympics but has continued under Xi. Whole new forces—such as the para-police *chengguan*—have been established and allowed to expand across the country without a clear legal basis, and recent legislation, such as the new draft Police Law,<sup>8</sup> Counterterrorism Law,<sup>9</sup> Foreign Non-Governmental Organization Management Law,<sup>10</sup> and Cybersecurity Law,<sup>11</sup> has all significantly expanded the security forces’ power. The contents of these laws directly contravene some of Beijing’s most-fundamental human rights obligations: the right to a fair trial, including access to family members and counsel of choice; and the right to peaceful expression. Impunity for these security forces when they commit human rights or simple criminal or procedural violations is almost total.

The state security apparatus has expanded to a remarkable extent in two regions whose loyalty to Beijing is seen as questionable: Tibet and Xinjiang. Both regions have seen the deployment of significant numbers of cadres in recent years to the village level, ostensibly for the purpose of making the state and its services more available to a grassroots population, but this clearly also serves a surveillance and intimidation purpose. In Tibet, this goal has been pursued via a project known as “grid management”;<sup>12</sup> in Xinjiang, authorities have recently ordered people to turn in their passports for no legally justified reason.<sup>13</sup> Both regions remain difficult to access, and it is now extremely difficult for people from those regions to leave. Virtually no Tibetans cross the border into Nepal anymore, and the flow of refugees out of Xinjiang, particularly into Southeast Asia, has dried up, largely due to tighter border controls. Officials typically describe policies in these regions as essential for preserving public security or “ethnic harmony,” particularly with respect to allegations that ties between Islamist militants and Uyghurs must not be allowed to grow, yet little hard evidence of those threats is offered up.

Central government authorities also increasingly appear to see not only domestic and international civil-society groups, but also human rights activism more broadly, as threats to national security. President Xi’s tenure has featured the most aggressive, sustained assault on domestic civil society in the post-Tiananmen era. Hundreds of activists—including those who work on topics the leadership identifies as priorities, such as the battles against corruption or pollution—have been harassed, arbitrarily detained, prosecuted, or forcibly disappeared in the past three years, often on highly questionable charges of “disturbing public order,” “endangering state security,” or “subversion.” But authorities clearly think arrests and trials are not enough, as

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<sup>8</sup> Human Rights Watch, “China: Draft Police Law Entrenches Abuses,” December 21, 2016i.

<sup>9</sup> Human Rights Watch, “China: Draft Counterterrorism Law a Recipe for Abuses,” January 20, 2015a.

<sup>10</sup> Human Rights Watch, “China: New Law Escalates Repression of Groups,” April 28, 2016c.

<sup>11</sup> Human Rights Watch, “China: Abusive Cybersecurity Law Set to Be Passed,” November 6, 2016e.

<sup>12</sup> Human Rights Watch, “China: Alarming New Surveillance, Security in Tibet,” March 20, 2013a.

<sup>13</sup> Human Rights Watch, “China: Passports Arbitrarily Recalled in Xinjiang,” November 21, 2016f.

evidenced by accompanying smear campaigns reinforcing the idea that activists' work is a conspiracy of internal and external threats designed to destabilize China.

States have a duty to provide public order and security, but President Xi's government has clearly seized on a national security rationale as a justification to radically expand the power of the state security apparatus, to gut existing legal protections, to weaken civil society, and to strengthen control over ethnic and religious minorities.

### *The Legal System as an Instrument of Communist Party Power*

Beginning in the 1980s, Chinese authorities sought to revive a legal system that had been decimated during the Cultural Revolution. By the mid-1990s, China had roughly 150,000 lawyers, newly trained judges, and dozens of new laws and regulations, and, over the course of that decade, international human rights became a more standard feature of the law school curriculum. While the Hu Jintao-Wen Jiabao era was hardly a golden age for legal reform, the authorities—recognizing the need for a more functional legal system to advance economic development—allowed for key changes, including the idea of class-action lawsuits, less-immediate control on judges, tolerance of more-independent lawyers taking cases to court over such issues as discrimination on the basis of religion or ethnicity, and the rise of *weiquan* (“rights defense”) lawyers.

The reformist trends began to reverse in the mid-2000s, when authorities increasingly began to impose limits on the kinds of cases lawyers could take up,<sup>14</sup> expectations that judges consult with Party authorities on “sensitive” cases, and constraints on whether and how independent lawyers could practice outside a firm. A number of high-profile human rights lawyers, including Gao Zhisheng,<sup>15</sup> were prosecuted and/or forcibly disappeared; others, such as Jiang Tianyong<sup>16</sup>—who at the time of this writing has been forcibly disappeared—were stripped of their licenses and/or disbarred.

President Xi's tenure has featured some extraordinary setbacks for the rule of law and the legal system. Xi's professed claim to advance “the rule of law” is actually an attempt to shape the legal system into a “knife held firmly in the [hands of] the Party.”<sup>17</sup> In addition to the adoption of laws related to national security described earlier, the authorities have launched a concerted assault on independent lawyers and legal activists. In December 2015, Beijing-based lawyer Pu Zhiqiang,<sup>18</sup> who had represented artist and critic Ai Weiwei, was given a suspended

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<sup>14</sup> Human Rights Watch, “‘A Great Danger for Lawyers:’ New Regulatory Curbs on Lawyers Representing Protesters,” December 11, 2006.

<sup>15</sup> Human Rights Watch, “China: Gao Zhisheng Out of Prison, but Freedom Uncertain,” August 8, 2014a.

<sup>16</sup> Human Rights Watch, “China: Three Activists Feared ‘Disappeared,’” December 16, 2016h.

<sup>17</sup> Stanley Lubman, “In Sharp Words from Xi, Ominous Implications for China's Legal Reforms,” *Wall Street Journal*, February 10, 2015.

<sup>18</sup> Human Rights Watch, “China: Free Prominent Lawyer Pu Zhiqiang,” December 13, 2015c.

sentence on dubious charges of “creating a disturbance” and “inciting ethnic hatred,” leaving him unable to practice. In July 2015, the authorities detained more than 300 human-rights lawyers and their supporters in 19 different provinces in a coordinated raid.<sup>19</sup> While most people were held only briefly, about two dozen were held for more than a year before a number were prosecuted on serious charges, including subversion. At least eight are still awaiting trial. As is the case with civil society more broadly, the authorities have come to see these lawyers as active threats, not as individuals trying to improve governance by helping others resolve grievances against the state through the legal system.

The central government and Party’s disdain for the genuine rule of law is arguably clearest in the reliance on the *shuanggui* system. *Shuanggui* is the Party’s own internal disciplinary system, overseen by the Central Commission on Discipline Inspection (CCDI), to investigate allegations of corruption or violation of Party rules by members. Established in the 1990s, the system is likely to have been in greater use since the launch of Xi’s anticorruption campaign and, according to state media, approximately 330,000 people were investigated by the CCDI in 2015 alone.<sup>20</sup> Although there is no basis for such a system in Chinese law—indeed, Chinese law gives the power to detain and investigate individuals strictly to the police and the procuratorate—it is used to arbitrarily detain or forcibly disappear Party members for months at a time, hold them incommunicado with no opportunity to contact a lawyer or family, and coerce them into confessing. Recent Human Rights Watch research has documented not only the abusive nature of this system and the serious human rights violations that take place in this kind of detention, but also the fact that the procuratorate often participates in CCDI investigations, effectively recycling confessions obtained through an unlawful detention system for formal legal prosecutions. Procurators often threaten detainees with a possible return to *shuanggui* if they try to retract their confessions; occasional efforts by detainees to retract their confessions in court are typically rejected by judges because those confessions have been obtained in *shuanggui*. Although the protections afforded to suspects in the criminal detention system are often difficult to ensure, *shuanggui* detainees do not enjoy any of these rights, and the Party has expropriated for itself a function that ought to reside exclusively with the state. In December 2016, Wang Qishan, the Party’s anticorruption czar, quipped that, “[p]ower without restraint is dangerous,” yet the Party seems to demonstrate little enthusiasm for said restraint.<sup>21</sup>

Senior officials are not entirely immune to public outrage over miscarriages of justice, particularly over cases that resulted in wrongful executions. The review of death penalty cases has prompted high-profile posthumous exonerations, notably in the cases of Mongolian teenager

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<sup>19</sup> Human Rights Watch, “China: Free 38 Detained Lawyers, Activists,” January 6, 2016a.

<sup>20</sup> Human Rights Watch, ““Special Measures:’ Detention and Torture in the Chinese Communist Party’s *Shuanggui* System,” December 6, 2016g.

<sup>21</sup> Lucy Hornsby, “China Vows to Record Graft Probe Grillings After Torture Report,” *Financial Times*, December 6, 2016.

Huugjilt and Hebei worker Nie Shubin, both of whom were wrongfully convicted of murder and executed in 1995. In these and countless other cases, the procuratorate and judges had demonstrated a pathology consistent across China's legal system: an overreliance on confessions, which are often obtained through coercion, ill-treatment, or torture.

While the Chinese government has taken steps in recent years to institute rules to exclude confessions obtained this way from court proceedings, it remains extremely difficult in practice for defendants to exercise this right. Judges and procurators refuse to take seriously defendants' allegations of mistreatment, ignore clear evidence of mistreatment, and—arguably most important to deterring similar behavior in the future—police and detention center officials are rarely held accountable for the mistreatment of defendants. In 2015, Human Rights Watch examined more than 400 cases in which suspects alleged in court that they had been ill-treated by authorities.<sup>22</sup> In only 23 of those cases did judges exclude evidence, but in none of those cases was the suspect acquitted, and in only one case were police disciplined. Until state and Party authorities are willing to hold accountable the state officials who undermine these key defense rights, it is unlikely that the public will have greater confidence in the legal system.

### *Shrinking Space for Free Expression*

The Chinese government tightly restricts freedom of expression through censorship and punishments. While the internet has offered a marginally freer space, the government censors politically unacceptable information through such means as the “Great Firewall.” Yet the leadership has further tightened the little space that existed on the internet, on university campuses, and via the mass media.

In 2015 alone, government agencies, such as the State Internet Information Office, issued multiple new directives, targeting pockets of relatively freer platforms and forms of expression that were previously able to operate without much interference, including tightened restrictions over the use of usernames and avatars, and requirements that writers of online literature and performers of live-streaming programs register with their real names. The government has also shut down or restricted access to Virtual Private Networks (VPNs), which many users depend on to gain access to content otherwise blocked to users inside the country. The new cybersecurity law requires domestic and foreign internet companies to practice censorship, register users' real names, localize data, and aid government surveillance. Authorities have repeatedly said that they would prosecute anyone found “spreading rumors” online.

In a December 2016 address to education authorities, President Xi called on universities to “adhere to the Party's leadership,” and for lower-level schools to fulfill their mandate of ideological work. These comments followed a two-year campaign against “Western values” in education (despite the fact that Xi's and other senior party officials' children have been educated in the West). In January 2015, Education Minister Yuan Guiren told universities to ban teaching

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<sup>22</sup> Human Rights Watch, 2015b.

materials that promote Western values and censor speech constituting “attack and slander against the Party.” Some mainland academics report increasing difficulties traveling abroad to attend scholarly gatherings or carry out research.

Journalists and editors have, at times, pushed the limits of acceptable expression, and the government appears dissatisfied over these occasional acts of resistance. President Xi delivered an unambiguous message in his February 2016 visits to the headquarters of People’s Daily, Xinhua, and China Central Television (which now has more than 80 international bureaus): “All news media run by the party must work to speak for the party’s will and its propositions, and protect the party’s authority and unity.”<sup>23</sup> Authorities have punished and closed web-based channels that have reported news “without authorization,” for example, over the coverage of the U.S. elections. Any previously harder-hitting investigative journalism and news outlets appear to have been all but neutralized under the last three years of Xi’s rule. At the same time, foreign media continue to struggle to get visas to work and cover stories independently on the mainland, leaving progressively less room for unbiased journalism.

### *Rising Threats to Hong Kong’s Autonomy*

As the 20th anniversary of Hong Kong’s return to Chinese sovereignty approaches in 2017, many observers’ 1997 aspirations about the future have proven incorrect. At that time, many hoped that Hong Kong’s independent and well-regarded judiciary, press, and respect for peaceful expression and political participation—all also seen as essential to Hong Kong’s success as an international financial and business center—would serve as a role model for the mainland. Most observers offered cautious optimism that Beijing would act with maximum restraint toward Hong Kong.

Both assumptions have been increasingly challenged in recent years. While Hong Kong’s institutions remain far more independent and robust than their counterparts on the mainland, one can see cracks in their foundations. The Hong Kong government’s failure to take a strong stance against such proposals as mainland-style “patriotic education” in 2012 reinforced a sense that Beijing’s demands carried more weight than the local population’s views. Physical and professional attacks on members of the Hong Kong media—several of which have not been thoroughly investigated—create unease about the consequences of independent reporting, particularly reporting that is critical of mainland authorities. The 2015 disappearances of Hong Kong booksellers associated with Causeway Bay Books have raised questions—ones still not yet answered—about whether and under what authority mainland state security agents are operating in Hong Kong.<sup>24</sup>

Arguably the clearest indicator of Beijing’s intentions in Hong Kong is its refusal to fulfill the promise of universal suffrage in the territory, as articulated by the Basic Law, Hong Kong’s

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<sup>23</sup> Xinhua, “China’s Xi Underscores CPC’s Leadership in News Reporting,” *China Daily*, February 19, 2016.

<sup>24</sup> Human Rights Watch, “China/Hong Kong: Free ‘Disappeared’ Booksellers,” February 10, 2016b.

mini-constitution. Some people in Hong Kong have reacted to China's encroachment into the territory's promised autonomy by advocating for a greater say in the city's governance. Yet even when this reasonable demand is communicated through peaceful means, Beijing has doubled down on efforts to control the electoral process, even if those efforts do not—or cannot—reflect the choices of Hong Kong voters. Beijing continues to restrict who can stand for Hong Kong's top office.<sup>25</sup> In November 2016, Hong Kong authorities filed cases with Hong Kong courts to determine whether incoming LegCo members—who were promoting the idea that people in Hong Kong should have a say in deciding their future, including the territory's relationship with the mainland, and those raising the possibility of independence—could take their seats despite deliberately misspeaking their oaths. The decision by the National People's Congress Standing Committee to issue “an interpretation” of the Basic Law before Hong Kong courts had finished hearing the cases represented unprecedented interference into judicial independence and, consequently, Hong Kong's autonomy, indicating to many that Beijing would try to achieve through the courts what it had failed to do at the ballot box.

Taken together, the principle at the heart of the “one country, two systems” arrangement—and the very real consequences for Hong Kong's people's human rights—appear weaker each year. All of this can backfire and create a cycle of increasing resentment in Hong Kong and a more hard-line position from Beijing.

### *The Globalization of China's Human Rights Abuses*

Increasingly, China appears willing and able to commit serious human rights abuses beyond its borders. In the past, those abuses had largely been limited to the harassment of government critics who had sought refuge in other countries or labor rights violations committed by mainland firms operating in other countries (including ones with relatively strong protections that were simply ignored by the companies and local authorities). That conduct persists, perhaps best evidenced by the open harassment of Ti-Anna Wang in 2014 and Angela Gui in 2016, both daughters of imprisoned critics of the Chinese government, as they participated in UN Human Rights Council proceedings.

This situation has worsened in recent years, at both the individual and the institutional levels. As Beijing has pursued its deeply politicized anticorruption campaign, it has dispatched members of the security apparatus abroad in pursuit of allegedly corrupt officials who have fled. According to Xinhua, by October 2016, 634 people had been brought back from 61 countries. Given the extraordinary weakness of the legal systems in some of those countries, and those countries' vulnerability to Chinese pressure, it is hard to imagine that all of those individuals have been afforded the opportunity to challenge their deportation to China before a competent court or to request refugee status. Even in instances with more-robust legal systems, such as

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<sup>25</sup> Human Rights Watch, “Eight Questions About ‘Occupy Hong Kong,’” October 16, 2014b.

Yang Xiuzhu's recent "voluntary" return from the United States,<sup>26</sup> it is impossible to imagine that this outcome has been achieved without coercion. Similarly, Beijing has asked or pressured other countries, ranging from Cambodia to Kenya, to forcibly return people to the mainland who are seeking asylum, such as ethnic Uyghurs or those of other nationalities, such as Taiwanese accused of breaking Chinese law. Few people, if any, have had the opportunity to contest their return in a competent court.

A few countries, including the United States, have quietly indicated to Beijing their dismay at finding Chinese law enforcement agents operating inside their countries without appropriate notification or visas,<sup>27</sup> but no country has yet sought to prosecute that conduct. Beijing's current zeal for extradition treaties is an effort to ease the return of these and other suspects without having to make the essential legal reforms at home.

Beijing has been comparably aggressive at an institutional or international level. Its leadership in establishing the Asian Infrastructure Investment Bank (AIIB) gives it particular responsibility for ensuring that sufficient safeguards—whose needs are well established by the failings of longer-established development institutions like the World Bank—are in place.<sup>28</sup> Yet those safeguards were virtually nonexistent as the AIIB launched its first round of lending in 2016, and the AIIB appears to feel little pressure to change that position. China has moved quietly but aggressively to limit or undermine key UN human rights mechanisms, including blocking the accreditation of specific nongovernmental organizations, such as the well-regarded Committee to Protect Journalists, and surveilling and intimidating activists from the mainland who participate in activities at the UN Human Rights Council in Geneva. In that and other forums, China has increasingly pushed its own view of issues like "digital sovereignty" as a new international standard. And while it can be difficult to document, students and scholars at academic institutions outside China report experiencing surveillance or harassment by Chinese government agencies, including officials from local consulates.

### *Implications for the United States*

The consequences for the United States in China's deteriorating human rights environment are not small. Without independent voices reporting on the weaknesses of the legal system, on threats to public health or product safety that move beyond China's borders, or on environmental disasters, Americans could be at risk. If Beijing increasingly characterizes all manner of behavior, individuals, and organizations as national security threats, how is the United States to determine what does not constitute a threat and react accordingly? How will U.S. companies react if Hong Kong's professional, independent institutions slowly succumb to the kind of

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<sup>26</sup> Reuters, "China Says Family Cut off Funds to Get Most Wanted Graft Suspect Back," November 17, 2016.

<sup>27</sup> Mark Mazzetti and Dan Levin, "Obama Administration Warns Beijing About Covert Agents Operating in U.S.," *New York Times*, August 16, 2015.

<sup>28</sup> Human Rights Watch, "China: New Bank's Projects Should Respect Rights," June 24, 2016d.



corruption and partisanship rampant on the mainland? How will the United States avoid being complicit in serious human rights violations, ranging from returning individuals to China who will likely be persecuted, to enabling abusive labor practices or encouraging censorship? Will the United States push back against China's quiet but concerted efforts to rewrite international standards? Absent strong, consistent leadership from the United States—and consistent with established international human rights norms—all of these issues are in jeopardy.

The United States has often claimed that it has limited leverage to improve the human rights situation in China—a claim it rarely makes about economic or trade challenges, security threats, or other problems in the bilateral relationship. But Chinese authorities are vulnerable in many ways.<sup>29</sup> They need international cooperation on a host of issues, they are worried about their long-term rule, and they loathe public embarrassment. They are dependent on the outside world for markets governed by robust institutions, free-thinking institutions of higher learning, second passports if the political tide turns against them, and international banks in which to stash their money. All of these realities should be exploited to protect and promote human rights.

Human Rights Watch has made the following recommendations to the new U.S. administration:

- Develop and publicly explain a robust China policy and make human rights a key component of it.
- Communicate to all Cabinet members that the Chinese leadership equates consistency with seriousness: If human rights issues are raised consistently at the highest level, Beijing will see them as U.S. priorities. The interagency process should be reinvigorated.
- Decline deeper cooperation with China on anticorruption and counterterrorism efforts unless China's policies and practices are brought in line with international human rights standards.
- For each meeting principals have with high-level Chinese officials, also have a meeting with a prominent independent civil-society figure from China.
- Regularly summon the Chinese ambassador to ask for explanations about individual cases, aspects of the current crackdown, and other serious human rights violations.
- Add an explicit human rights component—at the same level that issues like economic and trade policy enjoy—to the U.S.-China Strategic and Economic Dialogue.
- Mark the anniversary of the 1989 Tiananmen Massacre each year, help ensure the release of the 2010 Nobel Peace Prize winner Liu Xiaobo ahead of the June 2020 end of his prison term, receive the Dalai Lama openly, and prepare to support Tibetans' choice for his successor.
- Leverage aspects of the Chinese government's need to access the outside world and consider sanctions and/or denying visas to known human rights abusers as potential U.S. responses to serious rights violations.

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<sup>29</sup> Sophie Richardson, "How to Deal with China's Human Rights Abuses," Human Rights Watch, September 1, 2016a.

## Other Key Asia Concerns

### *North Korea*<sup>30</sup>

The North Korean government remains one of the most repressive, authoritarian states in the world, curtailing all basic human rights. It prohibits any organized political opposition, independent media, free trade unions, and civil-society organizations. Arbitrary arrest, torture in custody, forced labor, and public executions maintain an environment of fear and control. North Korea discriminates against individuals and their families on political grounds in such key areas as employment, residence, and schooling through *songbun*, the country's sociopolitical classification system.

A 2014 UN Commission of Inquiry (COI) report on human rights in North Korea stated that systematic, widespread, and gross human rights violations committed by the government included murder, enslavement, torture, imprisonment, rape, forced abortion, and other sexual violence and constituted crimes against humanity.

The COI report and new human rights legislation in both South Korea and the United States have irrevocably changed how human rights issues are addressed in U.S. decisionmaking on North Korea. Issues of the regime's human rights record and how to set up accountability mechanisms to hold perpetrators responsible are now inexorably woven into decisions about how to deal with North Korea at every level, from nuclear nonproliferation to humanitarian aid. The three biggest issues facing the incoming administration are (1) how to better integrate human rights issues into larger diplomatic efforts; (2) how to maintain diplomatic momentum at the UN level on advancing accountability and the COI's recommendations; and (3) how to better incorporate human rights and protection issues into contingency planning for a regime collapse.

Human Rights Watch has made the following recommendations to the new administration:

- Significantly increase administration budget requests for international broadcasts and other related programs.
- Instruct the incoming U.S. Permanent Representative to the UN to elevate the human rights situation in North Korea on the UN Security Council's formal agenda.
- Instruct the U.S. mission to the UN Human Rights Council to prioritize a strong resolution in its March 2017 session. The resolution should urge the new special rapporteur to support the Office of the UN High Commissioner for Human Rights in Seoul and highlight new information and areas of focus for investigation.
- Designate a senior White House official to coordinate sanctions enhancement and information collection for future prosecution.
- Link North Korea's human rights record with its nuclear program, communicating clearly that sanctions in total are meant to advance counterproliferation *and* address human rights violations.

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<sup>30</sup> Human Rights Watch, "North Korea," undated(c).

## *Burma*<sup>31</sup>

The National League for Democracy (NLD)–led government took office in March 2016 as the first democratically elected, civilian-led government since 1962. The new government inherited deeply rooted challenges, including constitutional empowerment of the military, repressive legislation, weak rule of law, and a corrupt judiciary. Under the deeply flawed 2008 constitution, the military retains autonomy from civilian oversight and extensive power over the government and national security, and it is guaranteed 25 percent of parliamentary seats, which constitutes an effective veto over any constitutional amendments. The NLD-led government has thus far not capitalized on its initial momentum in guiding the country toward substantive reform or the creation of democratic institutions.

The political transition began promisingly, with the April 2015 release of over 200 political prisoners and detainees. But fighting between the Burmese armed forces and ethnic armed groups intensified or flared up in several regions, resulting in numerous government abuses against civilians and massive displacement. Violent attacks by ethnic Rohingya militants against border guard posts in October 2016 in northern Rakhine state resulted in the deaths of nine officials and sparked massive arson, killings, rape, and torture by government security forces against Rohingya villages, creating the most serious humanitarian and human rights crisis in Rakhine state since the October 2012 “ethnic cleansing” campaign against the Rohingya.

Human Rights Watch has urged the new administration to:

- Conduct immediate consultations with Aung San Suu Kyi, possibly in the context of a state visit, and preferably with the involvement of relevant congressional leadership, to discuss the sanctions regime and Specially Designated Nationals (SDN) list, economic incentives, and potential future military-to-military engagement to press the Burmese military to relinquish its constitutional powers and economic role.
- Prioritize reaching an agreement with the NLD-led government for a memorandum of understanding with the Office of the UN High Commissioner for Human Rights to create a formal presence in Burma to carry out investigations, reporting, and capacity-building work.
- Instruct the U.S. State Department to work at the UN Human Rights Council in March 2017 to adopt another Item 4 resolution on Burma and extend the mandate of the special rapporteur for Burma.
- Urge Aung San Suu Kyi to act to improve respect for the human rights of Rohingya, including by amending the discriminatory 1982 Citizenship Law that effectively denies Rohingya citizenship.
- Instruct all U.S. government officials to prioritize the involvement of civil society and women in future ceasefire and peace talks, some of which are set to take place in early 2017.

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<sup>31</sup> Human Rights Watch, “Burma,” undated(a).

## *Cambodia, the Philippines, and Thailand: Resurgent Authoritarianism in Southeast Asia*<sup>32</sup>

Philippine President Rodrigo Duterte's "war on drugs," Thai Prime Minister General Prayut Chan-ocha's military government, and Cambodian Prime Minister Hun Sen's endlessly repressive rule pose serious challenges to U.S. human rights promotion in Southeast Asia. The first two countries, long-standing U.S. allies and reasonably stable democracies, have deteriorated politically into a populist government carrying out the largest wave of extrajudicial killings since the Marcos era, and a military junta with little tolerance for basic civil and political rights, respectively. In 2018, Cambodia is slated to hold its sixth national election since the historic UN-sponsored 1993 contest, yet the likelihood that a leader or party not affiliated with Hun Sen's Cambodian People's Party (CPP) could run and win remains small.

All three countries are consequently more susceptible to instability and to Beijing's influence, which would have deleterious consequences for human rights in a key part of Southeast Asia.

Human Rights Watch recommendations on Cambodia include the following:

- Devote significant, urgent diplomatic attention to this situation, given Hun Sen's and the CPP's three-decades-long hold on power, including by working all key capitals relentlessly between now and the July 2018 election to ensure that Hun Sen knows in no uncertain terms that the election must be truly competitive and that he must accept the results.
- Articulate specific and serious economic and security consequences for electoral fraud and other serious human rights violations.
- Support domestic human rights organizations generously and on a multiyear basis so that they can focus on the overwhelming challenge of documenting ongoing violations.

Human Rights Watch recommendations on Thailand include the following:

- Reevaluate military cooperation so that engagement is better geared to promote a return to democratic rule and observance of human rights norms. Pentagon leadership and uniformed officers should be communicating as a matter of routine a clear message that the U.S.-Thailand relationship remains curtailed precisely because of the junta's dominance in politics.
- Prioritize working with other governments, particularly the European Union and Japan, to put more pressure on the Thai junta to allow a return to civilian democratic rule.
- If warranted, place Thai officials complicit in specific abuses on visa and entry ban lists and on lists imposing restrictions on their use of U.S.-based financial institutions.
- Instruct U.S. Customs and Border Protection to place special focus on Thailand's problematic seafood sector and vigorously enforce rules banning the import of goods produced by forced labor.

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<sup>32</sup> Human Rights Watch, "Cambodia," undated(b); Human Rights Watch, "Philippines," undated(d); Human Rights Watch, "Thailand," undated(e).

Human Rights Watch recommendations on the Philippines include the following:

- Condition security assistance and arms sales on President Duterte putting an end to the wave of killings and committing to investigations.
- Counter the fiction of Duterte’s “war on drugs” campaign. The United States should offer training and assistance in areas of drug addiction treatment and use its funding and public affairs resources to rebut popular misunderstandings and mistaken beliefs about drug addiction.
- Engage in extensive outreach to the Filipino people, civil society, and government officials outside Duterte’s political circle to assist those opposed to the campaign of extrajudicial killings.

## Conclusion

The United States needs, and to date has said it wants, governments in Asia that protect and promote human rights, believing that those make fundamentally better partners. But the United States’ recent track record is mixed, and it faces some highly intransigent governments in countries like China and North Korea. Moreover, it is unclear how much, if any, emphasis the new U.S. administration will place on human rights at home or abroad. The stakes are high: Whether the United States will serve as a defender—however flawed—of human rights and democratic rule in one of the world’s most critical and dynamic regions, or whether it will uncritically partner with abusive regimes and help cement their rule will likely have consequences for decades to come.

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## Chapter Eight. U.S. Human Rights Policy and Asia: View from the Region

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Michael C. Davis, National Endowment for Democracy

### Introduction

Democracy and human rights promotion have long been at the heart of U.S. foreign policy in Asia, with democracies in the region among the closest U.S. allies. This is not to undervalue the importance of democracy and human rights in their own right. The very worst human rights violations in Asia—repressive regimes; extremist militias; conflict-related abuses; human trafficking; poor prison conditions; poverty; environmental degradation; denial of basic freedoms; floods of refugees; and ethnic, religious, and lesbian, gay, bisexual, and transgender (LGBT) discrimination—are generally the products of weak constitutional systems and associated bad governance. With many of the countries of the region in some state of constitutional crisis, human rights protections have remained precarious.<sup>1</sup> For these reasons, democracy and constitutional reform remain a high aspiration among the people of Asia, as ordinary people in increasingly complex societies across the region find their lives directly affected by many of these abuses.<sup>2</sup> It has likewise long been a core tenet of U.S. foreign policy that an open society protected by liberal constitutional fundamentals is the best way to consolidate democracy and reduce human rights violations. This paper focuses on human rights in those democracies or fragile democracies in the region for which constitutional development remains a challenge.

With his frequent invocation of a transactional approach to foreign affairs, it is not clear whether Donald Trump will continue such support for democracy and human rights promotion.<sup>3</sup> In this respect, it is worth emphasizing that U.S. policy driven only by self-interest would not

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<sup>1</sup> I use the term *constitutional crisis* here to refer to a condition where a state of political crisis is rooted in constitutional failings or neglect. I reserve this term for democracies or fragile democracies where commitment to constitutional fundamentals, such as the rule of law and human rights, are presumed to be taken seriously. Failure to do so usually produces a state of crisis. For fragile democracies, this may result in one or more of a variety of conditions, such as frequent electoral abuse, threats to the courts or the rule of law, severe restrictions on or intimidation of the press, military interference, prosecution of dissidents, and so on, leading to weakened governance and public discontent.

<sup>2</sup> This does not suggest that Asians necessarily understand or promote liberal democracy, which remains a key challenge to better secure human rights across a region with many illiberal or hybrid systems. See Doh Chull Shin and Hannah June Kim, “Liberal Democracy as the End of History: Western Theories Versus Eastern Asian Realities,” *Asian Journal of Comparative Politics*, Vol. 1, 2016, pp. 1–21.

<sup>3</sup> Thomas Carothers, “Prospects for U.S. Democracy Promotion Under Trump,” Carnegie Endowment for International Peace, January 5, 2017.

want to neglect democracy and human rights promotion. As Immanuel Kant would have appreciated long ago, democratic countries make better allies.<sup>4</sup> They also make better partners to deal with economic development, security, and human rights problems, especially those that cross borders, from refugee crises to environmental degradation.<sup>5</sup> The link between democracy, economic development, human rights, and security is especially evident in Asia, a region plagued with weak regional human rights, economic, and security regimes. As both the Australian and the South Korean ambassadors to the United States pointed out at a recent Asia Society event in Washington, D.C., because of its soft-power values related to democracy and human rights, the United States stands alone among the great powers of world history in its attractiveness.<sup>6</sup> At the start of a new U.S. administration, what will U.S. democracy and human rights policy in Asia look like? How much priority will it be given? And how is the region likely to respond?

It is not in the U.S. interest for liberal democracy to retreat from the region.<sup>7</sup> As authoritarianism or illiberal democracy has recently enjoyed some resurgence in Asia and across the world, there is a need for increased vigilance to guard democracy and better consolidate its core liberal components of human rights and the rule of law.<sup>8</sup> To be clear, the United States is not being encouraged to go to war to topple authoritarian or illiberal Asian regimes; rather, in many cases, local people have already demanded reforms, set out to build democracy, and are asking the United States to assist them. This approach offers the least costly path to both human rights and regional security.

Asia has been among the world's most rapidly democratizing regions over the past three decades. The region's established democracies, such as Japan, South Korea, Taiwan, Indonesia, and India, have generally been closely aligned with the United States. For emerging or fragile democracies, such as the Philippines, Myanmar, and Thailand, such alignment has tended to strengthen as democratization and associated human rights protections strengthen and weaken when they go the other way. Even relations with America's largest trading partner in the region, China, tend to be influenced in part by its human rights posture at home and by its treatment of distinct regional communities on its periphery, such as Xinjiang, Hong Kong, and Tibet.

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<sup>4</sup> Immanuel Kant, *Perpetual Peace and Other Essays*, trans. Ted Humphrey, Indianapolis, Ind.: Hackett Publishing Co., 1983, pp. 1724–1804.

<sup>5</sup> Carothers, 2017.

<sup>6</sup> Asia Society Policy Institute, "Asia's Recommendation for President-Elect Trump," Carnegie Endowment for International Peace, December 12, 2016.

<sup>7</sup> See Robin Niblett, "Liberalism in Retreat: The Demise of a Dream," *Foreign Affairs*, December 12, 2016.

<sup>8</sup> As distinguished from liberal democracy, authoritarianism lacks democratic electoral choice. Illiberal democracy generally incorporates electoral choice, but fails to include the liberal components of human rights and the rule of law necessary for democracy to function. Larry Diamond, Marc F. Plattner, and Christopher Walker, eds., *Authoritarianism Goes Global*, Baltimore, Md.: Johns Hopkins University Press, 2016.

For democracy to ultimately deliver the goods when it comes to the protection of human rights, the basic institutions of liberal constitutional governance need to be better understood in society at large and fully developed in the ongoing constitutional process. The basic institutions of liberal constitutional governance include democracy, human rights, and the rule of law. Institutions that target human rights abuses, such as national human rights commissions, topic-specific commissions, and corruption-fighting bodies, round out the constitutional framework. Under the heading of *indigenization*, I have argued that these institutions should be shaped to address the local condition with an eye to expanding the tools of local inclusion and accountability.<sup>9</sup>

Constitutionalists and supporting organizations across Asia need to better understand and popularize the dynamic processes that drive these institutions and bring constitutionalism to life. Bringing together expertise from across the region and around the world can aid such understanding. The ultimate objective should be to build sound local constitutional foundations that can better secure stable development and human rights. Illiberal or populist democracies that fail to develop such institutions are apt not only to fail to achieve human rights objectives, but also to discredit democracy itself. Outside efforts to address the constitutional crises that have prevailed in Asia may require a better architecture of constitutional support in the donor and support communities.

This paper addresses key issues impacting human rights policy in the context of democratic development in the Asian region, beginning with a brief overview of current U.S. policies to promote democracy and human rights. The subsequent sections offer highlights of several constitutional crises across the region that have raised serious human rights concerns, a summation of common constitutional challenges and related policy considerations respecting human rights in the Asian region, and final recommendations.

## U.S. Promotion of Democracy and Human Rights in Asia

U.S. efforts to promote human rights in Asia face enormous challenges. Such efforts usually come in two forms: human rights reporting and more-explicit human rights promotion activities.

The U.S. Department of State (DoS)'s annual reports on human rights in countries of the world have been among the main U.S. tools to publicize human rights violations.<sup>10</sup> These reports are supplemented by the DoS *International Religious Freedom Report*, the *Trafficking in Persons Report*, the *Report on Universal Periodic Review*, and *Advancing Freedom and Democracy Reports*, as well as other topic-specific reports, such as the Labor Department's

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<sup>9</sup> Michael C. Davis, "The Political Economy and Culture of Human Rights in East Asia," in Sarah Joseph and Adam McBeth, eds., *Research Handbook on International Human Rights*, Cheltenham, UK: Edward Elgar, 2010.

<sup>10</sup> DoS, "Human Rights Reports," undated(b).

*Findings on the Worst Forms of Child Labor*.<sup>11</sup> These reports address the areas covered in various international human rights treaties and play an indispensable role in addressing the most-egregious human rights violations. Critical areas of concern in Asia include electoral rights; freedom of expression; labor rights; discrimination; rights associated with communal conflict; and the human rights of children, women, and minorities. The high level of credibility of such reports has made them an indispensable part of U.S. foreign policy, both informing the world and guiding U.S. agencies abroad in the conduct of their work.<sup>12</sup> Such publicity is usually thought to be more effective than behind-the-scenes diplomatic entreaties and is characteristic of the United States' "name and shame" general framework for addressing foreign human rights abuses.<sup>13</sup>

Human rights reports, however, typically lack substantial policy recommendations. The level of crisis that prevails in emerging democracies in Asia often involves difficulties in finalizing or implementing constitutional fundamentals. Institutions may lack the degree of independence needed to function effectively or may be plagued by corruption or inadequate funding. This may produce a condition of constitutional or political crisis. Authoritarian or even elected governments committed to expediency may simply disregard constitutional requirements. The long-term costs of such expediency are often poorly understood but generally include poor governance. Communal conflicts may add to the difficulties of constitutional implementation, raising important questions of inclusion or exclusion from the national political process. Communal conflicts may be accompanied by intimidation or abuse of political opponents and their supporters. The abuses of the military or security forces have been a common problem in the region. Several countries have witnessed the rise of abusive regimes aiming to restore order. These developments generally give rise to some degree of constitutional crisis.

A number of U.S. government and privately funded organizations address constitutional development and human rights issues. As revealed in a recent series of interviews, some agencies address these issues more comprehensively than do others.<sup>14</sup> The U.S. Agency for International Development (USAID) is the main U.S. government agency promoting democracy and human rights in the developmental context. USAID has a very broad mandate to promote "political freedom as an integral part of development."<sup>15</sup> It engages a robust set of activities to promote good governance in developing countries, with special attention to democracy and human

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<sup>11</sup> DoS, "International Religious Freedom," undated(c); DoS, *2017 Trafficking in Persons Report*, June 2017; DoS, "Universal Periodic Review," undated(d); DoS, "Advancing Freedom and Democracy," undated(a).

<sup>12</sup> A run-through of the long list of violations in these reports is beyond the scope of the current human rights policy analysis.

<sup>13</sup> See Katrin Kinzelbach, *The EU's Human Rights Dialogue with China: Quiet Diplomacy and its Limits*, New York: Routledge, 2015.

<sup>14</sup> The interview transcripts are with the author.

<sup>15</sup> See DoS, *Enduring Leadership in a Dynamic World*, Quadrennial Diplomacy and Development Review, 2015b.

rights.<sup>16</sup> Its funded activities are taken up by many international and local nongovernmental organizations (NGOs). Such aid usually requires that the targeted country be a developing and not a developed country. USAID's biggest limitation with respect to human rights may be its status as a formal U.S. government entity bound to conduct only activities approved by host governments, which can sometimes be a severe limitation with respect to contentious human rights issues.

There are several quasi-independent organizations with substantial funding from the U.S. Congress that focus specifically on democracy promotion, including those funded through the National Endowment for Democracy (NED). These include the National Democratic Institute (NDI) and the International Republican Institute (IRI), whose funding models especially emphasize civil society and the electoral process. These organizations may have fewer resources earmarked for promoting constitutionalism on a broad scale, much less for addressing the constitutional crises plaguing the region. The need for acceptance by host governments may sometimes mean welcome decreases as the crisis increases. The International Forum for Democratic Studies (hereafter, the International Forum) within the NED is somewhat exceptional in that much of its work focuses directly on issues related to constitutional development. The International Forum's approach of engaging scholars across the world has provided a valuable venue for addressing stickier sorts of constitutional issues, although its small size may limit its outreach capacity. NED activities on the ground are funded through NGOs or NED's partner organizations, NDI and IRI.

Any analysis of U.S. human rights policy must include U.S.-based private organizations as a form of public diplomacy. These organizations often represent a parallel U.S. voice that may have greater access. Such organizations may, in some cases, be funded to carry out official policy through USAID or NED contracts, although they may eschew such funding and rely on private donations. The most prominent ones include the Open Society Foundation (OSF) and Human Rights Watch (HRW). OSF and HRW are generally free to address pressing human rights and open society issues with fewer funding restrictions, but also with less funding overall. Some privately funded entities may have a much narrower focus, although one very much related to constitutional change. The International Center for Non-violent Conflict (ICNC), for example, focuses on social movement strategies leading up to the constitutional development stage. Other privately funded U.S.-based NGOs may focus more narrowly on a specific category of rights—such as electoral, labor, gender, minority, or children's rights—leaving little room for addressing broader constitutional issues. In the face of growing constitutional crises in Asia, much more-sustained and more-focused work on constitutional development appears needed.

Beyond these organizations that focus specifically on human rights promotion are a number of U.S. government-funded organizations that publicize human rights-related information or are mindful of human rights concerns in carrying out their own policy objectives. Discussion of all

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<sup>16</sup> See USAID, *Democracy, Governance and Human Rights Strategy*, August 9, 2016.

laws and activities that factor in human rights concerns is beyond the current focus on democratic or quasidemocratic societies where a degree of open public debate is secured, although some mention is useful in illustrating the important role human rights play in U.S. foreign policy. Prominent among government-funded organizations to promote human rights, especially in closed societies, are Radio Free Asia (RFA) and Voice of America (VOA), both of which assist people in understanding human rights and governance issues. Again, with reference to closed or repressive regimes, diplomatic relations and military support may often be contingent on human rights performance. The U.S. Congress itself may step in directly to protest human rights violations in both closed and open societies. The hosting of dissidents from closed, repressive societies further elaborates U.S. values in this regard. This contributes to regional development that is more congruent with U.S. values and interests. The importance of consistency across the policy spectrum cannot be overemphasized.

## Select Constitutional and Human Rights Challenges in Asia

An analysis of three illustrative constitutional crises in the Philippines, Thailand, and Myanmar follows. We also discuss two examples of challenges grounded in regional autonomy regimes in Hong Kong and Tibet. It is important to emphasize that these cases are not atypical but are illustrative cases to get at the underlying causes and policy concerns behind human rights violations in the democracies or fragile democracies of the region. One could easily assess similar constitution-making or consolidation efforts in Nepal, the Maldives, Sri Lanka, Bangladesh, Cambodia, East Timor, or Indonesia, among other places. One could similarly look at autonomy arrangements in at least half of these countries. Until these issues are addressed, human rights violations will continue to plague the region.

### *The Philippines*

The Philippines is a fragile democracy that has long suffered from weak institutional commitments to guard basic human rights. The country has a reasonably well-articulated constitutional design and employs such supplemental institutions as a National Human Rights Commission, the National Commission on Indigenous Peoples, and various other institutions to monitor corruption and human rights, as well as autonomy arrangements to address the concerns of national ethnic minorities.<sup>17</sup> This work is also supported by a very active civil society with human rights NGOs active across many areas of popular concern. Yet the country endures an almost continuous constitutional crisis due either to weak implementation or lack of resources.<sup>18</sup> These persistent problems mark the Philippines as a country where engagement and policy

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<sup>17</sup> *Constitution of the Philippines*, Chan Robles Virtual Law Library, 1987; Leonard Davis, *Revolutionary Struggle in the Philippines*, New York: St. Martin's Press, 1989.

<sup>18</sup> Larry Garber, "What Became of the People Power Revolution? Observations and Impressions of Philippines Elections 1986 and Now," *NDI Democracy Blog*, May 31, 2016.

support with government and civil-society actors over constitutional fundamentals may be the most impactful avenue to addressing human rights problems.<sup>19</sup>

Prominent human rights problems in the Philippines have included high rates of extrajudicial killings, disappearances, political prisoners, a weak criminal defense system, weak prosecutorial institutions, trafficking, child prostitution, poverty, and impunity.<sup>20</sup> A particularly vexing problem has been the government's long-standing failure to resolve insurgencies by the Muslim minority, although autonomy arrangements have been attempted on several occasions. The weak constitutional commitments associated with these various human rights problems have contributed to governance problems that impact the country's socioeconomic conditions, which include high levels of poverty and related drug and other crime problems. Appointments to the Supreme Court, which is charged with the critical power of constitutional judicial review, have long been the target of political manipulation.<sup>21</sup>

The election in 2016 of President Rodrigo Duterte, who has advocated a form of vigilante justice for drug dealers, is no doubt a product of these failings. Efforts to consolidate democracy and build a sound constitutional system will depend on greater resources but also on greater education in constitutional fundamentals. President Duterte has been noted, among other things, for his attacks on the National Human Rights Commission, which has questioned some of his human rights abuses.<sup>22</sup> His attacks on his political enemies have also raised alarm.<sup>23</sup> A democracy with a weak commitment to constitutional fundamentals may tend toward a form of populism that favors expediency over human rights. This is most evident in the recent populist tilt toward vigilante justice now on display across the country. International support for institution-building may achieve more results than merely reporting violations. Given the level of abuse and impunity in the Philippine military, there is also a need for serious reflection on the appropriateness of continued U.S. military aid.

This is not the time to write the Philippines off. From observation of the political struggles that Duterte's extreme policies have stirred up in the Philippine legislative bodies, in the National Human Rights Commission, and in sectors of civil society, it should be assumed that there are organizations and people in the Philippines who take human rights seriously. Even the Philippine military, frequently the target of human rights criticism, may not be keen to see the country realigned with China and may be a target for some leverage on the human rights front.

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<sup>19</sup> See Laurence Chandy, Brina Seidel, and Christine Zhang, *Brooke Shearer Series: Aid Effectiveness in Fragile States: How Bad Is It and How Can It Improve?* Brookings Institution, No. 5, December 2016.

<sup>20</sup> DoS, *Philippines 2015 Human Rights Report*, 2015c; Human Rights Watch, "World Report 2015: Philippines," undated.

<sup>21</sup> Edsel Tupas and Ira Paulo Pozon, "Philippine Judicial Appointments and Constitutionality," *Jurist*, July 13, 2012.

<sup>22</sup> "Duterte on Versoza's Win: Filipinas, Beautiful; CHR, Ugly," ABS/CBN News, October 28, 2016; Marlon Ramos, "Duterte Threatens to Kill Rights Activists If Drug Problem Worsens," *Inquirer.net*, November 29, 2016.

<sup>23</sup> Miriam Desacada and Jaime Laude, "Espinoza Pleaded for His Life; CIDG Team Grounded," *Philippine Star*, November 7, 2016.

This is where diplomatic work and human rights intersect. The United States has many connections in the country and has long been an influence on the country's constitutional development. Many of the constitutional and human rights experts in the country are U.S.-trained. The challenge will be to target support where it is needed and engage on the critical issues raised by recent developments. Strong, long-standing academic links with the Philippines should afford opportunities for sharing and publicity on constitutional development issues.

## *Thailand*

Thailand is a constitutional monarchy where criticism of the king is forbidden under the principle of *lèse-majesté*. Ensuring protection of the dignity of the king without chilling free political expression has long been a challenge. After a 2014 bloodless military coup, the National Council for Peace and Order (NCPO), under the leadership of General Prayut Chan-o-cha, took power under an interim constitution.<sup>24</sup> The interim constitution and martial law decrees, backed by numerous arrests, have severely limited various free expression rights, including freedom of speech, assembly, the internet, the press, and academic freedom. The *lèse-majesté* law was among the more prominent tools of this crackdown.<sup>25</sup> The government has issued and the voters have now approved a new, more democratic constitution to take effect in 2017. While martial law decrees have been lifted, Article 44 of the interim constitution still grants the military sweeping powers to curb “acts deemed harmful to national peace and stability.”<sup>26</sup>

Thailand has experienced democracy, broken by the occasional coup d'état and periods of martial law, over several decades. Generally, the society evidences high levels of civic engagement and popular support for democracy. This, along with some foreign pressure, would explain why the junta felt it necessary to restore some semblance of democracy, as reflected in the new constitution. An urban-rural divide produces political conflict during periods of democratic rule. The new constitution will surely be tested by its institutional ability to mediate such conflicts and not just produce another episode of populist conflict followed by a coup d'état. Populist rule was evident in the election of both Prime Minister Thaksin Shinawatra and his sister Yingluck Shinawatra, who were both deposed.

Plagued with a weak constitutional tradition, the country has long endured human rights violations associated with police and military abuse, insurgency, curtailed political rights, poor prison conditions, human trafficking, and gender and ethnic discrimination. These failings appear to generally be attributable to weak institutional support for human rights enforcement, with courts and human rights commissions sometimes captured by the regime in power. The Supreme

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<sup>24</sup> *Constitution of the Kingdom of Thailand (Interim)*, Wikisource, 2014.

<sup>25</sup> *Constitution of the Kingdom of Thailand (Interim)*, 2014.

<sup>26</sup> DoS, *Thailand 2015 Human Rights Report*, 2015d.



Court has upheld *lèse-majesté* convictions to enforce tough internet restrictions.<sup>27</sup> The Constitutional Court, established in the 1997 constitution, has been accused of overreaching, including through validation of the military regime and obstruction of political development.<sup>28</sup> The National Human Rights Commission of Thailand is likewise viewed as generally ineffectual. A long-term Malay-Muslim insurgency in the southern provinces of Yala, Narathiwat, and Pattani has plagued the country, raising concerns about local autonomy. Refugees and asylum seekers have also been poorly protected, including in the poor treatment of Rohingya refugees who had fled by sea to Thailand and the return in July 2015 of 109 vulnerable Uighurs to China.

Thailand has substantial local constitutional expertise. Thai constitutional law scholar Khemthong Tonsakulrungruang worries that the new constitution approved for implementation in 2017 poses a threat by allowing restrictions on human rights as long as they comply with a vague notion of the rule of law, restrictions on speech that may lead to hatred or division in society, a version of academic freedom that must not run contrary to a citizen's duty or public morals, and by privileging Buddhism over other religions.<sup>29</sup> He notes that the National Human Rights Commission is upgraded but then designated as a tool of the regime to defend Thailand's human rights record against unfair criticism.

A prominent network of Thai academic legal experts, Khana Nitirat ("Law for the People"), has offered a comprehensive critique of the new constitution, highlighting a number of areas of human rights concerns.<sup>30</sup> Khana Nitirat especially worries that Article 265 of the new constitution maintains the extraordinary power vested in the NCPO and the junta leader under Article 44 of the interim constitution until the first cabinet is in place, which could take up to 15 months while organic laws on elections are drafted.<sup>31</sup> In addition, it appears that an unelected Senate will have extraordinary powers, as will the Constitutional Court. Under Article 269, members of the Senate may be appointed by members of the military, the police force, and the NCPO, allowing the junta's influence to extend deep into the new constitutional order. While constitutional judicial review is usually considered an important separation-of-powers component for a constitutional democracy, the extraordinary powers assigned to a constitutional court in the new constitution may undermine the purpose of such institutions and unnecessarily override democratic principles. It appears that most of these restrictions aim to maintain the prerogatives of the military. Khana Nitirat's experts worry that constitutional amendment is

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<sup>27</sup> DoS, 2015d; personal interview with a convicted director of an online news site, November 18, 2016.

<sup>28</sup> Eugénie Merieau, "Thailand's Deep State, Royal Power and the Constitutional Court (1997–2015)," *Journal of Contemporary Asia*, Vol. 46, No. 3, 2016, pp. 1–30.

<sup>29</sup> Khemthong Tonsakulrungruang, "Life Under Thailand's 2016 Constitution," *New Mandala*, February 5, 2016.

<sup>30</sup> "Declaration of the Khana Nitirat: The Draft Constitution and the Referendum," *Prachatai English*, October 6, 2016.

<sup>31</sup> "Declaration of the Khana Nitirat: The Draft Constitution and the Referendum," 2016.

made so challenging that it will be difficult to fix these problems, even after the political transition back to democratic rule is nominally completed.

The possibility of engaging Thailand on its constitutional reform may be substantially greater than is the case for the Philippines. Like the Philippines, Thailand has a long tradition of U.S. engagement and soft power connections through popular culture and U.S. higher education. That the current government seems more committed to restoring its reputation as a democracy may make it more subject to outside influence. Like the Philippines, Thailand has experienced some realignment to balance the United States against China, especially with regard to military procurement, but fully going in that direction may prove politically unpopular. At present, USAID is not active in Thailand, as it has long been considered a developed country. But, with a new constitution, other agencies of the U.S. government and funded NGOs should be able to engage on constitutional development issues. Funding indirectly through private NGOs and educational institutions to tap constitutional expertise may be the optimal path.

## *Myanmar*

Myanmar's 2008 constitution offers another example of a military regime's influence surviving substantially beyond a democratic transition and continuing to serve as a check on a new democratic order. The National League for Democracy (NLD), chaired by Aung San Suu Kyi, took power after a decisive win in the 2015 parliamentary election (winning 390 of 491 seats). The new government faces severe limitations under the 2008 constitution, including a military right of veto on any constitutional amendment initiatives. Myanmar has a parliamentary system where the parliament selects the president; one-quarter of national, regional, and state parliamentary seats are given to active military appointees; and the military has the authority to appoint the ministers of defense, home affairs, and border affairs.<sup>32</sup> The military is authorized to take over all branches of government should the president declare a national state of emergency. At the same time, a requirement of 75-percent parliamentary approval for constitutional amendment guarantees that the military can block any constitutional reform attempt to change this rule or other military-friendly provisions. With its guaranteed seats, the military imagined it would hold on to the powerful presidency, which it failed to do.

Under military rule, there were severe restrictions on freedoms of speech, association, and assembly. Long-standing struggles in ethnic minority areas and with respect to the Rohingya minority have been a source of severe human rights violations. This Rohingya problem and demands for federalism and local forms of autonomy will test the now-ruling NLD's democratic leadership going forward. With the military controlling the defense portfolio, it is not clear how much control the NLD government has over military policies respecting the Rohingya, but it is

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<sup>32</sup> DoS, *Burma 2015 Human Rights Report*, 2015a.

increasingly clear that this major human rights challenge is raising questions about the NLD's continuing commitment to human rights.<sup>33</sup>

The initial popularity of the NLD should open the possibility to settle at least some ethnic-minority concerns and address the severe human rights legacy of the past. Religious tensions between the Buddhist majority and the Muslim Rohingya minority seem more intractable, as elected politicians, including Aung San Suu Kyi herself, proceed cautiously in the face of the hostility of their political base toward the Rohingya.<sup>34</sup> Denied basic citizenship status, over 100,000 Rohingya remain in displacement camps. In addition to these major problems, the catalogue of human rights violations common to authoritarian conditions in Southeast Asia persist, including high rates of rape and sexual violence, human trafficking, forced labor, a history of police abuse, poor prison conditions, arbitrary arrest and detention, child soldiers, corruption, lack of academic and assembly freedoms, and land rights conflicts.<sup>35</sup> Part of this legacy is a judiciary that enforced the harsh practices of the past. The newly elected democratic leadership will aim to change many of these conditions.

The November 2015 elections appeared to go off without a hitch. In a country of 52 million people, over 30 million were declared eligible to vote by the Election Commission. Both foreign and domestic observers were allowed to monitor the polls.<sup>36</sup> The result favoring the NLD leadership was accepted. A constitutional limitation on presidents having a foreign spouse or children blocked Aung San Suu Kyi from taking up that office. After the election, Aung San Suu Kyi got very high marks for efforts at reconciliation with former military rulers, as well as with ethnic minorities—though the Rohingya situation remains neglected. In the government, she has taken up the role of “state counselor,” ostensibly senior even to the president.

The NLD faces enormous constitutional challenges for which outside expertise can be extremely helpful. The judiciary, under the thumb of military rule for decades, is heavily corrupted and lacks independence.<sup>37</sup> The constitution provides for a constitutional tribunal with limited jurisdiction over cases brought by officials, but that tribunal has remained largely dysfunctional, especially due to concurrent terms with the president.<sup>38</sup> The Myanmar National Human Rights Commission (MNHRC) has reported on police and military abuse, but political will needs to be marshaled to address these long-standing problems. After a recent crisis and

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<sup>33</sup> Emanuel Stoakes, “The Dark Depths of Myanmar’s Rohingya Tragedy,” *Diplomat*, December 6, 2016.

<sup>34</sup> DoS, 2015a.

<sup>35</sup> DoS, 2015a.

<sup>36</sup> Nehginpao Kipgen, “Decoding Myanmar’s 2015 Election,” *Asia Affairs*, Vol. 47, No. 2, 2016, pp. 215–233.

<sup>37</sup> John M. Epling, “How Far Have We Come and Where Do We Go from Here? A Culturally Sensitive Strategy for Judicial Independence in Myanmar,” *Duke Journal of Comparative and International Law*, Vol. 27, 2016, pp. 107–140.

<sup>38</sup> Epling, 2016, pp. 122–123; DoS, 2015a.

some resignations, the MNHRC remains in a state of dysfunction.<sup>39</sup> Protests over land rights have been a particular challenge in a predominantly rural society. A major challenge going forward will be to improve on a federal system that inadequately addresses the rights of ethnic national minorities who constitute an estimated 30 to 40 percent of the population and live in distinctive areas of the country. Genuine federalism has been a long-standing demand.

It is estimated that Myanmar may be particularly receptive to U.S. engagement. The military junta clearly set on a reform path to open its doors to U.S. and Western trade and development. Instead of tilting toward China, the last few years have seen the regime tilt away from China, although it will no doubt continue to play the China card in its relations with the West. Given that the military is not under the control of the elected government and is involved in aggressive campaigns of control, against both the Northern Alliance in minority areas and the Rohingya, where human rights violations are widely reported, the United States should continue its arms embargo.<sup>40</sup> With regard to the Rohingya, the United States should also support the Kofi Annan–led panel appointed by the NLD government to find a long-lasting solution.<sup>41</sup> The new NLD government is set to be especially receptive to U.S. influence. This is where academic and other exchange on constitutional issues can be particularly productive. The United States has substantial experience with federalism and good contacts throughout the region on other issues, such as the rule of law, where the United States can offer very positive influence on a receptive audience. The key will be to engage other experience in the region in comparative research on constitutional development issues. After years of suppression of civil society, there appears to be more activity in this regard. The United States should encourage the NLD government to fully engage such forces. This work targets some of the issues discussed in the next section on policy.

### *Autonomy: The Cases of Hong Kong and Tibet*

Countries in Asia with distinctive historical or ethnic national conditions often employ autonomy arrangements to address governance and human rights conditions for these communities. Such autonomy arrangements have been employed in countries as diverse as the Philippines, Indonesia, Myanmar, Thailand, Sri Lanka, India, Pakistan, Nepal, and China. Autonomy policies offering constitution-based governance and human rights guarantees have often suffered from underperformance or failure. In the worst cases, such failure may degrade into insurgency. A number of prolonged communal conflicts in Asia region with profound human rights implications have arisen, including the Tamil Eelam conflict in Sri Lanka, Jammu

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<sup>39</sup> Ye Mon, “Human Rights Commission Urges Action in Investigation of Kachin Teacher’s Murder,” *Myanmar Times*, July 27, 2016; Htoo Thant, “MP Tables Urgent Proposal for Action Against MNHRC,” *Myanmar Times*, September 23, 2016; “Myanmar National Human Rights Commissioners Resign in Maid Abuse Scandal,” Radio Free Asia, October 6, 2016.

<sup>40</sup> Nehginpao Kipgen, “When Continuity Makes Sense,” *The Pioneer*, January 4, 2017.

<sup>41</sup> Kipgen, 2017.

and Kashmir in India, Aceh in Indonesia, insurgency in southern Thailand, the Northern Alliance in Myanmar, and the Moro Liberation Movement in the Philippines, to name only a few examples. This means that any understanding of fundamental human rights challenges in Asia should be mindful of autonomy arrangements, which have both human rights and security implications. Due to space limitations, only two illustrative examples where specific autonomy regimes have been put in place—in Hong Kong and Tibet—will be briefly discussed here.

For Hong Kong, a promised “high degree of autonomy” under China’s “one country, two systems” model is grounded in Article 31 of the People’s Republic of China (PRC) Constitution, the 1984 Sino-British Joint Declaration (SBJD), and the Hong Kong Basic Law.<sup>42</sup> The SBJD stipulates the content of a liberal Basic Law. The Basic Law elaborates guarantees of universal suffrage, the rule of law, and an extensive catalogue of liberal human rights, including incorporation of the International Covenant on Civil and Political Rights (ICCPR). With such firm constitutional guarantees, the Hong Kong model should be the textbook example of autonomy. Unfortunately, implementation has often not lived up to such promise, with civil society in Hong Kong now locked in a decades-long struggle with the Beijing government over the practice of autonomy. The key points of contention, on display during the 2014 “umbrella movement,” relate to autonomy, the rule of law, and democracy.

The SBJD stipulates the content of a Basic Law for Hong Kong. For the most part, this was faithfully fulfilled, offering great promise at the handover in 1997. The Basic Law unfortunately proved to contain two fundamental flaws that Beijing has seized on to control Hong Kong.<sup>43</sup> The treaty and Basic Law promised that the Hong Kong courts would be independent and final, but this position was degraded by a provision in the Basic Law giving the National People’s Congress’s Standing Committee (NPCSC) the ultimate say over interpretation of the Basic Law. While the central government showed restraint in the early years after the handover, it has in the last couple of years stepped in to manipulate Hong Kong’s democratic development through Basic Law interpretation.

The second flaw relates to democratic development. While the Basic Law appeared to hold out the possibility that its promised “universal suffrage” would be implemented within the first decade after the handover, Beijing has continually dragged its feet on reform, using its interpretation power to redefine universal suffrage as a vetted election under which a Nominating Committee of Beijing-friendly politicians would decide who to present to the voters. After Beijing’s interpretation sparked the “umbrella movement” in 2014, these two flaws have combined to cause grave concern that Hong Kong’s “high degree of autonomy” is now in jeopardy, and, along with it, Hong Kong’s rule of law.

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<sup>42</sup> See Michael C. Davis, “The Basic Law, Universal Suffrage and the Rule of Law in Hong Kong,” *Hastings International and Comparative Law Review*, Vol. 38, No. 2, 2015, pp. 275–298.

<sup>43</sup> Davis, 2015.

It is difficult to have public confidence in the rule of law and associated human rights protections under an autonomy arrangement when the central government is free to interpret mutual obligations as it finds expedient. The local Hong Kong Chief Executive is still selected by a 1,200-member largely pro-Beijing Election Committee, leading to a Chief Executive largely beholden to Beijing who is poorly placed to defend Hong Kong's autonomy. Add to this a legislature also formed to favor Beijing and the challenges to defend Hong Kong's autonomy are apparent. This sort of top-down manipulation of power is a common feature leading to failure and lack of confidence in autonomy arrangements. For Hong Kong, the consequence of such interference in local affairs remains moderate, largely causing considerable anxiety about Hong Kong's future. Will that future see Hong Kong's total absorption into the mainland authoritarian system? For other autonomous communities across Asia, including Tibet, the consequences of failed autonomy arrangements can be quite severe. Even a central government is typically better served by an effective autonomy arrangement. With academic and press freedom still functioning, although diminished, there is considerable room for engagement on constitutional development under Basic Law principles, both through agencies such as the NED and the International Forum and, on some occasions, by DoS and Congress. The most constructive path would be enhancing academic exchange on constitutional development issues.

Tibet offers an extreme case of autonomy in name only. The promised autonomy for the Tibetan Autonomous Region and twelve adjacent lesser Tibetan autonomous areas has constitutional underpinnings in Article 4 and in Chapter III, Section 6 of the Constitution of the PRC. These constitutional provisions and a national statute providing for autonomy in national ethnic minority areas appear to guarantee autonomy. In practical terms, they achieve the opposite, leaving such autonomous areas with less autonomy than ordinary local areas.<sup>44</sup> While in principle, ordinary local governments in China can enact laws on their own, minority autonomous areas need approval for such lawmaking from the next-higher level of government. The further privileging of the Chinese Communist Party in Tibetan regions, always led by a communist party official from the central government, has meant that Tibetan self-rule is always under the thumb of the central leadership. With high levels of central-leadership distrust of the intentions and loyalty of Tibetans, this has generally meant iron-fisted rule, including high levels of military occupation, a sense of being second-class citizens in Tibetan areas, and severe human rights violations. This includes restraints on religious freedom and high levels of official interference in monasteries.

There are some legal avenues to repair this situation. In 2007, the PRC government voted for the United Nations (UN) Declaration on the Rights of Indigenous Peoples, which provides for self-rule and cultural and political autonomy for indigenous populations around the world.<sup>45</sup> Unfortunately, after supporting the UN Declaration, China soon proclaimed that there were no

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<sup>44</sup> See Michael C. Davis, "Tibet and China's National Minority Policies," *Orbis*, Vol. 56, No. 3, 2012, pp. 429–446.

<sup>45</sup> UN, *United Nations Declaration on the Rights of Indigenous Peoples*, March 2008 (hereafter, "UN Declaration").

indigenous people in China, dismissing the UN Declaration's application to the Tibetan people and other indigenous populations.<sup>46</sup> In 2008, during popular Tibetan protests before the approaching Beijing Olympics, Chinese leaders in meetings with Tibetan exile leaders asked them to prepare a memorandum explaining how Tibetan demands could be carried out under the PRC Constitution. The memorandum outlining their vision for genuine autonomy under the PRC Constitution was subsequently ridiculed and dismissed by Chinese officials.<sup>47</sup>

The UN Declaration and the Tibetan Memorandum offer a roadmap for policy reform in this area. While China has not been very receptive to outside criticism respecting its policies in Tibet, it is evident from the PRC's frequent vociferous response to foreign meetings with the Dalai Lama that this is a sensitive issue that endlessly concerns PRC leadership. This concern offers some room for leverage, at least to a level that alerts the PRC government that the world is watching. The PRC frequently tends to use a policy of leveraging trade with countries based on their willingness to avoid engagement on the Tibet issue, which is most evident in respect to meetings between foreign leaders and the Dalai Lama. If this sort of pressure is to be reduced, it seems evident that countries should unite in rejecting the PRC pressure. At least larger entities such as the European Union should aim to generate a common policy in which the United States should join. Such a policy could be built around the Tibetan Memorandum and the UN Declaration. Problems of this nature across the region might in the long term be better addressed through international engagement to create effective and enforceable autonomy arrangements.

## Constitutional Challenges and Policy Prescriptions for the Asian Region

Authoritarian governments in Asia have long presented those committed to democracy, good governance, and human rights with a unique set of challenges. Western human rights values were said to be inappropriate for Asian soil. The early East Asian rapidly developing authoritarian regimes became role models for later developers. A soft authoritarian system with export-led growth was thought superior to the more chaotic and confrontational practices of modern Western democracies. For the early developers, these arguments soon unraveled in the face of popular demands for democratic reform, good governance, and human rights. Authoritarianism was its own gravedigger, no longer able to provide the stability and order required by modern, rapidly developing, complex societies. However, these approaches soon found new soil across the region, as authoritarian leaders resisted calls for reform or sought to set aside democracy—considered too unruly—as was the case in the examples discussed previously. In South and Southeast Asia, the debate over development and good governance presented new challenges

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<sup>46</sup> “China Concerned with Protection of Indigenous Peoples’ Rights,” Embassy of the People’s Republic of China in Switzerland, April 1, 1997.

<sup>47</sup> “Memorandum on Genuine Autonomy for the Tibetan People,” Issued During the Eighth Sino-Tibetan Meeting, November 4, 2008 (hereafter, “Tibetan Memorandum”). See also “Summary of the Memorandum on Genuine Autonomy for the Tibetan People,” Dharamsala, India, November 16, 2008.

arising out of different ethnic and religious traditions. These conditions confronted constitutionalists and human rights promoters with communal conflicts, questions about the role of religion in modern governance, and issues of federalism and autonomy.

These questions have raised profound challenges across the region and in the illustrative cases discussed earlier. Popular protest movements to meet these challenges have often come to the task with a thin notion of their constitutional goals. There is a need to improve our understanding of the fundamentals of constitutional success in emerging democracies. A number of strategies and policy objectives to be nurtured in constitutional development efforts follow.

First, an early understanding and articulation of the broad constitutional design is important. With important exceptions, protestors in many popular democracy protests often agree on what they are against, but not on what they are for.<sup>48</sup> This may lead to political chaos in the aftermath of success at bringing down the regime or launching reform and may explain many of the constitutional crises that have ensued in Asia. In each of the illustrative examples discussed above, mass social movements preceded constitutional reform to establish democracy. The people power movement to bring down Marcos in the 1980s in the Philippines was among the earliest such movements, before the late-twentieth century wave of democratic reform. Similar civic activism has been evident in Myanmar and Thailand. It is important to understand and build consensus around constitutional fundamentals early in the process. Training and support, if offered to such activists by the United States or other democracies, should extend beyond nonviolent strategies to comparative understanding and articulation of constitutional design. It is important to understand the ways in which constitutionalism engenders an inclusive politics, including both constraint and empowerment.<sup>49</sup> Asian constitutionalists have emphasized constitutionalism's ability to renovate political culture and engender economic confidence.<sup>50</sup>

Second, U.S. policy and other international actors should provide assistance to activists and constitution drafters with an emphasis on putting in place core constitutional fundamentals. It is widely accepted that core constitutional elements include democracy, human rights, and the rule of law. Democracy embodies popular sovereignty and speaks to a basic social contract that government comes from the people. Human rights, including the democratic right to vote, though grounded in the historical notion of natural rights, have come to include a wider range of social and economic rights accepted in most societies. The rule of law, reflected in constitutional judicial review, makes the first two elements possible and provides an engine to drive constitutional politics, where legislatures speak and courts respond. To these three elements, I add the notion of indigenization as an alternative to the Asian-values cultural-relativist argument

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<sup>48</sup> Bruce Ackerman, *The Future of the Liberal Revolution*, New Haven, Conn.: Yale University Press, 1992.

<sup>49</sup> See Stephen Holmes, "Precommitment and the Paradox of Democracy," in Jon Elster and Rune Slagstad, eds., *Constitutionalism and Democracy*, 1988, pp. 195–226.

<sup>50</sup> Michael C. Davis, "The Political Economy and Culture of Human Rights in East Asia," *Jindal Journal of International Affairs*, 2011, pp. 48–72.



that would displace constitutionalism with some home-grown political order.<sup>51</sup> I argue that constitutionalism takes on indigenous characteristics in every society, and that is fine so long as it does not displace the constitutional fundamentals that foster open debate, human rights, and the rule of law. As Aung San Suu Kyi has put it, as long as the fundamentals are present, there is room “for local institutional embodiment.”<sup>52</sup> Finally, the “ism” in constitutionalism suggests a dynamic process that upholds core values and embodies interaction among the core institutional elements, producing a living constitution. This platform for action, as is evident in the illustrative examples, offers space for civil-society engagement. The overall aim is to engender popular trust in the constitutional processes of decision, both in society at large and among minority nationalities.

Third, U.S. policy should confront the arguments of authoritarian regimes. Governments facing constitutional reform movements generally resist reformist claims by arguing that they are inappropriate to local society and may endanger stability and order. While the currency of such arguments has fallen off dramatically in the face of successful democratization in several Asian countries, such arguments are still advanced by the remaining Asian authoritarian regimes led by China and may linger in illiberal democracies. The challenge for human rights activists and constitutional reformers is to show how constitutional institutions can better address cultural and religious concerns and create the conditions for sustained economic development.<sup>53</sup> Constitutional success is measured not by the lack of constitutional challenges, but by the ability to cope with them when they arise. Successful Asian cases in India, South Korea, and Taiwan have defied colonial or authoritarian naysayers and built popular consensus into their constitutional fabric. The actions of Gandhi are often invoked for his ability to incorporate nonviolent strategies along with core constitutional values. The more recent reform movements in South Korea and Taiwan have likewise served as role models in their capacity to surmount the constitutional challenges these two divided states face—even as we now watch South Korea carry out a constitutional impeachment process. What can countries struggling with constitutionalism—such as the Philippines, Thailand, and Myanmar—learn from these comparative examples?

Fourth, U.S. policy should focus on support for inclusive constitution-making and design. Constitution-making often follows a revolution or intense social movement, producing a rupture in the foundation institutions of a society. This engenders high levels of bargaining and coalition politics. Drafters face upstream constraints, or those imposed by the former parliament, military, or conflict settlement agreement, as well as downstream constraints, such as ratification or

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<sup>51</sup> Davis, 2011, p. 63.

<sup>52</sup> Aung San Suu Kyi, “Transcending the Clash of Cultures: Freedom, Development and Human Worth,” *Journal of Democracy*, Vol. 6, 1995, pp. 11, 13.

<sup>53</sup> Davis, 2011.

approval challenges.<sup>54</sup> Bargaining at this intense stage often goes beyond narrow interest to include ideas, passions, legitimacy, principles, and norms.<sup>55</sup> Interest in human rights principles and norms is at its highest. Some drafters reach agreement only on constitutional fundamentals, leaving the indigenization component to be addressed by constitutional amendments, as has been true of the Indian constitution, where over 100 amendments have been made since its enactment in 1950.<sup>56</sup> If reformers and their supporters arrive at a strong consensus over core constitutional objectives, their ability to lock in an appropriate constitutional design before self-interests overwhelm the process will be measurably greater. Failure to do so promptly, as has been evident in Nepal under Maoist influence, may make a final constitutional settlement difficult. It is generally vital to a constitution-making process that the dominant group show restraint, as was evident in India, Taiwan, and South Korea. Failure in this regard may help explain the frequent constitutional crises across the region.

Fifth, U.S. human rights policy in Asia should focus on securing basic human rights. This might include both the core political rights and the rule of law and a level of social and economic rights sufficient to enable popular inclusion and support. As the lack of human rights protection is generally driving the democracy movement, the structuring of human rights guarantees under the new constitutional order will be a core concern. Beyond the list of rights to be protected, constitutionalists need to consider the establishment of national human rights institutions. Such institutions can help keep human rights on the public agenda and play a vital monitoring role. This is especially vital where military abuse is a common feature, as is the case in such countries as the Philippines, Indonesia, Myanmar, Thailand, and Pakistan. More than a dozen human rights commissions exist across Asia, although their record of enforcement could be improved.<sup>57</sup>

The issue of religion and human rights has been especially prominent in countries with large Muslim, Buddhist, or Hindu populations. Religious views may challenge liberal secular human rights norms. Constitutionalists need to be attentive to potential sectarian divides very early in the reform process. The challenge is to satisfy religious sensitivities while sustaining liberal human rights commitments. India uses judicial application of personal laws to respect religious sensitivities, although deep-seated religious conflicts remain.<sup>58</sup> With respect to Muslim-dominant societies, Dawood Ahmed and Thomas Ginsberg have argued that constitutional “supremacy clauses” that either privilege Sharia law generally or specifically render laws that are repugnant

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<sup>54</sup> Davis, 2011.

<sup>55</sup> Jon Elster, “Forces and Mechanisms in the Constitution-Making Process,” *Duke Law Journal*, Vol. 45, 1995, pp. 364–395.

<sup>56</sup> *Constitution of India*, November 26, 1949.

<sup>57</sup> Carole J. Petersen, “Bridging the Gap? The Role of Regional and National Human Rights Institutions in the Asia Pacific,” *Asian-Pacific Law & Policy Journal*, Vol. 13, No. 1, 2011, pp. 174–209.

<sup>58</sup> Pretap Bhanu Mehta, “Hinduism and Self-Rule,” in Larry Diamond, Marc F. Plattner, and Philip J. Costopoulos, eds., *World Religions and Democracy*, Baltimore, Md.: Johns Hopkins University Press, 2005, pp. 56–69.

to Sharia law invalid may not be as hostile to secular human rights guarantees as is commonly felt.<sup>59</sup> These clauses are often accompanied with more human rights guarantees as a consequence of bargaining in the constitution-drafting process.

Sixth, U.S. human rights policy should focus on constitutional implementation through a judicial-driven emphasis on discourse and inclusion. Constitutional judicial review may be the most critical ingredient to securing constitutional protection of human rights. Nearly every democracy in Asia has adopted this institution to secure compliance with a written constitutional bill of rights.<sup>60</sup> Its absence is the mark of an authoritarian regime. While literature on democratization has long appreciated the importance of constitutional judicial review, it has sometimes been less attentive to the process involved and its contribution to the overall democratic discourse. The absence of such constitutional commitment would leave us with what Guillermo O'Donnell called a "Caesaristic plebiscitarian executive that once elected see[s] itself as empowered to govern the country as it deems fit."<sup>61</sup> Alexander Bickel appreciated long ago that, while justices of constitutional courts are typically not elected, they contribute enormously to constitutional dialogue between the judiciary and the elected branches of government.<sup>62</sup> Thomas Ginsberg compares conditions of low and high equilibrium: High equilibrium involves a balanced, careful approach to judicial review, encouraging compliance; low equilibrium envisions excessively activist courts risking noncompliance.<sup>63</sup>

In emerging democracies, this judicial mediation role will generally be critical to the survival of the constitutional system. The court becomes like an engine that mediates the constitutional debate and thereby contributes measurably to order and stability in the democratic process. Emerging democracies face the danger that a self-interested dominant political group may have little reason to accept judicial constraint as it seeks expedient objectives. Oddly, many dominant groups, such as the African National Congress and, in Asia, the 1947 Indian Congress Party, willingly did so. Locking in such institutions early, when ideals remain prominent, may explain this choice. Yet, without sufficient training and preparation, constitutionalists in an emerging democracy are unlikely to appreciate the gravity of this concern. The weak judiciaries in the three illustrative cases foregoing surely help explain some of the constitutional difficulties.

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<sup>59</sup> Dawood I. Ahmed and Thomas Ginsburg, "Constitutional Islamization and Human Rights: The Surprising Origin and Spread of Islamic Supremacy in Constitutions," *Virginia Journal of International Law*, Vol. 54, 2015, p. 615.

<sup>60</sup> Tom Ginsburg, *Judicial Review in New Democracies, Constitutional Courts in Asian Cases*, Cambridge, UK: Cambridge University Press, 2003; Albert Chen, "Pathways of Western Liberal Constitutional Development in Asia: A Comparative Study of Five Major Nations," *International Journal of Constitutional Law*, Vol. 8, No. 4, 2010, pp. 849–884.

<sup>61</sup> Guillermo O'Donnell, "Illusions About Consolidation," *Journal of Democracy*, Vol. 7, No. 2, April 1996, pp. 34, 44.

<sup>62</sup> Alexander Bickel, *The Least Dangerous Branch, The Supreme Court at the Bar of Politics*, 2nd ed., New Haven, Conn.: Yale University Press, 1986.

<sup>63</sup> Ginsberg, 2003, chapter 3.

Seventh, U.S. policy should support federalism and autonomy in multinational states. Constitutionalists in emerging democracies in Asia often face sectarian conflict with the associated difficulties of incorporating historically distinct regions into the constitutional fabric. The failure of human rights protection for ethnic national groups and associated insurgency has been a major challenge across the region and is the source of most wars. Persistent ethnic insurgency can derail efforts at constitutional development and empower sectarian interests, which may in turn rely on the military and repressive policies to sustain dominance. Thailand, as discussed above, has been nearly a textbook case of this, where urban-rural divisions saw the military riding to the rescue of the historically dominant urban elite and derailing democracy. A similar problem of ethnic conflict has at times derailed democracy and human rights protection in Myanmar, Indonesia, and the Philippines.

Alfred Stepan, Juan Linz, and Yogendra Yadav have offered the most-comprehensive analysis of this issue, using their concept of a state-nation to outline a formula originally embraced by India to respect ethnic differences while encouraging national identity.<sup>64</sup> Their comparative distinction between robustly multinational, non-territorial-based diversity and culturally homogeneous states bears close examination across Asia. Their emphasis on a system that respects multiple and complementary identities may make inclusion in a larger state less threatening. The nested set of policy and institutional choices they emphasize fits very well with the discursive liberal constitutional theory I have advanced here. They add to the spirit of this approach an argument for asymmetry, accepting that some regions of the country might have a different structural arrangement than others. The special status of Quebec in Canada is a good example of this in the West. An asymmetric federalism or federacy offers great potential to address indigenous concerns. The previous discussion of the Philippines, Thailand, Myanmar, Hong Kong, and Tibet serves to highlight some of the challenges such efforts face.

## Recommendations

The earlier analysis shows a number of areas where U.S. experience and the resources the United States has to assemble expertise and experience from around the world can be enormously valuable. Clearly, a thin constitutional approach to promoting human rights is very unlikely to achieve the sort of commitments that local policymakers and their foreign supporters favor. An approach that takes constitutionalism and human rights seriously is needed. A foreign policy initiative to assemble expertise and perhaps create a center for constitutional development as a global resource would be money well spent. This could be a unit in an existing institution, such as the NED, or it could be an initiative nurtured on a more private basis through university funding. Such efforts could include and develop the rich resource of constitutional scholarship in

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<sup>64</sup> Alfred Stepan, Juan Linz, and Yogendra Yadav, "The Rise of 'State-Nations,'" *Journal of Democracy*, Vol. 21, No. 3, 2010, pp. 50–68.

the Asian region, along with contributions by U.S. counterparts when needed. A justice or rule-of-law initiative with access to talented and experienced experts from the region and beyond could provide training and workshops for local actors.

If the new administration wants to distinguish itself in this foreign policy area, what is needed is a more coherent democracy promotion vision. As the birthplace of modern constitutionalism, the United States has long appreciated that democracy is more than elections and that human rights and the rule of law are essential ingredients. As many U.S. allies and friends in Asia face constitutional crises, this understanding has yet to be fully realized in U.S. Asia policy. Nearly every Asian country has committed to some version of constitutionalism. Success or failure in this regard has generally shaped human rights achievements and U.S. strategic alignments. A U.S. human rights policy that assists allies in doubling down on constitutional fundamentals in ways responsive to the indigenous contexts can best advance human rights, security, and economic development objectives in the region.

In nearly every Asian society, political science and legal academics exercise substantial and highly regarded influence in shaping the public debate. Bringing international constitutional expertise to the table in workshops and conferences at leading regional universities can contribute significantly to public awareness and political mobilization, challenging often unsound but expedient policy preferences. When combined with economic and security assistance, as is often already provided, such an approach can contribute to aid and governance effectiveness across the board. It can also serve to reinforce the efforts of local constitutional and human rights experts who have often been trained at leading universities, both at home and abroad. Funding support to assist the rule of law, human rights, and related institutions may substantially advance security and economic development in the region, along with human rights.

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## Chapter Nine. A Discussion on Macroeconomic Volatility in East Asia

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### Abstract

Since the rise of China's economic power, Asian countries' economies have strongly relied on trade and investment exchanges with China. The impact and influence of China's "Red Supply Chain" has already presented Asian countries with a difficult situation, a catch-22 where they are reliant on the Chinese supply chain but suffer from a falling position in the supply chain. On the other hand, since President Barack Obama took office in 2009, due to many economic, military, and political considerations, Asia has become a critical region in U.S. foreign policy. This can be clearly appreciated from the adjustment and announcement of U.S. foreign strategies and policies, such as the "return-to-Asia," the U.S. "pivot" to Asia, and the U.S. "rebalance" to Asia. This, therefore, has caused a competition between two great powers in this region, namely, the United States and China. This paper will first explain the macroeconomic situation of China, Taiwan, Hong Kong, Japan, and South Korea. Then, it will explore the impact of China's economic power to the Asia-Pacific and also the U.S. layout in this region. Finally, the paper will examine and discuss the convergence and divergence of U.S.-China competition in this region and conclude with some predictions of President Donald Trump's China and Asia policy.

### Macroeconomic Situation of East Asia

Per the definition of the International Monetary Fund (IMF), East Asia comprises six countries and economies: China,<sup>1</sup> Japan, South Korea, Taiwan, Hong Kong, and Mongolia. Since the gross domestic product (GDP) of Mongolia only occupies 0.06 percent, relatively low in this region, this paper will focus on the economic performance of only the other five countries and economies, including their GDP, inflation, and foreign direct investment (FDI).

According to data and statistics from the IMF, as of 2015, East Asia is the second-largest regional economy in the world, with a nominal GDP of \$17.5 trillion.<sup>2</sup> The IMF also forecasts that East Asia will become the largest economy after five years and that the GDP will be \$26.5 trillion, surpassing that of North America, predicted to be about \$26.1 trillion in 2021. East

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<sup>1</sup> China surpassed Japan in 2010 as the world's No. 2 economy.

<sup>2</sup> North America is the largest regional economy in the world, with a GDP of \$20.8 trillion, while Western Europe ranked third, with a GDP of \$16.1 trillion.

Asia's economy is characterized by a very high GDP per capita, a big trade surplus, and low unemployment and inflation rates, although it is an aging society with very low birth rates. Moreover, it is the main global manufacturing supply chain, with a very high savings rate and foreign reserves, particularly holding many U.S. government bonds. Although these countries and economies have some conflicts with one another—for instance, during World War II between China and Japan; the territorial disputes among China, Taiwan, and Japan on the Diaoyu (Senkaku) Islands; and the Taiwan issue—they all maintain strong cooperation on trade and economic issues.

The performance of these five economies can be viewed in Table 9.1. First of all, China's economy has grown quickly in the past few decades. Its real GDP average growth rate was 9.6 percent over the period 2000–2015, compared with 2.0 percent in the United States during the same period. China's GDP is about 15 percent in world GDP in 2015 compared with only 2 percent in 1995 in terms of U.S. dollars. But in terms of purchasing power parity (PPP), China's GDP share in the world was 17 percent more than the United States' (at 16 percent). After many years of high growth rates, China's leaders, who took office in 2012, made plans to slow down the economic growth rate due to concerns about excess reliance on low-end manufacturing and rising debt levels. They intend to reform their industrial structure, shifting the economy from heavily relying on investment to consumption, and from export to local demand. The GDP growth rate has slowed from 7.9 percent in 2012 to 6.9 percent in 2015, and the trend still goes down in an L-shape, as the Chinese government announced.

**Table 9.1. Macroeconomic Statistics of East Asian Countries and Economies in 2015**

	<b>China</b>	<b>Japan</b>	<b>South Korea</b>	<b>Taiwan</b>	<b>Hong Kong</b>
GDP per capita (\$)	8,141	32,479	27,222	22,263	42,295
Inflation rate (%)	1.4	0.8	0.7	-0.3	3.0
Unemployment rate (%)	4.1	3.4	3.6	3.8	3.3
Current account balance/GDP (%)	3.0	3.3	7.7	14.6	3.1
The secondary industry/GDP (%)	41.0	27.0	38.0	35.0	7.0
Gross national savings/GDP (%)	47.9	25.3	36.2	36.5	24.8
Foreign exchange reserves (\$ billions)	3,330	1,179	360	426	—
Birth rate (2010–2015)	1.6	1.3	1.2	1.2	1.0

SOURCE: IMF, IMD, United Nations, and the central banks of the listed countries.

NOTE: Birth rates are estimated by the United Nations.

Japan's economy was surpassed by China during the second quarter of 2010. It has gradually lost its competitiveness with China. Japanese companies made many advanced products, such as cars, ships, consumer electronics, textiles, steels, and petrochemicals during the 1950s and 1980s. However, they lost out in the information technology (IT) revolution due to a lack of innovation and a focus on copying older technologies. Therefore, they failed to catch on to the personal computing (PC) wave in the 1980s, the internet in the 1990s, and mobile equipment in 2008. Another big problem was the huge appreciation of Japanese yen (over 86 percent from 1985 to 1988) arising from the Plaza Accord. This hurt Japan's exports and attracted speculation

into its financial markets until the asset price bubble collapsed. The collapse made Japan fall into the “Lost 20 Years,” during which it lost dominance in Asia, despite the government using quantitative easing, lower taxes, infrastructure priming, and other tools to save the economy.

When Premier Shinzo Abe took office in 2012, he announced a new economic policy: the so-called “three arrows,” which included monetary, financial, and structural reforms. Although some economic data and figures have been improved and went up in a short time frame due to the depreciation of the yen, Japan is still struggling with deflation after the stimulus effect. Japan’s GDP grew by only 1.4 percent, 0 percent, and 0.5 percent in 2013, 2014, and 2015, respectively.

South Korea adopted different strategies from China and Japan during its economic growth period. While China reformed its industry structure from heavy to light industry and Japan invested heavily, but lost, in IT, South Korea developed a step-by-step industry structure reform, from labor-intensive light industry and capital-intensive heavy industry to IT and the communications industry. South Korea therefore became one of “the Asian Four Little Dragons” (the other three are Taiwan, Hong Kong, and Singapore) in the 1980s by enhancing manufacturing skills and using foreign investment from Japan and the United States. Subsequently, South Korea was a victim of the Asian financial crises of 1998 due to its overleveraged economy. With the help of the IMF and other international organizations, South Korea merged many small companies to form bigger ones, leading to an economic structure dominated by big enterprises, such as Samsung, LG, and Hyundai. These big companies have improved South Korea’s economy, especially in IC and IT industries, cars, ships, and consumer electronic products, but this also worsened equity indices.

Taiwan’s story is, to an extent, like South Korea’s. Both adopted similar economic policies during the Cold War period when they faced a big adversary: China and North Korea, respectively. But there are some differences between South Korea and Taiwan. The first one is their business structure: Korea is dominated by big firms, while Taiwan owns many small and medium enterprises (SMEs). In addition, Taiwan was not hurt by the 1998 Asian financial crisis, so it did not need to merge SMEs into big firms. The second difference is that North Korea is not as strong as China, so many countries could establish diplomatic relations with South Korea, and South Korea could join many important international organizations, such as the United Nations (UN), the IMF, and the World Bank. However, Taiwan cannot sign agreements like South Korea and could not join these critical organizations. The last difference is that Korean companies prefer to create their own brands and control the whole supply chain, but Taiwanese or Taiwan-based companies usually just join international companies’ supply chains for contract manufacturing. For instance, Samsung produces its own brand products, like the Note and Galaxy, but Taiwan’s Foxconn (Hon Hai) only makes iPhones for Apple.

Hong Kong was considered as the “pearl on the Crown of the Queen” before 1997. Its economy structure was closer to a “city economy,” and it owns more service sectors than South Korea and Taiwan. Hong Kong had returned to China as a Special Administrative Region after

1997; hence, its economy was more heavily reliant on China. Many Hong Kong manufacturing businesses have moved to Shenzhen and Guangdong, and Hong Kong has become a shopping, logistic, and financial center. However, Hong Kong still maintains its No. 1 IMD competitiveness ranking in 2016. The other East Asian country/economy rankings are Taiwan (14), China (25), Japan (26), and South Korea (29). Since Hong Kong takes advantage of a critical role entering into China, it attracts many foreign investments coming to set up financial, media, and other service centers that China blocks locally. Although Hong Kong obtained many benefits from China's economy and grew quickly, the result of heavy dependency on China is that China can exert great influence on Hong Kong at the same time.

## Macroeconomic Volatility Within the Region

After explaining the development of macroeconomic situations in East Asian countries and economies separately, this section will discuss the economic changes in East Asia in the past few years, including how countries cooperate or compete with one another. There are two factors contributing to volatility within the region from internal and external sides. The internal factor is that China's rapid economic growth brings many business opportunities and challenges to other economies in the region. The external factor is the global economic integration trend, which attracts these economies to sign economic agreements with other countries or economies or encourages them to join regional economic groups, such as the Trans-Pacific Partnership (TPP) or the Regional Comprehensive Economic Partnership (RCEP).<sup>3</sup>

The rise of China's economic power has presented East Asian countries and economies with a dilemma in recent decades. On the one hand, the Chinese government offered space and labor to companies and firms from Japan, South Korea, Taiwan, and Hong Kong. On the other hand, China also became a competitor to these countries and economies due to the serious impact of the "red supply chain," which applied import substitutions in China.

According to the National Bureau of Statistics of China, China has received FDI of \$1.64 trillion on 836,000 investment items from 1979 to 2015; 65.5 percent of the investment and 72.4 percent of the items are from East Asian countries and economies. The largest investor is Hong Kong, which plays the role of transferring investment to avoid legal constraints, with 51.6 percent of the investment and 47.9 percent of the items. The FDI from Japan is the third-largest, with 6.2 percent of the whole investment amount and 6.0 percent of items; South Korea is the sixth-largest, with 3.9 percent and 7.1 percent, respectively; and Taiwan is the seventh-largest, with 3.8 percent and 11.4 percent, respectively.

The same situation applies to trade as well. Table 9.2 shows the degree of foreign trade dependence (FTD)—the ratio of a country's import and export volume to its GDP—between East Asian countries and economies and the United States and China in 1996 and 2015. The

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<sup>3</sup> The TPP is a trade deal between 12 countries in the Pacific Rim, including the United States and Japan.

FTDs of Japan, South Korea, and Taiwan with the United States are larger than their FTDs with China in 1996. The largest, Taiwan's trade with the United States, was 16.0 percent of GDP, followed by Hong Kong's 14.2 percent, South Korea's 9.2 percent, and Japan's 4.1 percent. Their trade with China in 1996 was 1.3 percent, 51.2 percent, 3.3 percent, and 1.3 percent of GDP, respectively. After 20 years, the FTD of each country increased with China: The trade volume-to-GDP ratio of Japan was 6.5 percent, South Korea's was 16.5 percent, Taiwan's was 21.2 percent, and Hong Kong's was 163.6 percent, all larger than the ratios with the United States' 4.7 percent, 8.3 percent, 11.3 percent, and 23.1 percent, respectively.

**Table 9.2. Degree of Dependence on Foreign Trade: East Asian Countries with the United States and China**

East Asian Country	U.S.		China	
	1996	2015	1996	2015
Japan	4.1	4.7	1.3	6.5
South Korea	9.2	8.3	3.3	16.5
Taiwan	16.0	11.3	1.3	21.2
Hong Kong	14.2	23.1	51.2	163.6

SOURCE: Listed Customs Statistics, IMF, calculated by author.

NOTE: FTD is measured by the ratio of exports and imports to GDP.

China also offers a huge market for foreign companies and firms searching for much more business opportunities, even with the risk of China's economy cooling down. The IMF has estimated the impact of China's rebalance on 13 countries by measuring the effect of changes in China's consumption and investment patterns on these countries' GDP growth.<sup>4</sup> Of the East Asian countries, Taiwan is the most vulnerable, followed by South Korea, Japan, and Hong Kong. Taiwan's greater vulnerability is due to the lack of branded exports to China.

As China's economic power has rapidly grown in recent years, the Chinese government has become dissatisfied with only performing subcontractor work and has expressed its desire to become an import substitute to upstream countries like Japan, South Korea, and Taiwan. It also wants to boost its capabilities to manufacture value-added products in different ways, through the Chinese government's policy, via FDI, or by hiring skilled professionals.

According to the statistics and data from Chinese Customs, imports for subcontracting work decreased from 40.6 percent in 2006 to 26.6 percent in 2015. The import of panel products also decreased from \$18.3 billion in 2012 to \$13.0 billion in 2015. In the steel industry, the local manufacturing rates grew from 90.3 percent in 2001 to 98.7 percent in 2015, while imports from Japan, South Korea, and Taiwan decreased to 6.9 percent, 1.9 percent, and 3.3 percent, respectively, from 2008 to 2015. Similar patterns can be perceived in petrochemical and panel industries. China's imports of ethylene products from Japan, South Korea, and Taiwan went

<sup>4</sup> The partner countries are Japan, Korea, Taiwan, Hong Kong, Indonesia, Thailand, the Philippines, Singapore, Malaysia, Vietnam, India, Australia, and New Zealand.

down from 13.5 percent, 18.5 percent, and 14.7 percent in 2008 to 9.9 percent, 17.2 percent, and 10.9 percent in 2015, respectively.

Facing economic threats, whether from China's economy landing, import substitutions, or competition, some economies try to diversify their dependence on China in different ways. For instance, Japan and South Korea joined the TPP and the RCEP to expand their economic cooperation, but Taiwan's new government, which took office in May 2016, has proposed and suggested the "New Southbound Policy" to enhance its economic cooperation and trade relations with Pacific countries, including New Zealand and Australia. Although Hong Kong cannot expand its economic relations with other countries without China's approval, it wants to limit the number of tourists or immigrants from mainland China.

Not only do other countries and economies want to diversify their economic ties with China, but China tries to build connections widely with countries and economies outside East Asia. For example, China has already proposed the "One Belt One Road" (OBOR) strategy to expand its trade, investment, financial, and other economic relations with Southeast Asia, South Asia, Central Asia, Europe, and Africa. That will certainly help China to export its infrastructure products to these countries and put more pressure on Japan—which leads the Asian Development Bank (ADB)—to invest in construction projects in many Asian countries. China also pushes the RCEP to compete with the TPP, which was led by the United States (under the Obama administration) and Japan.

## The U.S. Role in the East Asian Economy

The role the United States played in East Asia can be divided into two periods from 1945 to 2015. The United States led East Asian countries to build a supply-chain union against the Communist group—the Soviet Union, China, North Korea, and Vietnam—during the Cold War period. At the same time, China experimented with building a socialist country, but the experiments did not work because of the Cultural Revolution. The U.S.–East Asian union collapsed after China's reform-and-open policy and the end of the Cold War. These countries had many conflicts with the United States on currency, trade, and some open-market issues. China therefore tried to coordinate and reconcile with the United States and learned from the experiences of other East Asian countries.

In the 35 years after World War II, the United States spurred economic growth in the region by transferring some industries to countries in East Asia through official development assistance projects, business investments, contract manufacturing, or trade opportunities. For both political and economic reasons, the United States wanted to help countries and economies in the region become wealthy and prevent them from being influenced by the Communist group. The U.S. businesses built low-cost factories, made low-price products in East Asian countries, and exported them to the American market. East Asia (except China) followed the "Flying Geese Model": Japan flew first, followed by South Korea, Taiwan, and Hong Kong (Singapore) and



built manufacturing supply chains that produced consumer goods for export. These countries received foreign investment, technology, and product orders from the United States. This investment could not only develop economies and maintain local political stability, but also could provide money for national defense equipment from the United States.

The period of 1978 to 1988 was critical for East Asian countries' economies. From the perspective of international politics, China practiced reform and proposed an open policy, and the United States suspended official diplomatic relations with Taiwan in 1978. China and the United Kingdom then reached an agreement to return Hong Kong to China on December 19, 1984. These events pushed Taiwan and Hong Kong away from the United States either directly or indirectly, and the East Asian anti-Communist alliance seemed to weaken. On economic issues, the Plaza Accord signed by the United States, United Kingdom, France, West Germany, and Japan in 1985 led the currencies of Japan, South Korea, and Taiwan to appreciate by 86 percent, 19 percent, and 39 percent, respectively, from 1985–1988.

Such rapid appreciation increased the cost of land and labor in these countries and economies; many domestic manufacturers therefore had to leave their home countries to invest in lower-cost places. This made some countries' industrial sectors empty, as in Taiwan. On the other hand, currency appreciation and flows of hot money into these places also caused economic bubbles. For example, Japan's stock market index rose 197 percent, from 13,083 points to 38,916 points during 1985–1989; Korea and Taiwan's indexes grew 457 percent and 1,059 percent at the same time. When hot money went away, the bubble collapsed. Japan's stock market declined sharply to 16,925 points in 1992, and the index went down 57 percent from its historically high level. Korea's and Taiwan's indexes fell 25 percent and 65 percent.

During this period, the United States seemed to oppose Japan, South Korea, Taiwan, and Hong Kong by asking East Asian countries to appreciate their currencies or put them into the "Special 301" watch list. At the same time, China's open-door policy and reforms were not as smooth as people imagine: many debates about the routes of capitalism or socialism occurred. The lack of protection of intellectual property rights, the practice of modern company-related laws, regulations, and transparency in the political system all caused China's economic reform to stumble. In the manufacturing sector, foreign companies used the "three plus one" model to build their production capacity.<sup>5</sup> This non-legal person–contracted manufacturing model developed China's industry in the period after 1978 and attracted some labor-intensive foreign investors until the 1989 Tiananman Square incident.

China started the second reform in 1992. The former premier, Zhu Rongji, proposed a series of new laws of business and taxation to fit the development of the modern economic structure. South Korea built official diplomatic relations with China in 1991, and Taiwan improved

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<sup>5</sup> Under this model, foreign companies and firms offered equipment, materials, and samples and were responsible for the final products' export. Chinese enterprises offered land, factories, and labor forces. Both sides cooperated through contracts due to the government's restraints on foreign legal persons.

relations with China by nonofficial contacts and exchanges since 1992. These internal and external factors meant more investment coming to China from neighboring economies.

Joining the World Trade Organization (WTO) presented another chance for China to cooperate with East Asian countries and economies and made China the most popular investment place for East Asian countries and for such countries as the United States. U.S. information technology firms, such as HP, Dell, and Compaq, asked their original equipment manufacturer (OEM) partner companies (most of them Taiwanese) to invest in China. These firms expanded their production capacity in the Yantzi River Delta and closed their home countries' factories, hoping to attract other suppliers. The supply chain moved to China and made China's high-tech manufacturing stronger.

The economic power of the United States and China coordinated after the global financial crisis in 2008. When the United States was involved in the financial crisis, China proposed a 4 trillion Chinese yuan investment project to improve its infrastructure, restructured the economy from relying on external trade, and the state-owned enterprises (SOEs) invested in local consumption. Moreover, China also explored its outbound investment, proposed and joined RCEP, asked for more voting rights in the IMF and the World Bank, and established the Asian Infrastructure Investment Bank (AIIB) based on the OBOR strategy. These efforts made China more attractive to foreign investors and governments. U.S. influence in the Asia-Pacific seemed to decrease as well.

## Future Possible Scenarios After Donald Trump's Victory

After the macroeconomic introduction, volatility analysis, and discussion of the United States' role in East Asia, we list four possible scenarios in Table 9.3 to understand possible conditions after Donald Trump becomes the U.S. president in 2017. In these cases, the United States could adopt two strategies: a "rebalance"—for example, what President Obama did in recent years with the TPP—or "isolation," to quit the TPP and tax Chinese export products a 45-percent tariff, as President-elect Trump suggested. China could use the strategy of "maintaining" the status quo, as it did to propose the RCEP and OBOR projects, or China can use "expansion" to propose more strategies on economic integration and cooperation with East Asia, such as the Free Trade Area of Asia Pacific (FTAAP).

**Table 9.3. Scenario Analysis for Future Macroeconomic Volatility in East Asia**

		United States	
		Rebalance	Isolation
China	Maintaining	<ul style="list-style-type: none"> <li>• Japan and Korea join the TPP and RCEP.</li> <li>• Taiwan wants to join the TPP.</li> </ul>	<ul style="list-style-type: none"> <li>• Japan and Korea join RCEP.</li> <li>• Taiwan will be economically marginalized.</li> </ul>
	Expansion	<ul style="list-style-type: none"> <li>• Japan and Korea join the TPP and RCEP; Taiwan wants to join the TPP.</li> <li>• China provides more business opportunities to neighboring economies.</li> <li>• The United States helps East Asian partners compete with China through innovation and ODA.</li> </ul>	<ul style="list-style-type: none"> <li>• Japan and Korea join RCEP; Taiwan will be economically marginalized.</li> <li>• China provides more business opportunities to attract neighbors to China's economic unions, such as AIIB or FTAAP.</li> </ul>

NOTE: ODA = official development assistance.

In Scenario 1, the United States and China adopt the strategy of “rebalance” and “maintaining” the status quo, respectively. When President Obama took office and rebalanced American power in Asia, the TPP was proposed to Asia-Pacific countries and economies under the leadership of the United States. To compete with American power and influence in the region, China also pushed the RCEP to isolate U.S. economic power. Some East Asian countries, like Japan and South Korea, want to join both economic and trade unions, although the TPP is their priority. For Taiwan, joining the TPP seems to be the unique choice due to its political opposition to the Chinese government.

In Scenario 2, after his victory, the president-elect of the United States has proposed his “America First” policy, in which he prefers to undertake bilateral negotiations and one-on-one tests of strength and guile. He has promised to retreat from the TPP, and this action will leave economic and trade partners in East Asia isolated because of a lack of economic ties to the United States. Japan and South Korea will not obtain any benefits from the TPP without the United States; they then can only join the RCEP to not be marginalized from Asia. Taiwan is unlikely to join the RCEP before accepting the 1992 Consensus proposed by the Chinese government due to the current political situation between it and China. Taiwan will become more economically and politically marginalized, especially if it is excluded from the RCEP or other economic organizations. If there are no new innovation ideas, Taiwan can only focus on its own IC and IT industries due to the limitations of the Information Technology Agreement (ITA) under the WTO; industries may leave for other countries for tariff reasons.

In Scenario 3, the United States and China can choose “rebalance” and “expansion.” This means that the United States and China will still push the TPP and the RCEP. China will release more policies and propose more incentives to attract neighboring countries to cooperate, such as opening its market, investing in neighboring countries, or sending more tourists to travel. In this case, East Asian countries and economies will still want to join both trade agreements but will be

closer to China. On the one hand, the economic power of the United States will be as strong as before, but it will have to take more action to attract East Asian countries and economies to join the American-led alliance. For example, the United States will help Japan compete with China to bid on infrastructure and construction projects in Southeast Asia and South Asia. On the other hand, East Asia's supply chain will connect these countries and economies, and the United States can only dominate a few global companies, like Nike, Apple, and nonbranded products such as infrastructure, steel, petrochemicals, and textiles. Chinese economic competition power will stand on a critical position in the supply chain.

Scenario 4 will be the most competitive for East Asian countries, allowing them to push the United States and pull China. The United States will make many policies for economic reasons and will likely have more conflicts with East Asian countries on trade and currency issues. Meanwhile, China can not only offer economic integration to East Asia, but also can present more opportunities to make business for its neighbors. That will attract neighboring countries like Japan and Korea to join the RCEP, AIIB, or FTAAP. This will bring East Asia closer to China, while Taiwan may refuse because of political and economic threats from China.

To evaluate future volatility in East Asia, one can use the participation in global value chains (PGVCs) to connect the scenarios listed in Table 9.3. In Table 9.4, the PGVC is measured by adding backward linkages (foreign value-added share of gross exports) and forward linkages (domestic value-added embodied in foreign exports as a share of gross exports). For example, China's PGVC is 47.8 percent as of 2011; backward linkages of 32.3 means that its export contains 32.3 percent from import value-added, and forward linkages of 15.6 means that 15.6 percent of its export is for a downstream country's intermediate goods. Compared with other East Asian countries and economies, China is much closer to the downstream supply chain and Japan is on the upper side due to the forward and backward linkages in 2011.

**Table 9.4. East Asia and U.S. Participation in Global Value Chains, 2011**

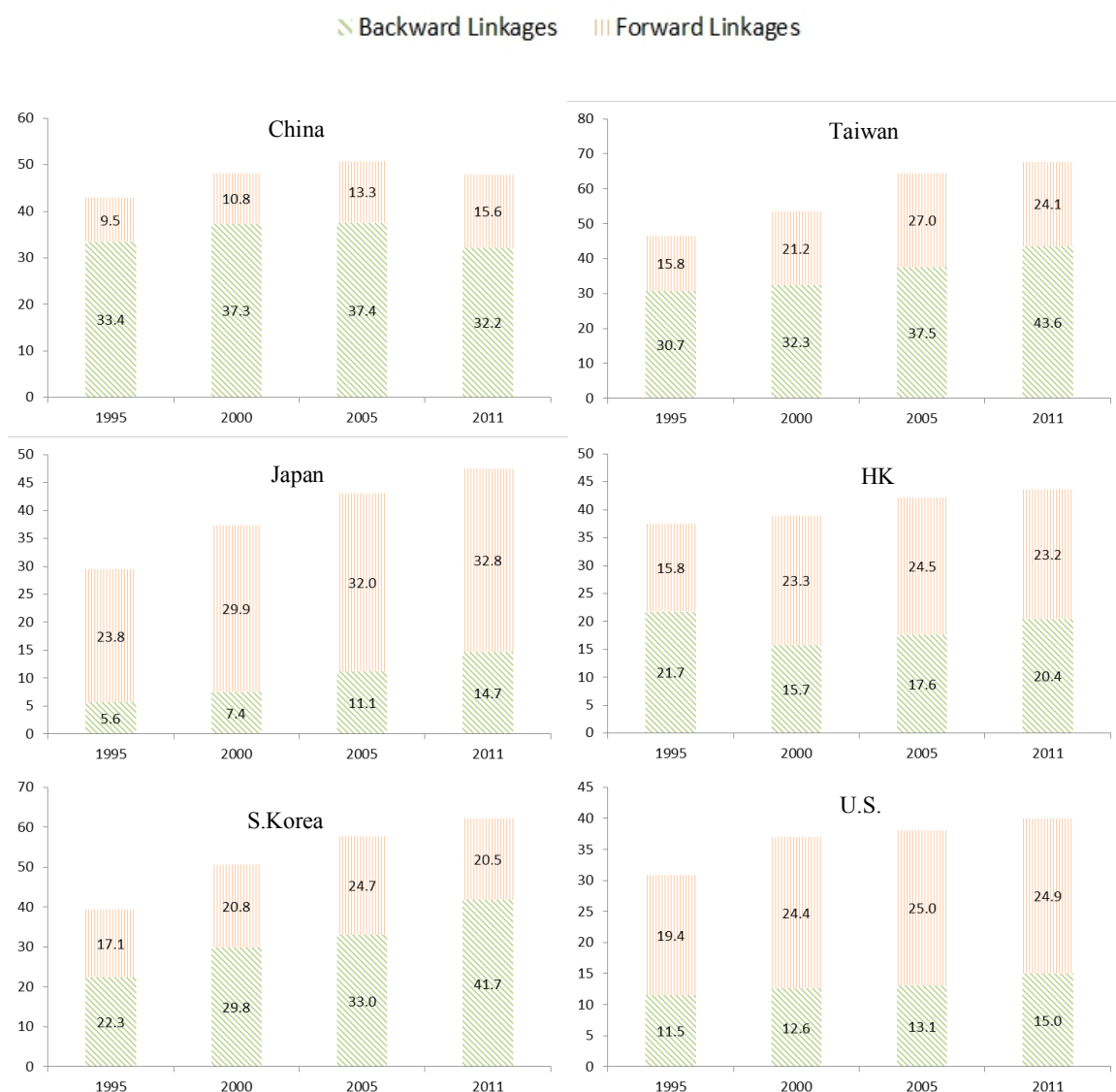
	<b>Backward Linkages (1)</b>	<b>Forward Linkages (2)</b>	<b>PGVC (1 + 2)</b>
China (%)	32.2	15.6	47.8
Japan (%)	14.7	32.8	47.5
South Korea (%)	41.7	20.5	62.2
Taiwan (%)	43.6	24.1	67.7
Hong Kong (%)	20.4	23.2	43.6
United States (%)	15.0	24.9	39.9

SOURCE: Organisation for Economic Cooperation and Development, "Trade in Value Added (TiVA)," database, October 2015.

Figure 9.1 shows the trend in East Asian and U.S. PGVCs from 1995 to 2011. The degrees of all countries and economies have risen. Korea, Taiwan, and Japan increased by 22.8 percent, 21.2 percent, and 18.1 percent between 1995 and 2011, compared with the United States at 9.1

percent, Hong Kong at 6.1 percent, and China at 4.9 percent. The forward linkages of Japan is the highest (9 percent), followed by Taiwan (8.3 percent), Hong Kong (7.4 percent), China (6.1 percent), the United States (5.5 percent), and South Korea (3.4 percent). This means that Japan exported more materials and equipment for next-stop manufacturing activities, and South Korea exported more final consumer goods than material or other intermediate goods.

**Figure 9.1. Trend of East Asia and U.S. Participation in Global Value Chains (1995–2011)**



SOURCE: Organisation for Economic Cooperation and Development, 2015.

NOTE: HK = Hong Kong.

On the backward linkages, the phenomenon seems different: Korea and Taiwan are the highest economies, with a 19.4-percent and 12.9-percent difference between 1995 and 2011,

respectively, and Japan ranked third by 9.1 percent. The United States only increased 3.6 percent, while Hong Kong and China both decreased, with 1.3 percent and 1.2 percent. The differences show that Korea, Taiwan, and Japan's exports greatly rely on materials and semi-finished goods from other countries and economies. The exports of Hong Kong and China do not rely much on other countries and economies. One will find that, if the United States makes different economic policies to rebalance in Asia or isolate itself, it will not be affected so deeply because its participation degree is less than that of any East Asian country. It is interesting to find that the forward linkages degree of the United States is 24.9 percent, which means that the United States exports many products to other countries. If the United States isolates itself and other countries fight back to break the global supply chain, the United States will face more challenges and damage its economy.

In East Asia, antiglobalization will hurt Taiwan and South Korea deeply because their participation degrees are the highest in East Asia. This means that any change in foreign trade will either benefit or hurt their economies deeply. China is the final product and assembly position, and while Japan occupies the top place, China will deliver the impact from the United States—the final market to other countries in the supply chain. The U.S.-led TPP is a tool to break the delivery channel from China, as such countries as Japan, Korea, and Taiwan can trade with the United States directly if they join the TPP. If the new president of the United States retreats from the TPP, East Asian countries and economies may join the RCEP due to their high participation degrees. This certainly will negatively affect the United States.

## Conclusions

Macroeconomic volatility in East Asia could be divided into two periods from 1945 to 2015. During the first 35 years, U.S. connections with Japan, South Korea, Taiwan, and Hong Kong were very deep and against China. The United States provided them with funds, technology, and management skills, and East Asian countries formed a supply chain to produce labor-intensive products to export. At that moment, China's economy had many domestic political problems and thus developed pretty slowly. During the second 35 years of the period, China opened to the outside world and practiced reforms to attract foreign trade and investments. The United States strengthened ties with China and weakened relations with Japan, South Korea, and Taiwan.

When China's economy grew and it became a competitor and consumer, Japan, South Korea, and Taiwan faced a new challenge. On one hand, relations with the United States were not as strong as before, and sometimes conflicts on trade or other economic issues arose. On the other hand, now that China is more powerful in political and economic areas, East Asia has to rely on China to maintain its economic momentum.

The United States made East Asian economic policy from considerations after World War II, like the example of Japan, South Korea, and Taiwan versus China during the Cold War. The United States also developed economic relations with China to get support in more recent years.

That situation may be reversed in the next four years due to Trump's policies, as he suggested that he would make diplomatic policy from economic or business considerations, especially on trade issues with East Asian countries or economies. If President-elect Trump realized his election commitments, such as making Japan and South Korea pay for defending themselves, or considering the "One China policy" a trade or currency issue, the evaluation of America's economic or business benefits would be the key point of U.S. Asia policy.

If the United States decides to maintain its presence in East Asia, it has to use market power to attract Asian countries to join the U.S.-led trade alliance through, for instance, using innovation capabilities to lead Japan, South Korea, Taiwan, and Hong Kong to build new supply chains or organizing economic alliances to compete with China's all-in-one factory. If the new President and his administration can make and propose policies on trade and investment, this will help East Asian countries reduce uncertainty, and they may come back to cooperate with the United States. Political and economic interests cannot be separated and have to be considered carefully and comprehensively. The political and economic security of East Asia is part of American global interests; therefore, it will be unwise for the United States to retreat from Asia and focus only on domestic politics. The new government perhaps can adjust its policies and design a new model to cooperate with East Asian countries; this certainly will bring benefits to the United States and create a win-win situation for all the countries in this region.

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## Chapter Ten. Concluding Remarks

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President Trump and his policymakers have reiterated that the United States remains committed to an active role in Asia. However, at the time of this conference, which took place in the early days of the Trump administration, the arenas of action were still being developed.

Conference participants agreed that the comprehensive nature of Obama's "Pivot to Asia," covering economic, climate change, human rights, and geopolitical issues, would change under the Trump administration, perhaps moving toward a more selective approach, both in the arenas of action (such as a greater emphasis on national security) and in the country focus (particularly China and Northeast Asia). Bilateral initiatives might become more important, with the Trump administration more likely to deal with issues that affect the United States on a country-by-country basis and less likely to focus on other aspects, such as the impact on world trade or regime type.

This suggests that America's engagement with Asia will continue, but it will be complex and bilateral. How will Asia respond? One question is whether countries will wait for American leadership on difficult issues, such as climate change or maritime security, or forge their own alliances. Another question is whether new leaders will emerge. Participants agreed that countries that have traditionally relied on American leadership, such as Japan, will take time to redefine their stances. Others that have traditionally been willing to be more independent, such as China and India, may emerge as natural leaders in some arenas of action, such as climate change. However, given the large and generally positive role that America has traditionally played in Asian security and development, uncertain times could lie ahead.

In conclusion, it remains to be seen whether engagement with Asia will be as wide-ranging under President Trump as it was under President Obama. During the Obama administration, engagement with Asia encompassed all countries in the region and covered security, trade and investment, climate change, human rights, and macroeconomic stability. There were signature initiatives that the Obama administration shaped, such as COP21 and the TPP. However, even before that, under both Democratic and Republican administrations, cooperation on these key issues was wide-ranging. Conference participants agreed that, under the regime of President Trump, significant changes were under way in several of these areas. While the dimensions of these changes are, in some cases, still emerging, Asia's dynamism, as well as the risks that a lack of collaboration might pose for the United States and Asia, argue for a continued U.S. leadership role in the region.