

**ALLIANCE UNCERTAINTIES AND TERRITORIAL DISPUTES IN THE PACIFIC:
THE UNITED STATES' AMBIGUOUS SECURITY COMMITMENTS AND
IMPLICATIONS FOR JAPAN AND THE PHILIPPINES**

By

SISTOSO, Manuel Jeffrey Ordaniel

THESIS

Submitted to
KDI School of Public Policy and Management
in partial fulfillment of the requirements
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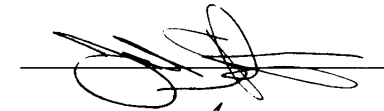
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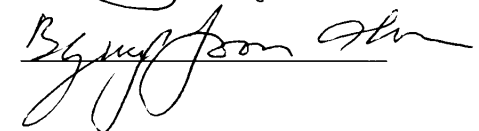
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ABSTRACT

ALLIANCE UNCERTAINTIES AND TERRITORIAL DISPUTES IN THE PACIFIC: THE UNITED STATES' AMBIGUOUS SECURITY COMMITMENTS AND IMPLICATIONS FOR JAPAN AND THE PHILIPPINES

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The September 2010 Pinnacle Islands incident and the April 2012 Scarborough Shoal standoff highlighted Japan and the Philippines' increasing doubts on the security that their respective alliances with the United States provide. It is necessary to identify how such uncertainties affected both countries' policies in response to their separate disputes with a more assertive China. This paper assumes that the uncertainties perceived by Japan and the Philippines on their respective alliances with the United States have two expected implications: 1) Significant military buildup and increased defense postures; and 2) Diplomatic and security alliance building in the region. Additionally, this paper is also interested in identifying how the two countries view multilateral security and legal institutions in relation to their dispute with China and their alliance uncertainties toward their common ally, the United States.

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To God Almighty for the gift of life and wisdom.

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CHAPTER I. INTRODUCTION

China is involved in various territorial and maritime disputes with its neighbors. Many of these disputes were largely set-aside¹ during most of the course of China's rapid economic development that started in the 1970s. The country's emergence as the world's second largest economy, its ever increasing need for more resources, particularly oil and gas, and its increased political clout in the international stage are all possible reasons why, at the turn of the 21st Century's first decade, Beijing turned to become more aggressive in its maritime and territorial claims in the East and South China Seas. These disputes are becoming increasingly critical international political matters primarily because the maritime boundaries involved are located in the world's fastest growing economic region with the potential of disrupting the still fragile global economic recovery. Moreover, the disputes involved areas that are not only rich in oil, gas and fishery resources², they are also among the world's busiest shipping lanes, raising stakes even higher.

Two of the countries that China has disputes with are United States treaty-allies, Japan and the Philippines. This is significant in a sense that it could potentially involve Washington while at the same time provide lessons for other US allies in East Asia (e.g. South Korea, Taiwan) in dealing with their own China-related security issues. It is to be noted that the Obama Administration has already altered its foreign policy approach in 2011 and called it a "pivot to Asia,"³ signaling increased presence in this part of the world.

¹ Ministry of Foreign Affairs, People's Republic of China, Set aside dispute and pursue joint development, 17 November 2000, accessed 2 May 2012, <http://www.fmprc.gov.cn/eng/ziliao/3602/3604/t18023.htm>.

² Emmers, Ralf, *Geopolitics and Maritime Territorial Disputes in East Asia*, London: Routledge 2010

³ Tom Donilo, *America is Back in the Pacific and will Uphold the Rules*, Financial Times, November 27, 2011.

The dispute between Japan and China involves maritime boundaries, as well as the sovereignty over the Pinnacle Islands⁴, known in Chinese as Diaoyu and in Japanese as Senkaku.

The dispute between China and the Philippines mainly involves maritime boundaries, islets, rocks, shoals and other territories in the South China Sea, particularly the Spratly Islands, which are also claimed as a whole or in part by Vietnam, Malaysia, Brunei and Taiwan⁵. This paper, however, focuses on the immediate policy implications of the 2012 events in the Scarborough Shoal (Huangyan Island in Chinese and Panatag Shoal in Filipino), claimed only by Beijing and Manila and does not belong to the Spratly Group of Islands.

The United States' position is officially neutral when matters of control and ultimate sovereignty over territories and maritime domains in the East and South China Seas are concerned⁶. The US has been vocal in expressing its desire for countries involved to resolve the matters peacefully through collaborative efforts considering international law, as well as for the maintenance of unimpeded lawful commerce and freedom of navigation⁷.

Japan and the Philippines are major non-NATO treaty allies of Washington. Both countries have expressed in the past their belief that the United States has an obligation to defend their forces if attacked in the territories or waters they dispute with China⁸. However, despite their treaties with the US, in matters of security, Washington is ambiguous. The ambiguity of American commitments to the security of its allies against possible Chinese assertiveness is

⁴ In order to adopt a neutral stance, this research used the international name of the islands instead of the more popular Chinese or Japanese names.

⁵ Saleem, Omar. *The Spratly Islands Dispute: China Defines the New Millennium*. American University International Law Review 15, no. 3 (2000): 536-542.

⁶ O'Rourke, Ronald. *Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress*. Washington D.C.. UNT Digital Library. <http://digital.library.unt.edu/ark:/67531/metadc122273/>. Accessed December 29, 2012.

⁷ Ibid.

⁸ Tokyo Shimbun (13 December 1996, Morning Edition, p. 2; Business World (Manila, 13 December 1996), both found in US Foreign Broadcast Information Service, Daily Report: East Asia (17 December 1996).

significant because it creates alliance uncertainties on the part of Japanese and Filipino leaders and policymakers. These alliance uncertainties could have wider implications in shaping Japanese and Philippine foreign policies, which in turn could significantly impact regional order and stability. This paper's goal is to identify these policy implications considering that Tokyo and Manila are facing similar circumstances against a powerful and rising Beijing. Moreover, it is noteworthy to examine the responses of these two countries given their varying economic development stage, military capabilities and international political standing.

1.1 Background

Japan and the Philippines, both sharing maritime boundaries with China, have over 5-decade long mutual defense treaties with the United States. Both countries are archipelagic in nature and the differences in their land areas and populations are not that significant. They also share the United States' ideals on freedom, human rights, democracy and free market.

But there are also stark differences between the two that should be taken into account in evaluating how they confront a common challenge. On the one hand, Japan is a developed Northeast Asian island country with an advanced economy, though barely growing. It has one of the most sophisticated and technologically equipped maritime forces in the East Asian region⁹. On the other hand, the Philippines is a developing Southeast Asian island nation with an emerging, newly industrialized economy. Despite starting to become one of the fastest growing major economies in the World¹⁰, it is arguably the weakest major non-NATO military ally of the United States¹¹. It is therefore important to identify how Washington's

⁹ Samuels, Richard J. *Securing Japan : Tokyo's grand strategy and the future of East Asia* / Richard J. Samuels. Cornell University Press, Ithaca : 2007 <<http://www.loc.gov/catdir/toc/ecip0713/2007010999.html>>

¹⁰ Ward, Karen. *The World in 2050: From Top 30 to the Top 100*. Rep. HSBC Research, 11 Jan. 2012. Web. 22 July 2012. <http://www.hsbc.com.mx/1/PA_esf-ca-app-content/content/home/empresas/archivos/world_2050.pdf>.

¹¹ De Castro, Renato C., and Walter Lohman. *Getting the Philippines Air Force Flying Again: The Role of the U.S.–Philippines Alliance*. Rep. The Heritage Foundation, 24 Sept. 2012. Web. 20 Oct. 2012.

position of neutrality on sovereignty issue, and ambiguity on security issue, play out in the two countries' respective foreign policies and defense strategies on their disputes as the tensions in the South and East China Seas continue to unfold.

1.2 Alliance Uncertainties and Policy Implications

The incidents involving the Pinnacle Islands since September 2010 and the Scarborough Shoal since April 2012 obviously demonstrate that the national interests of these two Pacific countries are facing a direct and apparent threat from China. What those incidents further highlighted, that this paper wanted to focus on, was Washington's ambiguous security commitments to its Pacific allies and how this ambiguity impacted Japanese and Philippine policies.

The alliance uncertainties brought about by the United States' ambiguous security stances should have pushed Japan and the Philippines to become more aggressive themselves in finding alternative ways of balancing China and safeguarding their interests moving forward. In theory, countries that feel threatened by a more powerful neighbor would usually resort to balancing through alliance building¹², as well as through military build up¹³ and increased defense postures. In that context, this paper asserts that, from 2010, the two policy implications of the Philippines and Japan's uncertainties over their respective alliances with the United States are: 1) Significant military buildup and increased defense postures; and 2) Diplomatic and security alliance building in the region. Moreover, it is interesting to identify how the two countries view multilateral security and legal institutions in relation to their separate disputes with China.

<<http://www.heritage.org/research/reports/2012/09/getting-the-philippines-air-force-flying-again-the-role-of-the-us-philippines-alliance>>.

¹² Kenneth N. Waltz, "Theory of International Relations" (Addison-Wesley Publishing, 1979): 118

¹³ Waltz, "Theory of International Relations," 168

This paper argues that those two common policy actions of Japan and the Philippines from 2010 were not only the results of an increasing Chinese assertiveness but also due to the United States' ambiguous security commitments. Moreover, Washington's seemingly lack of desire to confront China, in one way or another adds to the alliance uncertainties of Japan and the Philippines toward the Americans.

This paper contains five chapters. The first chapter is the introduction that provides a short background of the issues involved, as well as the goals and justifications for the relevance of the research. The second chapter discusses the Pinnacle Islands and Scarborough Shoal disputes, respectively by providing details on each country's claims. The third chapter discusses how the September 2010 Pinnacle Islands incident and the April 2012 Scarborough Shoal standoff underscored America's ambiguous security commitments to both Japan and the Philippines. Moreover, the third chapter also discusses the causes of alliance uncertainties on the part of Tokyo and Manila toward Washington. The fourth chapter contains the implications of the alliance uncertainties to the foreign and defense policies of Tokyo and Manila. The last chapter concludes this paper.

CHAPTER II. THE DISPUTES

The incidents involving the Pinnacle Islands since September 2010¹⁴ and the Scarborough Shoal since April 2012¹⁵ best describe the growing tensions in the East Asian Region over maritime and territorial conflicts. Those incidents highlight the United States' ambiguous security commitments and corresponding changes in the Philippine and Japanese foreign policies.

2.1 Pinnacle Islands and the Japan-China Dispute

There is a long standing distrust¹⁶ between the world's second and third largest economies and it has been most highlighted by their sovereignty dispute over a group of uninhabited islands known in Japan as Senkaku and in China as Diaoyu. This dispute is both territorial and maritime involving questions of international law on discovery, jurisdiction and occupation¹⁷ as well as political factors driven mainly by the Chinese-Japanese rivalry and the quest for control of resources and shipping lanes.

The Pinnacle Islands, currently controlled by Japan, are located in the East China Sea. The island group is composed of five uninhabited islands and three rocky formations with a combined surface area of only 6.3 square kilometers¹⁸. Its largest island known as Diaoyudao in Chinese and Uotsuri in Japanese has a surface area of 3.6 square kilometers or more than

¹⁴ Gupta, Sourabh. "China-Japan Trawler Incident: Reviewing the Dispute over Senkaku/Daiouyu Waters | East Asia Forum." *East Asia Forum*. N.p., 6 Dec. 2010. Web. 5 June 2012. <<http://www.eastasiaforum.org/2010/12/06/china-japan-trawler-incident-review-of-legalities-understandings-and-practices-in-disputed-senkakudaioyu-waters/>>.

¹⁵ Thayer, Carlyle A. "Standoff in the South China Sea." *Standoff In The South China Sea*. Yale Global Online, 12 June 2012. Web. 15 Aug. 2012. <<http://yaleglobal.yale.edu/content/standoff-south-china-sea>>.

¹⁶ Rozman, Gilbert. *Northeast Asia's stunted regionalism : bilateral distrust in the shadow of Globalization* / Gilbert Rozman Cambridge University Press, Cambridge [England] ; New York : 2004 <<http://www.loc.gov/catdir/toc/cam041/2003065354.html>>

¹⁷ The territorial (Pinnacle Islands) and maritime (borders and EEZ) disputes between China and Japan in the East China Sea have been studied and reviewed in various scholarly venues. Historical background and geographic facts can be found in: "Continental Shelf Issues in the Yellow Sea and the East China Sea." Occasional Paper, No. 15, Law of the Sea Institute, University of Rhode Island (1972); Choon-ho Park, *East Asia and the Law of the Sea* (National University Press, Seoul, 1983); and J Greenfield, *China's Practice in the Law of the Sea* (Clarendon Press, Oxford, 1992);

¹⁸ The equivalent would be 2.2 square miles or 1.4 acres

half of the entire island group. Their exact coordinates when pointed on a map extends from 25°40' to 26°00' north and 123°25' to 123°45' east¹⁹.

These basic geographic information form part of the Chinese and Taiwanese arguments. This research views the claims of both Beijing and Taipei as too similar. Both the People's Republic of China and the Republic of China/Taiwan agree that the Pinnacle islands are part of the Toucheng Town, Yilan County in Taiwan Island²⁰. The Chinese arguments are centered on four basic premises: discovery, history, geography and treaty²¹.

Beijing seems to be using its country's thousands of years of recorded history to assert its sovereignty claims over territories in both South and East China Seas. The Chinese claim on Pinnacle Islands dates back to the 15th century when it was first mentioned in a document that is now kept by Oxford's Bodleian Library in the United Kingdom²². China therefore asserts that since it discovered the islands in the 1400s, specifically 480 years earlier than the Japanese did and that it was the first to name them mean that they belong to China. Moreover, 17th century Chinese documents also specifically described the boundary that separates the Pinnacle Islands from the Ryukyu Kingdom, further cementing Beijing's historical argument. The boundary was termed as Heishuigou in Chinese or Black Water Trench, an area of high turbulence that corresponds to the dividing deep sea trench known currently as the Okinawa Trough.

¹⁹ Tao Cheng, "The Sino-Japanese Dispute Over the Tiao-yu-tai (Senkaku) Islands and the Law of Territorial Acquisition", Vol. 14 V.J.I.L. (1973), 221

²⁰ Daniel Dzurek, The Senkaku/Diaoyu Islands Dispute, <http://www-ibru.dur.ac.uk/resources/docs/senkaku.html>, accessed on July 15th, 2012

²¹ Ministry of Foreign Affairs of China. September 26, 2012. "Diaoyu Dao, an Inherent Territory of China." <http://www.fmprc.gov.cn/eng/zxxx/t973774.htm>

²² United Kingdom. Parliament. *Parliament.uk*. By Jon Lunn. N.p., 20 Nov. 2012. Web. 29 Dec. 2012. <<http://www.parliament.uk/briefing-papers/SN06475.pdf>>.

The Ryukyu Kingdom was listed in 17th century Japanese sources as a separate nation and was annexed by Japan only in the 19th century upon its extinction²³.

Moreover, Beijing is also pointing back to 1720, the year when the travelogue, *Zhongshan Chuanxin Lu* or translated in English as Record of the Mission to Chusan, was compiled by Chinese envoy named Xu Baoguang who also conferred a royal title to the king of the Ryukyu Kingdom at that time²⁴. The same Chinese envoy identified the deep sea trench as the boundary that separates China from the Ryukyu Kingdom. Beijing also mentioned the name of Hayashi Shihei, a Japanese geographer to strengthen its claim. Shihei drew a map in 1785 in which he used Chinese names for the Pinnacle Islands, and described them as Chinese territories.

Those are just a few of the many other “discovery” and historical bases, like ancient Chinese navigational records and maps that Beijing believes could withstand thorough academic scrutiny.

Furthermore, China also believes that its claim can withstand geographic and legal challenges.

The Pinnacle Islands are located nearest to the main island of Taiwan, which is roughly around 120 nautical miles²⁵. Given such proximity, Pinnacle islands are actually well within the Taiwanese continental shelf. The islands are both 200 nautical miles eastward from the Chinese mainland and southeast of Okinawa²⁶. Furthermore, the maximum depth of the seawater that separates the islands from both Taiwan and mainland China is only 200

²³ Kerr, George H. *Okinawa, the history of an island people* / by George H. Kerr. C. E. Tuttle Co., Rutland, Vt. : 1958

²⁴ Encyclopédie Moderne, 6 (1825) 549 (new ed., vol. 9, col. 120)

²⁵ Shaw, Han-yi. (1999). *The Diaoyutai/Senkaku Islands Dispute: Its History and Analysis of the Ownership Claims of the P.R.C., R.O.C., and Japan*. Baltimore, Maryland: University of Maryland School of Law. OCLC 608151745

²⁶ Ibid.

meters²⁷. By contrast, a deep sea trench separates the Pinnacle from Okinawa Islands with a depth of 2,270 meters²⁸, a fact that matches China's historical records.

Beijing also insists that the Pinnacle Islands have been under Chinese administration even before 1895, the year when the Japanese allegedly started to exercise effective control over the islands. Beijing wants to weaken Tokyo's argument, which concludes that prior to 1895, the territory was terra nullius or not owned or controlled by any state. For instance, the document called *Shi Liuqiu Lu* or the Record of the Imperial Envoy to Ryukyu written by a Ming Dynasty imperial ambassador, in 1534 mentioned that the Pinnacle Islands were not part of the Ryukyu Kingdom²⁹. Various Chinese records also mentioned that the islands were part of China's coastal defense system,³⁰ which could be interpreted in the present day as active control and occupation. Moreover, Beijing also insists that their fishermen had been using the Pinnacle islands and its surrounding waters devoid of any interruption until 1970³¹. From the Chinese perspective, the islands may be uninhabited but it does not mean unoccupied and therefore not "terra nullius" when the Japanese found them in 1895.

China also argued that its claim is grounded on international treaties. For instance, the 1943 Cairo Declaration and the 1945 Postdam Declaration, both accepted by Japan upon its surrender, mandated that Tokyo should return the territories China had ceded. China believes it should include the Pinnacle Islands. It is to be noted that Taiwan was ceded to Japan under the terms of the Shimonoseki Peace Treaty that formally ended the first Sino-Japanese War of

²⁷ The Times - Atlas of the world. London, John Bartholomew & Son 7th edition, 1985.

²⁸ Han-yi Shaw, "Its History and an analysis of the ownership Claims of The P.R.C., R.O.C. and Japan", No. 3 Occasional Papers 1999, 96

²⁹ Y. Zhong 'Lum diaoyudao zhuquan de guishu (On the Sovereignty of the Diaoyu Islands)' People's Daily(Beijing 18 Oc. 1996).

³⁰ U. Suganuma. Sovereign Rights and Territorial Space in Sino-Japanese Relations: Irredentism and the Diaoyu/Senkaku Islands (Association for Asian Studies and University of Hawaii Press, Honolulu, HI. 2000), pp. 61-68.

³¹ The Boston Action Committee to Defend Tiao-Yu-T'ai (the Diaoyu Islands) as Chinese Territory, Taio-Yu-T'ai Islands: A Legal Analysis, April 10, 1971, pp. 2-3.

1894-95. Since the Pinnacle Islands are part of Taiwan, the Chinese believes that it should be out of Japanese control as compliance to both the Cairo and Postdam Declarations.

Despite the seemingly strong historical evidences that China has been presenting to strengthen its claim, Japan is not backing off and is also forming its own logic to support the current status quo, which puts the Pinnacle Islands under Tokyo's sovereignty. The islands are currently under Ishigaki, a city of the Okinawa Prefecture. The Japanese claim centers on three simplistic arguments. They are discovery and occupation, active control, and treaty³².

Japan insists that its fisherman, Tatsushiro Koga, discovered the Pinnacle Islands in 1884 and that they were *terra nullius* at that time³³. The following year, the Japanese Government allegedly conducted field surveys in the area to confirm any trace of control or ownership by other state. They found no trace of Chinese control and 10 years later decided to establish a marker signaling its official incorporation to the Japanese territory³⁴.

The decision to put a marker on January 14, 1895 started the official effective occupation of Japan over Pinnacle Islands and that continued until 1951 when effective administration was transferred to the United States as compliance to the San Francisco Peace Treaty signed by Tokyo and the Allied Powers. Japan's position also stressed that sovereignty over the Pinnacle Islands were not renounced by agreeing to that treaty. Furthermore, the Okinawa Reversion Treaty returned back to Japan the administration of the islands from the United States.

³² Lee, Seokwoo. 2002. Territorial disputes among Japan, China and Taiwan concerning the Senkaku islands. *Boundary and territory briefing* 3 (7): 1-8.

³³ Japanese Ministry of Foreign Affairs, "The Basic View on the Sovereignty over the Senkaku Islands." The full text can be found at www.mofa.go.jp/region/asia-paci/senkaku/senkaku.html

³⁴ Y. Matsui. 'Legal Bases and Analysis of Japan's Claims to the Senkaku Islands' in K.H.C. Chiu (ed.) *International Law Conference on Dispute over Diaoyu/Senkaku Islands* (Taiwan Law Society and Taiwan Institute of International Law, Taipei 1997), pp. 32-45.

Japan is also pointing out China's failure to express any objection against US control of the islands as stipulated in the Article 3 of the San Francisco Peace Treaty. Tokyo insists that the decision of both Beijing and Taipei not to object during the entire duration of US administration over the islands indicated that China did not actually consider the Pinnacle Islands as part of Taiwan³⁵.

Although the United Nations Convention on the Laws of the Seas provides mechanisms by which a maritime dispute can be tried and decided, it does not cover sovereignty issue over islands or land masses in the world's oceans and seas³⁶. The historical rivalry between China and Japan was highlighted as the level of nationalism in both countries significantly increased every time their diplomatic row over the Pinnacle Islands erupts³⁷. Beijing and Tokyo must have felt growing domestic pressures to stand firm on their respective claims.

September 2010 Incident

The tension in 2010 started when Zhan Qixiong, captain of the Chinese fishing trawler Minjinyu 5179 collided his vessel against Japan's coastguard ships in the waters surrounding Pinnacle Islands on the morning of September 7th of that year³⁸. For the Chinese, the fishing vessel was legally operating in the waters that belong to China. For the Japanese, the trawler intentionally rammed itself into Japanese law enforcement vessels in an area that is under Tokyo's sovereignty and therefore the captain had to be arrested and prosecuted. Diplomatic row instantaneously erupted, as Beijing demanded the immediate release of Zhan Qixiong and his fishing trawler. Tokyo initially held firm on its position that the issue is not a matter

³⁵ Japanese Ministry of Foreign Affairs, "The Basic View on the Sovereignty over the Senkaku Islands." The full text can be found at www.mofa.go.jp/region/asia-paci/senkaku/senkaku.html

³⁶ "United Nations Convention on the Law of the Sea." UN News Center. UN, n.d. Web. 20 Jan. 2013. <http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm>.

³⁷ Smith, Sheila. "Japan, China, and the Tide of Nationalism." Council on Foreign Relations. N.p., 19 Sept. 2012. Web. 19 Nov. 2012. <<http://www.cfr.org/asia/japan-china-tide-nationalism/p29080>>.

³⁸ Hagström Linus, (2012) 'Power Shift' in East Asia? A Critical Reappraisal of Narratives on the Diaoyu/Senkaku Islands Incident in 2010, The Chinese Journal of International Politics 2012 5: 267-297.

of territorial dispute³⁹ and that the captain involved was arrested and being prosecuted for violating Japanese law only to release him a few days later.

The tension resulted to other succeeding events that cornered the United States. The US position was neutral on which country has the ultimate sovereignty over Pinnacle Islands⁴⁰ and yet Washington has stated that it will stand by its security treaty with Tokyo⁴¹. It is however unclear if the United States can risk a confrontation with China over Pinnacle Islands when it does not even have a position on which country has the rightful sovereignty over them.

2.2 Scarborough Shoal and Philippines-China Dispute

The dispute between the Philippines and the People's Republic of China involve various territories in the South China Sea. The Scarborough Shoal however is standing out because the dispute is bilateral in nature and that the standoff between a Philippine naval ship and China's Marine Surveillance vessels in April 2012 highlighted Beijing's increased aggressiveness in asserting its sovereignty over the islands, shoals, rocks and waters within its 9-dash line map that basically claims the entire South China Sea⁴². It is to be noted that the Philippines have conducted similar arrests of Chinese fishermen in the past, in waters that are within the country's 200 nautical mile-exclusive economic zones⁴³ and it was only in April 2012 that China resorted to actively blocking an arrest resulting to a standoff.

³⁹ Kubota, Yoko, and Chris Buckley. "Japan Refuses China Demand for Apology in Boat Row." Reuters. N.p., 25 Sept. 2010. Web. 20 Sept. 2012. <<http://uk.reuters.com/article/2010/09/25/uk-japan-china-idUKTRE68N09H20100925>>.

⁴⁰ "Japan/China." Daily Press Briefing. Proc. of Daily Press Briefing, Washington DC. US Department of State, 29 Oct. 2010. Web. 11 July 2012. <<http://www.state.gov/r/pa/prs/ps/2010/09/147836.htm>>.

⁴¹ Ibid.

⁴² Li Jinming & Li Dexia, "The Dotted Line on the Chinese Map of the South China Sea: A Note", 34 Ocean Development and International Law (2003). 287-195

⁴³ "PH and China Seek Diplomatic Solution on Scarborough Issue." PIA. Philippine Information Agency, 26 Apr. 2012. Web. 20 June 2012. <<http://www.pia.gov.ph/news/index.php?article=2271335414573>>.

Scarborough Shoal, known in Filipino as Panatag Shoal and in Chinese as Huangyan Island, is a 150 square kilometer triangular-shaped group of rocks, islets and reefs. It is 124 nautical miles west of the main Philippine island of Luzon, in the South China Sea⁴⁴. When pointed on a map, the shoal is located 15°07' north and 117°51' east. The area is dominated by a lagoon measuring 130 square kilometers and 10-20 meters deep. The area is abundant of fishery resources.

China claims almost the entire South China Sea as it insists its 9-dash line map based on historical accounts. The Scarborough Shoal falls within that 9-dash line map even if it is actually more than 600 kilometers away from the nearest main Chinese landmass⁴⁵.

China insists that it has a stronger historical footing to claim the Scarborough Shoal. Its historical records show that Chinese astronomer Guo Shoujing was tasked by the Chinese Government then under the Yuan Dynasty in 1279 to survey the “four seas.” The expedition, according to the Chinese, led him to the discovery of the Scarborough Shoal. Chinese geography scholar Han Zhenhua in 1979 specified in that particular survey that the area called Nanhai is the present day Scarborough Shoal. The Chinese Government, however contradicted such, in 1980 at the height of its dispute with Vietnam, stating instead the Nanhai in the historical record was located in the Paracels. Other Chinese scholars believe that the Nanhai does not refer to the present day Scarborough Shoal such as Zeng Zhaoxuan who believes that Nanshi is actually in Central Vietnam. Nevertheless, the Chinese Government insists that it was the first country to discover Scarborough and gave it a name.

In 1935, the Lands and Waters Mapping Review Committee of the then sitting Chinese Government approved and published the names of the islands, reefs, shoals and sand bars in

⁴⁴ Keyuan, Zou. "SCARBOROUGH REEF: A NEW FLASHPOINT IN SINO-PHILIPPINE RELATIONS?" *Boundary & Security Bulletin* 7.2 (1999): 71. University of Durham. Web. 11 Jan. 2013. <<https://www.dur.ac.uk/ibru/publications/view/?id=149>>.

⁴⁵ *Ibid.*

the South China Sea⁴⁶ totaling 132. The Scarborough Shoal was included. In 1947, the Chinese Government increased that number to 172, again including the Scarborough Shoal under the name, *Minzhu Jiao*. In 1983, the Chinese Government, under the Communists changed the name to Huangyan Island. In 1992, it passed a law that claims all the islands, reefs and shoals located inside a u-shaped line in the South China Sea as part of its territory, including the Scarborough Shoal.

China also believes that the United Nations Convention on the Law of the Sea (UNCLOS) cannot be used as the basis for determining which country has the right to claim the Scarborough Shoal. In an official expository statement⁴⁷ published in the official website of the Chinese Embassy in Manila, China stressed that under international law, “the land dominates the sea” and that coastal states obtain their sovereign rights and jurisdiction over exclusive economic zones from their territorial sovereignty alleging that UNCLOS cannot solve sovereignty questions. Under this logic, China is considering the Scarborough Shoal as a "land" and that it has sovereignty over it and should not be included in the Philippines’ exclusive economic zone under international law, particularly UNCLOS. It would mean however that the Scarborough Shoal should also have its own 200 nautical mile- exclusive economic zone, something that many international law experts disagree with.

The Philippines’ bases for claiming the Scarborough Shoal involve three main premises: historical records, active jurisdiction and international law⁴⁸.

Manila's historical basis relies heavily on one of the earliest and most accurate Philippine maps printed in 1734 by Spanish Jesuit priest Pedro Murillo Velarde⁴⁹. The 1734 map

⁴⁶ "Ten Questions Regarding Huangyan Island." National Institute for South China Sea Studies. N.p., 7 June 2012. Web. 20 Feb. 2013. <http://www.nanhai.org.cn/en/news_detail.asp?newsid=2547>.

⁴⁷ Ibid.

⁴⁸ "Philippine Position on Bajo De Masinloc (Scarborough Shoal) and the Waters within Its Vicinity." Official Gazette of the Republic of the Philippines. Department of Foreign Affairs Philippines, 18 Apr. 2012. Web. 20 June 2012. <<http://www.gov.ph/2012/04/18/philippine-position-on-bajo-de-masinloc-and-the-waters-within-its-vicinity/>>.

identified the Scarborough Shoal as Bajo de Masinloc, part of Masinloc Municipality, Zambales Province in the Philippines.

The name Bajo de Masinloc, given by Spanish Colonizers, literally means "under Masinloc Town". There were other maps printed by the Spaniards that included the Scarborough Shoal as part of the territory of its then sole colony in Asia.

Manila is also insisting that since its independence, it has exercised effective occupation and jurisdiction over Scarborough Shoal⁵⁰, something that China allegedly did not. In its official position paper, the Philippines mentioned the installation of Philippine flags in 1965 and 1997, the establishment of a lighthouse in one of the islets in 1965 and its subsequent repair in 2009, its use for defense purposes and its classification as a regime of islands under Philippine law known as Archipelagic Baseline Law that adheres to the United Nations Convention on the Laws of the Sea⁵¹, as strong evidences of both effective occupation and jurisdiction.

The Philippines claims sovereignty over the Scarborough Shoal and the waters that surround it. Its position paper clarified that the country's basis for claiming the shoal was public international law particularly effective occupation and jurisdiction and not merely on its close proximity to main Philippine islands nor its location being within the UNCLOS-mandated EEZ. It stated the Palmas Island Case, which was historically discovered by Spain. Its sovereignty eventually was given to the Netherlands by an international court on the basis of "effective exercise of jurisdiction."

The paper further stated that China's repeated statement on the Scarborough Shoal being a traditional fishing ground of the Chinese for centuries does not suffice. The Philippines

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

insists that "the act of fishing by Chinese fishermen" is not a sovereign act by a state and it does not "display state authority."

"For occupation to be effective there has to be clear demonstration of the intention and will of a state to act as sovereign and there has to be peaceful and continuous display of state authority, which the Philippines has consistently demonstrated," the Philippines' Department of Foreign Affairs claims⁵².

In summary, the Philippines' claim over Scarborough Shoal's rocks and islets is a claim over land based on customary law while its claim over the surrounding waters is based on UNCLOS. Under UNCLOS' Article 121 paragraph 3, "rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf." Rocks are not entitled to have exclusive economic zones, only 12 nautical miles of territorial waters. Since the Philippines is claiming the rocks based on customary law and the waters around it based on UNCLOS, the Southeast Asian country believes it has the sovereignty over both the rocks' 12 nautical miles territorial waters and the rest of the waters around the shoal that are well within the Philippines' 200- nautical mile exclusive economic zone.

April 2012 Incident⁵³

The Scarborough Shoal dispute between the two neighbors was highlighted by a standoff between the Philippines' navy and coastguard ships and Chinese government law enforcement vessels that started in the morning of April 10, 2012.

Two days prior, a Philippine surveillance plane confirmed the presence of 8 Chinese fishing boats in the Scarborough Shoal. The Philippine Navy immediately deployed its BRP

⁵² Ibid.

⁵³ Jethro Mullen, and Brian Walker. "China, Philippines Locked in Naval Standoff." CNN. Cable News Network, 11 Apr. 2012. Web. 20 Feb. 2013. <<http://edition.cnn.com/2012/04/11/world/asia/philippines-china-naval-standoff>>.

Gregorio De Pilar, a US-made cutter based in Palawan Province to patrol the Scarborough Shoal. As it is a huge ship incapable of traversing shallow waters, it dispatched a boarding team to inspect the Chinese fishing vessels and collect photos inside the shoal. The Philippine Navy later on reported that the first fishing vessel that was boarded contained corals, giant clams and live sharks, most of them listed internationally as endangered species.

As the arrest was imminent, two Chinese maritime surveillance ships identified as Zhonggou Haijian 75 and Zhonggou Haijian 84 sailed to the area and placed themselves in the middle of the Chinese fishing vessels and the Philippine Navy ship, triggering a standoff. No Chinese fishermen were arrested and they were later on allowed to leave the area along with their catch.

The scenario was the first time that the Philippines actually failed to arrest Chinese fishermen in its exclusive economic zone, a significant sign that can be interpreted as an attempt by China to revise the status quo in the South China Sea.

The standoff resulted to increased nationalism in both China and the Philippines⁵⁴. Chinese state owned media were quick to react and the Scarborough Shoal dispute dominated their timeslots and editorial pages, including threats of war. In the Philippines, there was a pressure from legislators to push the United States to clarify its position on the status of its Mutual Defense treaty on whether or not Washington will aid Manila in case of war with Beijing⁵⁵. Some politicians called for constitutional revisions that will allow the Philippines to prioritize defense spending⁵⁶ and to a certain extent host foreign military bases once again. Filipinos

⁵⁴ Thayer, Carlyle A. "Standoff in the South China Sea." Yale Global Online. Yale Center for the Study of Globalization, 12 June 2012. Web. 11 Feb. 2013. <<http://yaleglobal.yale.edu/content/standoff-south-china-sea>>.

⁵⁵ Whaley, Floyd. "U.S. Reaffirms Defense of Philippines in Standoff With China." The New York Times. N.p., 02 May 2012. Web. 20 Aug. 2012. <http://www.nytimes.com/2012/05/02/world/asia/us-reaffirms-defense-of-philippines-in-standoff-with-china.html?_r=0>.

⁵⁶ Yamsuan, Cathy C. "China Row Reason for Charter Change, Says Enrile." *Inquirer Global Nation*. N.p., 2 July 2012. Web. 11 Sept. 2012. <<http://globalnation.inquirer.net/42453/charter-change-to-address-ph-weaknesses-in-view-of-row-with-china-enrile>>.

held rallies in front of the Chinese Embassy in Manila and there was a global effort calling Filipinos worldwide to protest against Chinese bullying on the same day, prompting the government of China to issue a warning to its citizens in the Philippines to remain indoors on that day or just leave the archipelago. Chinese and Filipino hackers also joined the tense situation. Chinese hackers were the first to deface Philippine websites but Filipino hackers were quick to react and did the same.

On June 15, 2012, citing bad weather and after getting prior commitments from China through their diplomatic channels of an imminent pullout of all Chinese government vessels from the area, the Philippines pulled out all its ships.⁵⁷

⁵⁷"Philippines And China Ease Tensions In Rift at Sea." The New York Times. The New York Times, 19 June 2012. Web. 1 Aug. 2012. <<http://www.nytimes.com/2012/06/19/world/asia/beijing-and-manila-ease-tensions-in-south-china-sea.html>>.

CHAPTER III. DEFENSE PACTS, US RESPONSES AND ALLIANCE UNCERTAINTIES

3.1 Defense Pacts

The United States has defense treaty alliances with both Japan and the Philippines. Those treaties were useful during the height of the Cold War as they became among the cornerstones of the United States' battle against the spread of communism. The incidents that occurred in the Pinnacle Islands and the Scarborough Shoal since 2010 put into question the relevance of those mutual defense treaties given the realities of the present.

3.1.1 US-Japan Alliance

The US-Japan Mutual Security Treaty⁵⁸, formally known as the "Treaty of Mutual Cooperation and Security between Japan and the United States of America" was signed on the 19th of January 1960. It contains ten articles. The treaty originated from the earlier "Security Treaty Between the United States and Japan" signed in 1951 that largely focused on the United States' commitment to the full defense of Japan by stationing military bases in the northeast Asian archipelago to deter external armed attack as the country was reorganizing itself from the ravages of the Second World War. The 1960 treaty is more comprehensive involving not just defense but also economic and other matters related to international cooperation.

Relevant to this research is the Article V of the treaty, which states:

"Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its

⁵⁸ "Japan-U.S. Security Treaty." *Ministry of Foreign Affairs - Japan*. N.p., n.d. Web. 15 Sept. 2012. <<http://www.mofa.go.jp/region/n-america/us/q&a/ref/1.html>>.

constitutional provisions and processes. Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security."

It is to be noted that although the United States does not take sides on the sovereignty questions involving the Pinnacle Islands⁵⁹, the fact that the territory in question is under the "administration" of Japan bounds the United States to fulfill its treaty obligations. Moreover, China, like the United States is a veto-wielding member of the United Nations Security Council. A stalemate in the Security Council due to an effective veto from any of its five permanent members can prevent the Council from taking measures "necessary to restore and maintain international peace and security," which in this case involves the Pinnacle Islands, the East China Sea and the Northeast Asian region, at large.

3.1.2 US-Philippines Alliance

The US-Philippines Mutual Defense Treaty, composed of 8 articles was signed on the 30th of August 1951 and from then up to the present has never undergone revisions or amendments. It is to be noted that the Military Bases Agreement that was unilaterally terminated by Manila upon its expiration in 1991 was a separate treaty. The US-Philippines Mutual Defense Treaty was signed only five years after Washington enacted a law that granted the Southeast Asian Archipelago its full independence.

Relevant to this research are articles IV and V. Article IV says:

"Each Party recognizes that an armed attack in the Pacific Area on either of the Parties would be dangerous to its own peace and safety and declares that it would act

⁵⁹ Pak, Hŭi-gwŏn. *The Law of the Sea and Northeast Asia: A Challenge for Cooperation*. The Hague: Boston, 2000. Print.

to meet the common dangers in accordance with its constitutional processes. Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.”

Article V specified the preceding article as:

“For the purpose of Article IV, an armed attack on either of the Parties is deemed to include an armed attack on the metropolitan territory of either of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.”

Although the Scarborough Shoal is not considered as an island, much less so as a metropolitan territory, an attack on Manila-controlled vessels or aircrafts bounds the United States to come to the defense of the Philippines. It is to be noted that the South China Sea is geographically part of the Pacific, aside from previous official diplomatic exchanges between Manila and Washington that confirmed that an armed attack on any Philippine public vessels is covered by the treaty⁶⁰.

As mentioned previously in this research, China’s veto-wielding membership in the UN Security Council can potentially prevent the United States from suspending any immediate measure taken to the defense of the Philippines, in principle, which could dissuade it from taking an extreme measure such as a military intervention, in the first place.

⁶⁰ "Official Statement of Foreign Secretary Albert F. Del Rosario regarding the Philippines-US Mutual Defense Treaty." Inquirer News. N.p., 10 May 2012. Web. 22 Sept. 2012. <<http://newsinfo.inquirer.net/190811/what-will-america-do-if-china-attacks-filipino-forces-in-spratlys>>.

3.2 Defense Pact Implications and Alliance Uncertainties

One interpretation of the texts of those treaties would mean that the United States must come to the defense of Tokyo and Manila should Beijing's increased aggressiveness result in the use of force. Another interpretation is that, the US treaties with Tokyo and Manila contain no precise military commitments. The second interpretation results in alliance uncertainties given the United States' perceived economic decline and economic dependence on China.

Both the Japan-US and the Philippines-US alliance systems provide that each party will "act to meet the danger... in accordance with [their] constitutional processes." Such phrase does not entail specific security commitments. Moreover, it does not mention a precise course of action to which the United States commit itself if Japan and the Philippines are attacked. Both treaties only prescribe "consultations" between the parties if any situation in which their treaties are to become operational. It leaves a huge flexibility for leaders and policymakers in Washington to decide which course of action to pursue once Japan or the Philippines invoke their treaties. While the United States continues to stress that it would honor its treaty commitments to both Japan and the Philippines, it does not want to discuss hypothetical scenarios making its security commitments to both countries even more doubtful, especially that it also wants to emphasize its neutral stance to most China-related territorial disputes.

Moreover, the United States' responses to the 2010 Pinnacle Islands incident and the 2012 Scarborough Shoal standoff had been very tepid. Those responses were limited to reminding all countries concerned to adopt restraint and avoid the use of force.

The 2010 Pinnacle Islands incident, which resulted in the release of the Chinese captain, was widely described by the media as "a concession that appeared to mark a humiliating retreat in

a Pacific test of wills.”⁶¹ International Relations Professor Hiroshi Nakanishi of Kyoto University agreed, noting that Japan appeared to have given in to China's pressures. The New York Times concluded that Japan's decision to release the captain of the Chinese Trawler was, at that time, "the latest indicator of the shifting balance of power in Asia," noting that in the same year, China surpassed the size of Japan's economy. With all these, Washington's response to Japan's decision was revealing. The US State Department issued a statement saying that such was how “mature states resolve these things -- through diplomacy.”⁶² The US State Department's response indicated that Washington's top priority was the de-escalation of conflict, even if it meant a diplomatic victory for Beijing and a defeat for its own treaty ally.

Likewise, the United States largely avoided discussing anything specifics when the Philippines was in the midst of a diplomatic standoff with China⁶³. Despite China's apparent attempt to revise the status quo in the Scarborough Shoal, the United States was seemed more interested in seeing the conflict diffused. The Philippines unilaterally withdrew all its vessels from the shoal on June 15, 2012, six weeks after the 2-on-2 meeting between the defense and foreign secretaries of both countries in Washington.

The tepid response of the United States to Japan's diplomatic struggle with China in 2010 indeed should have already caused alliance uncertainties. An analysis by Australian National University Professor of Strategic Studies Hugh White in his 2012 book, *The China Choice: Why America Should Share Power*, clearly provided a strong case for such

⁶¹ Fackler, Martin. "Japan Retreats In Test of Wills With the Chinese." *The New York Times*. The New York Times, 25 Sept. 2010. Web. 15 July 2012. <<http://www.nytimes.com/2010/09/25/world/asia/25chinajapan.html?pagewanted=all>>.

⁶² Harlan, Chico, and William Wan. "Chinese Boat Captain Is Released." *Washington Post*. The Washington Post, 25 Sept. 2010. Web. 11 June 2012. <<http://www.washingtonpost.com/wp-dyn/content/article/2010/09/24/AR2010092405966.html>>.

⁶³ Herman, Steve. "Philippines Looks to US Treaty in China Dispute." *VOA*. N.p., 23 May 2012. Web. 11 July 2012. <<http://www.voanews.com/content/manilla-looks-for-us-treaty-in-territorial-dispute-with-china/925500.html>>.

uncertainties to actually exist. “Japan’s security, or lack thereof, is inextricably tied to ‘America’s China Choice’. As long as Japan’s alliance with America remains the centerpiece of its strategic policy, it will depend almost completely on Washington to protect it from Chinese pressure. The problem is that the more powerful China becomes, the less Japan can depend on the United States.”⁶⁴ Other scholars have noted that Japan already started to develop a perception of doubt when it comes to US commitments. “There is a perception in Japan that the U.S. commitment is ambiguous,” Yoichiro Sato, director of international strategic studies at Ritsumeikan Asia Pacific University in southern Japan told Time Magazine⁶⁵. The very real possibility that Washington might prioritize its own China-related national interest by avoiding any military conflict with Beijing is not a surprising cause for Japan’s alliance uncertainties toward the US.

For Manila, pronouncements from its leaders and policymakers at the height of its diplomatic ordeal with Beijing seem to suggest that the United States’ former colony has been increasingly doubtful of Washington’s commitments to fulfill its obligations. For instance, a senior member of the Philippine Senate was quoted as saying in response to the Scarborough Shoal standoff, “We are left to fend for ourselves. What happened to us? We’re like orphans...without allies. That’s our dilemma.”⁶⁶ His remarks, which were echoed by many other policymakers in Manila, signified the Philippines’ doubts on US commitments. These doubts result to alliance uncertainties, which in turn pushed the country to diversify its security hedge against the rising China.

Overall, the 2010 Pinnacle Islands incident and the 2012 Scarborough Shoal standoff underscored two important things that caused alliance uncertainties on the part of Tokyo and

⁶⁴ White, Hugh. *The China Choice: Why America Should Share Power*. Collingwood, Vic.: Black, 2012. Print.

⁶⁵ Spitzer, Kirk. "Japan Frets over U.S. Support in China Dispute." *TIME*. N.p., 14 Sept. 2012. Web. 10 Oct. 2012. <<http://nation.time.com/2012/09/14/84857/>>.

⁶⁶ Thayer, Carlyle. "Is the Philippines an Orphan?" EU-Asia Centre. N.p., 17 May 2012. Web. 20 Aug. 2012. <http://www.eu-asiacentre.eu/pub_details.php?pub_id=51>.

Manila. First is the ambiguity of the United States' security commitments to Japan and the Philippines brought about by the classification of the alliance and the text of the respective treaties, as well as the lack of clarifications from Washington. The second involve the relatively tepid responses of Washington to the incidents that occurred in the Pinnacle Islands in 2010 and the Scarborough Shoal in 2012, despite the clear increased assertiveness of Beijing.

CHAPTER IV. ALLIANCE UNCERTAINTIES AND IMPLICATIONS ON JAPANESE AND PHILIPPINE POLICIES

Given that Japan and the Philippines have been increasingly doubtful of the alliance commitments of the United States, it is necessary to identify how such uncertainties affected both countries' policies in response to their disputes with a more assertive China.

This paper assumes that the uncertainties perceived by Japan and the Philippines on their respective alliances with the United States have two expected implications: 1) Significant military buildup and increased defense postures; and 2) Diplomatic and security alliance building in the region.

First, existing literatures argue that significant military buildup and increased defense posturing come about when states face apparent threats⁶⁷. It must be noted however, that the Japan-US and the Philippines-US alliances are unequal alliances. While the United States should be committed to defend Japan and the Philippines when they are attacked, Washington does not require Tokyo and Manila, as prescribed in their respective treaties, to come to the defense of the Americans in case of the same. It can be assumed that the United States willingly accepted its role as defenders of Japan and the Philippines when it signed a mutual defense treaty with them. This paper therefore argues that there should be no need for Tokyo and Manila to significantly alter the trend of their military buildup and defense postures if Washington's security commitments were not doubtful. Because both Japan and the Philippines are having these alliance uncertainties toward the United States, one major

⁶⁷ Donnelly, Jack. 'The Ethics of Realism', in Christian Reus-Smit, Duncan Snidal (eds.), *The Oxford Handbook of International Relations*, Oxford University Press, 2008, p. 150

resulting policy implication of this should be a noticeable and significant military build up and increased defense posturing.

Second, existing literatures also argue that, when states are dissatisfied with the factors (e.g. current military hardware) that guarantee their security and/or when they are in doubt of the reliability of the commitments of their security allies in the face of a threat, they resort to seeking alliances with other nations⁶⁸.

Additionally, this paper is also interested on how the two countries view multilateral security and legal institutions in relation to their dispute with China and their alliance uncertainties toward their common ally, the United States.

To prove the first two assumptions, it is important to observe the corresponding policies of Tokyo and Manila that resulted from the September 2010 Pinnacle Islands incident and the April 2012 Scarborough Shoal standoff.

4.1 Significant military buildup and increased defense postures

The policy pronouncements and intents of both Tokyo and Manila since the significant incidents happened in their claimed areas in the East and South China Seas, respectively, have been pointing to significant military build up and increased defense postures. This is the most obvious implication of the two countries' alliance uncertainties toward the United States. While it could be argued that this action of both Tokyo and Manila in beefing up their own defenses was merely a reaction to a more apparent threat from China, it is not a sufficient reason. The "China threat" has been existing for both Japan and the Philippines even before the 2010 Pinnacle Islands incident and the 2012 Scarborough Shoal standoff. It was only after

⁶⁸ Snyder, Glenn H. (1984). The Security Dilemma in Alliance Politics. *World Politics*, 36, pp 461-495. doi:10.2307/2010183.

those events that the two countries became extra aggressive in building up their defense capabilities. Considering their close coordination with their common treaty ally, Washington, and their domestic economic priorities, significant military build up could only come out of the United States' ambiguous security commitments. If the two countries could simply rely on the United States for their defenses because of their respective treaties, military should not be on top of the priorities of policymakers in Tokyo and Manila. It must be considered that Tokyo is battling a chronic deflation and lack of respectable economic growth, not to mention its debt problems. Manila, though presiding over one of the fastest growing economies in the region and a financially sound government, could not possibly prioritize defense spending yet, over its domestic problems on poverty and infrastructures, if only the United States security commitment was clear.

Japan

Japan's dramatic shift to the right in 2012 was significant. It signified Japan's willingness to counter China head on. There are two significant events that signal Tokyo's military build-up and increased defense posture resulting from its alliance uncertainties toward Washington. First is the increasing call for the revision of the country's pacifist constitution that would allow a return to "normal" armed forces and collective defense. Second is the sudden increase in defense budget, which is a first in over a decade, and an increase in military personnel, a first in over four decades.

Japan has a pacifist constitution. Its Article 9 disallows an act of war by the state⁶⁹. It is significant because it legally prohibits Japan from settling international disputes through the use of force. It also bans Japan from providing collective defense to its allies.

⁶⁹ Port, Kenneth L. "Article 9 of the Japanese Constitution and the Rule of Law." *Cardozo Journal of International and Comparative Law* 13 (2004):130

The full text of the article in Japanese:

第九条 日本国民は、正義と秩序を基調とする国際平和を誠実に希求し、国権の発動たる戦争と、武力による威嚇又は武力の行使は、国際紛争を解決する手段としては、永久にこれを放棄する。

二 前項の目的を達するため、陸海空軍その他の戦力は、これを保持しない。国の交戦権は、これを認めない。

Official English translation:

ARTICLE 9. Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

(2) To accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

It must be noted that Japan's pacifist constitution is one of the domestic justifications for the continued presence of US bases in the country. The commitment provided by the United States for Japan's external defense was, for most of the last 60 years, unquestionable. In 2006, when Shinzo Abe first became Prime Minister, he proposed a constitutional revision, aiming specifically to alter Article 9 and normalize the country's armed forces⁷⁰. His efforts to revise the constitution failed due to lack of enthusiastic support from other Japanese policymakers. This would indicate that Japan was relatively still confident of Washington's commitment to its security coupled with a still calm China. In 2006, China was only the fourth largest economy and the Deng Xiaoping era policy towards the Pinnacle Islands⁷¹ was still in effect – that was, not altering the status quo to promote harmonious relationship with Japan, but

⁷⁰ Joshi, Sanjana. and Maulana Abul Kalam Azad Institute of Asian Studies (Calcutta, India). *Changing Japan : opportunities and challenges for India / Sanjana Joshi* Shipra Publications, Delhi : 2008, pp 25

⁷¹ Deng Xiaoping holding a speech on the Diaoyutai conflict, cited in Chi-Kin Lo, *China's Policy Towards Territorial Disputes: The case of the South China Sea Islands* 171-172 (1989); No. 44 Beijing Review, (November 3rd, 1978), 16

without necessarily renouncing its sovereignty claim. Since everything changed in September 2010, and as the United States continued to emphasize the engagement of China and the maintenance of peace and stability in East Asia, despite Beijing's increased assertiveness, the calls for the revision of the country's constitution became louder. While not the only reason, it could be one of the biggest factors that led the Liberal Democratic Party of Japan to sweep back into power, with Shinzo Abe regaining his post as Prime Minister. One of his campaign promises was to push for a stronger policy on the country's various territorial disputes, including a revival of his previous proposal to revise Japan's pacifist constitution⁷².

It can be argued that Tokyo's most important goal is to maintain the status quo on the Pinnacle Islands and prevent Beijing from revising that status quo. Should Beijing successfully capture the islands by military force or by short civilian law enforcement conflict, or through a naval standoff that could prevent Tokyo from enforcing Japanese domestic laws (Chinese Marine Surveillance vs Japanese Coast Guards), effectively establishing a new status quo, it is possible for the United States not to take action and instead merely urge dialogue, in the name of regional stability and avoid a direct war with China. As explained in the previous chapter, Washington may not see the same vested interest in keeping Tokyo in control of the Pinnacle Islands as it would in defending mainland Japan or in making sure that it does not confront China militarily given economic considerations. With a constitution preventing the Japanese government from employing war to settle international disputes, Tokyo would be in a potentially humiliating situation, unable to revise a possibly new status quo. Couple these doubts with an increasingly aggressive China, it is evident that these alliance uncertainties felt by the Japanese toward their partner, the Americans, is resulting to a higher possibility of constitutional revision. A defense posture that highlights this possibility could be a deterrent factor.

⁷² Dickie, Mure. "The Second Coming of Japan's Shinzo Abe." *Financial Times*. N.p., 14 Dec. 2012. Web. 22 Dec. 2012. <<http://www.ft.com/intl/cms/s/0/b904c9ac-45d4-11e2-b780-00144feabdc0.html>>.

The same reason could be said for Japan's apparent military build up. A few weeks after the September 2010 Pinnacle Islands incident, the Japanese Ministry of Defense announced its plan to expand the size the country's self defense force personnel by 10 percent or at least 13,000 troops by 2012⁷³. This is significant because it was the first time in almost 40 years that Tokyo wanted more self-defense force troops. The media described it as a policy that came "amid growing regional tensions, particularly in areas where China's navy is increasingly active."⁷⁴ Again, if there were no alliance uncertainties, the US alliance commitment would have sufficed. Nevertheless, the Defense Ministry's plan was put on hold for a time and revived when Abe came to power again.

Furthermore, in January 2013, Tokyo announced an increase in its defense spending⁷⁵. Months prior to this announcement, Chinese government vessels entered the waters around the Pinnacle Islands for several times and Chinese surveillance aircrafts entered the islands' airspace for the first time, which prompted Tokyo to send in fighter jets⁷⁶. This indicated a strong possibility of an armed conflict in the future. The United States' only response was to remind China and Japan about the economic importance of their countries and that regional stability must be maintained. All of these developments would not have urged Japan to increase its defense posture or build up its military more aggressively than what it had been since the end of the cold war, if the United States' commitment was not doubtful. Although the increase could be viewed as relatively small, such a move by Japanese policymakers was significant because of two reasons. First, it was the first time in over a decade that Tokyo wanted to increase its defense budget. Second, the primary target of Abe's plans to beef up

⁷³ Demetriou, Danielle. "Japan threatens build up of military forces amid rising tensions with China." *The Telegraph* 21 Sept. 2010: n. pag. Web. 22 July 2012. <<http://www.telegraph.co.uk/news/worldnews/asia/japan/8015789/Japan-threatens-build-up-of-military-forces-amid-rising-tensions-with-China.html>>.

⁷⁴ Ibid.

⁷⁵ Spitzer, Kirk. "Japan Boosts Defense Spending, More Or Less." *TIME*. N.p., 31 Jan. 2013. Web. 5 Feb. 2013. <<http://nation.time.com/2013/01/31/japan-boosts-defense-spending-more-or-less/>>.

⁷⁶ "Japan Scrambles Jets in Island Dispute with China," *New York Times*, December 13, 2012.

the military was to increase Japan's capability to defend its territories in the southern part of the country.

Philippines

Resulting significant military buildup and increased defense posture were more obvious on the part of Manila. While it could be argued that the Philippines' move to drastically build up its military was simply a reaction to a more aggressive China, it would not be a sufficient reason. The more obvious factor that influenced Manila's decision is its perceived uncertainty on Washington's security commitments.

While it could be argued that the increased Chinese aggressiveness in the Spratly islands since 2010 already pushed President Benigno Aquino III to consider beefing up the country's defense, such a policy option even became more urgent as a result of the Scarborough Shoal standoff. As explained in the previous chapter, policymakers in Manila already felt uncertainties toward the country's alliance with the US. Military build up and more aggressive defense posture became Manila's most obvious response to Washington's uncertain security commitments in the face of a more threatening China.

As mentioned in the previous chapter, the United States' reluctance to significantly boost Philippine defense needs added to the alliance uncertainty being felt by policymakers in Manila.

By June 2012, two months after the Scarborough Shoal incident took place, the Philippine Senate started and later on approved a sweeping set of amendments to existing Armed Forces of the Philippines Modernization Act passed in 1996 after the Mischief Reef incident. The amendments were significant because it basically means an increased and rapid military build up for the Philippines. Under this new law, the Philippines' defense department will have P75

billion (1.8 Billion USD) on its disposal for the first five years of hardware purchases. The law also extends the armed forces modernization program to another 15 years. Moreover, it exempts the Department of Defense from the requirement of public bidding when major defense purchases such as aircraft, vessels, tanks, armored vehicles, communications equipment and high powered firearms are concerned enabling the country to purchase necessary hardwares the soonest time possible.

The media quoted the principal author of the new law, Senator Panfilo Lacson, during his bill sponsorship speech. "This matter [Scarborough Shoal] only serves to elucidate the importance of having a reliable military force. While we do not discount the importance of having allies, it is undeniable that our country must have a reliable military force that can readily protect and defend our territory, our natural resources, and most importantly, our people," Lacson said⁷⁷.

At the surface, Lacson's words could be simplified to mean that the Philippines' renewed commitment to defense modernization is a mere reaction to China's aggressiveness. However, a deeper analysis would reveal another perspective. Lacson's words actually represented Filipino policymakers' decreased confidence over the United States' security commitment to the Philippines. The Scarborough shoal incident apparently highlighted Washington's ambiguous security commitments to Manila, thus the need for the Philippines to pursue a more ambitious military build up. It is to be noted that this military modernization law was originally enacted in reaction to China's occupation of the Mischief Reef in 1995. It however became less of a priority when Washington reassured Manila in 1999 that their treaty covers

⁷⁷ LAMENTILLO,, ANNA MAE YU. "PNoy admin gives AFP modernization highest fund allotment, says official." 20 June 2012: Web. <<http://www.gmanetwork.com/news/story/262495/news/nation/pnoy-admin-gives-afp-modernization-highest-fund-allotment-says-official>>.

the South China Sea⁷⁸ and a Visiting Forces Agreement would be implemented to allow a return of US Military presence in the Philippines at a non-permanent, but regular and rotational basis.

Moreover, by August 2012, the country's Department of National Defense presented to Congress its defense budget proposal for 2013, which it calls "one of the largest procurement plans ever for the armed forces of the Philippines." The 2013 defense budget is 121.6 Billion pesos (approx. 3 Billion USD), which is 15 billion pesos (approx. 368 million USD) more than in 2012. The Defense Department also presented that under the 2013 budget, the Philippine Navy would be able to purchase two missile frigates from Italy armed with surface-to-air and surface-to-surface missiles and capable of targeting submarines.

By October 2012, the amended law on Philippine Armed Forces modernization reached President Aquino's desk. He described the acquisition plan as "the largest and most comprehensive upgrade program in the history of the country's military." What makes this significant is its speed, highlighting urgency. It could also mean that policymakers in Manila already accepted that the United States' security commitment is no longer as certain as what it used to be.

The first five years of the relaunched armed forces modernization program includes, among others, the purchase of 12 KAI T/A-50 lead-in fighter light-attack aircraft from South Korea, six Embraer EMB-314 Super Tucanos, 25 transport and 12 attack helicopters, four anti-submarine multirole naval helicopters, and three special-mission long-range helicopters⁷⁹.

⁷⁸ "Another Mutual Defense Treaty?: 'What Will America Do If China Attacks Filipino Forces in Spratlys?'" StratRisks. N.p., 9 May 2012. Web. 22 June 2013. <<http://stratrisks.com/geostrat/6011>>.

⁷⁹ Cohen, Michael. "Philippine Congress approves ambitious defence procurement budget." *Defense & Security Intelligence & Analysis: IHS Jane's | IHS*. N.p., 1 Oct. 2012. Web. 15 Nov. 2012. <<http://www.janes.com/products/janes/defence-security-report.aspx?id=1065971900>>.

Aside from military buildup, Manila is also beefing up its maritime defense postures. It is to be noted that the Philippine Coastguard vessels were forced to leave the Scarborough Shoal due to bad weather. The decision to leave the shoal effectively ended the standoff between Manila's coastguard vessels and Beijing's marine surveillance ships. The Philippines will buy five patrol boats from France for about 116 million USD⁸⁰, "partly to guard disputed areas in the South China Sea." The deal includes one 82-meter (271-foot) ship and four 24-meter (79-foot) patrol crafts scheduled to be delivered by 2014. "When we patrol the West Philippine Sea, we encounter huge waves, turbulent waters so it will be better if we will use bigger ships," Philippine Coast Guard Rear Admiral Luis Tuason said.

By January 2013, the Philippines already got Japan's official commitment for 10 brand new patrol vessels, including 1,000-ton ships to be financed through Japanese Overseas Development Assistance (ODA).

These rapid changes point to significant military build up and increased defense posture on the part of the Philippines. While these could be interpreted as directly a result of China's aggressiveness highlighted by its success in effectively seizing control of the Scarborough Shoal, Washington's ambiguous security commitments are leaving Manila with no choice but to pursue ambitious military upgrades by itself. Despite the existing mutual defense treaty with Washington, Manila's aggressive military build up highlights alliance uncertainties.

4.2 Diplomatic and security alliance building in the region

The second most apparent implication of Japan-US and Philippines-US alliance uncertainties involved the two countries' increased effort to build diplomatic and informal security alliances in the region. Japan being already considered as a great power had to reassert its

⁸⁰ Cohen, Michael. "Philippine Coast Guard announces plans to buy French OPV." *Defense & Security Intelligence & Analysis: IHS Jane's / IHS*. N.p., 31 Oct. 2012. Web. 15 Dec. 2012. <<http://www.janes.com/products/janes/defence-security-report.aspx?id=1065972931>>.

regional leadership. The Philippines on its part had to exercise leadership on a particular diplomatic niche in ASEAN – maritime security. These efforts could be seen as Tokyo and Manila’s way of diversifying their security hedge against the more aggressive Beijing, amidst their alliance uncertainties with Washington.

Japan

For almost half a century, Japan was viewed as the leading power in East Asia. 2010, the year when China surpassed the size of Japan’s economy, was significant because it could have signified the start of leadership transition in the region. Indeed, the 2010 Pinnacle Island incident could not have highlighted it better. The economic situation in East Asia was not the only aspect that changed but the security landscape as well. Japan’s failure to implement domestic laws against the captain of the Chinese trawler also signified China’s growing desire to alter regional status quos. Relevant to this paper is the United States’ positive response to what was being perceived as Tokyo’s diplomatic defeat. Washington apparently was more interested in deescalating the conflict rather than see its ally successfully trump Chinese pressures.

The United States’ repeated mention of “taking no sides” in territorial disputes even if they involve treaty allies adds to Japan’s alliance uncertainties. As a result, Japan had been increasingly interested in linking security partnerships with other countries in the region and beyond, in one way or another. This is significant given Japan’s pacifist constitution. Tokyo’s increased interest in forging security cooperation agreements and dialogues with other governments, aside from Washington could be a way to gather support and establish a firmer stance against Beijing and fill in the gap that its alliance uncertainties with the US created.

To further this claim, there were other various post-2010 Pinnacle Islands incident developments that point to significant alliance-building efforts by Japan.

In 2012, Japan released a \$2 Million package for its military engineers to train Cambodian and East Timorese troops, the country's first overseas military aid⁸¹. While such efforts could be viewed as civilian in nature, Japanese defense officials and analysts are expecting that Tokyo would soon begin providing defense hardwares like aircrafts and submarines⁸² to countries it wants to build stronger alliances with, in the form of direct sales, loans or overseas military/development assistance.

More concretely, Japan has already strengthened its "strategic alliance" with the Philippines, another US-treaty ally and a neighbor with an equally serious China-related security problem. Japan's commitment to provide coastguard vessels to the Philippines⁸³ as well as the two countries cooperation on maritime issues underscore "alliance building." Tokyo's decision to provide Manila with 10 coastguard vessels through ODA is its largest security-related aid package yet. It is significant because of two reasons. One is the fact that Japanese ODAs are usually reserved for purely development endeavors such as roads, bridges and school buildings. This was a clear policy shift or expansion. Second is the fact that Manila is the most vocal ASEAN country to oppose China's 9-dash line stance in the South China Sea.

Japan has also pursued and/or engaged in multilateral military exercises, exchanges and/or maritime security-related cooperative efforts with Australia, India, South Korea, and Indonesia. All of these were largely absent in the decades and years prior to 2010, in which during those times, Japan's only security engagement was with the United States. Keiro Kitagami, a special adviser on security issues to former Prime Minister Yoshihiko Noda had

⁸¹ Fackler, Martin. "In an Answer to China In the Pacific, Japan Flexes Military Muscle." The New York Times. The New York Times, 27 Nov. 2012. Web. 21 Dec. 2012. <<http://www.nytimes.com/2012/11/27/world/asia/japan-expands-its-regional-military-role.html?pagewanted=all>>.

⁸² Ibid.

⁸³ "Japan Plans to Give Patrol Boats worth \$13.6m Each to Manila: Report." Japan Plans to Give Patrol Boats worth \$13.6m Each to Manila: Report. Straits Times, 11 Feb. 2013. Web. 18 Feb. 2013. <<http://www.straitstimes.com/breaking-news/asia/story/japan-plans-give-patrol-boats-manila-report-20130211>>.

an interesting take on the changing strategy of Japan. “During the cold war, all Japan had to do was follow the U.S. With China, it’s different. Japan has to take a stand on its own.”⁸⁴ At the surface, the comment seemed to point to China being the single biggest reason why Japan has to stand on its own. However, another possible reason for this is its alliance uncertainties toward the United States. Washington may be more interested in safeguarding its economic interests that are closely linked to China, rather than militarily defend Japan’s questionable sovereignty over the Pinnacle Islands, on which it takes no stand.

Yoshihide Soeya of the Institute of East Asian Studies at Keio University in Tokyo view Japan’s effort in building alliances in the region as a means to prevent China from dictating regional order. “We want to build our own coalition of the willing in Asia to prevent China from just running over us,”⁸⁵ he said.

Another sign of Japan’s diplomatic and security alliance building efforts include its decision to host a special summit with ASEAN members in 2013⁸⁶ aimed at establishing stronger maritime security cooperation. This would particularly interest countries with China-related maritime issues such as the Philippines and Vietnam. This decision was announced during the Japan-ASEAN foreign ministers’ meeting at the sidelines of the ASEAN Summit in Cambodia in 2012.

With all these, it cannot be discounted that the United States’ very limited responses to China’s aggressiveness are pushing Japan to build other alliances in the region.

⁸⁴ Fackler, Martin. "Japan Is Flexing Its Military Muscle to Counter a Rising China." CNBC.com. The New York Times, 28 Nov. 2012. Web. 11 Dec. 2012.

<http://www.cnbc.com/id/50002955/Japan_Is_Flexing_Its_Military_Muscle_to_Counter_a_Rising_China>.

⁸⁵ Ibid.

⁸⁶ Bower, Ernest Z. "Southeast Asia from the Corner of 18th and K Streets: China Reveals Its Hand on ASEAN in Phnom Penh." Center for Strategic and International Studies. CISS, 19 July 2012. Web. 22 July 2012.

<<http://csis.org/publication/southeast-asia-corner-18th-and-k-streets-china-reveals-its-hand-asean-phnom-penh>>.

Philippines

The Philippines for its part has to build other alliances in order to diversify its security hedge taking into account the uncertain security commitment of the United States. On July 24, 2012, the Philippine Senate approved the ratification of the Status Visiting Forces Agreement (SOVFA) between Philippine and Australian militaries. This agreement is the first obvious alliance building effort on the part of Manila as a result of its alliance uncertainties toward the US. This is significant because its ratification had been delayed for five years and only after the Scarborough Shoal incident was it viewed as urgent and necessary. In his vote, Senate President Juan Ponce-Enrile said that even during the Second World War when he was serving in the guerilla movement, he found Australia to be a more reliable ally than the United States⁸⁷. The statement of the Philippines' Senate President was noteworthy. It further cemented the idea that the sudden approval of the Philippines-Australia defense pact was a result of Manila's alliance uncertainties toward Washington.

Furthermore, the Philippines also upgraded its "strategic relationship" with Japan into "strategic alliance" involving issues that go beyond development, trade and economics. The Philippines and Japan complemented each other well on their China-related security issues by establishing close cooperation in the field of maritime security. In order to reciprocate Tokyo's commitment of helping it upgrade its maritime security hardwares, Manila willingly announced to international media its support for the "rearming of Japan"⁸⁸ which refers to the revision of its pacifist constitution.

⁸⁷ Yamsuan, Cathy, and Katherine Evangelista. "Senate OKs Philippines-Australia Pact." *Inquirer Global Nation*. N.p., 25 July 2012. Web. 21 Sept. 2012. <<http://globalnation.inquirer.net/45275/senate-passes-visiting-pact-with-australia-on-3rd-reading>>.

⁸⁸ Pilling, David, Roel Landingin, and Jonathan Soble. "Philippines backs rearming of Japan." *Financial Times* 9 Dec. 2012: n. pag. Web. 21 Dec. 2012. <<http://www.ft.com/intl/cms/s/0/250430bc-41ba-11e2-a8c3-00144feabdc0.html>>.

Likewise, the Philippines also intends to continue its close cooperation with Vietnam⁸⁹, a fellow ASEAN claimant country in the South China Sea.

The Philippines also exercised diplomatic leadership in the region by initiating a meeting with all ASEAN-claimant countries in South China Sea to discuss a common front against China⁹⁰.

4.3 Role of multilateralism and international legal institutions

The third implication of the two countries' alliance uncertainties toward the US that this paper attempted to identify is related to their reliance on multilateralism and legal institutions. While the two previous policy implications identified above were common to both Tokyo and Manila, they seem to deviate on how they view the role of multilateral security and legal institutions. Multilateral security institutions here refer to international institutions that discuss or involve security matters, such as the UN, East Asia Forum and ASEAN Related Summits. Multilateral legal institutions here refer to the United Nations Convention on the Law of the Sea (UNCLOS) with its attached International Tribunal on the Law the Seas (ITLOS) and the UN Commission on the Limits of the Continental Shelf, as well as the International Court of Justice (ICJ).

Japan

Since the Pinnacle Islands are under the administration of Japan, Tokyo is unwilling to submit to any international arbitration⁹¹ that may compromise the credibility of its claimed sovereignty over those islands and the water surrounding them. Tokyo out rightly rejected

⁸⁹ Mogato, Manny. "Manila, Hanoi forge cooperation on South China Sea | Reuters." *Reuters.com*. Reuters, 26 Oct. 2011. Web. 15 Sept. 2013. <<http://www.reuters.com/article/2011/10/26/us-philippines-vietnam-idUSTRE79P2WA20111026>>.

⁹⁰ Ong, Christine. "Philippines to Host Four-nation Maritime Talks - Channel NewsAsia." *Channelnewsasia.com*. Media Corp News, 21 Nov. 2012. Web. 15 Dec. 2012. <<http://www.channelnewsasia.com/stories/southeastasia/view/1238687/1/.html>>.

⁹¹ Ku, Julian. "Japanese PM Confirms: No ICJ for Senkakus/Diaoyu Dispute with China." *Opinio Juris*. N.p., 3 Oct. 2012. Web. 15 Dec. 2012. <<http://opiniojuris.org/2012/10/03/japanese-pm-confirms-no-icj-for-senkakusdiaoyu-dispute-with-china/>>.

any attempt to involve the International Court of Justice in resolving its dispute with China⁹². While Beijing is not dismissive of the role of the ICJ in settling the Pinnacle Islands dispute, Tokyo's outright dismissal of any international arbitration is expected. Tokyo is in control of the islands and efforts to involve international arbitration compromise its national interests. Moreover, Japan is also arguably still a major regional power. Even though the security commitments of the United States contain doubts and uncertainties, Japan is more concerned on keeping the status quo on the Pinnacle Islands by preventing China from carrying out any revisionist behavior through other means not involving legal arbitration. Moreover, China seems to be selectively embracing multilateral security and legal institutions in an attempt to decrease the credibility of Japan's control over the Pinnacle Islands and surrounding waters. By December 2012, Beijing submitted to the United Nations its official claim that China's continental shelf limit is the Okinawa Trough, effectively covering the Pinnacle Islands as part of the Chinese territory⁹³. Under UNCLOS, a country can extend its 200-nautical-mile exclusive economic zone if it has geological and scientifically accepted proof that an adjacent continental shelf is a natural prolongation of its main land mass. This was a significant development. Should the United Nations, through its Commission on the Limits of the Continental Shelf decide in favor of Beijing, Japan could lose its credibility in maintaining control of the islands, not to mention that it could provide a legal footing for the Chinese Government to do everything it could to reverse the status quo on the Pinnacle Islands, by peaceful means or otherwise. In a letter to the commission, Japan argued that China's submission should not be considered⁹⁴. However, as of this writing, the UN already expressed its desire to tackle China's submission within the year (2013). Tokyo expressed its disagreement saying that the UN should not be involved. With all these, Tokyo's alliance

⁹² Ibid

⁹³ "China Submits East China Sea Islands Claim to UN." *BBC News*. BBC, 14 Dec. 2012. Web. 15 Feb. 2013. <<http://www.bbc.co.uk/news/world-asia-20730880>>.

⁹⁴ KASUGA, YOSHIKI. "Japan Dismisses China's Senkakus Chart at U.N." *AJW by The Asahi Shimbun*. N.p., 29 Sept. 2012. Web. 15 Jan. 2013. <<http://ajw.asahi.com/article/asia/china/AJ201209290018>>.

uncertainties toward Washington does not seem to affect how it views the role of multilateral and legal institutions in resolving the Pinnacle Islands issue.

Philippines

The Philippines' resulting alliance uncertainties toward Washington that were highlighted by Beijing's successful revision of the status quo in the Scarborough Shoal increased Manila's reliance on multilateralism and international legal institutions. Beijing's continued occupation of the Scarborough Shoal and Manila's diplomatic defeat in 2012 did not merit considerable attention or alarm from the United States. The Philippines' desire to de-escalate tension could be the most logical reason why it opted not to send back patrol ships to the Scarborough Shoal. Despite negotiations with China, Beijing did not leave the shoal. Manila's failures to get a consensus backing from ASEAN and a stronger reassurance from its treaty ally, the United States left it with very little choice but to rely on established international legal institutions while continuously exhausting multilateralism. The Philippines, in January 2013, formally brought all its South China Sea disputes (Scarborough Shoal and Spratly Islands) before an arbitral tribunal established under UNCLOS⁹⁵. Both Beijing and Manila are signatories to the said sea convention. Such a move was significant in a sense that it does not require Beijing's active participation to the arbitration for the proceedings to occur and for an "award" to be rendered. Completely a reverse of China's position on the Pinnacle Islands, it does not want to involve international legal institutions in tackling its South China Sea disputes with the Philippines and other ASEAN countries. China prefers to negotiate with the Philippines bilaterally. Manila expects, based on previous cases, a decision on the matter in three to four years. Although not binding, should the UN tribunal decides to invalidate the 9-

⁹⁵ "Statement by Secretary of Foreign Affairs Albert Del Rosario on the UNCLOS Arbitral Proceedings against China to Achieve a Peaceful and Durable Solution to the Dispute in the WPS." *Dfa.gov.ph*. Department of Foreign Affairs - Philippines, 22 Jan. 2013. Web. 30 Jan. 2013. <<http://www.dfa.gov.ph/index.php/newsroom/dfa-releases/7300-statement-by-secretary-of-foreign-affairs-albert-del-rosario-on-the-unclos-arbitral-proceedings-against-china-to-achieve-a-peaceful-and-durable-solution-to-the-dispute-in-the-wps>>.

dash line map claim of Beijing, it would erode significantly China's credibility and could provide the Philippines and other ASEAN claimant countries strong moral and legal grounds. Philippine Foreign Affairs Secretary Albert Del Rosario said that Manila "has exhausted almost all political and diplomatic avenues for a peaceful negotiated settlement of its maritime dispute with China."⁹⁶ It could be inferred that despite the Philippines close coordination with the US, including its two-on-two bilateral engagements, Manila's failure to secure stronger and clearer security commitments from the United States related to its South China Sea disputes pushed it to risk an economic backlash from China and unilaterally take the world's second largest economy into an international arbitrary proceedings.

Meanwhile, the Philippines has shown persistent pattern of bringing up its dispute with China to international summits, such as ASEAN, ASEAN Related Summits, and UN General Assembly, highlighting multilateralism. Moreover, it has continuously asked major countries (Germany, UK, Australia) to back its stance of resolving its dispute with China by peaceful means particularly through international law. China opposes the internationalization of its disputes with the Philippines. In all of these, the United States seemed to be more concerned about staying out of the dispute as much as possible.

⁹⁶ Ibid.

V. CONCLUSIONS

The rise of China and the accompanying increased aggressiveness of Beijing's assertion on its various territorial and maritime claims in the South and East China Seas highlighted the inherent "credibility problem" of the Japan-US and the Philippines-US alliances. Both the Pinnacle Islands incident in 2010, including the succeeding tensions, and the Scarborough Shoal incident in 2012 underscored the United States' ambiguous security commitments to its treaty allies in the Pacific, despite Washington's much hyped "pivot to Asia" strategy. The United States' perceived greater national interests in preventing a war with China may be the most obvious reason for Washington's ambiguity in supporting its allies. This has caused Japan and the Philippines to develop "alliance uncertainties" resulting to two common policy implications, as observed: 1) significant military build-up and increased defense posture; and 2) significant alliance building efforts in the region. These two policy actions are geared toward filling up the gap that their alliance uncertainties toward Washington have created. For the Philippines, it went on further to increase its reliance on multilateralism and international legal institutions. For Japan, while multilateralism remains on the table, it views international legal institutions as too compromising for its national interest of maintaining control over the Pinnacle Islands. The deviation could be a result of the two countries difference in national power. On the one hand, the Philippines' weak defenses could not be transformed overnight and so it has to emphasize international law to thwart future Chinese revisionist actions. On the other hand, Japan remains a major regional power able to project military might and international influence that, despite its uncertainties toward US security commitments, still enough to counter China.

The Japan-US and the Philippines-US alliances are very different from NATO. Both treaties do not necessarily require immediate US military intervention adding to uncertainties. Unlike

in the Cold War when the US could immediately commit to defend its allies against Soviet aggression, China is different. The United States continues to emphasize the engagement of China. The United States' economic interests in maintaining a harmonious relationship with China could also be huge factor that give both Japan and the Philippines considerable uncertainties on Washington's alliance commitments. It remains questionable whether the United States could afford to fire on Chinese ships and aircrafts in defense of its allies' control of small rocks and islands risking huge economic and geopolitical ramifications.

The responses of Japan and the Philippines were but expected. Countries that feel threatened by a more powerful neighbor would usually resort to balancing through alliance building⁹⁷, as well as through military build up⁹⁸ and increased defense postures. Moreover, both countries are keen on pushing for their national interests regardless of established governing international legal institutions. Japan's choice to dismiss any role that international legal institutions (e.g. UNCLOS) or arbitration bodies (ICJ) in dealing with the Pinnacle Islands dispute, and the Philippines' full embrace of international legal institutions were also not unusual. Apparently, the role of multilateral legal and security institutions depend on how states perceive them vis-à-vis their national interests. The utility of international legal institutions established to govern states is dependent on whether particular states view them as threatening or supporting to their national interests⁹⁹.

While this paper does not discount that China's increased aggressiveness on its territorial and maritime claims in the Pacific since 2010 remains to be the most obvious reason for those two policy actions by Japan and the Philippines, this paper contends that their alliance

⁹⁷ Kenneth N. Waltz, "Theory of International Relations" (Addison-Wesley Publishing, 1979): 118

⁹⁸ Waltz, "Theory of International Relations," 168

⁹⁹ Bradford, William C., In the Minds of Men: A Theory of Compliance with the Laws of War (June 6, 2004). Available at SSRN: <http://ssrn.com/abstract=555894>

uncertainties toward the United States left them with little choice but to find alternative security hedge and aggression-deterrence factors against the rising China.

The justifications behind the behaviors or policy actions of Japan and the Philippines in response to their alliance uncertainties toward the United States, in relation to their separate territorial and maritime disputes with a more assertive China presented in this paper are of course very simplified. There must have been other factors that could have influenced the sudden military buildup, increased defense postures, heightened regional alliance building efforts and deviation in viewing the role of multilateralism and international legal institutions on the part of Tokyo and Manila that were not included here. However, this paper does not seek to explain everything. The arguments presented and explained might be too basic. Nevertheless, they could provide insights into the current struggles of the Philippines and Japan, two countries of varying levels of national power, in countering a more assertive China, taking into consideration a rapidly changing regional geopolitical and security landscape.

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APPENDICES

APPENDIX I

TREATY OF MUTUAL COOPERATION AND SECURITY BETWEEN JAPAN AND THE UNITED STATES OF AMERICA

The Government of the United States of America and the Government of Japan,

Desiring to foster international peace and security, within the framework of the Charter of the United Nations, through voluntary arrangements which will further the ability of nations dedicated to the purposes and principles of the Charter to develop effective measures for individual and collective self-defense in support of those purposes and principles;

Reaffirming their belief as stated in the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951 that Japan as a sovereign nation possesses the inherent right of individual or collective self-defense referred to in Article 51 of the Charter of the United Nations;

Recalling the preamble of the Security Treaty between the United States of America and Japan, signed at the city of San Francisco on September 8, 1951, to the effect that the United States of America, in the interest of peace and security, would maintain certain of its armed forces in and about Japan as a provisional arrangement in the expectation that Japan will itself increasingly assume responsibility for its own defense against direct and indirect aggression, always avoiding armament which could be an offensive threat or serve other than to promote peace and security in accordance with the purposes and principles of the Charter of the United Nations;

Recognizing that, in the planning of a defense assistance program for Japan, economic stability will be an essential element for consideration in the development of its defense capacities, and that Japan can contribute only to the extent permitted by its general economic condition and capacities;

Taking into consideration the support that the Government of the United States of America has brought to these principles by enacting the Mutual Defense Assistance Act of 1949, as amended, and the Mutual Security Act of 1951, as amended, which provide for the furnishing

of defense assistance by the United States of America in furtherance of the objectives referred to above; and

Desiring to set forth the conditions, which will govern the furnishing of such assistance;

Have agreed as follows:

ARTICLE I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations. The Parties will endeavor in concert with other peace-loving countries to strengthen the United Nations so that its mission of maintaining international peace and security may be discharged more effectively.

ARTICLE II

The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between them.

ARTICLE III

The Parties, individually and in cooperation with each other, by means of continuous and effective self-help and mutual aid will maintain and develop, subject to their constitutional provisions, their capacities to resist armed attack.

ARTICLE IV

The Parties will consult together from time to time regarding the implementation of this Treaty, and, at the request of either Party, whenever the security of Japan or international peace and security in the Far East is threatened.

ARTICLE V

Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes. Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE VI

For the purpose of contributing to the security of Japan and the maintenance of international peace and security in the Far East, the United States of America is granted the use by its land, air and naval forces of facilities and areas in Japan. The use of these facilities and areas as well as the status of United States armed forces in Japan shall be governed by a separate agreement, replacing the Administrative Agreement under Article III of the Security Treaty between Japan and the United States of America, signed at Tokyo on February 28, 1952, as amended, and by such other arrangements as may be agreed upon.

ARTICLE VII

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE VIII

This Treaty shall be ratified by Japan and the United States of America in accordance with their respective constitutional processes and will enter into force on the date on which the instruments of ratification thereof have been exchanged by them in Tokyo.

ARTICLE IX

The Security Treaty between Japan and the United States of America signed at the city of San Francisco on September 8, 1951 shall expire upon the entering into force of this Treaty.

ARTICLE X

This Treaty shall remain in force until in the opinion of the Governments of Japan and the United States of America there shall have come into force such United Nations arrangements as will satisfactorily provide for the maintenance of international peace and security in the Japan area. However, after the Treaty has been in force for ten years, either Party may give notice to the other Party of its intention to terminate the Treaty, in which case the Treaty shall terminate one year after such notice has been given.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate at Washington in the Japanese and English languages, both equally authentic, this 19th day of January, 1960.

FOR JAPAN:

Nobusuke Kishi

Aiichiro Fujiyama

Mitsujiro Ishii

Tadashi Adachi

Koichiro Asakai

FOR THE UNITED STATES OF AMERICA:

Christian A. Herter

Douglas MacArthur 2nd

J. Graham Parsons

APPENDIX II

MUTUAL DEFENSE TREATY

Between the

THE REPUBLIC OF THE PHILIPPINES and the THE UNITED STATES OF AMERICA

The Parties of this Treaty

Reaffirming their faith in the purpose and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments, and desiring to strengthen the fabric of peace in the Pacific area.

Recalling with mutual pride the historic relationship, which brought their two peoples together in a common bond of sympathy and mutual ideals to fight side-by-side against imperialist aggression during the last war.

Desiring to declare publicly and formally their sense of unity and their common determination to defend themselves against external armed attack, so that no potential aggressor could be under the illusion that either of them stands alone in the Pacific area.

Desiring further to strengthen their present efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive system of regional security in the Pacific area.

Agreeing that nothing in this present instrument shall be considered or interpreted as in any way or sense altering or diminishing any existing agreements or understandings between the Republic of the Philippines and the United States of America.

Have agreed as follows:

ARTICLE I. The parties undertake as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relation from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

ARTICLE II. In order more effectively to achieve the objective of this Treaty, the Parties separately and jointly by self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack.

ARTICLE III. The Parties, through their Foreign Ministers or their deputies, will consult together from time to time regarding the implementation of this Treaty and whenever in the opinion of either of them the territorial integrity, political independence or security of either of the Parties is threatened by external armed attack in the Pacific.

ARTICLE IV. Each Party recognizes that an armed attack in the Pacific area on either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common dangers in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE V. For purposes of ARTICLE IV, an armed attack on either of the Parties is deemed to include an armed attack on the metropolitan territory of either of the Parties, or on the island territories under its jurisdiction in the Pacific Ocean, its armed forces, public vessels or aircraft in the Pacific.

ARTICLE VI. This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE VII. This Treaty shall be ratified by the Republic of the Philippines and the United States of America in accordance with their respective constitutional processes and will come into force when instruments of ratification thereof have been exchanged by them at Manila.

ARTICLE VIII. This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other party.

In witness whereof the undersigned Plenipotentiaries have signed this Treaty.

Done in duplicate at Washington this thirtieth day of August, 1951.

For the Republic of the Philippines:

(Sgd.) CARLOS P. ROMULO

(Sgd.) JOAQUIN M. ELIZALDE

(Sgd.) VICENTE J. FRANCISCO

(Sgd.) DIOSDADO MACAPAGAL

For the United States of America:

(Sgd.) DEAN ACHESON

(Sgd.) JOHN FOSTER DULLES

(Sgd.) TOM CONNALLY

(Sgd.) ALEXANDER WILEY