

EXTERNAL AFFAIRS & DEFENSE

Overview of External Affairs and Defense

This serves as a contextual overview of the next section of the study. The first section of this overview outlines the international system, focusing on China and the United States. The second section then outlines the geopolitical future(s) scenarios that are used throughout the External Affairs and Defense section of the study.

China and the United States: Great-Power Politics¹¹⁴³

“One of the most important tasks of American statecraft over the next decade will therefore be to lock in a substantially increased investment — diplomatic, economic, strategic, and otherwise — in the Asia-Pacific region.”¹¹⁴⁴

The quote above was taken from Hillary Clinton’s pivotal 2011 piece in *Foreign Policy*, “America’s Pacific Century,” where she argues that the core of American foreign policy moving forward should be the Asia-Pacific region, (although the Trump Administration used Indo-Pacific). She justifies this shift in the geopolitical pendulum of power swinging toward the region, writing that, “The Asia-Pacific has become a key driver of global politics.” Clinton argues that the US needs to continue “leaning forward”¹¹⁴⁵ in world affairs and maintain its role as a leader. Countering calls for retrenchment, Clinton writes, “From opening new markets for American businesses to curbing nuclear proliferation to keeping the sea lanes free for commerce and navigation, our work abroad holds the key to our prosperity and security at home.”¹¹⁴⁶ Yet, foreign policy does not hinge on declaratory policy alone. A course of action must be designed. She argues for the continuation of “forward-deployed diplomacy,” a network of strengthened security alliances, relationships with emerging powers (China), engagement with multilateral institutions, the expansion

1143 The following section is an updated and edited version of pgs. 99-107 of Dr. Kuper’s dissertation.

1144 Hillary Clinton, “America’s Pacific Century,” *Foreign Policy*, October 11, 2011.

1145 Stephen Brooks, G. John Ikenberry, and William Wohlforth, “Lean Forward: In Defense of American Engagement,” *Foreign Policy* (January/February 2013).

1146 Clinton, “Pacific Century.”

of trade and investment, advancement of democracy, and lastly, the forging of a broad-based military presence. One sees similarities with the Biden Administration. As noted by Anthony Blinken during his first trip to Asia as Secretary of State, “We’re united in the vision of a free and open Indo-Pacific region, where countries follow the rules, cooperate whenever they can, and resolve their differences peacefully. And in particular, we will push back if necessary when China uses coercion or aggression to get its way.”¹¹⁴⁷

To examine the root of this shift to the region, two factors are examined: the growth of Chinese hard power and deterrence capabilities; and China’s economy and soft power growth.

China’s hard power and military capabilities have grown immensely in the past thirty years. Barry Posen writes that the United States has long enjoyed a “command of the commons,” meaning, “worldwide freedom and movement on and under the seas and in the air above 15,000 feet with the ability to deny this same freedom to enemies.”¹¹⁴⁸ Yet, in the past decade or so, China has developed military technology that challenges this command of the commons and has adopted the A2/AD strategy. A2/AD stands for “Area Access/Area Denial” and is aimed at “restricting enemy access to a certain strategic location, while it exerts forceful control over a territorial asset like Taiwan or a disputed maritime claim”¹¹⁴⁹ as can be seen in the conflicts surrounding the islands in the South China Sea. At its core, the strategy is aimed at the three Ds: deterring, dissuading, or defeating the involvement of a third power in any confrontation or conflict China may have regarding its territorial assets or maritime claims. A report to the US Congress from the Office of the Secretary of Defense stated that a Chinese A2/AD capability reaching anywhere near the “Second Island Chain,” which connects Guam, Japan, and Papua New Guinea, would pose major challenges to US security policy.¹¹⁵⁰

China’s military strategy is based on the concept of active defense, which adopts principles of strategic defense with offensive action operationally and tactically. It is “rooted in the principle of avoiding initiating armed conflict but responding forcefully if challenged.”¹¹⁵¹ The tenets of active defense are adhering to a position of self-defense; combining strategic defense with operational and tactical offense; taking the operational initiative; striving for the best possibilities; having the dialectical unity of restraining war and winning war; and lastly, that soldiers and the people are the source of victory. According to the US Department of Defense, the PLA’s missions and tasks include: “safeguarding China’s territorial sovereignty and maritime rights and interests; maintaining combat readiness; conducting military training under real combat conditions; safeguarding China’s nuclear weapons and its interests in the space and cyber domains; countering terrorism and maintaining stability; protecting the PRC’s overseas interests;

1147 Amanda Macias, “China not to use ‘coercion and aggression’ to get its way” *CNBC*, March 16, 2021, accessed at <https://www.cnbc.com/2021/03/16/blinken-warns-china-to-not-use-coercion-and-aggression-to-get-its-way.html>.

1148 Stephen Biddle and Ivan Oelrich, “Future Warfare in the Western Pacific: Chinese Antiaccess/Area Denial, US AirSea Battle, and Command of the Commons in East Asia,” *International Security* 41, no. 1 (Summer 2016): 7.

1149 Anthony Cordesman and Joseph Kendall, “How China Plans to Utilize Space for A2/AD in the Pacific,” *The National Interest: The Buzz*, August 17, 2016, accessed at <http://nationalinterest.org/blog/the-buzz/how-china-plans-utilize-space-a2-ad-the-pacific-17383>.

1150 Biddle and Oelrich, “Future Warfare in the Western Pacific,” 7.

1151 Office of the Secretary of Defense, “Military and Security Developments Involving the People’s Republic of China 2020: Annual Report to Congress,” 2020, 27.

and participating in emergency response and disaster relief.”¹¹⁵²

Modernization of its armed forces is therefore imperative. This modernization and technological development of China’s military began in the late 1980s, when China started designing a new ship class, and this development has continued to the present. The PLAN currently operates six nuclear-powered ballistic missile submarines, six nuclear-powered attack submarines, and 46 diesel-powered attack submarines.

China’s anti-ship ballistic missiles, primarily the DF-21D missiles, can, when combined with targeting systems and maritime surveillance, give China the ability to attack aircraft carriers or other foreign navy ships. Andrew S. Erickson writes, “The US Navy has not previously faced a threat from highly accurate ballistic missiles capable of hitting moving ships at sea. For this reason, some observers have referred to ASBMs as a ‘game-changing’ weapon.”¹¹⁵³ It is also important to point out that the DF-26, an intermediate-range ballistic missile may also be capable of anti-ship capability, and closer to home, this missile has been dubbed the “Guam Killer.”¹¹⁵⁴ “The DF-26 IRBM has a maximum range of 4,000 km and is capable of precision strikes against ground and ship targets, potentially threatening US land and sea-based forces as far away as Guam.”¹¹⁵⁵ Another part of the Chinese arsenal is anti-ship cruise missiles. These include those obtained from Russia, such as the SS-N-22 and SS-N-27b SIZZLER, which is carried on ships China obtained from Russia. Perhaps the most widespread of the ASCMs are the YJ-83 series, which China carries on most of its ships and even in some of its aircraft. These technological and weapon advancements show that the People’s Liberation Army Navy (PLAN) is increasing its potential for anti-surface warfare.

The Chinese military has made modernization progress in the past twenty years. According to the

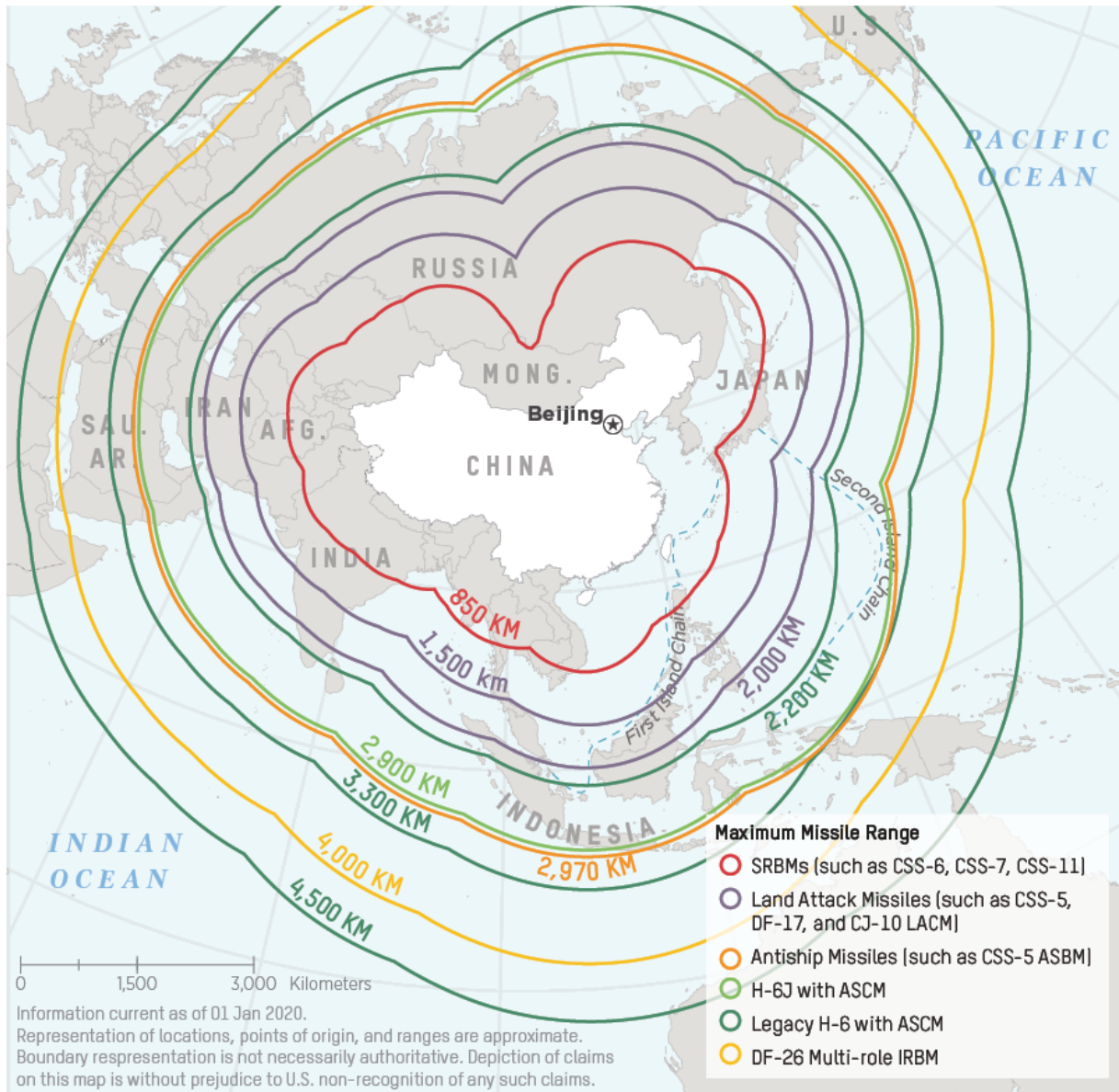
1152 Office of the Secretary of Defense, “Military and Security Developments,” 28.

1153 Andrew Erickson, “Raining Down: Assessing the Emergent ASBM Threat,” *Jane’s Navy International*, March 16, 2016, accessed at <https://my.ihs.com/Janes?th=janes&callingurl=http%3A%2F%2Fjanes.ihs.com%2FJanes%2FDisplay%2F1765057#A2/AD%20capability>.

1154 Brad Lendon, “US must beware China’s ‘Guam Killer’ missile,” *CNN*, May 15, 2016, accessed at <https://edition.cnn.com/2016/05/12/politics/china-guam-killer-missile/index.html>.

1155 Office of the Secretary of Defense, “Military and Security Developments,” 81.

CONVENTIONAL STRIKE CAPABILITIES



Source: Military and Security Developments Involving the People's Republic of China 2020: Annual Report to Congress, pg. 57

2020 China Military Power Report produced by the US Department of Defense, China is already ahead of the United States in certain areas such as:

- Shipbuilding: The PRC has the largest navy in the world, with an overall battle force of approximately 350 ships and submarines including over 130 major surface combatants. In comparison, the US Navy's battle force is approximately 293 ships as of early 2020.
- Land-based conventional ballistic and cruise missiles: The PRC has more than 1,250

MAJOR NAVAL UNITS



Source: Military and Security Developments Involving the People's Republic of China 2020: Annual Report to Congress, pg. 49.

ground-launched ballistic missiles (GLBMs) and ground-launched cruise missiles (GLCMs) with rangers between 500 and 5,500 kilometers. The United States currently fields one type of conventional GLBM with a range of 70 to 300 kilometers and no GLCMs.

- Integrated air defense systems: The PRC has one of the world's largest forces of advanced long-range surface-to-air systems—including Russian-built S-400s, S-300s, and domestically produces systems—that constitute part of its robust and redundant integrated air defense system architecture.¹¹⁵⁶

According to the report regarding the Chinese military:

- The PRC's strategy includes advancing a comprehensive military modernization program that aims to basically complete military modernization by 2035 and transform the PLA into a world class military by the end of 2049.
- The PLA's evolving capabilities and concepts continue to strengthen the PRC's ability to counter an intervention by an adversary in the Indo-Pacific region and project power globally.¹¹⁵⁷

While this is in no way a comprehensive examination of PLA's modernization, the point is that US strategists and military analysts are taking notice and debating what actions to take regarding this modernization and growing arsenal, especially with the current escalating tensions in the South China Sea. Some examples of military responses to China's military modernization include the Defense Innovation Initiative; the Long-Range Research and Development Plan; and most recently, the proposed Pacific Deterrence Initiative (PDI) including the Aegis Ashore system as part of the proposed PDI.¹¹⁵⁸ This increasing capability of China is occurring in an environment of the decline of US primacy in the region. China's military growth, modernization, and diversification is something that will inevitably affect Guam as the island is an important power projection hub for the United States in the region, especially in the second island chain. This is encapsulated in the 2020 China Military Power Report, "The PLA is developing the capabilities and operational concepts to conduct offensive operations within the Second Island Chain, in the Pacific and Indian Oceans, and in some cases, globally."¹¹⁵⁹

China's military modernization is not the only factor in China's growth. Another primary factor is the expansion of China's economic and soft power as well as its more active foreign policy. From 1981-2011, China's economy grew 10% per year, overtaking Germany and Japan's economy rather swiftly. China is now the second largest economy, the world's largest exporter, second largest importer, and is also now the world's largest trading nation.¹¹⁶⁰ Its economic rise has resulted in policies and actions that strategists deem to be against the US national interest as long as freedom of navigation and global power projection are core components of the US national interest. One prime example is its creation of alternatives to the economic development institutions created after Bretton-Woods, like the International Monetary Fund and the World Bank. Many countries in Oceania and Africa, such as Fiji, are turning to China for financial assistance since China does not attach the same neoliberal conditions in the acceptance of a loan. This was made clear by African Trade Minister Rob Davies in 2010, when he said, "China's expanding presence in Africa can only be a good thing because it means that we don't have to sign on the dotted line

1157 Office of the Secretary of Defense, "Military and Security Developments," ii.

1158 Cheryl Pellerin, "Hagel Announces New Defense Innovation, Reform Efforts," DOD News, November 15, 2014, accessed at <https://www.defense.gov/News/Article/Article/603658/>; Joseph Trevithick, "This is The Pentagon's \$27 Billion Master Plan To Deter China In The Pacific," *The Drive*, March 5, 2021, accessed at <https://www.thedrive.com/the-war-zone/39610/this-is-the-pentagons-27-billion-master-plan-to-deter-china-in-the-pacific>.

1159 Office of the Secretary of Defense, "Military and Security Developments," ix.

1160 Jude Woodward, *The US vs China: Asia's new Cold War?* (Manchester: Manchester University Press, 2017).

whatever is shoved under our noses any longer. We now have alternatives and that's to our benefit."¹¹⁶¹

Another example is the establishment of the Asian Infrastructure Investment Bank (AIIB), which was created in 2015 and was an initiative aimed at boosting the region's economy with Beijing as the center of development. This was seen as a diplomatic victory for China because despite the United States' objection, US allies, such as the United Kingdom and Australia, signed the articles of association for the AIIB.¹¹⁶² China Finance Minister, Lou Jiwei, said the establishment of AIIB was a "first step in an epic journey meant to deepen regional cooperation, boost Asia's infrastructure and support the global economic recovery."¹¹⁶³ Due to the United States' resistance to increasing the resources of the International Monetary Fund, giving emerging market nations a greater share in the decision-making of the institution, China created the AIIB.¹¹⁶⁴

Another initiative sought by China in further Asian, and even European, integration is its "One Belt, One Road Initiative." This initiative by President Xi Jinping is aimed at creating an "economic belt," which would link China with Mongolia, Russia, Iran, Turkey, the Balkans, and central and Eastern Europe. His maritime silk road component is aimed at linking southeast China with Southeast Asia, Bangladesh, India, and the Mediterranean. The core of this project would be to invest in infrastructure, such as transcontinental railway routes, highways, port facilities, and energy pipelines. The economic cost of this initiative is quite large, and China has invested nearly \$1 trillion. This initiative has geopolitical implications that may challenge U.S. national interests, and not just in the Indo-Pacific region.¹¹⁶⁵

In Oceania, some of the most visible signs of Chinese influence can be found in the financial aid it is providing Pacific Island countries, such as the Federated States of Micronesia. One root of Chinese aid to Pacific Island countries has been the battle for diplomatic recognition, where China (PRC) and Taiwan (ROC) both sought various Pacific Islands to recognize their respective governments. The result of this has been the opening of the region to Chinese (PRC) investment. According to Dean Cheng, who runs the Asian Studies Center at the Heritage Foundation, "Chinese trade with Pacific Island countries rose by 60 percent between 2014 and 2015, reaching \$8.1 billion."¹¹⁶⁶ A clear example of this is found in the Federated States of Micronesia. Former president of the FSM, Peter Christian, had an official visit to China in early 2017, greeted with a military review by Chinese President Xi Jinping, marking the FSM's involvement with China's Belt and Road Initiative. This meeting helped to strengthen ties between the FSM and China. As reported in a study by RAND, "On the subject of tourism, for instance, it was noted that China has endorsed the FSM as an officially sanctioned tourist destination and was willing to

1161 Jude Woodward, *The US vs China: Asia's new Cold War?* (Manchester: Manchester University Press, 2017), 17.

1162 Simon Denyer, "China launches development bank for Asia, calls it first step in 'epic journey,'" *The Washington Post*, June 29, 2015, https://www.washingtonpost.com/world/china-launches-infrastructure-bank-first-step-in-an-epic-journey/2015/06/29/e7d8bd7a-ca11-46fa-9bad-15ba856f958c_story.html?utm_term=.4becafbe9b68.

1163 Denyer, "China Launches Development Bank."

1164 Denyer, "China Launches Development Bank."

1165 Peter Ferdinand, "Westward ho- the China dream and 'one belt, one road': Chinese foreign policy under Xi Jinping," *International Affairs* 92, no. 4 (July 2016): accessed at <https://www.chathamhouse.org/publication/ia/westward-ho-china-dream-and-one-belt-one-road-chinese-foreign-policy-under-xi-jinping>.

1166 Dean Cheng, "Countering Chinese Inroads into Micronesia," *The Heritage Foundation*, October 27, 2016, accessed at <https://www.heritage.org/asia/report/countering-chinese-inroads-micronesia>.

support a range of infrastructure projects related to growing the FSM's fledgling tourism industry. The visit included the announcement of block grants for the four states of the FSM, as well as the gifting of a new inter-island aircraft."¹¹⁶⁷ What is even more important from the US perspective is China's courting of the FSM regarding the Compact of Free Association with the United States, with US grant funding set to expire in 2023. China has offered to financially help the country after this funding expires.¹¹⁶⁸ The provisions for US funding are currently being renegotiated by the FSM and the US and may extend beyond 2023 in some form, in no small part because of this courting by China.

Another action taken by some Pacific Island countries is the recognition of China over Taiwan. Taiwan is only recognized by fifteen countries, with four of them being in the Pacific Islands (Palau, the Marshall Islands, Nauru, and Tuvalu). This China-Taiwan competition for recognition from countries is global and was evident in the Caribbean in the 1990s, moving to larger South and Central American countries, and now taking center stage in Oceania. In late 2019, two Pacific Island countries, Kiribati and the Solomon Islands, cut diplomatic ties with Taiwan and began to recognize and establish diplomatic ties with the People's Republic of China instead. Soon afterward, Prime Minister Manasseh Sogavere of the Solomon Islands went to China to sign five memoranda of understanding which included the Solomon Islands' involvement in China's Belt and Road Initiative as well as a Chinese promise to build a multi-million-dollar stadium. In return, Chinese companies were "granted the right to build infrastructure, roads, bridges, and power in order to revive Gold Ridge, once Solomon Islands' most lucrative goldmine; and a Chinese company attempted to lease the entire Solomons' island of Tulagi."¹¹⁶⁹ Similarly, Kiribati switched allegiance, from Taiwan to China. Kiribati President Taneti Mamau said at the United Nations, "I do believe that there is much to learn and gain from the People's Republic of China and the reestablishment of our diplomatic relations is just the beginning."^{1170 1171}

These factors collectively demonstrate how US power and influence is being challenged, especially in the region.

Models Moving Forward

In their book, *Decolonization: A Short History*, Jan C. Jansen and Jurgen Osterhammel describe five models of decolonization or of how colonial rule came to an end: the transfer of power model; the national liberation model; the neocolonialism model; the unburdening model; and the world politics model—each detailing different reasons for decolonization:

1167 Derek Grossman, et al., "America's Pacific Islands Allies: The Freely Associated States and Chinese Influence," *RAND Corporation*, 2019, 33.

1168 Direct quotation ends.

1169 Edward Cavanaugh, "When China came calling: inside the Solomon Islands switch," *The Guardian*, December 8, 2019, accessed at <https://www.theguardian.com/world/2019/dec/08/when-china-came-calling-inside-the-solomon-islands-switch>.

1170 DW, "Kiribati and China Restore Diplomatic Relations," *DW*, <https://www.dw.com/en/kiribati-and-china-restore-diplomatic-relations/a-50618545>.

1171 Direct quotation begins in the next paragraph.

1. *Transfer of Power model:* According to this model, decolonization is the “purposeful fulfillment, rationally implemented by European administrators in cooperation with moderate indigenous politicians of a reforming tendency already inherent in colonialism, namely, to send non-European people who came of age thanks to their colonial education on their way into modernity based on self-determination. This model thus puts emphasis on metropolitan decisions and plans at the motor of change.”¹¹⁷² To put it another way, in this model, the colonizer is made to look like a benevolent parent who feels his child is ready for graduation and/or the next chapters in their life, thus they peacefully pass down power to the colony.

2. *National liberation model:* In this model, decolonization is spurred by the “toppling of alien rule based on violence by native liberation movements aiming to unite their nation and availing themselves of a broad spectrum of means, from peaceful negotiation to boycott to armed struggle.”¹¹⁷³ This model of decolonization is directly opposed to the transfer of power model of decolonization because in this view, power was never transferred, rather it was taken via liberation movements. In the national liberation model, it is unlikely that colonizers ever freely give up power based off of the colonized “reaching a state of development” commiserate to being deemed as equal. This model of decolonization has seen lives lost and bloodshed in history.

3. *Neocolonialism model:* According to the neocolonialism model of decolonization, the process is as follows: “the colonial power’s voluntary renunciation of coercive colonial structures that have become obsolete once they realize, in the age of powerful multinational corporations, that they can achieve their goal of economic exploitation just as well and more cheaply without direct domination of a state.”¹¹⁷⁴ Under this model, a powerful country could continue to rule even if not “officially” colonizing or annexing territory. They can do this through multinational corporations.

4. *Unburdening model:* This model views decolonization as “a deliberately planned effort at modernization by abandoning overseas positions whose military and strategic value has become increasingly doubtful, fiscally costly, politically risky, and damaging to the colonizer’s international reputation, and that are also less and less supported by the public at home – in other words, an attempt at unburdening usually linked to a shift in global priorities.”¹¹⁷⁵ Thus, decolonization occurs because it is not in the best interest of the colonizer to hold on to that colony any longer. “Following such cost-benefit calculations, clinging to the burdensome and

1172 Jan C. Jansen and Jurgen Osterhammel, *Decolonization: A Short History* (Princeton: Princeton University Press, 2017), 29.

1173 Jansen and Osterhammel, “Decolonization: A Short History,” 29.

1174 Jansen and Osterhammel, “Decolonization: A Short History,” 30.

1175 Jansen and Osterhammel, “Decolonization: A Short History,” 30.

loss-making enterprise of maintaining colonial rule seemed increasingly irrational.”¹¹⁷⁶

5. *World Politics model*: The final model describes decolonization as “the inevitable consequence of the newly emerged bipolarity between the post-1945 nuclear superpowers, which no longer leaves any room for the old European strategies of securing power by colonial control over the widest possible expanse of territories and devalues the possession of conventional colonial empires as a guarantee of top billing on the world political stage.”¹¹⁷⁷ It calls on us to look at international politics and the geopolitical conditions of the times in identifying the possible conditions for decolonization. This model can also reflect the United States’ post-World War II strategy of the basing network. After World War II, with the creation of the United Nations and liberal international ordering, the US could not engage in old processes of colonialism such as direct annexation. However, to maintain its influence in the world, it established a forward presence military basing strategy as opposed to “colonizing” and annexing new territories in the world.

Each of these models provide different reasons for decolonization and more importantly, identify different agents of change in the decolonization process, ranging from the colonial elite, to a mass movement of the colonized, to the structure of the international system. Furthermore, in many decolonization movements in history, one sees that the models can be mixed. Understanding these different models of decolonization is helpful for the purposes of this study because it broadens the scope of understanding regarding a change in political status.

To put it another way, whenever decolonization does occur, and if it does occur via a plebiscite, voters should pay close attention to world events and what is happening in the region. One must pay attention to the geopolitical environment. One thing that tends to be taken for granted is that the US’s #1 superpower status will remain in perpetuity. Now, this may make sense to many because Guam was statutorily declared an unincorporated territory of the US after World War II, parallel to the US becoming a global superpower. Many in Guam have lived through this period in which the US won the Cold War and had no real competitors in the international system. However, this unipolar moment is a blink in history. With the increase in power of countries like China or the decrease of American influence around the world, the world looks different than it did 70 years ago when decolonization was at a real peak. This should be acknowledged. If the US remains the most powerful country in the world, this makes a more stable argument for statehood. If US global power is in decline, with other powers rising in the region, this makes a more powerful argument for independence or free association. The point is that US primacy is not permanent, even if one desires it to be so, and one should consider that in calculations about the future.

Conversations about future political status options for Guam tend to revolve around Guam’s relationship with the United States. However, particularly, for the areas of external affairs and defense, it is the

1176 Jansen and Osterhammel, “Decolonization: A Short History,” 31.

1177 Jansen and Osterhammel, “Decolonization: A Short History,” 31.

opinion of the authors that it would be incomplete to not to include possible futures in which the United States diminishes in power, with a return to a more restrained bend towards foreign policy. In this study, the permanence of the United States as the only world superpower is not taken for granted. It must be made clear that, in engaging in an analysis of this possible future, it must not be equated to the authors desiring this result. It simply would be intellectually dishonest not to take these scenarios into account. Thus, the geopolitical power shifts in the Indo-Pacific region, impacts of climate change, and the different models of decolonization throughout history will all affect the various futures of political status for Guam.

Synthesizing the information provided in this overview, any analysis of possible future(s) for external affairs and defense for Guam needs to consider various futures, and not a single future. The following section of the study engages in a future(s) scenario exercise in the independence portions that is not often thought about, particularly in the context of discussions on political status options. The following scenarios are primarily deployed in the independence portions of the study because the structural relationship with the United States (particularly regarding security) will be generally similar under the following scenarios. The five scenarios utilized are:

Scenario #1: Chinese Primacy/Chinese Expansion Towards Military Primacy, Significant US Decline

This first model focuses on the scenario that the US declines and China flourishes and establishes primacy in the region. To be clear, primacy refers to “a country’s disproportionate (and measurable) share of all three kinds of power resources: military, economic, and soft.”¹¹⁷⁸ In this case, it may not even be that China actively interferes with US military goals in Micronesia, but rather that the regional arrangements shift (China gaining the support of all surrounding Pacific Island countries) or that US power looks different in the region (restraint and less basing). Furthermore, in this scenario, it could also be the case that China ends up as the regional hegemon (writing the rules of interaction in the region through the development of new alliances, regional institutions, or maritime treaties).

Scenario #2: Decline of China and the United States, Emergence of Alternative Regionalism or Middle-Power Engagement

In this model, both the United States and China are weakened and neither serves as the pre-eminent power in the Indo-Pacific region. It is speculated that in the case of US and China no longer serving as the center of geopolitical gravity in the region, there are multitudes of futures for how the region may look. This can range from middle-powers such as Australia or Japan trying to exert more influence, Pacific Island countries serving a major role, or the solidification of regional organizations as the primary driver of regional politics, such as ASEAN, the Pacific Islands Forum, or further subregional organizations. To

1178 Joseph S. Nye, Jr. “American Hegemony or American Primacy,” *Project Syndicate*, March 9, 2015, accessed at <https://www.project-syndicate.org/commentary/american-hegemony-military-superiority-by-joseph-s--nye-2015-03?barrier=accesspaylog>.

put it another way, in this scenario, it would not be great powers such as China and the United States organizing the region.

Scenario #3: Continued competition

This model examines the possibilities if Guam were to transition into a different political status in the environment of increasing disruptive competition between the great powers in the region. This is not an argument akin to, “Which side must Guam choose?” Rather, the geopolitical environment at the time of decolonization will affect the reality and options available to Guam. Things to be considered in this model of continued competition are military strength, grand strategy, economic influence, and international standing.

Scenario #4: US Reassertion in the Indo-Pacific, Chinese Decline

This model examines the possibilities of Guam transitioning to different political statuses in the environment of the US maintaining or expanding its power and influence in the region, with a corresponding decline in China’s power and competitive advantage. In this scenario, the United States reasserts itself as the primary power in the region via the reassertion of the freedom of navigation, renewed US economic presence displacing nascent efforts of China to establish competitive financial institutions, and a growth in military power and deterrent capability.

Scenario #5: US Legitimacy crisis on the World Stage Due to Climate Change

In Futures Studies, “drivers” refer to the factors causing change, affecting or shaping futures. Drivers could be direct or underlying. With the four scenarios outlined above, the main drivers being considered are great powers, military capabilities, and shifting geopolitics of the region. In these scenarios, an examination of how amendable each political status is with the geopolitical situation is analyzed. In this final scenario, military power or security is not the driving force of a push for status change. Rather, this scenario represents a change in the incentive for self-determination from considerations of traditional “security” to other aspects of security, such as human security, environmental security, and adaptation to climate change.

In this fifth scenario, the United States suffers from a legitimacy crisis on the world stage due to a climate-changed world. In this scenario, the US decreases its assistance and aid to the region after natural disasters or disease outbreaks and has pulled back from world affairs. Thus, a country like China could step in and potentially fill this pivotal role. An example of this is the US offering money after a natural disaster for basic relief efforts, while China offers to help rebuild and fund longer-term infrastructure that is more in line with climate resiliency. Furthermore, climate change poses an existential threat to Pacific Island communities, and even if a country has a healthy distrust of a larger power, it may be inclined to

be engaged with the large power able to offer it more. In this scenario, climate change has made human security and environmental security issues come to the forefront of the self-determination movement in Guam. In this scenario, the people of Guam are still concerned with traditional military security concerns, but climate change-related security issues are more pressing. As President Kabua of the Marshall Islands said at a recent meeting of the UN Climate Security Project for the Pacific Region, “This is about our survival, safety and security. Military might doesn’t bring peace and security. Peace depends on water, food, land, safety and community.”¹¹⁷⁹

Overall, the possibilities available to Guam may look different depending on these various geopolitical or climate future(s). However, other factors, such as the state of the decolonization movement in Guam, Guam’s connection to the federal bureaucracy, other effects of climate change, the composition of the legislative and executive branches of the United States at the time, and the domestic political environment in the United States will all be factors conjoining the geopolitical environment and must also be taken into consideration.

1179 “UN Climate Change Security Project for the Pacific Region Meeting,” September 7th, 2020.

Potential Political Reunification with The Marianas

The political separation of Guam from the rest of the Mariana Islands—collectively known as the Commonwealth of the Northern Mariana Islands (CNMI)—has notably affected relations between the people of Guam and the people of the CNMI. This has occurred in a relatively short amount of historical time.

We were contracted to include this topic in the study, but we urge the government of Guam to conduct another independent study on reunification. To be treated properly from an analytical perspective, a report on reunification should be lengthier than what we are able to provide here. With this caveat, we still provide some insight and analysis into the issue. It must be emphasized that it is not the intent of this study to assert whether or not to politically reunify with the CNMI. Several factors make reunification an option to consider. Both Guam and the CNMI are geographically situated in the same archipelago, share similar geography, and share an indigenous population with many shared aspects of culture.

The topic of political reunification brings many questions and additional factors to consider, as well as providing additional ways to envision our future. This section does not attempt to predict exactly what each political status would look like in a unified Mariana Islands. Rather, the information and analyses presented here detail some historical context that shaped Guam and the CNMI's current status, as well as legal aspects to consider in the case of reunification. Being part of an archipelago with an appealing strategic location is important to explore when looking at political status options. These include, but are not limited to, issues such as: how a shared general location could affect future geopolitical endeavors if the two political units remain politically separated; relationships with other countries; ecological concerns, as well as expanding the possibilities of our responses to environmental changes; natural disasters, etc. It is not necessary to be a single political entity to address these kinds of issues, but it can be fruitful to imagine how a unified Marianas archipelago (under the different political statuses) could address these various issues. In addition, this study does not assume the political will of the people of the Commonwealth of the Northern Mariana Islands. Pursuing political reunification, ideally, must be contingent on both the people of Guam and the CNMI collaborating on and envisioning the mutually agreeable political relationship.

In line with the rest of the study, however, this section is written specifically for what the people of Guam can consider for the political status options.

It is important to note that in this study we concentrate on methods of reunification and refrain from engaging in arguments or discussions of the feasibility or probability of reunification under the three statuses. There are far too many factors that need to be taken into account to provide an analysis of the feasibility or probability of reunification. Lastly, there are some in Guam who prefer to resolve the issue of reunification before proceeding with the resolution of Guam’s decolonization. While the cause of reunification is a worthy one, it should not serve as a precondition for progress or resolution of Guam’s quests for decolonization. Guam’s decolonization and switch to a new political status should not hinge upon successful reunification with the Commonwealth of the Northern Mariana Islands.

Terms and Political Designations

When analyzing the potential for reunification and examining the three status options, one must assess if there are significant differences in achieving any particular political status with Guam as a single entity or as a unified Mariana Islands. Guam and the CNMI are both “insular areas,”¹¹⁸⁰ of the United States. The generic term of an insular area of the United States refers to, “a jurisdiction that is neither a part of one of the several states nor a federal district.”¹¹⁸¹ Guam became a possession of the US in 1898, but the status of organized, unincorporated territory came several decades later, following US military rule, Japanese occupation, and US reoccupation. Guam’s status as an organized, unincorporated territory was not fully enacted until 1950. The CNMI, on the other hand, has commonwealth status. In insular area terms, a commonwealth is, “an organized United States insular area, which has established with the federal government, a more highly developed relationship, usually embodied in a written mutual agreement.”¹¹⁸² The mutual agreement between the United States and the CNMI is the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (referred to as the Covenant for the remainder of this section).

Historical Context

The political division of the Mariana Islands is not unique, as these types of divisions exist among other colonies and former colonies. Spain lost the archipelago following the Spanish-American War in 1898. The partition of the Mariana Islands was a result of the negotiations and decisions by Spain, the United States, and Germany. President McKinley, against the advice given to him by his naval officers to take all of the Mariana Islands as well as the Caroline Islands, decided to acquire only Guam. The

1180 Please note that “territory” and “insular area” will be used interchangeably in this section unless given a specific context.

1181 US Department of the Interior, “Definitions of Insular Area Political Organizations.” October 22, 2019, accessed at <https://www.doi.gov/oia/islands/politicatypes>.

1182 US Department of the Interior, “Definitions of Insular Area Political Organizations.”

Northern Mariana Islands and Caroline Islands were sold to Germany. Japan then gained control of the NMI through a League of Nations mandate following World War I. During this time, Japan developed intelligence on the area, implemented its own governance system, and developed a relationship with the people. Some CHamorus from Guam even moved to the NMI during this time because there was not enough economic development opportunity for them under the US.¹¹⁸³

Because of the political separation of the archipelago, the people of Guam and the people of the Northern Marianas experienced WWII differently. The memories of war and political development during this time persist until today.¹¹⁸⁴ Although the Japanese occupation resulted in some negative perceptions between the two entities, many CHamoru families still had strong ties to their families on the different islands. This, however, was not enough to gain significant support for a reunified Marianas in the years following the war.

Following WWII, all of the former Japanese Mandate Islands became part of the Trust Territory of the Pacific Islands (TTPI) under the administration of the United States, including the NMI. The US recognized the people of the NMI's inherent right to sovereignty under the trusteeship agreement and guaranteed their right to form the government they wanted. This meant that since the US already had Guam as a possession, its presence in the region was now greatly expanded. Over the next two decades, the islands in the region saw significant political change. The US Congress passed the 1950 Organic Act of Guam, which officially made Guam an unincorporated territory of the US and gave the island a measure of local self-government. Saipan officials studied the Guam Congress, which helped them create the Saipan Congress. Guam would later use the NMI's commonwealth status as a model for its quest for commonwealth. Legacies of WWII permeated all aspects of rebuilding after WWII, and the relationship with the NMI was no different.

In 1957, an unofficial poll on the question of reunification was held in both Guam and the NMI. "The people of Saipan voted 63.8 percent in favor of reunification. The Guam Legislature then adopted Resolution No. 367, requesting the US Congress to incorporate the Northern Marianas within the governmental framework of the territory of Guam."¹¹⁸⁵ The Saipan Congress drafted a similar resolution. Although officials in Washington, D.C., and the appointed governor of Guam supported an eventual reunification, members of a visiting UN mission to the NMI did not because of its political affiliation with TTPI. The NMI was instead advised to work with the other members of the Trust Territory to resolve its status.¹¹⁸⁶ Several referendums followed in the NMI which continued to show support for reunification. Each time, efforts were blocked by both Washington, D.C., and the United Nations. The people of Guam, in 1969, voted in a special election. In this election, the majority of voters rejected reintegration. This is attributed to low voter turnout, lack of education, inadequate economic resources, and the sentiments

1183 Farrell, Don A. "A History of Marianas Reunification Efforts." In 2nd Marianas History Conference, (One Archipelago, Many Stories: Integrating Our Narratives). (Mangilao, Guam: Guampedia), 2013.

1184 Rogers, "Destiny's Landfall."

1185 Farrell, "Efforts to Reunify the Mariana Islands."

1186 Farrell, "Efforts to Reunify the Mariana Islands."

surrounding WWII.¹¹⁸⁷ The following year, Guam elected its first elected governor.

The Congress of Micronesia created a political status commission and began conversation to resolve political status in the Trust Territory. While the rest of the TTPI wanted a more autonomous status and relationship with the US, the people of the NMI desired a closer political relationship and opted for separate negotiations on status. This eventually led to commonwealth status for the NMI. The following section explains how some of the persisting realities and issues from these political histories have and will continue to impact future political status decisions.

The Covenant and Constitution of the CNMI

Although commonwealth status is not an option in current Guam law or considered within the scope of this study, a look at the political development of the CNMI and several aspects of the CNMI's commonwealth status can provide additional context to the question of reunification.

The Covenant governs the relationship between the CNMI and the US. The people of the NMI began negotiations with the United States in 1972. The Covenant was approved in a plebiscite on June 17, 1975 and signed by President Gerald Ford on March 24, 1976.¹¹⁸⁸ The people of the NMI opted for commonwealth status because of the perceived measure of self-governance it provided while still maintaining the applicability of certain aspects of the US Constitution. It should be noted that the specific language of the ballot was controversial and may have been a determining factor in the status chosen. Opponents of the Covenant believed that the ballot favored the Covenant because a “no” vote included language that indicated the NMI would remain part of the Trust Territory, to negotiate a status agreement as a single Micronesian entity, if Commonwealth was rejected. This meant they would remain tied to the Trust Territory if they voted no. Opponents also believed that it left no option to renegotiate the Covenant for a “better deal” for the NMI. In the end, approving the Covenant did not come easily. There were challenges from different peoples of the NMI (both in favor and against the Covenant). Consideration had to be made for the limitations of what was allowed of a US insular territory, given its legal designations. US negotiators also made a case for ensuring that whatever decision is made would be an acceptable measure of self-determination in the eyes of the UN.¹¹⁸⁹ In the negotiations, the US and NMI agreed on the issues of mutual consent, a local constitution, and local self-government. These were political functions not found in Guam's Organic Act and were an impetus for Guam's eventual efforts toward commonwealth status.¹¹⁹⁰ “The United States, however, likened the Marianas to a territory, permitting the exercise of federal authority, and believed that the term commonwealth was important in name and form only. In addition, the United States Delegation urged uniform treatment, whenever possible with Guam. Their reasons for this position were Guam's territorial status and Congress' hope that these Chamorro [sic]

1187 Farrell, “Efforts to Reunify the Mariana Islands.”

1188 Leibowitz, Arnold H. “The Marianas Covenant Negotiations.” *Fordham International Law Journal*, 22 (1980): 21-22.

1189 For more information see: H. Willens and D. Siemer, *An Honorable Accord: The Covenant between the Northern Mariana Islands and the United States*. (Honolulu: University of Hawai'i Press, 2002).

1190 Rogers, Robert F, “Guam's Commonwealth Effort 1987-1988,” *University of Guam Micronesian Area Research Center*, July 1988.

peopled islands would eventually be united.”¹¹⁹¹ These aspects of the negotiations highlight several crucial distinctions for those in Guam to consider, especially given that the theoretical, versus practical, exercise of self-government in the NMI exemplifies Congress’s plenary power regardless of political distinctions.

Commonwealth status has afforded the CNMI opportunities to create laws that may otherwise be considered contrary to federal statute. One example is land tenure. Article XI, Section 4 of the CNMI’s Constitution defines A person of Northern Marianas descent as,

A person of Northern Marianas descent is a person who is a citizen or national of the United States and who has at least some degree of Northern Marianas Chamorro or Northern Marianas Carolinian blood or a combination thereof. For purposes of determining Northern Marianas descent by adoption, a child without any degree of Northern Marianas descent when adopted while under the age of eighteen by a person of Northern Marianas descent shall not acquire any degree of Northern Marianas descent. For purposes of determining Northern Marianas descent, a person shall be considered to be a full-blooded Northern Marianas Chamorro or Northern Marianas Carolinian if that person was born or domiciled in the Northern Mariana Islands by 1950 and was a citizen of the Trust Territory of the Pacific Islands before the termination of the Trusteeship with respect to the Commonwealth.¹¹⁹²

Article XII, Section 1 of the CNMI Constitution limits long-term interest in real property to those of Northern Marianas descent. Unlike the CNMI, ethnic and/or historical distinctions among people have been challenged in Guam. Any efforts toward reunification will have to consider and possibly reconcile these legal distinctions when establishing a government for the archipelago.

Continued Reunification Efforts¹¹⁹³

The reunification efforts that began in the 1950s-1960s lost some momentum after the 1969 election in Guam, but additional efforts toward reunification have happened since. A 1994 bill in the Guam Legislature to set up a commission to explore reunification resulted in no action. Although there has not been the same kind of political push from either entity in recent years, efforts to collaborate with members throughout both communities on shared issues, such as economic development, federal funding, and immigration have been made. With the ongoing military buildup, there may be reason to revisit the issue. The 2016 assembly of the Association of Mariana Islands’ Mayors, Vice Mayors and Elected Municipal Council Members wrote several resolutions advocating for more efforts to be made to engage in more

1191 Leibowitz, “Marianas Covenant Negotiations,” 25.

1192 Article XI, Section 4 of the CNMI Constitution. Accessed on <http://cnmilaw.org/cons.php#gsc.tab=0>.

1193 This brief overview of the efforts does not incorporate many of the different factors influencing the individual efforts and sentiments of the people of Guam and the NMI. This section also does not address US interests and dealings in other colonies and territories which also affected what happened in the Marianas. For example, Cold War US defense interests affected political status efforts within the Marianas because of the location of the islands.

partnerships between Guam and the CNMI. Most notably, the council expressed interest in developing a referendum on reunification. The council adopted Resolution No. 2016-23-03, requesting the executive branches of both Guam and the CNMI to schedule a nonbinding referendum on political reunification.¹¹⁹⁴

The governments of Guam and the CNMI through the Marianas Working Group (MARWork), led to the One Marianas Summit, where different people with different ideas and skills could collaborate with the other islands. The summit also developed a regional maritime training center for training for port operations and maritime operations. A 2020 interview with former Senator Wil Castro discussed some of the work he has been part of to build Guam's relationship with the CNMI. Efforts, such as Castro's One Marianas initiative, are meant to encourage further collaboration between the Guam and the CNMI governments. In the interview, Castro also described legislation that allowed CNMI residents to more easily acquire a driver's license in Guam. Castro notes how seemingly simple changes like this could potentially impact other aspects of our relationships. Although this section does not address other efforts outside of the executive and legislative branches of government (such as advocates for education about reunification and other types of collaborations outside of the government), it is imperative to note that community efforts exist and are important work.

Potential for Reunification

Any effort toward reunification should begin with an assessment of the desires of the people of both Guam and the NMI. Yet, it must also be acknowledged that the United States exercises utmost power in bringing these desires to fruition. As Don Farrell notes,

Regardless of emotional arguments for or against reunification, it seems the time for a comprehensive, scientific study of the economic and legal pros and cons of reunification is long overdue. What are the differences and similarities between the laws of Guam and the Northern Marianas and the economic impacts of both on our people? Should our two legislatures battle over competitive tax rates for investors? Should our two port authorities be charging each other for landing fees and counter space for the same airlines, and increasing the cost of inter-island transportation? Should there be separate border control stations, two separate US District Courts, two separate offices for all federal agencies in our two territories?¹¹⁹⁵

Regardless of what political status is chosen for Guam, reunification with the Northern Mariana Islands will be contingent on multiple factors. The processes will have to include discussions, negotiations, and proceedings on reunification and will be contingent on existing laws and processes between the United States and the territories of Guam and the Northern Mariana Islands. The models here focus on the potential

1194 Association of Mariana Islands Mayors, Vice Mayors, and Elected Municipal Council Members, "Resolution No. 2016-23-03," accessed on http://guamlegislature.com/Mess_Comms_33rd/Doc%20No.%2033GL-16-2222.pdf.

1195 Farrell, "Efforts to Reunify the Mariana Islands."

for reunification in each political status option. It is important to note, however, that exploring any sort of status change between the two entities must include a reconciliation of their existing relationships with the United States. There is no definitive answer as to whether or not a political status change for one or both will or must precede reunification or whether reunification can come before a final status for the newly unified islands. Additionally, further research is needed to have a more comprehensive understanding of the possibilities for developing strategies and agreements on the transferring and management of areas such as: governance including representation; potentially contradictory laws; finances and debt; etc. To engage in all these issues is beyond the scope of the study. Once again, a separate study purely centered on reunification is required to provide the level of analysis many readers may seek.

Political Status Options

For the purpose of this section, two assumptions must be made: the people of both Guam and the CNMI want to politically unify; and Congress does not exert any power to block this effort. Questions that will shape this analysis are: Can political reunification be achieved under Guam and the CNMI's existing status?; If Guam pursued a political status change on its own, will it be able to later consider political reunification with the CNMI under its current status or would the CNMI also have to change its political status?; and Is reunification possible under all of the three status options or will any of the status options potentially eliminate the possibility of reunification?

Statehood

When exploring the option of statehood, three scenarios are possible:

1. Guam and the CNMI can reunify as one political entity and then be admitted as a state.
2. Guam can achieve statehood and then later reunify with the CNMI provided that the CNMI is still a commonwealth of the US, or the CNMI can achieve statehood and later reunify with the territory of Guam.
3. If Guam and the CNMI each became a state separately, they would have to seek the approval of Congress for reunification.

Political unification of the islands would increase the total population to almost 220,000 people. As a new state, this is still smaller than the smallest US state's population of about 577,737, in Wyoming.¹¹⁹⁶ Given the historical parameters surrounding admission as a state and the hurdles of a politically unified entity having a small population, the perceived benefits of incorporating the Mariana Islands would likely have to outweigh the costs of admission. For example, the archipelago's location in proximity to the

¹¹⁹⁶ US Department of Commerce, "US Census Bureau QuickFacts: Wyoming," accessed December 15, 2019. accessed at <https://www.census.gov/quickfacts/WY>.

continental US on the East, and other countries in Asia on the West, makes it unique compared to states of the United States. The non-contiguous states of Alaska and Hawai'i can serve as models to frame certain issues regarding location, but Guam's location near Asia means that additional considerations will need to be made regarding issues such as immigration, military, and other geopolitical factors.

Developing a unified statehood model for the Mariana Islands archipelago requires that assessment of elements presented in this study (for Guam) also be completed for the NMI. This will help determine the impact of a status change on the political and legal structures, the financial and physical resources, as well as social problems, economic possibilities and limitations in addition to issues of defense for the CNMI. Considerations will need to be made for the land and water resources of the archipelago as well as the combined population of the entire area. With this comes additional financial needs, to address areas such as education, health, public safety, and social ills. In the end, one unified political entity could have less of a financial impact on the United States compared to “the partition costs [to] American taxpayers, in both the Marianas and the mainland, millions of dollars annually to maintain two separate territorial governments for essentially one people—not to mention the price of aggravations created over inter-island commerce and taxation.”¹¹⁹⁷ Statehood will include complete constitutional rights for the people, at least one voting member in the House of Representatives and two voting members in the Senate, and electors who will vote for the president of the United States. Statehood will also mean applied federal laws and potential access to increased resources.

Independence

Independence provides potential for reunification with the Northern Marianas. This status, however, is contingent on the statuses of both Guam and the NMI at the time that reunification is sought. Reunification is possible if:

1. Guam and the CNMI both achieve independence separately. As independent countries, they can later unify to form one country and seek international recognition as one independent political entity.
2. Guam and the CNMI unify as territories of the United States and together pursue their independence from the United States.

This is not the case under a third scenario. If only one entity achieves independence, the potential for reunification is unlikely. As long as either Guam or the CNMI remains a possession of the United States, the territory will not have the ability to seek political unification with an independent country unless their law states it is an option and the United States recognizes it as an option for a status change.

A model for an independent, unified Mariana Islands archipelago must include an assessment of the

1197 Farrell, “Efforts to Reunify the Mariana Islands.”

various aspects of the political and legal structures, financial and physical resources, social and cultural factors, economic possibilities and limitations and issues of defense and other external affairs in the CNMI. Coupled with the information presented in this study, a thorough analysis can be made of the potential benefits and downfalls of reunification, with an end state of independence. As is the case for any of the three status options, land and water resources are increased with a unified archipelago. In an independent, unified archipelago, an expanded EEZ comes with economic advantages, but these advantages are met with additional concerns of effective administration and enforcement. A combined population presents, on the one hand, new opportunities for industry development and, on the other, increased challenges for limited financial and physical resources. To address this, an independent, unified archipelago can seek financial assistance from international resources to aid in development.

Free Association

This section presents two scenarios for free association within the parameters of the existing Guam law that outlines the status options.¹¹⁹⁸ Other possibilities, however, are available under international law, which does not limit the options for a free association.¹¹⁹⁹ UN Resolution 1541 states that “a non-self governing territory can be said to have reached a full measure of self-government by...free association with an independent state” without stipulating any constraints for choosing what state to freely associate with. For example, under international law, Guam and the CNMI, as separate independent countries, may opt to enter into a free association agreement with each other. Guam and the CNMI, as one independent country, may also opt to enter into a free association agreement with another Pacific Island country or any other existing independent country.

As is the case with independence, reunification is unlikely while one entity remains a territory of the United States. As long as either Guam or the CNMI remains a possession of the United States, the territory will not have the ability to seek political unification with a freely associated state of the United States unless the law states that it is an option, and the United States recognizes it as an option for a status change.

As a freely associated state, the unified archipelago would have to make the same considerations as an independent, unified entity in all matters concerning governance, resources and people. These considerations would all be subject to the terms of a compact. For example, land and water resources (although expanded to include both Guam and the NMI) may have conditions for use within its compact of free association. Additionally, financial resources may be impacted by the terms of the compact, which will likely include provisions for economic assistance from the US based on the collective population. This added financial aid could be used to meet some of the challenges that come with the increased population as well as the change in status. Finally, as a freely associated state, the unified archipelago would have to make some concession in its laws to align with the terms of the negotiated relationship. These can be

¹¹⁹⁸ The law establishing the Commission on Decolonization states that the ballot option for free associations will read: “Free Association with the United States.” 1GCA Chapter 21 § 2110.

¹¹⁹⁹ United Nations General Assembly, “Resolution 1541.”

negotiated with the United States to ensure that both parties benefit from this relationship.

The limitations of this section are first and foremost the lack of insight about the political will of the people of Guam and the CNMI regarding political reunification. Second is a lack of models to provide a framework for how reunification can be achieved. If it is the political will of the people of both to push a reunification effort, it is recommended that an assessment of self-governance be completed in the CNMI to determine the compatibility of the two territories. Regardless of the potential difficulties that may come with any reunification effort, the people of Guam and the CNMI can pursue continued collaboration in both political and economic development that is beneficial to both in their shared geography.

| POTENTIAL REUNIFICATION OF THE MARIANAS | |
|---|--|
| STATUS | EFFECTS |
| <i>Statehood</i> | <ul style="list-style-type: none"> • Political reunification is not likely to negatively impact efforts to become a state, regardless of whether the status is achieved by both entities at the same time or at different times. • As a state, a unified archipelago will encompass all the land and water resources of the entire area, to include increased population. • As a state, additional financial resources are needed to address areas such as education, health, public safety, and social ills. • As a state, complete constitutional rights, applied federal laws, access to increased resources, at least one voting member in the House of Representatives and two voting members in the Senate, and the ability to choose electorates who will vote for the president of the United States will apply. |

| | |
|---|---|
| <p style="text-align: center;"><i>Independence</i></p> | <ul style="list-style-type: none"> • Political reunification is possible before or after Guam and the CNMI achieve independence. Political reunification, however, is unlikely if one entity is independent and the other remains a territory of the United States. • Land and water resources are increased with a unified archipelago. • Increased population presents opportunities for industry development and increased challenges for limited financial resources. • A constitution will need to be drafted, establishing a new government structure, the distribution of political power and representation. |
| <p style="text-align: center;"><i>Free Association</i></p> | <ul style="list-style-type: none"> • Political reunification is possible before or after Guam and the CNMI enter into a free association with the United States. Political reunification, however, is unlikely if one entity is freely associated and the other remains a territory. • Land and water resources will increase but may have conditions for use by the US. • Financial resources may be impacted by the terms of the compact, which will likely include provisions for federal aid from the US that can be used to meet some of the challenges that come with the increased population as well as the change in status. • Some concession in laws is likely to align with the terms of the compact or other legal instrument. |

Treaties

In international law, a treaty is an “international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument, in two or more related instruments and whatever its particular designation.”¹²⁰⁰ According to the Vienna Conventions on the Law of Treaties (1969, 1986), a treaty is: a binding instrument, which means that the contracting parties intended to create legal rights and duties; concluded by states or international organizations with treaty-making power; governed by international law; and be in writing. It must also be noted that the intricacies of treaties and international law are fundamentally more complex than is provided above.

Treaties vary in scope and content, ranging from defense to economy. A bilateral treaty is a treaty between two countries while a multilateral treaty necessitates the involvement of three or more countries/ international organizations. Multilateral treaties are often crafted to cover particular areas such as human rights, international humanitarian law, arms control, trade/commercial relations, international criminal law, and the environment. Furthermore, treaties can also be consummated between international organizations. Lastly, treaties should be entered into with the intent to create obligations under international law.

This subsection of the study explores the context of treaties, diplomatic relations, and international involvement under statehood, free association, and independence. In this section, international and regional organizations will also be discussed. Intergovernmental organizations, also known as IGOs, are organizations that include at least three states as members, that have activities in several states, and that are created through a formal inter-governmental agreement such as treaties or charters.¹²⁰¹ IGOs can also be more regionally focused, such as the Pacific Islands Forum or ASEAN. With this context now set, this subsection of the study explores the possibilities for Guam’s creation of treaties, diplomatic relations, and international involvement under statehood, free association, and independence.

1200 Vienna Convention on the Law of Treaties, May 1980, 333, accessed at <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>.

1201 Margaret P. Karns, Karen A. Mingst, and Kendall W. Stiles, *International Organizations: The Politics & Processes of Global Governance*, (Boulder: Lynne Rienner Publishers, 2015) 12.

Statehood

The US federal government explicitly has authority over “treaties.” Treaties, due to the Supremacy Clause of the Constitution, are a source of the “supreme law of the land.” However, it is important to distinguish the US domestic understanding of treaty versus the international understanding of treaty. In the international realm, as defined in the preceding paragraph, treaties can refer to most binding agreements. Under US domestic law, however, a treaty “narrowly refers to a particular subcategory of binding international agreements that receives the Senate’s advice and consent.”¹²⁰² US domestic law differentiates between this definition of “treaty” and other international agreements or executive agreements. Executive agreements do not receive the advice and consent of the Senate.

According to Article II, Section 2, Clause 2 of the US Constitution, the president “shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.”¹²⁰³ The framers did this to “give the benefit of the Senate’s advice and counsel, check presidential power, and safeguard the sovereignty of the state by giving each state an equal vote in the treaty-making process.”¹²⁰⁴ It is important to note that many US agreements with other states have been in the form of executive agreements rather than as treaties as defined by the Constitution.

Due to the separation of powers and nature of federalism, which forms the foundation of the US government, the state of Guam would not be able to enter into treaties with other countries. Since a treaty is between the United States and another sovereign country, states of the union themselves cannot enter into treaties with other countries as this is a function of the federal government, not the individual state governments. This is outlined particularly in Article I, Section 10, Clause I, “No State shall enter into any Treaty, Alliance, or Confederation.”¹²⁰⁵

In the case of the United States, responsibility for the conduct of foreign relations rests exclusively with the federal government, although American states have entered into certain compacts with foreign states or component units (such as Manitoba and Quebec, provinces of Canada) dealing with the construction and maintenance of highways and international bridges, following upon consultations with the foreign state conducted by the federal authorities.¹²⁰⁶

This does not mean, however, that the state of Guam would have absolutely no role in foreign affairs on a state level. According to Article I, Section 10, Clause III, “No state shall, without the consent of Congress...enter into any agreement of compact with another state, or with a foreign power.” “Whereas

1202 Stephen P. Mulligan, “International Law and Agreements: Their Effect upon US Law,” *Congressional Research Service*, September 19, 2018, 2, accessed at <https://fas.org/sgp/crs/misc/RL32528.pdf>.

1203 Article 2, Section 2 of the United States Constitution.

1204 United States Senate, “Treaties: A historical Overview,” accessed at <https://www.senate.gov/artandhistory/history/common/briefing/Treaties.htm>.

1205 Article 1, Section 10 of the United States Constitution.

1206 Shaw, “International Law,” 173.

Clause 1 appears to create an unqualified prohibition on any ‘treaty, alliance, or confederation,’ the Compact clause conditionally allows states to make ‘agreements or compacts’ with foreign nations, provided they receive congressional consent.”¹²⁰⁷ Furthermore, according to a Congressional Research Service legal sidebar,

The US Department of State— which advises US states and their foreign counterparts on the requirements of Article I, Section 10—has interpreted these constitutional restrictions to only apply to legally binding pacts. Legal research suggests that most states’ pacts with foreign nations—including past declarations and MOUs related to climate change—are not legally binding, and, therefore, not submitted to Congress for approval. The same result will likely occur for certain post-Paris Agreement state activity. For example, the recent California-China MOU expressly states that its provisions are not legally binding, making it unlikely that this MOU would trigger the restrictions of Article I, Section 10.¹²⁰⁸

As Fry writes, “Combining information from the State International Development Organizations’ SIDO 2015 survey and other data, we find that 36 states have 212 offices of representatives in 30 different countries and territories in 2015. Over half of the state governors also lead missions abroad on at least an annual basis.”¹²⁰⁹ In addition, states can also adopt international standards, have state representatives to foreign countries, have state incentives to attract foreign business, and establish sister-city relationships which commonly involve cultural and educational agreements. Overall, while Guam could engage like this as a state, it would not be able to enter into legally binding treaties with foreign countries. In addition, the Supreme Court has identified restrictions on states’ power regarding state legislation that interferes with the federal government’s ability in conducting foreign affairs.¹²¹⁰

However, as a state, Guam’s elected senators in the US Senate could play a role in the treaty process or, on the rare chance, future generations born in the state of Guam as natural-born citizens can even be eligible for the Presidency of the United States. Furthermore, if Guam were to become a state, and the United States remained a respected superpower, it is expected that this will increase Guam’s prestige in the region and could lead to elected officials from Guam in the House of Representatives and in the Senate potentially having more impact on US foreign policy. If Guam were to become a state and the US became more unstable, Guam’s utility in the region would still exist, but geopolitical tensions could increase the potential of Guam being affected by tensions and conflict. Even in this scenario, Guam’s elected leaders in the US Congress could use their power to try and influence national security decisions.

If Guam became a state, the elected leaders could try to serve on the House Committee on Foreign

1207 CRS Reports & Analysis, “Constitutional Limits on States’ Efforts to ‘Uphold’ the Paris Agreement,” June 27th, 2017, accessed at <https://fas.org/sgp/crs/misc/uphold.pdf>.

1208 CRS Reports and Analysis, “Constitutional Limits on States’ Efforts to ‘Uphold’ the Paris Agreement.”

1209 Earl H. Fry, “The Role of US State Governments in International Relations, 1980-2015,” *International Negotiation*, 22 (2017): 205-238, 214.

1210 Fry, “The Role of US State Governments in International Relations.”

Affairs and in the Senate Committee on Foreign Relations. The House Committee on Foreign Affairs is responsible for:

- oversight and legislation relating to foreign assistance
- national security developments affecting foreign policy
- strategic planning and agreements; war powers, treaties, executive agreements, and the deployment and use of United States Armed Forces
- peacekeeping, peace enforcement and enforcement of United Nations or other international sanctions; arms control and disarmament issues; among many others

At the Senate level,

The Senate Foreign Relations Committee was established in 1816 as one of the original ten standing committees of the Senate. Throughout its history, the committee has been instrumental in developing and influencing United States foreign policy, at different times supporting and opposing the policies of presidents and secretaries of state....It also holds jurisdiction over all diplomatic nominations. Through these powers, the committee has helped shape foreign policy of broad significance, in matters of war and peace and international relations. Members of the committee have assisted in the negotiation of treaties, and at times have helped to defeat treaties they felt were not in the national interest.¹²¹¹

Guam's senators could seek to serve on the committee to work with Guam's representative in steering foreign policy in both chambers of the US Congress. As a state, Guam could have a stronger role in US foreign policy formulation and execution than it currently has as an unincorporated territory. However, it is not guaranteed that Guam's unique concerns would receive more concern or validation in these discussions.

Beyond elected federal officials, US citizens in the state of Guam would have access to one of the world's most developed and respected diplomatic machineries. At the time of writing, the United States, under the Department of State, has 273 diplomatic posts, which includes embassies, consulates, and permanent missions to international organizations. Only China has more diplomatic posts, with 276. To distinguish, an embassy is the primary diplomatic presence of one country in another country, which is usually located in the capital of the country. Consulates act as branch offices of the embassy, spread throughout the country, with many located in major cities. As US citizens, those in Guam, could work for the United States Foreign Service and become foreign service officers, conducting US diplomacy in embassies and consulates throughout the world.¹²¹²

¹²¹¹ United States Senate Committee on Foreign Relations, "History of the Committee Room," accessed at <https://www.foreign.senate.gov/about/history/>.

¹²¹² United States Department of State, "Foreign Service Officer," accessed at <https://careers.state.gov/work/foreign-service/officer/>.

Overall, as a state, Guam could have a larger role in US diplomacy in the region. Guam's elected representatives in the federal government and possible employees in the State Department and Foreign Service could have a role in foreign policy. Despite this, as a state, Guam will not be able to control its foreign affairs to its fullest extent, and this could be problematic as Guam is not contiguous with the continental United States. First, Guam would be the geographically smallest state. This in itself can present problems when it comes to the amount of political power and amount of the federal budget to be given to the state of Guam. Lastly, as a state, Guam may be affected (negatively and positively) by treaties (or other international agreements) entered between the United States and another country or international organization. For the most part, and unless there is a different intention within the treaty, a treaty is binding upon each party in respect of its entire territory. Statehood allows for more involvement in the diplomatic machinery and governance processes of the US, but Guam's distance, size, and strategic location may lead to a different set of concerns and interests in the island.

Independence¹²¹³

As Guam would be a sovereign country, the government of Guam would have the ability to enter into relevant treaties and agreements with other countries in the interest of its people. This would heighten the international personality of the newly independent country. Guam is not able to engage fully on an international scale as an unincorporated territory whose international relations are controlled by the United States. Accordingly, the United States must concur with Guam's participation in those regional organizations identified by the territory. Meanwhile, the ability to enter into treaties is a facet of sovereignty that could be beneficial to Guam. Due to the island's proximity to Asia and strategic location, entering into treaties and engaging internationally according to its own interests would be a benefit to social and economic development.

The country of Guam could potentially have robust diplomatic relations and a strategic navigation of the geopolitical environment surrounding the island. Guam has a valuable strategic location that it could utilize to the country's advantage. However, if Guam fails to successfully negotiate agreements or if it enters into agreements that are ultimately against its national interest, there could be highly damaging effects that may replicate neocolonialism. Being in charge of its own foreign affairs is a huge responsibility, and the country of Guam would have to be very aware of its geopolitical importance and the geopolitical interests of its neighbors and the wider region. If the country fails to do this, it could leave the country ripe for exploitation by others.

Overall, however, sovereignty in itself can be seen as one of its most valuable resources. It allows for the country to engage with the international community and collaborate with other countries to address issues that affect not only the country itself but the region and world as a whole (e.g. climate change). With the ability to engage with other countries, Guam would be able to build diplomatic relations using

¹²¹³ Just to clarify, the term "state" will be used throughout this Independence section. As outlined in the introduction to the study, the term "state" is the actual term for what we refer to as a "country" in international law and politics.

its unique geographical location in the region. The ability to negotiate with the other countries, as a sovereign, on equal footing, could prove to be invaluable. This could help to ensure the preservation of the country from military incursions, shifts in the world economy, and environmental impacts. Yet, failing to carry out its foreign affairs strategically will be of intense negative consequence to the new country.

Push for Effectiveness and Recognition

An important aspect that an independent Guam will have to consider is meeting the criteria for being a sovereign state in the international system and the issue of recognition by other countries. The Montevideo Convention of 1933 on the Rights and Duties of States sets out several criteria for the identification of statehood (as used in international law): a permanent population; a defined territory; government; and the capacity to enter into relations with other states.¹²¹⁴ Regarding territory and a permanent population, there has not been a set minimum for either. Regarding government, “a territorial entity must possess a government or system of government in general control of its territory, to the exclusion of other entities not claiming through or under it”¹²¹⁵ and it must actually exercise authority over that territory and its people. Lastly, the “capacity to enter into relations with other states” may be confusing. What this criterion means is that the government of that territory is independent, and that no other entity carries out the responsibility of international relations for it. In essence, the new government cannot simply be the puppet of another state. This does not mean that it would be free from pressure by other countries, because if this was the criterion, very few countries in the international system today would meet it.

Additionally, in today’s world, one of the largest obstacles facing sovereign independent states is the capacity to maximize engagement with other independent states through bilateral relations and through participation in international organizations. This begins with the act of mutual recognition between two countries through the formal establishment of diplomatic relations. Within the academic literature regarding state recognition, there are two primary theories: declarative theory and constitutive theory. According to declarative theory, a political entity becomes a state by meeting the concise criteria of statehood, and not through recognition. To put it another way, “a new state will acquire capacity in international law not by virtue of the consent of others but by virtue of a particular factual situation.”¹²¹⁶ Returning to the 1933 Montevideo Convention, Article 3 states, “The political existence of a state is independent of recognition by other states. Even before recognition, the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit.”¹²¹⁷ Thus, according to declarative theory, an entity becomes an independent state without the requirement of recognition and can exercise the rights and responsibilities of being a state because it has effectively met the characteristics of statehood.

1214 Montevideo Convention on the Rights and Duties of States, “Convention on Rights and Duties of States, Article 1”, 1933, accessed at <https://www.ilsa.org/Jessup/Jessup15/Montevideo%20Convention.pdf>.

1215 Visoka, et al., “Routledge Handbook of State Recognition,” 50.

1216 Shaw, “International Law,” 330.

1217 Montevideo Convention on the Rights and Duties of States, “Convention on Rights and Duties of States, Article 3.”

Constitutive theories, however, argue that a state only becomes a state upon the political act of recognition by other states. Although political entities can meet the criteria of statehood, they may not be recognized as a state, because recognition is key. A middle ground between the two theories appears to be the norm. For an independent Guam, it is best that both the criteria and recognition be taken into account considering the establishment of the new independent country.

The overall picture is that recognition will be fundamentally important for an independent Guam. Even if one held to declaratory theory and argued that statehood can exist independently of recognition, it must be acknowledged that the modern international system creates difficulties without recognition. According to the *Routledge Handbook of State Recognition*,

It [state recognition] has become a core criterion for determining matters concerning statehood, sovereignty, subjectivity in international law, and membership in multilateral bodies. International recognition plays a vital role in the political, security, legal, economic, and sociocultural development of states. It enables states protection under international law, access to multilateral bodies, and the possibility to develop diplomatic and trade relations with other states. It enhances human mobility, cultural exchange, and social development. Most importantly, it nourishes state identity, self-regard, and ontological security, which are crucial for the normal functioning of society.¹²¹⁸

Recognition opens the way for the conduct of diplomatic relations, recognition of passports, recognition of a nation's consular protection of its citizens, trading in a national currency, trading in state assets and debts, acceptance of state guarantees, the possibility of concluding binding inter-state agreements, the possibility of becoming party to inter-state conventions, of taking a seat in the United Nations, and of acceding to other inter-state organizations.¹²¹⁹

Furthermore, the risks associated with not being a recognized state make the vitality of a state quite difficult.

While international recognition might not guarantee successful statehood, its absence certainly poses many challenges for surviving an inhospitable international environment. States which lack full international recognition are more likely to become the subject of foreign military occupation and hybrid wars. Limited diplomatic relations – an inherent condition of unrecognised states – undermines the capacity of these entities to enhance their political, security, and trade relations with other recognised states, leading to economic stagnation, poverty, and social isolation. Limited recognition obstructs democratic development, the consolidation of human rights and freedoms, and the legitimate control of national resources, because these states are often beyond the reach

1218 Visoka, "Routledge Handbook of State Recognition," 2.

1219 Visoka, "Routledge Handbook of State Recognition," 48.

of contemporary international norms and regulatory networks.¹²²⁰

Thus, a Guam progression to independence will not only need a strong negotiation team to negotiate the transition from the United States as administering power. A sovereign Guam will need statespersons well-versed in the art and practice of diplomacy. Recognition is a highly political act, as no country can exist in a vacuum, and thus will require Guam to be equipped with numerous competent negotiators and diplomats. The dilemma is that as long as the island remains an unincorporated territory, there is not a great need for training the people of Guam in diplomacy. Despite this, it would be wise for Guam, in the preparation for either statehood (voting representatives and senators) or free association and independence (diplomats well-versed in international relations) to develop programs in the realm of statecraft and diplomacy. This is a key recommendation for the government of Guam to implement and provide resources for.

Clarification on Secession and Self-Determination: Looking at Catalonia and Recognition

Some may read the former section on recognition and point to separatist and secessionist movements, such as Catalonia in Spain, the Basque in France/Spain, Quebec in Canada, or even Scotland in the United Kingdom. One may be tempted to compare their independence movements to that of Guam's in the aspiration to become an independent country. For example, Catalonia is a province of Spain that has its own distinct culture and language. It has a strong independence movement and has made recent efforts to separate from Spain. On Oct. 27, 2017, the Parliament of Catalonia passed a resolution, declaring independence from Spain and the establishment of the Catalan Republic. Immediately after, the prime minister of Spain dismissed the Parliament of Catalonia and subsequently called for a new round of elections. Despite this, the international community did not recognize Catalonia's unilateral declaration of independence, and thus no action was taken to move Catalonia closer to the dream of being an independent republic. During deliberations within Catalonia, there were concerns about this potential lack of international recognition. For example, Catalan President Carles Puigdemont said, "I do not want to be the President of Freedonia. I refuse to walk around the world, handing out business cards of a republic that does not exist."¹²²¹

Multiple world leaders expressed their refusal to support Catalonia's declaration. For example, the US State Department, wrote, "Catalonia is an integral part of Spain, and the United States supports the Spanish government's constitutional measures to keep Spain strong and united."¹²²² A statement by China's Foreign Ministry reads, "China's stance on this issue is consistent and clear. China regards it as a domestic affair of Spain and understands and supports the Spanish government's effort to maintain national

1220 Visoka, "Routledge Handbook of State Recognition," 2.

1221 L. Garcia, *El naufragio: La deconstrucción del sueño independentista* (Barcelona: Ediciones Península, 2018), 216.

1222 United States Department of State, "On US support for Spanish unity," 2017, accessed at <https://www.state.gov/r/pa/prs/ps/2017/10/275136.htm>.

unity, ethnic solidarity, and territorial integrity.”¹²²³ Also, European Parliament President Antonio Tajani defended Spain, stating, “The declaration of independence voted on today in the Catalan Parliament is a breach of the rule of law, the Spanish constitution and the Statute of Autonomy of Catalonia, which are part of the EU’s legal framework. No one in the European Union will recognize this declaration. More than ever, it is necessary to re-establish legality as a basis for dialogue.”¹²²⁴ There have been some improvements since this initial reaction to the Catalan declaration of independence, but for the purposes of this study, the core is the ardent lack of international support for Catalan. This makes complete sense, as this is not a unique international response. In 1983, the northern part of Cyprus declared independence as the “Turkish Republic of Northern Cyprus.” In response, the United Nations Security Council asked countries not to recognize any Cypriot State other than the Republic of Cyprus.

Recognizing separatist movements, which are unilateral and do not have the support of the country the separatist movement is located in, is akin to a stack of dominos. In recognizing one separatist movement as a new country, a Pandora’s box of independence movements will want their desired political entity to have the legal international personality of being a sovereign state in its own right. Separatist movements pragmatically only succeed regarding international support if supported by the country where the movement is located. “For new states, the easiest route to obtaining international recognition is to secede with the permission of the former metropole or central government. Once the former host state recognises the new state, the rest of the international community usually follows rather quickly.”¹²²⁵ However, there is not a secessionist movement in Guam, as seen here. In any event, Guam could not secede as it is not formally an integral part of the US, but rather “belongs to” the US (Territorial Clause). It is therefore not possible to technically “secede” from a country which one is not a part of to begin with.

There are substantial differences between a place like Catalonia and Guam. Through a long precedent and genealogy of international law and norms, Guam selection of independence would not be seen by the international community as a separatist or secessionist movement. Rather, Guam is still classified under international law as a non-self-governing territory with the right of self-determination not yet exercised. Even under US law, “unincorporated territory” is deemed a possession of, but not a part of the United States. This is quite different from a separatist movement, and this should quell fears or concerns that the island would be treated in the exact same way as Catalonia. Guam would be decolonizing, while a place like Catalonia would be seceding. Politically and legally speaking, these are not the same phenomena. As articulated in the UN 1970 Declaration on the Principles of International Law “the territory of a colony or other non-self-governing territory has under the Charter a status separate and distinct from the territory of the state administering it”¹²²⁶ and that this status was to exist until the people of that territory exercise

1223 Lu Hui, “China supports Spanish unity amid Catalan independence declaration,” *Xinhua*, October 30, 2017, accessed at http://www.xinhuanet.com/english/2017-10/30/c_136715310.htm.

1224 A. Tajani, “European Parliament President statement on the situation in Catalonia,” European Parliament, 2017, accessed at <http://www.europarl.europa.eu/the-president/en/newsroom/european-parliament-president-statement-on-the-situation-in-catalonia>.

1225 Diego Muro, Guillem Vidal, and Martijn C. Vlaskamp. “Does international recognition matter? Support for unilateral secession in Catalonia and Scotland,” *Nations and Nationalism* 26 (2020): 178.

1226 Declaration on the Principles of International Law Concerning Friendly Relations and Cooperation among States, 1970.

their right to self-determination.

The era of decolonization post World War II and the creation of the United Nations saw swift recognition of former colonies becoming independent. “During the apex of the decolonization movement the self-determination units seeking independence were recognized almost immediately. The requirements of stability and permanence that were emphasized in nineteenth-century international practice did not necessarily apply.”¹²²⁷ Even though the apex of decolonization has passed—there are only seventeen non-self-governing territories on the UN list—this does not mean that the decolonization era has ended.

The largest obstacle in this process, however, would be the political push for the United States to recognize the results of a political status plebiscite in the island, as it is nonbinding. Although it is acknowledged that Guam will have the mechanisms of international law to utilize regarding self-determination and decolonization, this does not completely eliminate the reality of strategic interests of countries which administer territories, as well as the interests of other large powers. Great power politics matters greatly for international issues and for recognition, as it is a highly political issue. “Powerful states often choose to legitimize a group seeking (independent) statehood by bestowing upon it official recognition if this advances the powerful state’s own geopolitical interest, or the interests of one of its closest allies.”¹²²⁸ There is a chance that the United States, if powerful at the time, may use this power and ignore calls for a change in Guam’s political status, and to advocate for the retention of the unincorporated territorial status which has been determined to be a status of classic political inequality that is inconsistent with democratic governance.

The extent to which the US cooperates with a process of transition, in the event that Guam selects independence in a referendum, would likely be motivated by US geopolitical interests. The ultimate transition to independence and international recognition of an independent Guam would be determined by the recognition of the wider global community of the new sovereign country. International support for a genuine exercise of self-determination can be critical to the attainment of a genuine status including independence.

Establishing Diplomatic Relations

An independent Guam, in order to survive in the international system, would have to establish diplomatic relationships with other countries. At its core, diplomacy can be described as “the activity and set of professional skills serving a national power centre’s relationships with other power centres. It involves representation, communication and representation of messages, information gathering and analysis, negotiation, and the exercising of influence on external decisions and developments.”¹²²⁹ Thus, it is advised that Guam seek to establish these diplomatic relations and send diplomatic missions to other countries.

1227 Visoka, “Routledge Handbook of State Recognition,” 64.

1228 Visoka, “Routledge Handbook of State Recognition,” 82.

1229 Jeremy Greenstock, “The Bureaucracy: Ministry of Foreign Affairs, Foreign Service, and Other Government Departments,” in *The Oxford Handbook of Modern Diplomacy* edited by Andrew F. Cooper, Jorge Heine, and Ramesh Thakur, 2013, 1.

Furthermore, the country could establish embassies and consulates in other countries and allow other countries to establish embassies and consulates in the country of Guam. This would allow the government of Guam to have official representation in other countries and give other countries official lines of communication with Guam through ambassadorial representation. In doing this, Guam would follow international law, particularly, the 1961 Vienna Convention on Diplomatic Relations, which establishes a framework for diplomatic relations between countries. This provides the international legal basis for diplomacy. The politics of diplomacy is a separate endeavor, and it must be made clear that legality does not equate to execution, as the political process is inherently at work when discussing international politics. The following articles from the Convention outline a few functions and guidelines for diplomatic relations:

Article 2: The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent.

Article 3: The functions of a diplomatic mission consist inter alia in:

- (a). representing the sending State in the receiving State
- (b). protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law
- (c). negotiating with the Government of the receiving state
- (d). ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State
- (e). promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations

Article 12: The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.

These articles of the convention outline the basic functions and guidelines for diplomatic relations.

It is highly advised that an independent or freely associated Guam follow these legal guidelines of diplomacy and the treatment of diplomats and become well-versed in these legalities to ensure that Guam's diplomats and foreign diplomats in Guam are treated accordingly.

Process of Joining International Organizations

It is in the best interest of an independent or freely associated Guam to engage in strong and effective multilateralism and strong international cooperation. This is because the nature of diplomacy has changed with the advent of globalization and thus Guam, upon becoming sovereign, should seek to take advantage of this global engagement. The newly independent country could seek membership in relevant

international institutions, which would advance the social and economic interests of Guam.

Currently, although Guam is an unincorporated territory of the United States, it has full membership in organizations such as the South Pacific Commission/The Pacific Community (as well as observer status in other organizations, such as the Alliance of Small Island States (AOSIS) and the Pacific Islands Forum (PIF). It also has status within the United Nations Regional Councils (e.g. the Economic and Social Commission for Asia and the Pacific) and Environmental Programmes. The difference between full membership and observer status is that full membership within an inter-governmental organization is usually granted to sovereign states, which affords them the ability to vote on issues brought to the floor of the organization. On the other hand, observer status provided by some organizations to non-independent territories gives them an ability to participate in the organization's activities. Observer status is often granted by inter-governmental organizations to territories which have expressed an interest in participating in the organization's activities. In this case, observers participate without the right to vote.

Depending on what Guam's immediate and long-term interests are in the event Guam becomes independent, regional and international inter-governmental organizations will serve as important pipelines to funding, technical assistance, and offer meaningful channels in terms of trade and economic development.

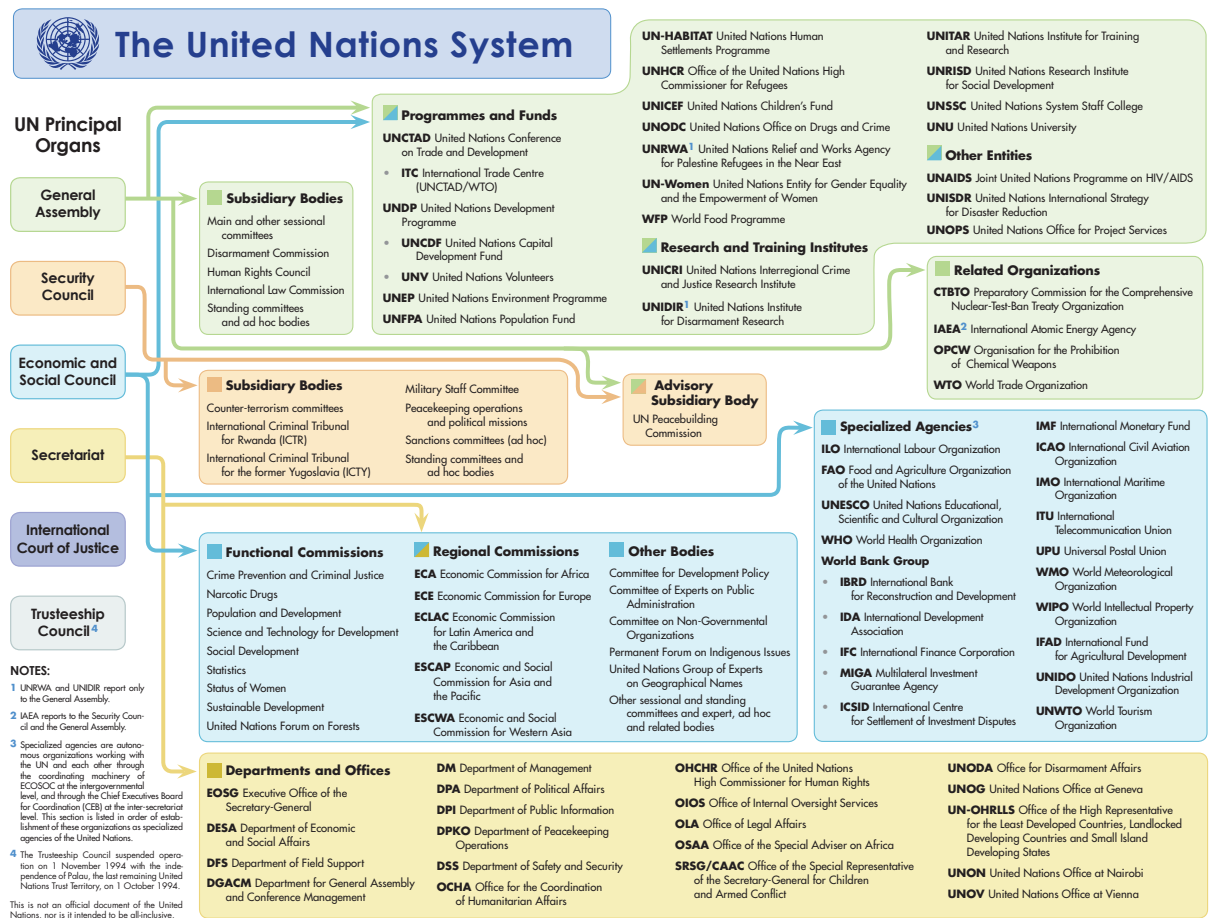
Overall, independence offers maximum latitude when it comes to creating diplomatic relationships, economic agreements, security arrangements, and membership in international and regional organizations. This could build the new country's international profile and be beneficial to the island through effective diplomacy and bilateralism/multilateralism. However, this requires that the people of Guam are trained in diplomacy, understand the international system, and can properly identify what is in the country of Guam's true national interest. The following is a brief survey of some international organizations the island can consider:

The United Nations

The primary IGO an independent Guam could seek full membership in is the United Nations, which is currently one of the most important and prolific inter-governmental organizations. The United Nations has been called the centerpiece of global governance as it is the central site for multilateral diplomacy, particularly the Security Council and the General Assembly. The UN, as it is called in shorthand, has helped to craft an international order, advocating for multilateralism and international law. The agencies within the organization cover aspects of ensuring peace, security, and quality of life for the people of the world. The United Nations structure consists of: the General Assembly, which constitutes the main body of the organization represented by all member-states; the Security Council, which is made up of five permanent members as well as ten non-permanent members elected by the General Assembly at regular intervals (this organ is charged with threat assessments and conflict resolutions); the Economic and Social Council, which coordinates economic policy and heads the implementation of international development goals; the Trusteeship Council, which oversaw the Trust Territories; the International Court of Justice, located in the Hague, Netherlands, which is the international court of the United Nations; and

the Office of the Secretariat, which consists of the Secretary General of the United Nations, who is the head of the organization.

Outside of the main organs, the United Nations has under its umbrella (either under the General Assembly or the Economic and Social Council), various programs or certain specialized agencies. These range from trade, healthcare, and historic preservation. Some of these include: United Nations Environment Program (UNEP), United Nations Population Fund (UNPFA), United Nations Human Settlements Program (UN-Habitat), UNICEF, World Food Program (WFP), Food and Agriculture Organization (FAO),



Source: UN Department of Public Information

International Civil Aviation Organization (ICAO), International Fund for Agricultural Development (IFAD), International Labor Organization (ILO), International Monetary Fund (IMF), International Maritime Organization (IMO), United Nations Educational, Scientific, and Cultural Organization (UNESCO), United Nations Industrial Development Organization (UNIDO), World Tourism Organization (UNWTO), Universal Postal Union (UPU), and the World Health Organization (WHO).

According to the United Nations, membership is “open to all peace-loving States that accept the

obligations contained in the United Nations Charter and, in the judgement of the Organization, are able to carry out these obligations.”¹²³⁰ The Security Council, made up of the permanent five members (Russia, China, France, the United Kingdom, and the United States who have veto power) and the ten non-permanent members, recommend the state for membership and the decision is made by the General Assembly, in which all member states have one vote. More particularly, the process is as follows:

- a. The State submits an application to the Secretary-General and a letter formally stating that it accepts the obligations under the Charter.
- b. The Security Council considers the application. Any recommendation for admission must receive the affirmative votes of 9 of the 15 members of the Council, provided that none of its five permanent members — China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America — have voted against the application.
- c. If the Council recommends admission, the recommendation is presented to the General Assembly for consideration. A two-thirds majority vote is necessary in the Assembly for admission of a new State.
- d. Membership becomes effective the date the resolution for admission is adopted.¹²³¹

Within the United Nations, the General Assembly is the formal body that admits a state to membership, but this vote needs to be taken only with the recommendation by a member of the UN Security Council that this potential state be admitted as a member. If not able to become a member of the United Nations, “accessing to membership of various international or regional organizations is usually actively sought as stepping stones towards achieving these objectives, as is participation in international cultural and sporting activities by such institutions within that state.”¹²³² For example, Kosovo has not received membership to the United Nations, but is a member of the International Monetary Fund, the World Bank, the European Bank for Reconstruction and Development, the Federation of International Basketball Associations, and Federation of International Football Associations (FIFA).

1230 United Nations, “About UN Membership,” accessed at <https://www.un.org/en/sections/member-states/about-un-membership/index.html>.

1231 United Nations, “Rules of Procedure XIV: Admission of New Members to the United Nations,” accessed at <https://www.un.org/Depts/DGACM/Uploaded%20docs/rules%20of%20procedure%20of%20ga.pdf>.

1232 Andrew F. Oxford, Jorge Heine, and Ramesh Thakur (eds.). *The Oxford Handbook of Modern Diplomacy*. (Oxford: Oxford University Press), 56.

Pacific Islands Regionalism

Guam could also become involved in Pacific Islands regionalism. Currently, the most notable regional inter-governmental organizations in Oceania fall under an over-arching body called the Council of Regional Organizations of the Pacific, or CROP. The body was created in 1998 to improve cooperation and collaboration between various Pacific Islands regional organizations, with the common goal of “promoting sustainable development that combines economic, social and cultural development in ways that improve livelihoods and well-being and use the environment sustainably.”¹²³³ The Council of Regional Organizations of the Pacific consists of executives of the following organizations: the Secretariat of the Pacific Community (SPC), Pacific Islands Forum Fisheries Agency (FFA), Pacific Islands Development Programme (PIDP), Pacific Power Association (PPA), Pacific Aviation Safety Office (PASO), South Pacific Tourism Organization (SPTO), the University of the South Pacific (USP), Secretariat of the Pacific Regional Environment Programme (SPREP), and the Pacific Islands Forum Secretariat (PIFS), who sits as the CROP chairperson. CROP provides “1). High-level policy advice to Leaders and Members to facilitate policy formulation at national, regional and international levels and 2). Acts as a mechanism between the Executives of Pacific regional organizations to coordinate action and review progress of their agencies’ implementation of the Pacific Plan and other regional frameworks.”¹²³⁴

The Oceania community has come together to implement various plans, one of which is the Framework for Pacific Regionalism. According to the Pacific Islands Forum Secretariat, the Framework for Pacific Regionalism can be described as, “The expression of a common sense of identity and purpose, leading progressively to the sharing of institutions, resources, and markets, with the purpose of complementing national efforts, overcoming common constraints, and enhancing sustainable and inclusive development within Pacific countries and territories and for the Pacific region as a whole.”¹²³⁵ Under this shared mandate, Pacific Island countries regional organizations, private businesses, and other stakeholders from the Oceanic region are asked to cooperate to achieve these goals. Through this Framework of Pacific Regionalism, members have security in cooperation, using the framework as the foundation for shared prosperity.

The framework is based on shared values, which see the protection of the sea as crucial to the prosperity of the region. The framework touches on its vast natural resources and the importance of sustainable practices, particularly in the fishing sector, while creating an economic environment where food security is at the forefront of importance in shared economic development. Being a diverse region, the CROP organizations seek to ensure that traditional and cultural practices are fostered and developed to adapt to everchanging times. These values culminate into four principles which guide the members of CROP organizations moving forward on their shared journey of regional capacity building. The principles are as follows:

1233 Council of Regional Organisations of the Pacific, “Charter 2018,” February 2019, 1, accessed at <https://www.forumsec.org/wp-content/uploads/2019/02/crop-charter-v9.pdf>.

1234 Council of Regional Organisations of the Pacific, “Charter 2018.”

1235 Pacific Islands Forum, “Framework for Pacific Regionalism,” 2014, accessed at <https://www.forumsec.org/wp-content/uploads/2017/09/Framework-for-Pacific-Regionalism.pdf>, 1.

1. Sustainable development that combines economic social, and cultural development in ways that improve livelihoods and well-being and use the environment sustainably
2. Economic growth that is inclusive and equitable
3. Strengthened governance, legal, financial, and administrative systems
4. Security that ensures stable and safe human, environmental and political conditions for all.¹²³⁶

Guam could greatly benefit by engaging in plans and visions, such as the Framework for Pacific Regionalism or subsequent plans/visions such as the 2050 Strategy for the Blue Pacific Continent, as it will face many of the issues that already-independent Pacific Island countries are experiencing, such as climate change.

Overall, this is not a comprehensive list of every international or regional organization Guam could potentially become a member of. However, what should be emphasized is that independence offers maximum latitude when it comes to creating diplomatic relationships, economic agreements, security arrangements, and membership into international and regional organizations.

Free Association

As a freely associated state, if following the models of the three countries in the Micronesia sub-region, Guam could have the ability to enter into treaties/agreements which the government sees fit. However, this sovereign ability could be qualified by the allowance of certain considerations to the United States related to security and defense, as is anticipated to be outlined in a possible Compact of Free Association or other legal instrument negotiated with the United States. The Compact of Free Association between the United States and the Federated States of Micronesia, for example, specifically states, in the following provisions:

Section 121:

- (a) The Government of the Federated States of Micronesia has the capacity to conduct foreign affairs and shall do so in its own name and right, except as otherwise provided in this Compact, as amended.
- (b) The foreign affairs capacity of the Government of the Federated States of Micronesia includes:
 - (1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent recognized under international law.

1236 Pacific Islands Forum, "Framework for Pacific Regionalism," 3.

(2) the conduct of its commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other government and international and intergovernmental organizations, including any matters specially benefiting its individual citizens.

(c) The Government of the United States recognizes that the Government of the Federated States of Micronesia has the capacity to enter into, in its own name and right, treaties and other international agreements with governments and regional and international organizations.

(d) In the conduct of its foreign affairs, the Government of the Federated States of Micronesia confirms that it shall act in accordance with principles of international law and shall settle its international disputes by peaceful means.¹²³⁷

This provision establishes a clear line regarding the power for the freely associated states to engage in their own foreign affairs. However, Section 123 expands on this and describes a consultation role for the United States.

Section 123:

(a) In recognition of the authority and responsibility of the Government of the United States under Title Three, the Government of the Federated States of Micronesia shall consult, in the conduct of its foreign affairs, with the Government of the United States.

(b) In recognition of the foreign affairs capacity of the Government of the Federated States of Micronesia, the Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of the Federated States of Micronesia on matters that the Government of the United States regard as relating to or affecting the Government of the Federated States of Micronesia.

Despite this consultation role, the three freely associated states have engaged in diplomatic relationships with other countries and have been involved in international institutions. The consultation role of the United States has not prohibited them from engaging with the world. Section 122 of both the Compact of Free Association with the Federated States of Micronesia and the Compact of Free Association with the Republic of the Marshall Islands states that the Government of the United States shall support application of these respective freely associated states for membership or other participation in regional

¹²³⁷ Article II, Section 121 of the Compact of Free Association with the Federated States of Micronesia, accessed at <https://www.state.gov/wp-content/uploads/2019/02/04-625-Micronesia-Compact-Amendment.pdf>.

or international organizations as may be mutually agreed. Palau's Compact of Free Association goes one step further, stating, "The government of the United States agrees to accept citizens of Palau for training and instruction at the United States Foreign Service Institute."¹²³⁸ Today, all three of the freely associated states belong to international organizations, including the United Nations, and have diplomatically engaged with the world, and have acted as world leaders for certain issues such as climate change. This shows how a relationship of free association is not contrary to a desire to engage on an international level. It is worth pointing out that, even if Guam and the United States enter into an association which resembles New Zealand's relationship with Cook Islands and Niue, this would not prohibit Guam from engaging with the world.¹²³⁹ As articulated by Aust,

Both are considered by New Zealand, and the UN Secretary-General in his capacity as a depository of treaties, as having treaty-making capacity, and this has been accepted, expressly or tacitly, by many states. In the last twenty years, the Cook Islands (and to a lesser extent Niue) have become parties to many multilateral treaties under their 'all' states clauses and full members of some UN specialized agencies (but not the United Nations, to which neither has applied for membership). Although they have not yet been recognized generally as sovereign states, the Cook Islands have established diplomatic relations with over twenty states (including Australia, France, Germany and New Zealand) and international organizations.¹²⁴⁰

Even if the association with the United States looks more like the New Zealand model, the negotiation team for Guam should ensure that involvement in international affairs is included in the agreement.

One potential caution of free association is the degree to which the freely associated state of Guam may feel compelled to ensure symmetry/agreement with the United States on certain international issues. This can be seen as a byproduct of having such a close relationship with the United States. For example, the US State Department produces annual reports of voting practices in the United Nations. In a 2010 report, which tracked UN voting patterns of eighty-seven Plenary votes at the 65th session of the UN General Assembly, particularly how other countries' votes aligned with the United States, the three FAS rank high in similar voting with the US. According to the report, the voting coincidence percentage for the FSM was 94.0%, the Marshall Islands at 81.0%, and Palau at 96.5%. In contrast, South Korea was 57.4%, Singapore was 34.8%, Israel was 91.8% and the United Kingdom was 74.2%.¹²⁴¹

Per the 2019 report, Micronesia and Marshall Islands were number two and number five, respectively, among countries with the highest voting coincidence with the US (Palau did not make the top ten).

1238 Section 11, Compact of Free Association with the Republic of Palau, accessed at https://pw.usembassy.gov/wp-content/uploads/sites/282/2017/05/rop_cofa.pdf.

1239 For a breakdown of how free association between New Zealand with the Cook Islands and Niue operates, please refer to the introduction of this study.

1240 Anthony Aust, *Modern Treaty Law and Practice: Third Edition* (Cambridge: Cambridge University Press, 2013), 56-57.

1241 Jewish Virtual Library, "Voting Coincidence with the United States," 2010, accessed at https://www.jewishvirtuallibrary.org/jsource/UN/UN_votes_2010.pdf.

When it came to contested resolutions, which are defined as the thirty “important” final plenary votes, Micronesia voted with the US eighty-five percent of the time, the Marshall Islands (seventy-nine percent) and Palau (only forty-eight percent). The FAS, particularly the Marshall Islands and the Federated States of Micronesia are also consistently voting with the US on issues such as Israel. For example, in 2019, there was a UN resolution titled “The right of the Palestinian people to self-determination.” Of the member-states of the UN, 165 voted in favor, nine countries abstained, and five voted against. These five were the US, Israel, Nauru, the Federated States of Micronesia, and the Marshall Islands. In a piece in *The Atlantic*, it was noted how seven countries voted with the US and Israel over the status of Jerusalem in 2017, including the Marshall Islands, Palau, and the Federated States of Micronesia. In describing their votes, the author argues that it should not be surprising:

Three of the Pacific island states almost certainly would have been invited to the friendship party in any case. The Marshall Islands, Micronesia, and Palau have historic relationships with the US dating back to the period after World War II, when they were under formal American control. They are now sovereign countries, but they have kept up close ties with the US under “Free Association” agreements with Washington. Those countries get US aid and other benefits, and in exchange, they vote in near lock step with Washington at the UN. Those agreements have been in place for decades and, for the most part, still have years to run. In other words, it would have been remarkable had any of those three countries not voted with the US.¹²⁴²

Thus, in the case of free association, Guam may feel pressured (explicitly or implicitly) to take stances on international issues that are congruent with the US stance. However, this does not have to necessarily be the case.

Status Example: The Republic of the Marshall Islands

The Republic of the Marshall Islands has used its status as a United Nations member to take the lead on the world stage on issues such as climate change and nuclear testing. The RMI has diplomatic relations with over one hundred other countries and has embassies in the US, Fiji, South Korea, Japan, and Taiwan as well as consulates in Honolulu and Arkansas. Most recently, in September 2019, the RMI established diplomatic relations with countries such as Hungary, Paraguay, Lebanon, Algeria, and Timor-Leste. This shows that it is continually creating more international connections, subsequently increasing the country’s international presence. One of its most recent achievements was the country’s election to the United Nations Human Rights Council. The Human Rights Council, or HRC, is a UN body made up of forty-seven states “responsible for the promotion and protection of all human rights around the globe. It has the ability to discuss all thematic human rights issues and situations that require its attention

1242 Matt Peterson, “Nikki Haley’s New Best Friends at the UN,” *The Atlantic*, December 23, 2017, accessed at <https://www.theatlantic.com/international/archive/2017/12/un-vote-jerusalem-allied-nations/549119/>.

throughout the year.”¹²⁴³ It is the body that reviews human rights globally, produces reports, and appoints special rapporteurs. Upon election into the Human Rights Council, then-President Hilda Heine, tweeted, “Today, the Marshall Islands became one of the smallest countries ever elected to the Human Rights Council. We emphasize the role of small states as bridge builders and ensure the human rights impacts of climate change and the legacy of nuclear testing are addressed.”¹²⁴⁴

As President Heine mentioned, the Marshall Islands has also taken a leadership role in tackling climate change. To do this, the government of the Marshall Islands has adopted a Climate Diplomacy approach. In 2014, at the 3rd UN Conference on Small Island Developing States in Samoa, well-respected foreign minister of the Marshall Islands, Tony de Brum, outlined his country’s diplomatic approach toward bringing climate change to the forefront. He articulated this climate diplomacy as a three-pronged approach. The first was working through the Alliance of Small Island States to enhance progress in the United Nations Framework on Climate Change Convention negotiations at the time. De Brum mentioned that this would allow the Marshall Islands more access to discussions that are crucial for climate negotiations. The second prong is enhancing its international profile via engagement with the most important forums, such as the United Nations Security Council. The third approach is, “ensuring that climate change is a central message of every one of the Marshall Islands’ diplomatic encounters, whether bilateral, regional or multilateral. The aim is to build political momentum and catalyze domestic action in other countries to accelerate the global response. This means that climate diplomacy is also about economic diplomacy and energy diplomacy, and when times are tough, aid diplomacy.”¹²⁴⁵

It showed this leadership when it hosted the 44th Pacific Islands Forum summit in 2013 and helped to craft the Majuro Declaration for Climate Leadership, which set out to form a new wave of international climate leadership. In the declaration, they outlined measures each country would take to demonstrate climate leadership. For example, the Federated States of Micronesia targeted to have a net gain of area and health status of coral reefs before 2020. The Solomon Islands targeted replacing its current use of imported fossil fuel by one hundred percent by 2030. The Pacific Islands Forum used this document to demonstrate to the world that it would not be silent with this issue. As the declaration states, “The responsibility of all to act falls to every government, every company, every organization and every person with the capacity to do so, both individually and collectively.”¹²⁴⁶

In addition to the Majuro Declaration, the Marshall Islands was also the first country to submit binding climate targets to the United Nations as part of the Paris agreement, in which each country was supposed to submit national targets.¹²⁴⁷ The Marshall Islands has even resorted to declaring a national

1243 United Nations Human Rights Council, “About,” accessed at <https://www.ohchr.org/en/hrbodies/hrc/pages/home.aspx>.

1244 Radio New Zealand, “Marshalls elected to UN Human Rights Council,” *Radio New Zealand*, October 18, 2019, accessed at <https://www.rnz.co.nz/international/pacific-news/401283/marshalls-elected-to-un-human-rights-council>.

1245 Tony de Brum, “Climate Diplomacy—a perspective from the Marshall Islands,” *Climate Diplomacy*, September 29, 2014, accessed at <https://www.climate-diplomacy.org/news/climate-diplomacy---perspective-marshall-islands>.

1246 Pacific Islands Forum, “Majuro Declaration For Climate Leadership,” 2013, accessed at <http://www.daghammarskjold.se/wp-content/uploads/2014/12/44th-PIFS-Majuro-Outcome.pdf>.

1247 Nina Chestney, “Marshall Islands first nation to submit new, binding climate targets,” *Reuters*, November 21, 2018, accessed at <https://www.reuters.com/article/us-climate-change-accord-targets/marshall-islands-first-nation-to-submit-new-binding-climate-targets-idUSKCNINQQLW>.

crisis over the effects of climate change, in Resolution 83 of the 40th Constitutional Regular Session of its legislative body. Per the resolution, it ensures that future governments in the Marshall Islands make climate change the top priority. However, what is most important is how it used this national declaration to critique international action. It used it to highlight the inadequate global response to the climate crisis and calls for the international community to consider other ways to respond to the crisis and the vulnerabilities of low-lying coral atoll countries like the Marshall Islands.

The other issue the Marshall Islands has been vocal about on the international stage is nuclear testing, largely due to its experience with the US atomic bomb testing in the islands between 1946-1958. However, there has been more ambiguity when it comes to being as proactive as it is with climate change. This is due to its Compact of Free Association with the United States and its taking into account of US military and strategic needs. The most visible aspect of this ambiguity is the Marshall Islands not yet signing or ratifying the Treaty on the Prohibition on Nuclear Weapons.

The Marshall Islands actively helped in the treaty's negotiations but did not sign or ratify the treaty itself. The country's permanent representative to the United Nations at the time, Ambassador Amatlain Elizabeth Kabua, wrote that part of the hesitation was in the country taking into concern the defense and security provisions of the Compact of Free Association.¹²⁴⁸ In the Marshall Islands, the US military tests nuclear-capable missiles near Kwajalein, thus leading the Marshall Islands to be hesitant about becoming a state party to the treaty. However, at a high-level meeting at the United Nations on October 2, 2020, President David Kabua provided another reason for the Marshall Islands not signing on to the treaty. According to Kabua, "We remain deeply concerned regarding provisions in the treaty which wrongfully place the heavy burden of victim assistance and remediation only upon the nations which are affected by tests, and which risks appearing to absolve those states which conducted such testing, particularly when they are non-parties."¹²⁴⁹ This is not to say that the COFA has made the Marshall Islands impotent on nuclear issues. For example, in 2016, it was a co-sponsor for a General Assembly resolution that established "the formal mandate for states to commence the negotiations in 2017 on a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination."¹²⁵⁰

However, the ambiguity and hesitation surrounding the ratification of the treaty is something for a freely associated Guam to consider during negotiations for a free association relationship. Published in June 2018, Harvard University's International Human Rights Clinic, released a report arguing that a close analysis of the nuclear weapons treaty and the COFA reveals that, legally, the two instruments can be compatible. It reasons,

Activities involving nuclear weapons should not be viewed as "necessary" for the US to exercise the three prongs of its authority and responsibility. Section 312 permits the US to conduct

1248 Alicia Sanders-Zakre, "States Hesitate to Sign Nuclear Ban Treaty," *Arms Control Today*, September 2017, accessed at <https://www.armscontrol.org/act/2017-09/news/states-hesitate-sign-nuclear-ban-treaty>.

1249 https://estatemnts.unmeetings.org/estatemnts/10.0010/20201002/NCK2aVqo8uJs/bWUFOaloFfHd_en.pdf.

1250 International Campaign to Abolish Nuclear Weapons, "Marshall Islands," accessed at https://www.icanw.org/marshall_islands.

“activities and operations necessary for the exercise of its” security and defense authority in the “lands, waters, and airspace” of the RMI. Given the US’s other military capabilities, it should be able to defend the RMI without engaging in activities involving nuclear weapons. The US should similarly be able to foreclose access to third parties without nuclear weapons. Finally, exercising the option to establish and use military bases on the RMI does not necessitate activities related to nuclear weapons. Therefore, in accepting the TPNW’s prohibition on assisting with prohibited acts, the RMI would not undermine US authority.¹²⁵¹

Palau, which also has a Compact of Free Association with the United States, has both signed and ratified the Treaty on the Prohibition of Nuclear Weapons. It was one of the first ten countries in the world to sign the treaty. When asked whether there would be any problems, considering Palau’s COFA with the United States, then-President of Palau, Tommy Remengesau Jr. responded, “What is sensitive is that the US is obligated to defend Palau on threats of aggression or in times of war. And we know that the military uses nuclear weapons and nuclear-powered vessels, so based on the compact agreement, the US will defend us but is not obligated to confirm the presence of nuclear devices in their war equipment.”¹²⁵² Conversely, the Federated States of Micronesia has shown the most resistance to nuclear weapons disarmament treaties. For the TPNW, it did not participate in the negotiations and voted against a General Assembly resolution that welcomed the adoption of the treaty. In another example, the Federated States of Micronesia was one of three countries (the others being the United States and Israel) to vote against the approval of a UN conference to make progress on the creation of a zone free of weapons of mass destruction in the Middle East.¹²⁵³

This example of the Marshall Islands and the contrast with the Republic of Palau and the Federated States of Micronesia helps demonstrate that Guam, in a relationship of free association, would have ample opportunity to build an international profile, even with the constraints of a potential compact or other legal instrument. These examples also serve as examples of potential limits on the foreign affairs authority of the freely associated state of Guam, as a result of potential pressure (self-imposed or not) to be more congruent with the US.

1251 International Human Rights Clinic: Human Rights Program at Harvard Law School, “The Treaty on the Prohibition of Nuclear Weapons and the Compact of Free Association Between the Republic of the Marshall Islands and the United States,” June 2018, 3, accessed at http://hrp.law.harvard.edu/wp-content/uploads/2018/06/TPNW_Compact_Marshall_Islands_US.pdf.

1252 Ongerung Kambes Kesolei, “Palau Signs Nuke Ban Treaty, but US Nuclear Devices Allowed,” *Pacific Note*, November 12, 2017, accessed at <https://www.pacificnote.com/single-post/2017/11/12/Palau-Signs-Nuke-Ban-Treaty-but-US-Nuclear-Devices-Allowed>.

1253 Alicia Sanders-Zakre, “Deep Divisions Challenge NPT Meeting,” *Arms Control Today*, April 2019, accessed at <https://www.armscontrol.org/act/2019-04/news/deep-divisions-challenge-npt-meeting>.

| TREATIES | |
|---------------------|---|
| STATUS | EFFECTS |
| <i>Statehood</i> | <ul style="list-style-type: none"> • Complicated foreign issues handled by the federal government. • Those from Guam could become part of existing US diplomatic infrastructure. • Guam would get two senators and a voting representative to help better represent the island in Washington, D.C. • Generally, foreign affairs will continue to be dictated by the United States federal government. Guam could not enter treaties with other countries. • Can restrict the island’s international involvement if not supported by Washington, D.C. • May lose observer status in existing regional organizations such as the Pacific Islands Forum. |
| <i>Independence</i> | <ul style="list-style-type: none"> • Can substantially engage with the world through the creation of treaties and the joining of international and regional organizations. • Can determine and subsequently implement its foreign affairs agenda. • Can potentially, as a Pacific Island country, be a lead on world issues such as climate change or security of Micronesia. |

| | |
|---|---|
| | <ul style="list-style-type: none"> • Can substantially engage on a regional level. • Status with the most potential for building an international character. • Without tact and savvy diplomacy, larger powers may seek to take advantage of the island country. • Recognition of Guam may be contingent on a multitude of factors. • Requires the most effort to establish the island internationally |
| <p style="text-align: center;"><i>Free Association</i></p> | <ul style="list-style-type: none"> • Can substantially engage with the world through the creation of treaties and the joining of international and regional organizations. • Can engage with the world while having its defense and military provided for by the United States. • Can engage regionally and still build an international character. • Any treaty must take into account the defense and military aspects of a potential Compact of Free Association with the United States or other negotiated agreement. This may be limiting and interfere with the desires of the government of Guam. • May feel pressured to take the same stance as the United States in global issues. |

Relationship with the United States

As reiterated throughout this study, Guam’s current political status is an organized, unincorporated territory of the United States. This political status dictates what Guam’s relationship is with the United States: “foreign in a domestic sense” and not an integral part of the union. A change in political status for the island would inherently mean a change in Guam’s relationship with the United States, and a modernization of that relationship. This short section of the study outlines what possible relationships Guam could have with the United States if statehood, free association, or independence are implemented. It is imperative to emphasize that there is no clear answer regarding every aspect of a respective status and the subsequent relationship.

Statehood

Examining Guam’s relationship with the United States is easiest when looking at the case of statehood, since Guam would be a “state of the union.” As an integral part of the union and as a state, Guam would have the full applicability of the US Constitution. This includes voting representation in the House of Representatives, the Senate, and votes in the Electoral College. Guam would no longer be under the plenary power of the US Congress, subject to the Territorial Clause. Instead, Guam would have constitutional protections as a state. Furthermore, Guam would get full access to the same federal programs and benefits as other states. There also would be a responsibility to pay taxes to the US Treasury. For more on this, refer to the taxation/revenue subsection of the Economics portion of this study. This means that as US citizens of a state of the union, the people of Guam would inseparably belong to the US political family and be able to exercise all rights and privileges attendant to the US political system.

Notably, Guam would be a noncontiguous, geographically small state. This could lead to challenges for Guam’s influence in federal decision-making. Despite this, Guam, because of its military importance, could potentially use this to accumulate political power and legislative deals for more funding for the island.

Becoming a state, however, is not guaranteed. The US government would have to agree to admit Guam

into the union. In the introduction to this study, it was made clear that the focal point of this study is on statehood in accordance with the options in Guam law. Yet, international law only calls for integration into an existing country to meet a full measure of self-governance. Thus, Guam could be integrated into the United States as its own state or as part of an existing state such as Hawai'i or Alaska. If the latter is chosen, Guam would still have ample constitutional protections, but with significantly less ability to advocate for the island's interests, as it would be subsumed into a larger state.

Overall, statehood (or integration) is the only status of the three examined in this study that guarantees a permanent, secure, and equitable relationship with the United States. If the US remains a superpower, this could be beneficial for the island. Being a state and becoming an integral part of the union, Guam could serve an important role in US military and diplomatic involvement in the Indo-Pacific. Furthermore, being a state and being US citizens means that the people of Guam could get more involved with the political, diplomatic, and governance machinery of the US. Becoming a state would create an equitable relationship between Guam and the United States and make the population of the island true "American" citizens without any reservation.

Some may ask how the geopolitical scenarios presented in the introduction to External Affairs and Defense may affect statehood. That analysis is provided below. It must be made clear that the likelihood analyses given below only speak to the influence of the geopolitical environment on the statuses. Other factors, such as the state of the decolonization movement in Guam, Guam's connection to the federal bureaucracy, other effects of climate change, the composition of the legislative and executive branches of the United States at the time, and the domestic political environment in the United States will all be factors conjoining the geopolitical environment.

Scenario #1: Chinese Primacy/Chinese Expansion Towards Military Primacy, Significant US Decline

Statehood

On one hand, one can argue that statehood is least likely in a scenario of significant US decline, as a push for statehood could likely be met with domestic opposition. Making Guam a state would force the federal government to treat Guam equally and give it more of a piece of the federal budget. If domestic conditions in the United States are declining, the US Congress may not pass an enabling or admissions act for Guam's petition for statehood.

On the other hand, Guam could be granted statehood in this scenario as a last-ditch effort by the US to lock in its capabilities in the region and maintain power, especially if it is losing hard and soft power in the region. Making Guam a state would formalize the presence of the US in the island and use international law to compensate for its lack of military capability in the region. For example, any Chinese encroachment into the region that remotely threatens Guam could be cited as a violation of international law and an encroachment on the sovereignty of the United States proper (as Guam would then be an

integral and unequivocal part of the United States).

Scenario #2: Decline of China and the United States, Emergence of Alternative Regionalism or Middle-Power Engagement

Statehood

Similar to the scenario above, there are two arguments that can be made regarding the possibility of statehood. One argument is that the United States will make Guam a state in a last-ditch effort to maintain a more permanent presence in the region than it has now. Making Guam a state, if done in accordance with international law, would resolve the issue of decolonization of the island and remove Guam from the UN list of non-self-governing territories.

The other argument to be made stems from a core difference between this scenario and the former scenario. In the former scenario, China becomes the primary power in the region. In this scenario, neither China nor the United States gain primacy in the region. This would decrease the internal and external balancing pressures on the United States with China and decrease the national interest for maintaining power by creating a new state of the union. This could lead to a retreat and shrinking of the US footprint, and Guam could be a part of that, making the probability of statehood less likely.

Scenario #3: Continued competition and bi/multipolarity

Statehood

The likelihood of Guam being made a state in this geopolitical scenario is contingent on the momentum of the decolonization movement in Guam and whether the US is weaker or stronger during this period of continued competition. If the decolonization movement is strong, to avoid a nonviolent variation of the national liberation model, it is possible that the US makes Guam a state. Although there may be domestic factors, such as Guam's size and population, in a scenario of a strong decolonization movement in Guam there is a chance the US grants the island statehood in order to avoid domestic Guam troubles and to keep Guam as "American Soil" and the "Tip of the Spear." If the US begins to decline, it is also possible, in conjunction with a strong decolonization movement, that the US finds that it may be more beneficial to make Guam a state than to lose Guam or have domestic interruptions to its military installations in the island. Lastly, from a geopolitical perspective, making Guam a state and an integral part of the union, as opposed to a mere territory, could serve as a geometrical red line for what would constitute a full-scale attack on US soil. The act of making Guam a state of the union could strengthen the reach of the deterrent effect.

Scenario #4: US Reassertion in the Indo-Pacific, Chinese Decline

Statehood

Increased US power in the region, with Chinese decline, makes statehood unlikely as statehood would be best achieved if the United States believed it to be in its national interest. If the US were to make further gains, appeasing a strong decolonization movement in Guam may not be strong enough of a reason to offer the island full integration or statehood. From a purely political perspective, there would be little to no pressure for the US to change Guam's political status, and especially not to further integrate the island.

However, one could also argue that, in this period of US reassertion in the region, making Guam a state would solidify this reassertion. It would be akin to locking in the relative gains it would have made against China. If the United States saw this as in its national interest, then the chances of statehood increase, especially if this interest is reflected domestically in the US Congress. This will primarily be determined by the domestic politics of the time in the United States. Furthermore, statehood in this scenario would be desirable by the people of Guam as it would mean continued affiliation with the power which has achieved primacy in the region.

Scenario #5: US Legitimacy Crisis on the World Stage Due to Climate Change

Statehood

In this scenario, statehood could be the least desired option. In the scenario of the people of Guam prioritizing other aspects of security over traditional “but who will protect us” aspects, statehood may not be desirable without an assurance that the federal government will allocate significant resources to climate-change adaptation and mitigation efforts at the state and federal level. There is also the argument to be made that the people of Guam could push for statehood only to influence the federal budget to take climate change adaptation for Guam more seriously. For example, federal support for more robust mitigation efforts, such as broader renewable energy uptake and stronger tailpipe emission standards, could be mitigation efforts of interest for Guam here.

Independence

Guam, as an independent country, would be able to choose and formulate its own relationship with the United States, barring the power politics of asymmetry that the US will most likely exercise over Guam as it transitions to independence. It would have sovereignty and the ability to choose its own interdependencies, which could either be a good or bad thing, depending on what decisions are made by the government of Guam. The scenarios from the introduction are used here.

Scenario #1: Chinese Primacy/Chinese Expansion Towards Military Primacy, Significant US Decline

If Guam became independent during a geopolitical environment of US decline, Guam could still establish diplomatic relationships with the US, as the country's decline may still leave the US a powerful state in the international system. An independent Guam's relationship with the United States will depend on domestic conditions in the US, the US's international standing at the time, the domestic politics in Guam, and how close of a relationship Guam has with China. The government of Guam in this situation would also have to decide how closely to have a relationship with China if it achieves primacy in the region.

Scenario #2: Decline of China and the United States, Emergence of Alternative Regionalism or Middle-Power engagement

If Guam became independent in this geopolitical environment, its relationship with the United States would not be the central question preoccupying the government of the new country. Rather, the emergence of a middle power or the growing strength of a regional organization would compel Guam to secure the proper diplomatic relations so that the island's interests are addressed and protected. As the US and China would no longer be the most powerful actors in the region in this scenario, Guam would get the opportunity to be more creative about its possible alliances, partnerships, economic relationships, or regional relationships. This is not to say that Guam cannot have a good relationship with the US in this environment, but rather that this may not be the top priority for the new country (or the US.)

Scenario #3: Continued competition and b/multipolarity

If Guam were to become independent in this geopolitical environment, it would be well served to maintain good relationships with all actors in the region. Thus, maintaining a strong relationship with the United States would be important. This relationship does not have to take the form of basing agreements. It could be diplomatic ties or non-basing military agreements. However, much of this will be dictated by what the United States and an independent Guam decide to do with the existing US military base infrastructure in the island. It is anticipated that the US would not want Guam to have a closer relationship with China in the scenario of continued competition.

Scenario #4: US Reassertion in the Indo-Pacific, Chinese Decline

If the United States remains a superpower as it is today and reasserts its power in the Indo-Pacific, it is highly speculated that the government of an independent Guam would seek to maintain close relationships with the US. Under this scenario, the US would be an important partner in getting the newly independent country situated militarily, diplomatically, economically, and politically. In many ways, Guam

being an independent country and ally of the United States could augment US reputation and power on an international scale. If Guam decided to have a strong relationship with the United States, formal diplomatic procedures and infrastructures would be put into place.

Scenario #5: US Legitimacy Crisis on the World Stage Due to Climate Change

In this scenario, an independent Guam could still have a relationship with the United States because of traditional security and economic concerns. However, with climate-change related security issues at the forefront, it is expected that Guam would prioritize international relationships with countries and international organizations that can best help its fight for continued survival.

Free Association

For Guam, being in free association with the United States would ensure that there is a strong relationship with the US, particularly in the areas of defense and security. In choosing free association, the desire to have a relationship with the US, in which the latter will most likely handle defense responsibilities for Guam, would appear to be clear. The models of the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia are a framework for an arrangement which Guam and the United States would reach based on clear US preferences. In reaching an agreement, one of the primary determining factors will be the geopolitical environment of the time and the negotiation teams representing Guam and the United States.

The authors of this study do not argue that free association automatically equates to a formulaic application of the blueprint of the Compacts of Free Association established with the three Micronesian countries. Rather, it is acknowledged that Guam could get a better or worse deal than the existing freely associated states. However, the existing bases in Guam could be used as leverage in the government's negotiations with the US federal government for a potential Compact of Free Association or other legal instrument. To put it another way, the existence of US military bases in Guam today will likely be a significant bargaining chip in free association negotiations.

To bring the geopolitical scenario analysis of free association, the following scenarios are examined:

Scenario #1: Chinese Primacy/Chinese Expansion Towards Military Primacy, Significant US Decline

Free Association with the United States is unlikely in the model of Chinese primacy and US decline, with the driving agent being Guam and its interests. Decolonization during this period may not result in free association with the United States because it would not be in Guam's best interest. A weakened United States may want to establish bases in Guam (if it decides it the best strategy, even during a period

of decline), but Guam may not want to be one of the few US bases in the Pacific in an era of possible US military withdrawal from the region. This would put Guam into a precariously dangerous position, thus making free association with the United States more complex. However, as a caveat, the US, after a moment of decline, may view free association with Guam as an option to simultaneously let go of colonial responsibilities while also maintaining its influence in the region via Guam. Thus, if Guam decided this would still be the best option, it is possible in this geopolitical scenario for Guam to enter into a freely associated relationship with the United States.

Scenario #2: Decline of China and the United States, Emergence of Alternative Regionalism or Middle-Power Engagement

In this scenario, free association with the United States is unlikely and not that desirable of an option for the same reasons outlined in the former scenario. However, one possibility that could be explored in this geopolitical scenario, if the eligible voters of Guam desire, is seeking a free association relationship with another country. International law does not require that non-self-governing territories who favor free association have to create this freely associated relationship with their administering power. Rather, if it is decided that free association is the preferred status due to reasons of economic assistance or security matters, an exploration of free association with other countries could commence. This may present challenges and may be undesirable by the people of Guam, who have had a long history of entanglement with the United States, but nonetheless, it is something that could be explored.

Scenario #3: Continued competition and bi/multipolarity

In an era of continued competition, free association is the most likely option of the three. It would simultaneously avoid the domestic troubles of making a small island a fellow state of the union and in ensuring military use of the bases. Free association would most likely create a Guam that would serve, at least for a substantial period of time, as a guaranteed power projection hub for the US. However, it is expected that a Compact of Free Association or other arrangement will be more robust in its security and foreign affairs dimensions than the current compacts, as the US will probably negotiate for provisions that prevent Chinese power penetration into Guam. In many ways, the US could satisfy the needs of decolonization and still use neocolonial tactics of control to secure its interests in the island, if necessary, thus making free association a good potential option.

Scenario #4: US Reassertion in the Indo-Pacific, Chinese Decline

It is expected that any change in political status during a period of reasserted US power in the region is unlikely without an extremely strong negotiation and lobbying team that can apply pressure domestically onto the United States. Free association, despite securing continuous US military interests in the island, is

unlikely as it would possibly make Guam a sovereign state (particularly if following existing FAS models), diminishing US control over the island. Free association for the island, even with security guarantees, could be seen as losing a degree of control over a key asset such as Guam for US power projection.

Scenario #5: US Legitimacy Crisis on the World Stage Due to Climate Change

It is likely that free association would be the preferred choice of the people of Guam, not with the United States, but with another state the people of Guam feel can best help guarantee Guam’s environmental, human, and health security. The people of Guam may view free association with another country as the best option to make important local decisions, while still relying on the resources and assistance of a greater power in the realm of climate change adaptation and mitigation, development of long-term infrastructure, and food.

| RELATIONSHIP WITH THE US | |
|----------------------------|--|
| STATUS | EFFECTS |
| <i>Statehood</i> | <ul style="list-style-type: none"> • Strongest relationship with the United States as it will become a part of the union. • Full representation and rights in the US system due to the status of being a state. • If US remains powerful, Guam would be a state of one of the most powerful countries, which will benefit the island. • As the state of Guam would be a noncontiguous physically small and demographically small state, it may find itself challenged regarding political power. |
| <i>Independence</i> | <ul style="list-style-type: none"> • Can choose whether or not a close relationship with the United States is in Guam’s national interest. |

| | |
|---|---|
| | <ul style="list-style-type: none"> • Guam could still have a relationship with the United States. • Relationship with the United States will be contingent on how independence was achieved and the geopolitical environment of the time. • The US is not obligated to make agreements with an independent Guam, which may or may not be detrimental to the thriving of the new island country. |
| <p style="text-align: center;"><i>Free Association</i></p> | <ul style="list-style-type: none"> • The US will most likely handle defense of the country. • It is expected that the US would be more cooperative with transitioning to this option than to full independence. • There are no guarantees that free association for Guam will be equivalent to the COFAs of the Palau, Marshall Islands, of the Federated States of Micronesia (could be worse or better). • If following other FAS, funding provisions may not last as long as defense provisions and may cause dissatisfaction in the relationship. |

Relationship With the US Military

Guam's primary value to the United States lies in its strategic location and subsequent military use. Thus, no matter what political status Guam ends up choosing and transitioning into, as long as the US has the capability and power, it will likely try to maintain a relationship with the island to secure access to Guam's land, air, and sea for military use. In the case of continued US power, and even in a situation of continued decline, it is expected that the United States would see it in its national interest to maintain a relationship with Guam. This is best summed up in Lieutenant Colonel of the Army National Guard, Robert Crisostomo's, research project for the US Army War College, in which he argues, that "to maintain its presence and interests in the Asia-Pacific region, the US should seek to keep Guam as its possession, as either a state or a territory."¹²⁵⁴ Yet, most pertinent to this section is his assertion that, "If the US considers Guam's strategic location as a valuable national security asset, it must persuade Guam, through its pursuit of self-determination, to remain a valued member of the American family and a beacon of US strategic strength in the Asia-Pacific region."¹²⁵⁵

It could be in Guam's best interest to have a relationship with the US military, although not to the degree of institutional powerlessness and militarization that currently exists. It must also be made clear that a relationship with the US military is not guaranteed, and as explained in the preceding overview, there are geopolitical future(s) in which a relationship to the US military may either be undesirable or possibly unattainable. If the geopolitical environment is suiting however, it is expected that Guam and the United States will remain close, no matter what status is chosen. Also, it is expected in the geopolitical environment in which the US is engaged in great-power interactions with China, that the US will desire further military operations in the island, and that Guam may desire protection by the US military from outside forces.

1254 Robert A. Crisostomo, "Strategic Guam: Past, Present, and Future," US Army War College, 2013, 15.

1255 Crisostomo, "Strategic Guam," 17.

Statehood

As Guam would be a state, the relationship with the US military will remain strong, Guam would be an integral part of the United States with full applicability of the Constitution and a full role in the governance of the United States. While people may argue that Guam's relationship with the military in the case of statehood would be the same as its current relationship as an unincorporated territory, this is not necessarily the case. From a primarily political perspective, Guam receiving one voting representative in the House of Representatives, two senators in the Senate, and votes in the Electoral College will imbue the island with political power within the American political system that it currently does not have. This was most recently seen in former Joint Region Marianas Commander Rear Admiral Shoshanna Chatfield's denial of Governor Lou Leon Guerrero's request to pause military construction near the *Serianthes Nelsonii* tree. In Chatfield's denial, she stated, "Let me assure that our mutual goal for protecting this tree, its saplings and the (US Fish and Wildlife Service) approved forest buffer has already been met by permanently distancing the multi-purpose machine gun range sufficiently away."¹²⁵⁶ While some may argue that this is a multi-layered issue, the reality of Guam's current status as an unincorporated territory played a role in the denial of the governor's request. Guam is equipped with few tools to halt military action. By arguing this, this study does not take the position that Guam can do nothing in its current status, rather that it becomes easier to have a say if the island is no longer a colony of the United States. As a state, the island government would have more power and clout over the operations of the US military in the island than it does now due to increased access to political capital in Washington, D.C.

Some of the ways the state of Guam could have more of a role in military affairs in the island deal with the operations of the federal government itself. If Guam became a state and had voting representation in both the House of Representatives and the Senate, these representatives could potentially help drive domestic and foreign policies, subsequently dealing with military issues. One goal of Guam's senators (in the case of the US Senate) could be to serve on the United States Senate Committee on Armed Services, considering that the orbit of American activity in the state of Guam will still be the US military. The Committee on Armed Services, as outlined in Rule XXV 1 (c) (1) of the Standing Rules of the Senate, has the following jurisdiction: 1). Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations, 2). Common defense, 3). Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally, 4). Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone, 5). Military research and development, 6). National security aspects of nuclear energy, 7). Naval petroleum reserves, except those in Alaska, 8). Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents, 9). Selective Service System, and 10). Strategic and critical materials necessary for the common defense. Lastly, "the Senate has also given the committee the authority to study and

¹²⁵⁶ Anumita Kaur, "Request to halt military construction around endangered trees denied," *Pacific Daily News*, July 8, 2019, accessed at <https://www.guampdn.com/story/news/2019/07/07/governor-request-stop-military-construction-endangered-tree-denied/1670563001/>.

review, on a comprehensive basis, matters relating to the common defense policy of the United States, and report thereon from time to time.”¹²⁵⁷ Guam’s senators serving on this committee could be impactful in getting the best deal for the state of Guam in its relationship to the US military.

Furthermore, Guam’s House Representative could seek to serve on the House Armed Services Committee, which has the following jurisdiction:

- Defense policy generally
- Ongoing military operations
- The organization and reform of the Department of Defense and the Department of Energy
- Counter-drug programs
- Security cooperation and humanitarian assistance activities (except special operations-related activities) of the Department of Defense
- Acquisition and industrial base policy
- Technology transfer and export controls
- Joint interoperability
- Detainee affairs and policy
- Force protection policy
- Inter-agency reform as it pertains to the Department of Defense and nuclear weapons programs of the Department of Energy.¹²⁵⁸

Guam’s non-voting delegates to the US House of Representatives, including former delegates A.B. Won Pat, Vicente (Ben) Blaz, Dr. Robert Underwood, and Madeleine Bordallo have served on the House Armed Services Committee. As a state, the power of our representative will be enhanced with voting privileges on the floor. As Guam would have this voting representation in both the House of Representatives and in the Senate, there will presumably be more pressure on the United States for more resources and more projects for Guam, if this is what Guam needed or desired. Conversely, Guam’s federal representatives may choose to use their voting power to fight against a proposed military project they view detrimental to the island.

Another benefit Guam will receive from becoming a state in its relationship to the US military is that Guam will become an “integral” part of the United States. As an unincorporated territory, Guam “belongs to” but is not an integral “part of” the United States. As a state of the union, this would no longer be the case, and Guam could no longer be just a bargaining chip of the US military. In many ways, Guam’s status as a territory means that, while the US military gets to use Guam strategically, it can use Guam as a bargaining chip in its geopolitical quest for primacy in the region without meaningful political resistance from the island. One of the foremost scholars on the US territories, Arnold Liebowitz, illustrates this, writing,

1257 United States Senate Committee on Armed Services. “History,” accessed at <https://www.armed-services.senate.gov/about/history>.

1258 House Armed Services Committee, “Committee Rules,” accessed at <https://armedservices.house.gov/committee-rules>.

There is almost always perceived military purpose in the island territories, which broadens federal authority, permitting the president to combine the foreign affairs powers with the military powers of the Commander in Chief. The judiciary, normally zealous in protecting individual rights against governmental action, has been unwilling to question executive or legislative action even where the rights of an entire island's inhabitants are concerned once the question appears to be linked, however marginally, to national security.¹²⁵⁹

As a state and being an integral part of the United States, Guam would have a more equal relationship with the US federal government and the military, which could be beneficial for the island in comparison to an unincorporated territory.

Independence

Guam's relationship with the US military is least clear when considering independence for the island, as independence provides the most unknowns. In a general sense, independence is the one status where US military protection is not guaranteed. Independence does not mean that the US military will automatically leave the island or that continued US military presence will not exist in the independent country of Guam. However, the withdrawal of the military from the island is possible if the two governments do not agree. Overall, the relationship of Guam to the US military under independence will be contingent on factors such as the geopolitical environment of the time and United States and Guam domestic politics.

Scenario #1: Chinese Primacy/Chinese Expansion Towards Military Primacy, Significant US Decline

In this scenario, continuing a relationship with the US military could prove risky to the independent country of Guam. If China were to achieve primacy in the region it may be against Guam's national interest to maintain a close relationship with the US military as this would be in direct opposition to China. This does not mean that Guam needs to have a close relationship with the Chinese military either, although if Guam were to be independent, it is expected that China will attempt to gain influence in the country via soft power and money. Rather, it may be best in this instance for Guam to have neither Chinese nor US military bases and essentially act as a buffer zone. The feasibility of this however, will be dependent on how well Guam is able to negotiate its international relationships.

1259 Liebowitz, "Defining Status," 16.

Scenario #2: Decline of China and the United States, Emergence of Alternative Regionalism or Middle-Power engagement

In this scenario, the relationship with the US military is not clear. If Guam, out of its own self-interest, decided to continue to have a close relationship with the US, Guam could fight for a more equitable and economically profitable situation. However, this will depend on US power, national interest, and grand strategy at that time. The people of Guam, in this scenario, would have to debate whether having a relationship with the US military would be beneficial to the country.

Scenario # 3: Continued competition and bi/multipolarity

In this scenario, it is expected that the United States would want to continue a close relationship with the island, even if independent, with a particular emphasis on continued basing rights in the island to maintain its power and balance against China's continued push for influence in the Pacific. Even if Guam were to be independent, the US would not want Guam to open up its land, sea, and airspace to the Chinese or any other military as this would undermine its power in the region. Beyond basing, if the US switched to an offshore balancing strategy and draws down or closes its bases, the US will still want to maintain a relationship with Guam to act as a potential client state, making arrangements for weapons storage or refueling, similar to Taiwan's current relationship with the United States, to help balance against China.

Scenario #4: US Reassertion in the Indo-Pacific, Chinese Decline

If the US achieves primacy through reassertion in the Indo-Pacific, the government of Guam may find it beneficial to continue a relationship with the US military. This would be easy, considering the close connection between the United States and Guam today. Similar to the United Kingdom, there are multiple examples of colonizers and former colonies having a close relationship with one another. This would allow the country of Guam to have a close relationship with the most powerful country on earth in this scenario.

Scenario #5: US Legitimacy Crisis on the World Stage Due to Climate Change

Similar to the second scenario, a relationship with the US military is unclear. If an independent Guam viewed the US military as beneficial to assisting with environmental, health, and climate change related security issues, it may enter into agreements of this sort. If the government of an independent Guam decided that US bases in the island would overall be beneficial to the island country, then it may support this endeavor.

Overall, an independent Guam's relationship with the US military will be in the form of negotiations and subsequent agreements between two sovereign countries. Guam's sovereignty, under this status, will

allow the island access to international institutions and the benefit of being a country in its negotiations with the US military. However, there will always be the issues of power politics, particularly for a strategically located island like Guam.

Free Association

The Compacts of Free Association the United States has with the Micronesian countries of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands are centered around the issues of defense and national security. The models of free association that the United States has entered have all resulted in the form of special provisions of policy handled by the United States, primarily defense. The COFA countries retain agency for external/foreign affairs, notwithstanding provisions for consulting with the United States on foreign affairs matters. Citizens of COFA countries are also able to join the US military. If Guam chose free association, it is reasonable to assume that a similar arrangement would be made between Guam and the United States. The US would provide military defense of the country, and in turn, Guam would ensure strategic denial as well as grant the US possible access to the land and ocean in Guam’s sovereign territory. It is also likely that citizens in the freely associated state of Guam (if having its own citizenship) would be able to enlist in the US military. It is also likely that if Guam were to be freely associated, a continuation of US military basing would be negotiated. Overall, it is highly expected that there would be a close relationship (due to the nature of the status as currently practiced in the FAS) between Guam and the United States in the case of a negotiated Compact of Free Association or similar legal instrument. This would come with all the benefits and limitations.

However, as can be seen in the case of the renegotiations of certain provisions of the Compact of Free Association between the United States and the Federated States of Micronesia, there may be disagreements and points of contention in the freely associated state of Guam’s relationship with the US military. It should also be emphasized that if Guam follows the existing FAS, a freely associated Guam would be able to negotiate with the United States on a country-to-country basis, even if there are certain allowances granted to the US per the negotiations.

| RELATIONSHIP WITH THE US MILITARY | |
|-----------------------------------|---|
| STATUS | EFFECTS |
| <i>Statehood</i> | <ul style="list-style-type: none"> Access to political capital and influence on US domestic and foreign affairs. |

| | |
|---|---|
| | <ul style="list-style-type: none"> • As a smaller state, there is the possibility that Guam will have influence, but not enough influence to effectuate change for the island. • Guam could continue to still be used primarily as a base. |
| <p style="text-align: center;"><i>Independence</i></p> | <ul style="list-style-type: none"> • Guam could choose how much of a relationship it wants to have with the US military. • The US military would have to interact with Guam as a sovereign country, and not as a territory. • The decision of how close of a relationship to have with the US military may be controversial. • This will be heavily influenced by the geopolitical environment. • Power politics will still have a role in this decision |
| <p style="text-align: center;"><i>Free Association</i></p> | <ul style="list-style-type: none"> • Strong relationship with the US military, as it is expected that basing would continue. • The US military, barring the agreement in a possible COFA or similar agreement, would have to interact with Guam as a freely associated state, and no longer an unincorporated territory . • Due to politics and historical ties, it is possible that US military may still hold power in the country. |

- The issue of whether the US would want to enter into a Compact of Free Association or other agreement with Guam will be influenced by the geopolitical environment.
- Guam having a COFA with the United States may cause tension with near-peer competitors like China.

Bases

This section addresses the potential future of US military bases in Guam in the respective cases of statehood, independence, and free association. Two analyses are conducted here. The first is what the status itself has to offer regarding the potential future of the bases and the second takes into account the potential geopolitical environments at the time of the implementation of the new status, whichever it may be. These two factors should both be considered, especially when discussing basing in Guam.

Statehood

It is highly expected that the bases in Guam would remain if the island became a state, particularly in the geopolitical scenario of continued competition with China and other countries or in the scenario of US reassertion in the Indo-Pacific region. In the geopolitical scenario of Guam being a state and the United States declining in power, the government of the United States could possibly consider closing or partially closing bases in Guam to save money or in accordance with a different military strategy. However, it is more likely that the US continues to prioritize maintaining its bases in Guam as a continued line of defense against countries like China and will do whatever possible, even during economic decline or a shift in political party in power, to keep the bases operational. In this geopolitical scenario, Guam being a state (far from other US sovereign soil) may make it more vulnerable and will have fewer options to pivot the island's international engagement in the context of US decline.

Overall, in any geopolitical scenario, it is expected that if the US has the resources and national interest, the permanence of US military bases in the state of Guam is likely, because continued basing will likely be the United States' motivation to make Guam a state in the first place. As mentioned in the overview of this study, there are factors such as size and population that will play a role in the politics of Guam's quest for statehood. However, Guam's current geostrategic role and importance for US power projection in the Indo-Pacific may help to counterbalance these obstacles, which will be dependent on the US Congress. The granting of statehood may also provide Guam a larger say in basing arrangements

through adequate representation in the US government.

As a territory, a primary pillar of Guam's economy is federal spending, revolving around the military. In the state of Guam, this is not expected to change except that the island would now be paying taxes into the US Treasury that support the bases. For more on this, see the Revenue/Taxation portion of this study. Guam would join existing states whose economies revolve heavily around domestic military bases. As proponents of basing economies argue, "Defense spending helps sustain local communities by creating employment opportunities across a wide range of sectors both directly and indirectly. Active duty and civilian employees spend their military wages on goods and services produced locally, while pensions and other benefits provide retirees and dependents a reliable source of income."¹²⁶⁰ However, it should be noted that Guam currently receives Section 30 monies and is thus slightly out of sync with states. This should also be taken into consideration.

Status Example: North Carolina

North Carolina not only has one of the largest military bases in the world, Fort Bragg, but it is also the host state of Camp Lejeune Marine Corps Base, Cherry Point Marine Corps Air Station and Naval Air Depot, New River Marine Corps Air Station, Seymour Johnson Air Force Base, Sunny Point Military Ocean Terminal, and US Coast Guard Base Elizabeth City. In 2015, the North Carolina Department of Commerce and the North Carolina Military Affairs Commission put out a report, "The Economic Impact of the Military on North Carolina." According to this report,

- The military supports 578,000 jobs with nearly \$34 billion in state personal income and \$66 billion in gross state product.
- 386,000 of the total military-supported jobs occur in the private sector.
- Professional, Scientific, and Technical Services, Administrative and Waste Management Services, and Construction are the top three military-supported private industry sectors.
- More than 20,000 civilian contractors are employed by the Department of Defense and the North Carolina National Guard in North Carolina.
- Department of Defense prime contracting in FY 2014 totaled \$2.5 billion, with 81 percent of that being performed in the South Central and Southeast prosperity zones.
- North Carolina's active military personnel have in-demand occupational skills which could contribute to private industries in the state as personnel separate from the military in the future¹²⁶¹

Furthermore, the report articulates that,

1260 National Conference of State Legislatures, "Preparing for Duty: State Policy Options to Sustain Military Installations," December 2016, 2.

1261 North Carolina Department of Commerce and the North Carolina Military Affairs Commission, "The Economic Impact of the Military on North Carolina," 2015, 1.

First, military bases enrich the regional economy because they provide a source of income to military personnel who, in turn, demand goods (i.e., groceries and clothes) and services (i.e., dining out and dry cleaning), spending a portion of their incomes regionally. Military pensions from the federal government also provide income to individuals who will then purchase goods and services in the regional economy. Another area yielding significant economic impacts is military contracting. Each year, the military purchases billions of dollars of goods and services from defense contractors in North Carolina in sectors such as Manufacturing, Construction, and Aerospace.

In order to meet the military's demand for goods and services, defense contractors require intermediate inputs for their own production processes. Demand for intermediate inputs translates into demand for suppliers and service providers further "upstream" in the value chain. This economic process continues through the value chain, in effect, amplifying the initial dollar value of military contracts. Finally, labor is required by virtually all companies in military-supported value chains to differing degrees based on each company's production technology. Increased employment and increased wages throughout military-supported value chains result in greater levels of household consumption in North Carolina since households have more income to spend. Higher levels of consumption increase demand for other value chains as well, creating a virtuous spending cycle.¹²⁶²

Per the report, the military has been beneficial to North Carolina's economy.

However, there are those who disagree with this assessment. For example, Catherine Lutz, in her book *Homefront: A Military City and the American 20th Century*, discusses the economic effects of the military on Fayetteville, North Carolina, where the Army base Fort Bragg is located. In describing this economy, she argues,

For, while Fayetteville's military dependency has made fortunes for some as the post continued to grow through the 1970s and 1980s, its economy was increasingly based on selling goods and services to soldiers, creating retail jobs that pay less than any other category of work. Despite the egalitarian pay and strong benefits packages military work brings to town, overall the installation established a low-wage economy, a vulnerable labor force of dependent women and teens, the high crime rates that come with poverty, and a weak democratic culture and public sphere.¹²⁶³

Thus, there is disagreement as to the type and degree of economic productivity the military bases in North Carolina bring to the state, as there may be in the case of the state of Guam.

US military basing in Guam and its subsequent economic, social, cultural, and environmental effects is likely to continue in the state of Guam. As a state, Guam could potentially be more involved in the

¹²⁶² North Carolina Department of Commerce and the North Carolina Military Affairs Commission, "Economic Impact of the Military on North Carolina," 10.

¹²⁶³ Catherine Lutz, *Homefront: A Military City and the American 20th Century* (Boston: Beacon Press, 2001), 213.

decision-making surrounding this. Many states become engaged in the basing process through active engagement in their state legislatures. As reported, “an increasing number of state legislatures have recognized the importance of protecting test, training and operational mission viability by preventing encroachment and incompatible land uses around installations.”¹²⁶⁴ Guam has a few options when it comes to being more involved in military spending and decision-making in the island. The first is the continuation of a military advisory body, similar to the existing oversight chair on the military buildup that Guam currently has or in the Guam Buildup Office, now called the Community Defense Liaison Office. This can be important and have a few roles including: being a liaison between the legislature, military installations and surrounding communities; reviewing current policies; assisting defense communities with programs that strengthen their relationship with nearby installations; conducting studies to support military activities; and disbursing public funds for projects related to the preservation of military installations.¹²⁶⁵ In these ways, the government and state legislature of Guam could become more involved in military basing in Guam.

Overall, if the geopolitical environment is right, bases are expected to continue in the state of Guam. Furthermore, as a state, Guam could become more heavily involved in the basing decisions surrounding the island.

Independence

As an independent country, the government of Guam should, in theory, have full control over the basing allowed in Guam’s sovereign soil and waters, and thus can determine what bases, if any, it will allow within its territory. This is a multi-layered process. Guam, as a sovereign country would also possess control over any defense treaties, negotiations over possible leasing of land, access rights (even if bases are not established, access and travel rights of foreign militaries will be another thing to consider), what the foreign military is able and not able to do, and the establishment of jurisdiction. One common question asked regarding independence is, “What will happen to the existing American bases in the island?” or “Would the United States want to have US bases in an independent Guam?” As the Philippines is the only former US territory to become independent, an examination of its post-independence US military presence may be useful for an independent Guam.

Status Example: The Philippines

The US initially gained bases in the Philippines after defeating the Spanish in the Spanish-American War. As a result of the war, the US gained control of Spanish military posts, most especially Subic Bay. Decades later, the Philippines became an independent country in 1946, after being a US territory for nearly fifty years. During its transition to independence, the continuity of military bases was a key

1264 Lutz, “Homefront,” 8.

1265 Lutz, “Homefront,” 11.

concern for the United States. This led to the 1947 Republic of the Philippines–United States Military Bases Agreement, also known as MBA, which gave the US “certain lands of the public domain” for a period of ninety-nine years rent-free. President Dwight Eisenhower advocated for the withdrawal of US forces from the Philippines but was dissuaded by infamous US diplomat George Kennan. In discussing US presence in the Philippines during a Cold War geopolitical environment, Kennan said, “We should cease to talk about vague and—for the Far East—unreal objectives such as human rights, the raising of living standards, and democratization. The day is not far off when we are going to have to deal in straight power concepts. The less we are hampered by idealistic slogans, the better.”¹²⁶⁶ This quote from Kennan demonstrates the US national interest in having the Philippines continue to serve US security interests, even at the expense of potential Filipino development. To accomplish this, the United States used domestic conflict as leverage against a hesitant Philippine government.

In the Philippines, there was a communist guerilla movement named Hukbalahap, or the Huks, that originally formed to fight the Japanese occupation, but would rebel against the Philippines government a few years later. Using this as a fulcrum for convincing the Philippines government, President Truman threatened to withdraw all US military forces, knowing that the Philippines government needed the US help to defeat the Huks. “Knowing that US military aid was essential if he [President Roxas] were to crush the Huks, who were fast on their way to becoming a major headache, and were US troops to be pulled out, other forms of aid would lessen if not disappear altogether, Roxas reassured the US of his government’s commitment to keeping US bases.”¹²⁶⁷

Thus, the aforementioned agreement was signed and led to US control over twenty-three bases, sixteen of which would be active, and the remainder held in reserve in case they were ever needed, with the largest bases being Subic Bay Naval Base and Clark Air Force Base. The MBA stipulated that the Philippines could not grant any other country military basing rights and that the Philippines could not place any restrictions on how the US bases could be used or what weapons could be stored there. Supplementing the MBA was the Military Assistance Agreement (MAA), also signed in 1947. Per this agreement, the Joint US Military Advisory Group was established to help train the Philippine Armed Forces.

It is highly expected that if the United States is still competing with China for primacy in the region it will attempt to craft an agreement similar to the MBA in an independent Guam. It is also important to note that, even though the Philippines eventually voted to close key US bases in its country, it has made many concessions over the years in granting the US military access to Philippine bases, due to China’s actions in the South China Sea. Similar to the Philippines, an independent Guam would have to consider whether it is in the country’s best interest to negotiate an agreement of this sort.

This leads to the major question, “Would the United States want to have US bases in an independent Guam?” The Defense and External Affairs overview is useful in exploring this fundamental question.

1266 US Department of State, “Report by the Policy Planning Staff (PPS/23)”, February 24, 1948, accessed at <https://history.state.gov/historicaldocuments/frus1948v01p2/d4>.

1267 Luis H. Francia, *A History of the Philippines: From Indios Bravos to Filipinos*. (New York: Overlook Press, 2014), 198.

Scenario #1: Chinese Primacy/Chinese Expansion Towards Military Primacy, Significant US Decline

In a region with Chinese primacy, the US may want to establish bases in an independent Guam as a way to balance against China. However, if US power diminishes, there may be either: domestic disputes regarding the overseas basing network; not enough money or political capital to establish and support these bases; or the presence of US bases in Guam would escalate a geopolitical situation the United States does not want to engage in. This is why in all the geopolitical future(s) scenarios discussed, when it comes to independence, one also needs to take into consideration the method in which Guam became decolonized as it will have ramifications for Guam's relationship with the United States and the region.

Scenario #2: Decline of China and the United States, Emergence of Alternative Regionalism or Middle-Power engagement

Similar to the scenario above, there may be little domestic support or not enough resources for the United States to continue basing operations in an independent Guam in this geopolitical environment. In this scenario, Guam could either forgo having any military bases or it could make agreements with other countries to set up military bases in the island. Furthermore, in this geopolitical environment, it would be up to Guam and how the region is structured at the time of independence.

Scenario #3: Continued competition and bi/multipolarity

In this geopolitical scenario, it is highly expected that the United States would want to establish bases in an independent Guam, because losing Guam as a territory would affect US power projection in the region. US officials have recognized the importance of Guam's territorial status and of keeping Guam as sovereign soil. For example, Colonel Jerry Rivera argues, regarding shifting geopolitics in the region,

Withdrawing to the Marianas is not abandoning our friends and allies in the region. They will know that we are nearby on US soil, where the US has an inherent right to be, keeping an eye out for them just several hours away by air and several days by sea. As part of that strategy, US military forces will constantly be flying and sailing from Guam and visiting all our Asian friends and allies, just to let them know we are in the neighborhood.¹²⁶⁸

Lastly, two strategists wrote, "Guam has the advantage of being American territory, reducing the political difficulty of building and operating assets there."¹²⁶⁹ This all reinforces the point that losing Guam as an unincorporated territory will force the United States to make adjustments in the region, it

1268 Jerry Rivera, *Guam USA: America's Forward Fortress in Asia-Pacific* (Pickle Partners Publishing, 2014), Loc 526, Kindle.

1269 Erickson and Mikolay, "Guam and American Security" 22.

will most likely still want to keep its bases in an independent Guam in the name of regional stability in its competition with China, a rogue North Korea, and a possibly disruptive Russia. However, this argument is premised on there not being a reorientation of current US foreign policy that views bases in Guam or presence in the Indo-Pacific as being in the US national interest.

Scenario #4: US Reassertion in the Indo-Pacific, Chinese Decline

It is speculated that continued or expanded US primacy in the region, with Chinese decline, will lead to US desire to maintain bases in an independent Guam. In the event of Chinese decline or even a plateauing of Chinese power at level less than the United States, it may be in the US national interest during this period of continued power to have military bases in Guam. Although the US would lose operational unilateralism with Guam as a sovereign country, an independent Guam may be either pressured by the United States (via its power) to put bases in the island, or Guam, as a smaller state, would feel the need to make arrangements with the US to best protect its security interests.

Non-US Basing

What distinguishes independence from both statehood and free association is the possibility of having bases not associated with the United States. Under statehood and free association, foreign militaries would not be allowed to establish bases in Guam without US approval. Independence is the one option in which non-US military basing is a possibility. Before making decisions regarding basing and foreign militaries, it is imperative that the government of Guam critically analyze the future(s) within the geopolitical environment of the time and do what is best for the security of the country. In the section below, an examination of non-exclusive US basing is provided, although the authors understand that this is currently far from what the people of Guam desire. First, it should be acknowledged that non-exclusive US basing does not mean two countries setting up bases in the island. It is highly unlikely that Guam will be a “host nation” for more than one country’s bases (as Djibouti currently is), as the island is too geographically small, and this may exacerbate potential conflict.

Scenario #1: Chinese Primacy/Chinese Expansion Towards Military Primacy, Significant US Decline

An Indo-Pacific region with Chinese primacy makes the option of hosting US bases at best, indifferent, and at worst, harmful to an independent Guam’s security interests. This does not automatically lead to a suggestion that Guam should host Chinese military bases, as this would be contingent on China’s base network development and what the people of Guam desire. At the time of this writing, China has only one overseas base (Djibouti) with a possible future base in Pakistan. The decision to host Chinese military bases in an independent Guam is contingent on whether the Chinese military develops a forward presence

basing network, whether the government of Guam seeks to establish basing rights with China, whether or not the people of Guam will ultimately accept this, and whether and to what extent China and Guam see the establishment of bases as being in their mutual national interests.

Scenario #2: Decline of China and the United States, Emergence of Alternative Regionalism or Middle-Power engagement

In this scenario, the possibility, if Guam desires, for military bases that are not US bases is higher than in scenario #3 or #4. Depending on the region's geopolitical environment at the time, Guam could offer military basing access to other countries if it was decided by the government of Guam. Alternatively, it could also decide to not house any military bases if the region, through Pacific Islands regionalism, creates something akin to a demilitarized zone to prevent the intrusion of great-power politics or to have its own bases (with a possible Pacific Islands coalition) if the island states chose to do so. In this scenario, Guam would be the least restricted due to the decline in great power politics which historically surround the region.

Scenario #3: Continued competition and bi/multipolarity

In this futures scenario, Guam could offer either the United States or another country basing agreements. However, Guam's relatively small land mass makes it nearly impossible to host multiple countries' military bases. Having bases so physically close together could trigger a microcosm of a security dilemma, especially if the two countries end up having conflict, animosity, and enmity. This could put Guam in a horrible position, as it has a history of being caught between the conflicts of larger powers. Ultimately though, an independent Guam in this scenario is more likely to give United States basing rights, over any other country such as China, due to a long history of entanglement.

Scenario #4: US Reassertion in the Indo-Pacific, Chinese Decline

In a geopolitical order of United States reassertion and primacy, corresponding with Chinese decline, it may not be in Guam's best interest to make basing arrangements with any other country besides the United States. Guam's long, entangled history with the United States makes an exclusive basing arrangement with the United States the more likely and more beneficial option. Subsequently in this future(s) scenario of continued US primacy in the region, it would be beneficial for the US to set up bases in the country of Guam, as it could be pivotal for its power projection in the region aimed at maintaining this primacy.

Scenario #5: US Legitimacy Crisis on the World Stage Due to Climate Change

In this scenario, it is likely that the government of an independent Guam would not want any military bases in the island as it would want to use the land for aspects of food security or other strategies of

climate change adaptation. This is unless the government of Guam believes that a foreign military base would bring substantial resources to the island to help in its fight against climate change.

With this analyses and scenarios provided, the most likely option for basing in an independent Guam is still US bases.

No Foreign Bases

Lastly, the government of an independent Guam could choose not to have any foreign military bases. There are multiple reasons why civilians organize into social movements to oppose foreign military bases, and there is a long history of protest against bases, most especially in countries with large US military footprints, such as Japan and South Korea. It is important to note that this study does not advocate whether an independent Guam should make basing arrangements or not. This decision will have immense ramifications and is outside the scope of this study to make any definitive recommendations of this nature. Rather, the possibilities are explored and in the case of independence, it will be up to the government and the citizens of the country to make these critical decisions.

The largest question an independent Guam would have to ask itself is, “Does this foreign base contribute to or negatively affect the island’s security?” The most common assumption is that military presence automatically leads to security enhancement for the host country, particularly if there is a mutual defense treaty and if the other actor is the United States. As described,

While the US and host governments envision security with military bases, the host states’ public continues to debate whether the US military presence contributes to security. Some citizens believe that military bases threaten the security of their communities, countries, and regions. These citizens, especially those living near military bases, often conceive of security in terms of ‘human security’ or safety in their daily lives. From this perspective, they express strong concern about various problems that the military presence including soil and noise pollution, and the criminal conduct of US military personnel. They also believe that the presence of US forces in their countries creates tension in the region by unnecessarily provoking other countries, and they worry that bases might become targets of external attack. For these reasons, they imagine security without military bases.¹²⁷⁰

Opposing this perspective are those who argue that foreign basing with a mutual defense agreement is the only way a small island country (which Guam would be) can survive, and that the country’s security is best served by making basing arrangements.

It is highly advised that an independent Guam take these two perspectives on foreign basing’s contribution to national security, and then go one step further. An independent Guam should not make a

1270 Erickson and Mikolay, “Guam and American Security” 22.

decision regarding basing on the basis of ideology, but on pragmatism and what will help to ensure the survival, thriving, and security of the country. To do this, an independent Guam would need to look out for various aspects of security. Security is traditionally defined as “the identification of threats to a particular referent object and the formulation of policy responses to these threats.”¹²⁷¹ The threats are military; the referent object is the country; and the policy responses are also military and strategic policies. This is what most refer to when they discuss “national security.”

However, this is only one concept of security, and increasingly, more countries and international organizations around the world are broadening and deepening the scope of security to reflect more of the threats a country and/or a people may face in today’s world. It is advised that an independent Guam broaden its scope of security, not making military threats the only threats to Guam’s security, and seriously consider factors such as environmental security, economic security, human security, food security, and political security when deciding whether foreign basing agreements are in the country’s best interest. Only when a cost-benefit analysis is conducted with an all-encompassing treatment of security can the decision of foreign bases be truly rooted in Guam’s security interests. This responsibility will be in an independent Guam’s hands.

Free Association

The question of US military base presence in Guam under free association will primarily be determined by the negotiations made between the government of Guam and the United States. Each Compact of Free Association the United States has with the freely associated states of Micronesia includes provisions regarding US access to their respective land, sea, and airspace. Due to Guam’s strategic location, it is highly expected that under free association, US basing would continue.

Status Example: Republic of Palau

Section 321 and Section 322 of the Compact of Free Association with Palau lays out the parameters of US utilization of Palauan territory.

Section 321:

The Government of the United States may establish and use defense sites in Palau and may designate for this purpose land and water areas and improvements in accordance with the provisions of a separate agreement which shall come into force simultaneously with this Compact.

Section 322:

1271 Myriam Dunn Cavelty and Victor Mauer, *The Routledge Handbook of Security Studies*, (New York: Routledge, 2011), Location 1940, Kindle.

(a) When the Government of the United States desires to establish or use such a defense site specifically identified in the separate agreement referred to in Section 321, it shall so inform the Government of Palau which shall make the designated site available to the Government of the United States for the duration and level of use specified.

(b) With respect to any site not specifically identified in the separate agreement referred to in Section 321, the Government of the United States shall inform the Government of Palau, which shall make the designated site available to the Government of the United States for the duration and level of use specified, or shall make available one alternative site acceptable to the Government of the United States. If such alternative site is unacceptable to the Government of the United States, the site first designated shall be made available after such determination.¹²⁷²

(c) Compensation in full for designation, establishment or use of defense sites is provided in Title Two of this Compact.¹²⁷³

In subsidiary agreements made between the United States and Palau, there are stipulations set out regarding the use of sites within Palau. Per these agreements, when identifying a defense site in Palau, this shall include all the necessary land and use rights for such sites, rights of access thereto, and road, pipeline and other easements as may be required. The government of Palau has to make the site, or an agreed upon alternative site, available to the United States within sixty days. Additionally, any rent or use charges due to people with interest in the land shall be provided by the government of Palau, and not the United States. The subsidiary agreements also outline the potential desired use of the land by the United States. They are broken down into three categories:

1. Exclusive-use areas (areas which are reserved exclusively for use by the Government of the United States, subject to the limitations set forth in the agreement)
2. Joint-use areas (areas which may be used jointly by the Government of Palau and the Government of the United States, subject to the limitations set forth in this agreement)
3. Non-exclusive-use areas (areas for intermittent use by the Government of the United States, subject to the limitations set forth in this Agreement)

Regarding the exclusive-use areas of (a) approximately sixty-five acres adjoining Airai airfield, (b) forty acres of submerged and adjacent fast land in Malakal harbor, and (c) an area or areas for such purposes as base and logistic support activities

1272 Article III, Section I of the Republic of Palau-Compact of Free Association Subsidiary Agreement.

1273 Sections 321 and 322 of the Compact of Free Association between the Republic of Palau and the United States.

The Government of the United States has access to and unrestricted control of the exclusive use areas including the right to control entry to and exit from any or all exclusive-use areas and the right to take reasonable and necessary measures for their establishment, use and operation. The Government of the United States may take, within the exclusive-use areas and within the seabeds, water areas and air space adjacent to or in the vicinity of the exclusive-use areas, reasonable and necessary measures for their use, security and defense.¹²⁷⁴

When it comes to joint areas, the United States and Palau both have access. Article 6-1 reads,

The Government of the United States shall have access to and use of joint-use areas, including the right to take reasonable and necessary measures for their establishment, operation and maintenance. After consultation with the Government of Palau, the Government of the United States may take, within these areas and within the seabeds, water areas and air space adjacent to or in the vicinity of these areas reasonable and necessary measures for their use, security and defense, including the measures specified in subparagraphs (a) through (e) of paragraph 1 of Article V of this Agreement.¹²⁷⁵

Yet, unlike exclusive-use areas, Palau may also use the areas. Article 6-2 states,

The Government of Palau may use any joint-use area, including making such area available to persons or entities authorized by the Government of Palau, in any manner compatible with the rights of the Government of the United States set forth in this Agreement. The Government of Palau shall notify the Government of the United States of any intended use of such area and the Government of the United States shall not interfere with such use unless it is incompatible with the ability of the Government of the United States to carry out its military mission.¹²⁷⁶

Lastly, and important to acknowledge, is the agreement regarding non-exclusive-use areas. Article VII, Section I, states, “The government of the United States shall notify the government of Palau, as far in advance of the tentative date of planned use as is practically possible, but not less than 90 days, except in an emergency or as mutually agreed, of its intention to use any area designated for non-exclusive-use.”¹²⁷⁷ Section (b) of Article VII, Section I reads, “The government of Palau may, within 30 days after receipt of the notification, seek clarification or express reservation concerning the planned activity and the parties shall consult as necessary to resolve any differences. The government of the United States will make every reasonable effort to adjust the planned use to take into consideration the reservations expressed by the

1274 Article V, Section I of the Republic of Palau-Compact of Free Association Subsidiary Agreement.

1275 Article VI, Section I of the Republic of Palau-Compact of Free Association Subsidiary Agreement.

1276 Article VI, Section II of the Republic of Palau-Compact of Free Association Subsidiary Agreement.

1277 Article VII, Section I of the Republic of Palau-Compact of Free Association Subsidiary Agreement.

Government of Palau.”¹²⁷⁸ This particular language regarding land use is ubiquitous in the subsidiary agreements between the US and the Republic of Palau.

Examining the details of these agreements helps show that Guam’s negotiation team in the case of free association should hire a legal team to assist in language of the potential Compact of Free Association or other legal instrument and any or all subsidiary agreements made between the US and Guam. For example, in Palau’s Compact of Free Association, pursuant to Section 453, even if the Compact of Free Association is terminated, subsidiary agreements shall still remain in effect in accordance with its terms.¹²⁷⁹ Guam’s negotiation team would need careful legal assessments of the compact or other legal instruments to assure Guam’s best interests. Lastly, the negotiation team for a freely associated Guam could use existing arrangements in the three COFA states to determine what to emulate and what to change in their agreements with the United States.

However, one critical difference between Palau and a freely associated Guam is that the US military already controls twenty-seven percent of Guam. Thus, the negotiations between Guam and the United States may be qualitatively different than the negotiations with Palau, and Guam could use this fact in its negotiations with the United States to negotiate a more beneficial freely associated arrangement. It is highly expected that no arrangement between Guam and the United States will be approved without an explicit continued basing agreement. Guam is and will likely continue to be at the center of power politics in the Indo-Pacific region, and it is unlikely, that the United States will give up important bases, even if Guam becomes a freely associated state. Thus, in the case of free association, it is likely that basing will continue in Guam and the US will carry the responsibility of defending the new freely associated state.

1278 Article VII, Section I of the Republic of Palau-Compact of Free Association Subsidiary Agreement.

1279 Section 453 of the Compact of Free Association of the Republic of Palau.

| BASES | |
|-------------------------|--|
| STATUS | EFFECTS |
| <i>Statehood</i> | <ul style="list-style-type: none"> Near guaranteed continuation of US military bases in Guam. Guam will have more political power to influence military base projects. US in charge of defense of the island. |

| | |
|---|---|
| | <ul style="list-style-type: none"> • Basing budget affected by US domestic politics. • Guam would continue to be an integral part of US security policy in the Indo-Pacific region. |
| <p style="text-align: center;"><i>Independence</i></p> | <ul style="list-style-type: none"> • Greatest latitude regarding basing arrangements. • Possibility of continued US military bases. • Possibility of no military bases in Guam. • Riskiest option regarding security and defense of the island. • Basing decisions to be heavily influenced by geopolitical environment of the time. |
| <p style="text-align: center;"><i>Free Association</i></p> | <ul style="list-style-type: none"> • Near guarantee of continuation of US military bases in Guam. • Land in Guam most likely to be reserved for military purposes. • As US will probably have bases in the island, no other military will be allowed into the island without US permission (strategic denial). • Economic assistance given to Guam in exchange for basing rights. • Guam may be tied to the United States in potential conflicts in the Indo-Pacific region. |

Defense Treaties/Agreements

This subsection of the study focuses on treaties or agreements relating directly to defense. The questions explored in this subsection are: Under each political status, what is the possibility of entering into a defense treaty?; What treaties or agreements could be made regarding defense?; and What is important for Guam to consider in the case of defense treaties and agreements?

Statehood

Returning to Article I, Section 10 of the US Constitution, regarding issues of defense; “No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.”¹²⁸⁰ This is under the realm of the US federal government. Thus, if Guam were a state, it would similarly be prohibited from entering into treaties with other countries for defense purposes. However, Guam’s elected leaders in the Senate would, by nature of the separation of powers, be able to have influence on foreign policy, including defense treaties.

Other than Guam’s leaders in the federal government, the state government will not have the power to enter into defense treaties with foreign governments. This will be left to the US federal government. This has both a disadvantage and an advantage. The potential disadvantage is that Guam, as a state, would be subject to US foreign policy decisions. However, the potential advantage is that negotiating defense and foreign policy can be daunting and the state of Guam would not necessarily have to make these decisions.

Independence

The most latitude and subsequent responsibility regarding defense treaties/agreements comes under

1280 Article 1, Section 10 of the United States Constitution, accessed at https://www.usconstitution.net/xconst_AI1Sec10.html.

independence. In its simplest form, the government of the independent country of Guam should have full control over treaties and agreements in the area of national defense. As discussed in the “Bases” subsection, an independent Guam could have basing or defense arrangements with the United States. Many geographically small countries have agreements with larger countries for defense purposes. A quick look at Oceania reveals the extent to which the independent countries in the region turn to larger states to cover the realm of defense. Out of all the independent Pacific Island countries, only Fiji, Papua New Guinea, and Tonga have standing militaries. The rest of the Pacific Islands’ defense is handled by larger countries. As established in the Compact of Free Association, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau’s defense is handled by the United States. Tuvalu, Nauru, Kiribati, and Samoa have all made arrangements (many informal) for their national defense to be handled by either Australia or New Zealand. The US has bilateral defense treaties with countries in the region: South Korea; Japan; and the Philippines. Similar language appears throughout descriptions of these three bilateral treaties, taking a form of the following: “A treaty signed, whereby, 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 that each Party would act to meet the common danger in accordance with its constitutional processes.”¹²⁸¹ An independent Guam could learn from an examination of existing treaty language.

Status Example: South Korea

In October 1953, in an attempt to ensure South Korea’s protection as a result of the Korean War, the US and South Korea signed the US–Republic of Korea Mutual Defense Treaty. Per this treaty, “the countries agree to attempt to settle international disputes peacefully, consult whenever the political independence or security of either party is threatened by external armed attack, and that either party would act to meet the common danger in accordance with their respective constitutional processes.”¹²⁸² This initially disappointed South Korea, as the wording of Article II is that of consultation and not an ironclad security guarantee. Article IV grants the US “the right to dispose United States land, air, and sea forces in and about the territory of the Republic of Korea as determined by mutual agreement.”¹²⁸³ Satisfying South Korea at the time was Article VI of the treaty, which states that the treaty shall remain in force indefinitely.

To this day, the United States maintains a significant base and military personnel presence in South Korea. The most updated information reports that the ROK hosts roughly 28,500 US service members and their families. South Korea hosts: two fighter wings of the A-10 and F-16 aircraft; a major US Army prepositioned stockpile; a combat aviation brigade; a field artillery brigade; advanced ISR (intelligence, surveillance, and reconnaissance) units; and a US Army Corps of Engineers headquarters. In a volatile

1281 US Department of State, “US Collective Defense Arrangements”. Accessed at <https://2009-2017.state.gov/s/l/treaty/collectivedefense/index.htm>.

1282 5 U.S.T. 2368; T.I.A.S. 3097; 238 U.N.T.S. 199. Signed at Washington October 1, 1953. Entered into force November 17, 1954.

1283 “Mutual Defense Treaty Between the United States and the Republic of Korea”, October 1, 1953, accessed at https://avalon.law.yale.edu/20th_century/kor001.asp.

region with China and North Korea, the United States has traditionally viewed the security of South Korea as serving US interests. According to the Department of Defense's 2019 Indo-Pacific Strategy Report, "The United States remains steadfast in its commitment to the defense of the Republic of Korea (ROK). The US-ROK Alliance is the linchpin of peace and prosperity in Northeast Asia, as well as the Korean Peninsula."¹²⁸⁴

The economics of the mutual defense treaty is another factor an independent Guam could learn from South Korea. The continued presence of the US military in an independent Guam is a divisive topic with some arguing that it would perpetuate neocolonialism and others supporting it as Guam's best line of defense. In South Korea's example, it is clear that the US invests substantial resources and money into the alliance. While South Korea's economy struggled after the war, the US provided nearly \$5.8 billion to South Korea between 1955 and 1967. In the 1970s, the US helped South Korea via the Military Assistance Program and Foreign Military Sales, both aimed at helping to modernize South Korea's armed forces through the purchase of US military equipment. From 1970 to 1986, the US gave South Korea another \$2.4 billion in loan guarantees and direct credits to acquire military equipment.

South Korea has also monetarily contributed to the presence of US bases and military personnel in its territory.

In 1991 South Korea paid approximately \$150 million to support the US presence, and by 2004 the amount had grown to \$623 million, a significant increase but less than the US contribution to South Korea's defense. Seoul's direct contribution in 2007 was \$770 million, approximately 41 percent of the total by US calculations. In 2008 the total cost of the American presence for nonpersonnel stationing expenses in South Korea was just over \$2 billion, and South Korea covered approximately \$810 million of that amount.¹²⁸⁵

The US has tried to get South Korea to contribute more (South Korea pays nearly \$1 billion a year now), but South Korean officials argue that besides their monetary contribution, they provide many other contributions. "South Korean officials disagree with the American calculation of burden sharing, noting that programs such as the Korean Augmentation Troops to the US army are not included in ROK contributions and that South Korea provides at no cost land for firing range and bases. In addition, Seoul exempts US forces in Korea from taxes and reduces their electricity and telephone fees."¹²⁸⁶ These cumulatively, according to South Korean officials, contribute to the burden sharing of the mutual defense treaty.

In the case of a US basing agreement in an independent Guam, economic benefits for the island could occur, even if not in the form of "rent" payments. A report by the RAND Corporation defined "US Payments" as "direct payments to host-nation governments made explicitly for the purpose of supporting

1284 Department of Defense, "Indo-Pacific Strategy Report: Preparedness, Partnerships, And Promoting A Networked Region," June 1, 2019, 24.

1285 Terence Roehrig, "South Korea: An Alliance in Transition," in *Rebalancing US Forces: Basing and Forward Presence in the Asia-Pacific* by Carnes Lord and Andrew S. Erickson (eds.), (Annapolis: Naval Institute Press, 2014), 81.

1286 Roehrig, "South Korea: An Alliance in Transition," 81.

the US overseas posture in accordance with the NDAA's states focus on direct payments for use of facilities, ranges, and lands."¹²⁸⁷ The data on these types of payments is rare, with Djibouti being the primary example. However, it is what the RAND corporation does not include its scope of "direct payments" that shows the potential economic benefit Guam could receive from basing agreements. It states, "We do not consider US funding for security assistance (e.g., International Military Education and Training and Foreign Military Financing), development assistance (e.g., Overseas Development Assistance,) or US payments to other entities (e.g., employees and contractors) for goods or services that might affect the host-nation economy but are not paid to the host-nation government."¹²⁸⁸ This shows the possible types of assistance Guam could receive if it enters into defense agreements with the United States.

Guam's chances of receiving assistance and other benefits from the United States in the case of independence are heightened if Guam fulfills the potential US need for basing rights. Put differently, "That is, absent the bases, would the United States still provide aid to these countries at similar levels? It is clear that most base-rights aid is for use of the bases."¹²⁸⁹ The work of Kent Calder from Johns Hopkins University can help this analysis, through his book, *Embattled Garrisons: Comparative Base Politics and American Globalism*. As a disclaimer, Calder articulates that, "The overall packages that host nations receive, and their relationship to the details of basing arrangements themselves, generally remain both classified and largely insulated from public scrutiny."¹²⁹⁰ From the available data, however, Calder devises four generalizations related to military bases and payment. These four generalizations are:

1. The United States generally pays a lot of money for its foreign bases.
2. Former host nations that have rejected military bases receive either no aid or measurably less than when they were hosting US bases.
3. New host nations are typically rewarded generously.
4. American base-related payments increase when host-nation regime changes occur and the US bases survive.

Furthermore, James Blaker, former deputy assistant secretary of defense, estimated that "around 18 percent of total foreign military and economic aid—subtracting Agency for International Development (USAID) funding—goes to buying base access. Given \$31.5 billion in aid in 2012, this adds around \$5.7 billion to total overseas costs."¹²⁹¹ Employment opportunities, local procurement for base goods and services, and spending by those stationed on the base are other economic factors associated with basing. While there are many factors to consider, Calder's work shows that there will be economic incentives for

1287 Michael J. Lostumbo, Michael J. McNerney, et al., "Overseas Basing of US Military Forces: An Assessment of Relative Costs and Strategic Benefits," *RAND Corporation*, 2013, 136.

1288 Lostumbo, et al., "Overseas Basing of US Military Forces: An Assessment of Relative Costs and Strategic," 136.

1289 Duncan Clarke and Daniel O'Connor, "US base-rights payments after the cold war," *Orbus*, 37, no. 3 (Summer 1993): 441.

1290 Kent Calder, "Embattled Garrisons: Comparative Base Politics and American Globalism," *International Relations of the Asia-Pacific* 9, no. 1 (2009): 200.

1291 US Department of State, "Executive Budget Summary: Function 150 and Other International Programs Fiscal Year 2014," April 10, 2013, 1-4.

basing rights in Guam.

If the US provides protection in an independent Guam, Guam may also contribute to the maintenance of US military bases, also known as burden sharing, with host nation support as a possible example of this. The Department of Defense dictionary of military terminology defines host nation support as “civil and/or military assistance rendered by a nation to foreign forces within its territory during peacetime, crises or emergencies, or war based on agreements mutually concluded between nations.”¹²⁹² This tends to take the form of cash (such as compensation for local national employees, supplies and services of DOD) or in-kind (direct provision of labor, structures, land, and infrastructure; construction or payments for damage claims, forgone rent or lease payments).¹²⁹³

Status of Forces Agreement

As an independent country, if Guam decided to make arrangements for US basing, as discussed in the previous subsection, Guam would most likely negotiate a Status of Forces Agreement, also known as a SOFA, with the United States. A Status of Forces Agreement generally establishes the framework for legal protection and rights of the US Armed Forces while stationed. SOFAs typically cover the rights and privileges of those individuals while in a foreign jurisdiction and address how the domestic laws of that jurisdiction apply to US personnel. They can also address criminal and civil jurisdiction, the wearing of uniforms, taxes and fees, carrying of weapons, license requirements, customs regulations, and use of radio frequencies. SOFAs “share the sovereign prerogative between the receiving and sending state, striking a balance between the rights and obligation of both parties” and “to apply military discipline which takes into account status, customs, and military needs.”¹²⁹⁴ It is also important to describe what a Status of Forces Agreement is not (on its own). A Status of Forces Agreement,

is not a mutual defense agreement or a security agreement, and generally does not authorize specific exercises, activities, or missions. SOFAs are peacetime documents and therefore do not address the rules of war, the Laws of Armed Conflict, or the Laws of the Sea. The existence of a SOFA does not affect or diminish the parties’ inherent right of self-defense under the law of war. In the event of armed conflict between parties to a SOFA, the terms of the agreement would no longer be applicable.¹²⁹⁵

The United States, due to its expansive and unprecedented post-World War II basing network, has around one hundred Status of Forces Agreements with other countries.

1292 Department of Defense Dictionary of Military Terminology, “Joint Publication 1-02,” 2012, 143.

1293 Lostumbo, et al., “Overseas Basing of US Military Forces,” 135.

1294 Richard Erickson, “Status of Forces Agreements: A Sharing of Sovereign Prerogative,” *Air Force Law Review* 37, 40.

1295 Congressional Research Service, “Status of Forces Agreement: What Is It, and How Has It Been Utilized?,” *Every CRS Report*, March 15, 2012, accessed at <https://www.everycrsreport.com/reports/RL34531.html>.

The most important aspect of a SOFA for an independent Guam's purpose would be in negotiating the legal protection from prosecution that could be afforded to US personnel while in Guam, assuming that Guam and the US come to a basing or other military agreement. Particularly, whether exclusive jurisdiction or shared jurisdiction will be exercised needs to be discussed by the two governments. Exclusive jurisdiction refers to when the US, "retains the right to exercise all criminal and disciplinary jurisdiction for violations of the laws of the foreign nation while the individual is present in that country,"¹²⁹⁶ while shared jurisdiction refers to when "each party to the agreement retains exclusive jurisdiction over certain offenses, but also allows the United States to request that the host country waive jurisdiction in favor of the United States exercising criminal and disciplinary jurisdiction."¹²⁹⁷

A prime example of exclusive jurisdiction is the Agreement on Military Exchanges and Visits Between the Government of the United States of America and the Government of Mongolia. The agreement states,

United States military authorities shall have the right to exercise within Mongolia all criminal and disciplinary jurisdiction over United States personnel conferred on them by the military laws of the United States. Any criminal offenses against the laws of Mongolia committed by a member of the US forces shall be referred to appropriate United States authorities for investigation and disposition.¹²⁹⁸

The government of Mongolia can request the United States to waive its jurisdiction in cases of criminal behavior by US military personnel while not on duty. However, the US is not required to do so, and only needs to give this request "sympathetic consideration." Shared jurisdiction is more common in Status of Forces Agreements, with one example being the SOFA between the US and Japan. Under this agreement, both the US and Japan have jurisdiction over the criminal prosecution of US military personnel, but this is dependent on the crime committed and its legality under both US and Japanese law. Article XVII of the SOFA between Japan and the United States reads,

(1a) the military authority of the United States shall have the right to exercise within Japan all criminal and disciplinary jurisdiction conferred on them by the law of the United States over all persons subject to the military law of the United States

(1b) the authorities of Japan shall have jurisdiction over the members of the United States armed forces, the civilian component, and their dependents with respect to offenses committed within the territory of Japan and punishable by the law of Japan.

1296 Congressional Research Service, "Status of Forces Agreement: What Is It, and How Has It Been Utilized?"

1297 Congressional Research Service, "Status of Forces Agreement: What Is It, and How Has It Been Utilized?"

1298 T.I.A.S., "Agreement on Military Exchanges and Visits Between the Government of the United States of America and the Government of Mongolia," June 26, 1996.

(2a) the military authorities of the United States shall have the right to exercise exclusive jurisdiction over persons subject to the military law of the United States with respect to offenses, including offenses relating to its security, punishable by the law of the United States, but not by the law of Japan.¹²⁹⁹

When it comes to cases in which both countries can exercise jurisdiction, there is another particular set of rules outlined in Number 3 of Article XVII. Part 3 states,

In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

(a) The military authorities of the United States shall have the primary right to exercise jurisdiction over members of the United States armed forces of the civilian component in relation to i. offenses solely against the property or security of the United States or offenses solely against the person or property of another member of the United States armed forces or the civilian component or of a dependent; ii. Offenses arising out of any act or omission done in the performance of official duty,

(b) In the case of any other offense the authorities of Japan shall have the primary right to exercise jurisdiction.¹³⁰⁰

An independent or freely associated Guam which makes basing arrangements with the United States or any other country needs to remain vigilant about ensuring that the country's jurisdiction is maintained. As a newly independent country, Guam would need to set up as many safeguards against being exploited as possible, and if the government decides to allow foreign bases and troops in its territory, a SOFA agreement would be beneficial. As explained regarding US SOFA practices throughout the world,

This asymmetrical record is made even more troublesome by the fact that after jurisdiction is obtained, US military authorities often fail to impose adequate disciplinary measures under the Uniform Code of Military Justice to deter US personnel from committing crimes overseas. Under the UCMJ, US personnel who are found guilty generally only receive non-judicial punishments or court martials. A clear preference of US military authorities is to pursue nonjudicial remedies, which give commanding officers the discretion to impose a lesser punishment, accept an administrative discharge in lieu of a court-martial conviction, or even dismiss the charges.¹³⁰¹

Reinforcing this is the case of South Korea, in which it was reported that, between 2004 and 2006, South Korea investigated more than 700 incidents involving US military personnel. Yet only six servicemen

1299 Part 3 of Article XVII of the Treaty of Mutual Cooperation and Security Between Japan and the United States, 1960, accessed at <https://www.mofa.go.jp/mofaj/area/usa/sfa/pdfs/fulltext.pdf>.

1300 Part 3 of Article XVII of the Treaty of Mutual Cooperation and Security Between Japan and the United States.

1301 Rije Ernie Gao, "Between a Rock and a Hard Place: Tensions Between the US-ROK Status of Forces Agreement and the Duty to Ensure Individual Rights Under the ICCPR," *Fordham International Law Journal* 33, no. 2 (2009): 600.

were serving sentences in Korean prisons as of April 2007. “Even when Korean authorities exercise jurisdiction over the offending US soldier, the punishment often amounts to no more than a slap on the wrist.”¹³⁰² Guam does not want to put itself into a position where it is nominally independent, but de facto dependent, on a foreign country, and this power discrepancy could be made apparent in an abuse of criminal jurisdiction practice outlined in a Status of Forces Agreement with a foreign country.

However, there is also the possibility, in general, that defense agreements and SOFA agreements with the United States can over time create a better deal for the host country. “Sovereignty rights outlined in basing agreements tend to shift in favor of host nations over time. . . . By using their residual rights of control and bargaining leverage gained from hosting specific assets, host countries were able to extract important concessions from the United States and whittle down US use rights to the minimum required by the United States to conduct its military operations.”¹³⁰³ An independent Guam could take this into consideration.

Transition Period

In the case of Singapore, which was a former British colony, the British military involvement with its transition is an interesting model that Guam could negotiate for. After Singapore’s independence, British bases remained in the island for roughly six years, even though they initially communicated with Singapore that British troops would stay longer. In 1964, Britain’s Labour Party gained power and began to reduce the country’s defense budget, as the British economy weakened severely post-World War II. To do this, it announced it would exponentially decrease its economic and defense commitments in Singapore by 1971, with complete withdrawal of troops by 1975. The Singaporeans knew they had to develop their own defenses, but also acknowledged that the temporary British stationing of troops was important for it to metaphorically get on its feet as a new country. As Singapore Minister of Defence Goh Keng Swee said in December 1965, “it is no use pretending that without the British military forces in Singapore today, the island cannot be easily overrun within a matter of hours.”¹³⁰⁴ In a similar fashion, although dependent on the geopolitical environment of the time, the negotiating team for an independent Guam with the United States could negotiate to ensure temporary stationing of US military bases in the island as Guam transitions from territory to independence, even if no defense agreement is necessarily in the works. To do otherwise may be too risky while getting the new country on its feet. However, this will also be heavily contingent on which method of decolonization is followed. For example, if the US loses power and wants to remove all personnel from Guam, the island will not get a choice regarding the temporary hosting of bases for a transition.

1302 Gao, “Between a Rock and a Hard Place: Tensions Between the US-ROK Status of Forces Agreement and the Duty to Ensure Individual Rights Under the ICCPR,” *Fordham International Law Journal* 33, no. 2 (2009): 600.

1303 Alexander Cooley and Hendrik Spruyt, *Contracting States: Sovereign Transfers in International Relations* (Princeton: Princeton University Press, 2009), 111.

1304 “Perspectives on Security - Sigops.org.” Accessed at <http://sigops.org/s/conferences/sosp/2015/history/02-lampson-slides.pdf>.

The Not Choosing Model

Another possibility for the island would be that of “not choosing” which superpower to have primary relations with. The father of Singapore, Lee Kuan Yew, referred to Singapore as “the small fish eternally caught between the medium and the big fish,” and that the best course of action was “to be friends with both the medium and the big fish.”¹³⁰⁵ Furthermore, he exclaimed he did not want to have to choose between China and the US. As detailed in the section overview, continued American-Sino competition is highly expected and the independent country of Guam may feel a need to side with one superpower or another (speaking to scenario #3 of continued competition). One option that the government of an independent Guam could take is not choosing between the two, but rather establishing good relationships with both. Due to the dominant representation of the islands in the Pacific as small and vulnerable, it is common to hear that Guam would have to make an agreement with a larger power for defense and security. However, the Pacific Islands may be able to leverage their strategic location, and glimpses of this can be seen today.

China’s push into the Pacific, as described in the overview, presents an opportunity to not choose. It is possible that an independent Guam, in the scenario of continued competition and bi/multipolarity in the surrounding region, could utilize this desire for primacy among great powers for Guam’s national interest. Frequently, this region of the world, because of its depiction as small and isolated, is said to be heavily influenced by great powers. An independent Guam may not have to necessarily choose. Rather, it could form diplomatic and/or military-related agreements and relationships with multiple countries if it chose to do so, and not just with the United States or China. As asked by geographer Sasha Davis,

What if Papua New Guinea builds a dock with Chinese money, but keeps tight political relationships with Australia? What if Niue builds a highway as part of the BRI [Belt and Road Initiative], but keeps its free association agreement with New Zealand? What if French political sway continues in French Polynesia as Chinese investment also grows? What if Chinese tourists become the economic lifeblood of Saipan while it remains a commonwealth of the US?¹³⁰⁶

Furthermore, Davis questions why islands are seemingly forced to choose between China and the United States when these two countries have relationships with each other. “After all, even in the current context of trade wars and heated political rhetoric, the US and China themselves have incredibly extensive economic interactions with each other. Why should US-based analysts insist that the US itself can have extensive economic relationships with China, but that islands that sit between the US and China could not?”¹³⁰⁷ Similarly, the government of an independent Guam may be able to, through skilled diplomacy and geopolitical insight, have multiple relations with countries around the world, even those in a

1305 Cheng Guan Ang, *Lee Kuan Yew’s Strategic Thought* (Routledge, 2013), 25.

1306 Davis, et al., “US military strategy, China’s Belt and Road Initiative, and island agency in the Pacific.”

1307 Davis, et al., “US military strategy, China’s Belt and Road Initiative, and island agency in the Pacific.”

competition for primacy in the region.

Free Association

Per the models that currently exist with the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia, it is highly expected that the primary agreement covering defense will be the Compact of Free Association or other legal instrument between Guam and the United States. However, it is highly likely there will be subsidiary agreements as well. Below are the provisions in their respective Compacts of Free Association that Guam could look toward, as Guam's negotiation team may or may not model the language of these respective provisions or engage in a freely associated relationship akin to the existing FAS.

Status Example: Federated States of Micronesia and the Republic of the Marshall Islands

When it comes to defense in the Federated States of Micronesia and the Republic of the Marshall Islands, there are three main provisions outlined in the original Compact of Free Association:

Section 311:

(a): The Government of the United States has full authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b): This authority and responsibility includes:

1. The obligation to defend the Marshall Islands and the Federated States of Micronesia and their peoples from attack or threats thereof as the United States and its citizens are defended
2. The option to foreclose access to or use of the Marshall Islands and the Federated States of Micronesia by military personnel or for the military purposes of any third country.¹³⁰⁸

Section 313:

The Governments of the Marshall Islands and the Federated States of Micronesia shall refrain from actions which the Government of the United States determines, after appropriate consultation with those Governments, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.¹³⁰⁹

1308 Compact of Free Association Act of 1985, accessed at <https://www.doi.gov/oia/about/compact>.

1309 Section 313 of the Compact of Free Association Act of 1985, accessed at <https://www.doi.gov/oia/about/compact>.

Section 315:

The Government of the United States may invite members of the armed forces of other countries to use military areas and facilities in the Marshall Islands of the Federated States of Micronesia, in conjunction with and under the control of United States Armed Forces. Use by units of the armed forces of other countries of such military areas and facilities, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval by the Government of the Marshall Islands and the Federated States of Micronesia.

Section 331:

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to the Marshall Islands and the Federated States of Micronesia, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as Administering Authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of the Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in the Marshall Islands and the Federated States of Micronesia. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of the Marshall Islands or the Federated States of Micronesia.

Status Example: Palau

The Compact of Free Association between the United States and Palau has very similar language, with the most pertinent being Section 3, Article I on Authority and Responsibility and Section 3, Article III on Defense Treaties and International Security Arrangements.

Article I: Authority and Responsibility

Section 311:

The territorial jurisdiction of the Republic of Palau shall be completely foreclosed to the military forces and personnel or for the military purposes of any nation except the United States of America, and as provided for in Section 312.

Section 312 (section of):

The Government of the United States has full authority and responsibility for security and defense matters in or relating to Palau.

Section 313:

The Government of Palau shall refrain from actions which the Government of the United States determines, after consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to Palau.¹³¹⁰

Article III: Defense Treaties and International Security Arrangements

Section 331:

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to Palau, all obligations, responsibilities, rights and benefits of:

- (a) Any defense treaty or other international security agreement applied by the Government of the United States as administering authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and
- (b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in Palau. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of Palau.¹³¹¹

It is important to note that when the Compacts of Free Association were agreed upon, there were also provisions which outlined that, if the Compact was terminated, which can be done mutually or unilaterally by either signatory, certain provisions related to defense will still apply. The Compact of Free Association, as amended in 2003, with the Federated States of Micronesia, Title IV, Article V outlines what happens in the case of each method of termination. Per Article V, Section 452 (a)

Should termination occur pursuant to section 442 prior to the twentieth anniversary of the effective

¹³¹⁰ Section 3 of the Compact of Free Association with the Republic of Palau, accessed at https://pw.usembassy.gov/wp-content/uploads/sites/282/2017/05/rop_cofa.pdf.

¹³¹¹ Article II of the Compact of Free Association with the Republic of Palau, accessed at https://pw.usembassy.gov/wp-content/uploads/sites/282/2017/05/rop_cofa.pdf.

date of this Compact, as amended, the following provisions of this Compact, as amended, shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

- (1) Article VI and sections 172, 173, 176 and 177 of Title One;
- (2) Sections 232 and 234 of Title Two;
- (3) Title Three; and
- (4) Articles II, III, V and VI of Title Four.

Section 453 (a) also outlines what provisions will stand in the case of termination prior to the twentieth anniversary.

(a) Should termination occur pursuant to section 443 prior to the twentieth anniversary of the effective date of this Compact, as amended, the following provisions of this Compact, as amended, shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

- (1) Article VI and sections 172, 173, 176 and 177 of Title One;
- (2) Sections 232 and 234 of Title Two;
- (3) Title Three; and
- (4) Articles II, III, V and VI of Title Four.

Most important to this section is that Title Three, which outlines security and defense relations between the Federated States of Micronesia and the US, would still remain if the Compact was terminated prior to the twentieth anniversary of the effective date of the Compact. Similar provisions may apply to Guam if negotiated.

Beyond the Compacts of Free Association, there are other subsidiary agreements that provide a clearer understanding of the relationship between the FAS and the United States. While the Compact of Free Association is a primary document, these subsidiary agreements are important.

Status Example: Federated States of Micronesia

As strategic denial is the primary reason the US entered into these agreements with the FAS, there are subsidiary agreements between the two countries dealing with security. One of these is the “Agreement between The Government of the United States and The Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of The Compact of Free Association.” The agreement was meant to reaffirm the “purposes and principles of the Compact of Free Association which contributes to regional peace and mutual security by providing

United States undertakings for the defense of the Federated States of Micronesia and assistance toward its economic advancement and self-sufficiency.”¹³¹² Per the agreement,

Article III:

The Signatory Governments recognize that, in view of the special relationship between their peoples, any attack on the Federated States of Micronesia would constitute a threat to the peace and security of the Pacific area and a danger to the United States. In the event of such an attack or the threat thereof, the Government of the United States would take action to meet the danger to the United States and the Federated States of Micronesia.

Article IV:

1. The Signatory Governments, in recognition of the obligations undertaken by the Government of the United States in this Article and in Article III of this Agreement, shall inform one another promptly and shall consult in the event either of them has reason to believe that a third country seeks access to or use of the Federated States of Micronesia by military personnel or for military purposes.

2. If the Government of the United States determines that any third country seeks access to or use of the Federated States of Micronesia by military personnel or for military purposes, the Government of the United States has the authority and responsibility to foreclose such access or use, except in instances where the two Governments otherwise agree.

3. The Government of the United States shall exercise its authority and responsibility under this Article with due respect to the authority and responsibility of the Government of the Federated States of Micronesia for its internal and external affairs, including the responsibility to assure the well-being of its people.

4. The Government of the Federated States of Micronesia shall render appropriate support and assistance to the Government of the United States in meeting its responsibilities under this Article. Such assistance may include the removal from the Federated States of Micronesia, at the request of the Government of the United States, of individuals whose presence constitutes third country access to or use of the Federated States of Micronesia by military personnel or for military purposes.

¹³¹² Preamble to the Agreement between The Government of the United States and The Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of The Compact of Free Association, accessed at <https://jcrp.gov.fm/friendship-cooperation-and-mutual-security-agreement/>.

This separate agreement came into effect simultaneously with the Compact of Free Association. To better understand the distinct nature of this agreement, it is useful to look at the Compact of Free Association as amended in 2003.

The Compact of Free Association between the US and the FSM, Section 354 (b) states,

The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Government of the Federated States of Micronesia, and in view of the existence of the separate agreement regarding mutual security concluded with the Government of the Federated States of Micronesia pursuant to sections 321 and 323, that, even if this Title should terminate, any attack on the Federated States of Micronesia during the period in which such separate agreement is in effect, would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, the Government of the United States would take action to meet the danger to the United States and to the Federated States of Micronesia in accordance with its constitutional processes.

This shows that defense and security measures exist beyond the Compact of Free Association. In a July 2003 hearing before the US Congress, Deputy Assistant Secretary of Defense for Asian and Pacific Affairs Richard Lawless emphasized this, testifying: “In the absence of the Compact or, more specifically, the Security and Defense Relations Title of the Compact, the Mutual Security Agreement (MSA) still provides for the US defense obligations, US military access, and the denial of military access by third countries. The MSA is indefinite in duration and remains in force until terminated or amended by mutual agreement.”¹³¹³ Beyond this agreement, the US and the FAS have other subsidiary agreements, such as a Status of Forces Agreement and others dealing with military operations and facility use.

Thus, Guam can learn from these defense provisions in the Compact of Free Association and subsidiary defense agreements and use the fact that there are already military bases present in the island to negotiate a potentially better deal.

¹³¹³ Testimony of Richard Lawless, “To Receive Testimony Regarding the Compact of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands,” Hearing before the US Congress, July 15, 2003.

| DEFENSE TREATIES/AGREEMENTS | |
|------------------------------------|--|
| STATUS | EFFECTS |
| <i>Statehood</i> | No need for defense treaties or agreements as Guam would be an integral part of the United States. |

| | |
|---|--|
| | <ul style="list-style-type: none"> • If US remains powerful, Guam would be saved from having to navigate a possibly turbulent geopolitical environment. • Cannot enter into defense or security treaties as this would be a function of the US federal government. • Being a part of a weakened United States may put Guam more in harm's way. |
| <p style="text-align: center;"><i>Independence</i></p> | <ul style="list-style-type: none"> • Greatest latitude when it comes to negotiating security arrangements. • Could best choose security agreements based on geopolitics of the time. • Could implement a Status of Forces Agreement to control military presence. • As a new strategically located country, Guam will have to prioritize security concerns, but creation of defense treaties or agreements will be contingent on negotiations and geopolitical environment. • If negotiations go badly, Guam could be manipulated in the creation of a security treaty. • Status with the greatest responsibility in ensuring security |
| <p style="text-align: center;"><i>Free Association</i></p> | <ul style="list-style-type: none"> • If other FAS models are followed, clear defense provisions with the United States will be established. • Highly expected that US will be responsible for defense of the island. |

| | |
|--|---|
| | <ul style="list-style-type: none">• The presence of the agreement means the US will be more accountable to Guam than it currently is with Guam as an unincorporated territory.• Possibility of subsidiary agreements beyond the Compact of Free Association dealing with security.• Due to Guam's existing military presence, it is likely that the United States may request for Guam to enter into a COFA in which US operations are not hindered or negatively affected. |
|--|---|

Military/Militia

Statehood

In the case of Guam being a state, the people of Guam will continue to be able to serve in the US Armed Forces as enlisted personnel and as officers and have access to the government benefits received as part of their military service today. Subsequently, if Guam were a state, the Guam National Guard would remain. Regarding a military and militia, statehood offers the most predictable and stable option and the least amount of change from the status quo. The one positive change that could come regarding military service if Guam became a state is the possible increase in Veterans' Affairs funding, since Guam would be much more involved in the political machinery of the United States and in the making of these policies. Overall, statehood is the most clear and stable when it comes to envisioning the future of military/militia service in Guam.

Independence

An independent Guam has many factors and subsequent options to consider when deliberating the formation of a militia or armed service. As previously discussed, Guam, if independent, would be a country with a small geographical size and a relatively small population. This has to be taken into consideration by the government of an independent Guam. To be clear, this analysis does not argue whether Guam should or should not create its own military force, but rather, that the government of Guam should analyze the importance of having its own military force as opposed to having defense handled by another country. It also needs to consider the feasibility or effectiveness of having its own independent armed forces, due to the population and size of the island. One thing to note if an independent Guam decided to create its own armed forces is that it would have experienced individuals capable of leading Guam's military. Guam has one of the highest military enlistment rates per capita, and it is rare for a CHamoru family not to have members who are either serving or are veterans of the US military. One of every eight people in Guam

is said to have served in the US Armed Forces.¹³¹⁴ This could be valuable experience for the leadership of Guam's military or local defense force if one is developed. However, it is unclear as to whether these veterans would want to serve in the armed services of the new country.

If Guam decides to develop its own military, it will likely make this decision based on it being in its national interest at the time. Yet, this would not be the only factor. An independent Guam would also have to possess the resources or investment to spend money to develop armed forces. To begin an analysis of this issue, Singapore, a geographically small, strategically located city-state could be useful.

Status Example: Singapore

While other facets of Singapore's history and policy development are relevant and can be learning material for an independent Guam, its security and defense policy is particularly ripe for analysis. Singapore was born out of being expelled from Malaysia and many assumed that Singapore was doomed to fail as its own country. It was because of its size and subsequent vulnerability that Singapore engaged in a dual pronged approach of expansive diplomacy and deterrent military capabilities. Singapore was born with the unfriendly neighbors of Malaysia and Indonesia surrounding them, whose Muslim-majority populations believed that Singapore's heavily Chinese population could be a breeding ground for communism in the region. Thus, it was in Singapore's national interest, due to its geographical size, to supplement its diplomacy with military capabilities aimed at deterrence. As the Minister of Defence of Singapore, Dr. Goh Keng Swee, said in 1965 regarding the temporary British bases in Singapore at the time:

British military protection today had made quite a number of our citizens complacent about the need to conduct our own defence preparations. These people assume that this protection will be permanent. I regard it as the height of folly to plan our future on this assumption. And if there is any basis on which we, as an independent country can plan our future, it will be on the opposite assumption, that is, the removal of the British military presence at some time in the future. Nobody — neither we nor the British — can say when this will be. It may be 5, 10 or 15 years — maybe longer, maybe shorter. Whatever the time may be, it will be useless then to think of building up our defence forces. The time to do so is now.¹³¹⁵

Singapore's military is the Singapore Armed Forces, also known as the SAF, established in 1966, shortly after Singapore's independence. Its main components are the Army, Air Force, and Navy, with the SAF being headed by the Chief of Defense Force. Most impressive of Singapore's military arms is its Air Force, which boasts a fleet of: 40 F-15SG Eagles; forty F-16Ds; 20 F-16Cs; 30 F-5s Tiger II; a few

¹³¹⁴ Josh Hicks, "Guam: A high concentration of veterans, but rock-bottom funding VA funding," *The Washington Post*, October 29, 2014, accessed at https://www.washingtonpost.com/news/federal-eye/wp/2014/10/29/guam-a-high-concentration-of-veterans-with-little-va-funding/?noredirect=on&utm_term=.4b56815eb5b9.

¹³¹⁵ Swee, Dr. Goh Keng, "Speech by the Minister of Defence at the Commissioning Ceremony of the 10th Batch of Infantry Officer Cadets, SAFTI, at the Istana," July 19, 1972.

A-4 Skyhawks; and 20 AH-64D Apache Longbow helicopters. The development of Singapore's military had humble beginnings. It began with Britain building up Singapore's military infrastructure, with an emphasis on naval bases and coastal defenses. After independence, Britain helped Singapore develop its military forces.

Newly independent, Singapore's government originally intended only to "develop a small well-equipped, highly trained and mobile defence force comprising a small nucleus of regulars backed by a large part-time volunteer citizen force."¹³¹⁶ To accomplish this, in October 1965, it put out a call for volunteers for this part-time force and in the next year, it launched Operation Boxer and Boxer II, both drives to recruit for the armed forces. By the end of 1966, it recruited 1,100 regular soldiers. To build its military, the government wanted to ask for foreign military advice and refused to ask Britain, its former colonizer, because it believed it would lead to pure dependence on the British for Singapore's national security. It originally asked Switzerland but was denied, and finally was able to land the assistance of Israel, which sent a team from 1965-1974 to help train Singapore's military, and helped to eventually transform Singapore's Armed Force into a mass citizen force based on conscription and long-term reservist service.

Key to Singapore's success as a country and the development of its deterrent capability is its leaders' staunch insistence on a multi-pronged approach to defense. This is encompassed in its primary deterrence strategy, Total Defence (TD). The core of Total Defence is uniting all sectors of Singaporean society, including the government, the business sector, and the citizenry itself, in the defense of Singapore. Total Defence has six main components: military defense; psychological defense; social defense; economic defense; civil defense; and digital defense.

1. *Psychological Defense*: It was developed out of Singapore's fear that the citizenry's commitment to the country would be too weak. Thus, it uses education, a common tool of nation-building, to strengthen national identity, for it understands that getting a citizenry to defend its country is made exponentially more difficult without a sense of nationalism and patriotism. Singapore enacts its psychological defense through the National Education Programme with five primary messages: 1). "Singapore is our homeland. This is where we belong" 2). "Singapore is worth defending. We want to keep our heritage and our way of life." 3). "Singapore can be defended. United, determined and well-prepared we shall fight for the safety of our homes and the future of our families and children." 4). "We must ourselves defend Singapore. No one else is responsible for our security.", and 5). "We can deter others from attacking us. With Total Defence, we can live in peace."
2. *Social Defense*: This is similar to psychological defense and is primarily aimed at social cohesion due to its multiethnic and multilingual society.
3. *Economic Defense*: The core of economic defense is to "ensure that Singapore's economy will

¹³¹⁶ Ministry of Defence, "One Of A Kind (2nd Edition) - Ministry of Defence," 1969, 21, accessed at https://www.mindef.gov.sg/oms/safti/one-of-kind-2nd-ed2015/chp/027_references.pdf.

not collapse during war or under the cloud of war.”¹³¹⁷ To ensure this, Singapore has created contingency plans to enable factories and offices to continue functioning when manpower and equipment are mobilized for war.¹³¹⁸ Furthermore, the Ministry of Defence describes economic defense; “Economic Defence is also about keeping our economy strong and resilient, enabling it to carry on and recover quickly should we be confronted by any challenge or crisis in the future, such as a global downturn or economic strangulation that could shake investor confidence in Singapore.”¹³¹⁹ In action, this has taken the form of government agencies and businesses stockpiling what are deemed essential items.

4. *Civil Defense*: The civilian defense objective is to: protect civilian lives; lower the casualty rate; minimize damage to property; and pave the way for a return to normalcy in the event of war. Singapore’s small size, the high density of its population and the close proximity of civilian residential areas to military installations render its civilian population highly vulnerable, and Civil Defense aims to give citizens the confidence, capability, and readiness to meet any emergency. Civil Defense is also intended to reassure citizen soldiers fighting at the frontline that every effort has been made to protect their families and homes.¹³²⁰
5. *Military Defense*: The most traditional defense policy taken is obviously Singapore’s emphasis on military defense. The core tenets of this policy are high defense spending, universal military service, operational readiness, the maintenance of technological superiority, integrated forces, and defense diplomacy.
6. *Digital Defense*: Digital defense is the newest pillar of Singapore’s Total Defense strategy and shows that Singapore is realizing the shifting domains of conflict. While traditionally, the domains of land, air, and sea were the most focused upon, the trends of warfare show that countries also need to develop capabilities in the realms of space and cyber. As described on the Ministry of Defence’s website:

As Singapore works towards being a Smart Nation, digital technology will pervade all aspects of how we live, work, and play. Singapore will be one of the most technologically advanced, open and connected nations in the world. While the digital revolution presents opportunities for Singapore, it also makes us vulnerable to threats from the digital domain. These threats will disrupt our way of life and can also undermine our social cohesion and strike at the confidence and psychological resilience of our people. We therefore need to be able to respond to cyberattacks that target our

1317 Tim Huxley, *Defending the Lion City: The Armed Forces of Singapore* (Singapore: Talisman Pub., 2004), 26.

1318 Huxley, “The Armed Forces of Singapore,” 26.

1319 Total Defence, “What is Total Defence?” Accessed at https://www.mindef.gov.sg/oms/imindef/mindef_websites/topics/totaldefence/index.html

1320 Huxley, “The Armed Forces of Singapore.”

networks and infrastructure, as well as threats that can be perpetrated through the digital domain such as fake news and deliberate online falsehoods. Singaporeans must recognise that every individual is the first line of defence against threats from the digital domain, so we can defend ourselves against such threats. We must build robust defences and have effective recovery plans to remain resilient even when things go wrong. This is what a strong Digital Defence means.¹³²¹

These six pillars form the core of Singapore’s Total Defense strategy, with the pillars cumulatively helping to ensure the national security of Singapore in its various dimensions.

Analyzing Total Defense, this study takes the position that an independent Guam, to survive as a small state, would have to develop multiple strategies to protect itself from various threats. Even if the government of an independent Guam decided to form its own military force, it would not be sufficient to become the crux of an independent Guam’s defense policy or strategy. A realistic account of Guam’s size and population needs to be considered. Defending the island requires the government to move beyond the traditional “military” emphasis on defense and instead broaden the sectors of society that need to be secured. A Guam military can, at best, serve as a defense piece, but it may be unwise to make it stand alone or to metaphorically put “all of Guam’s defense eggs into the formation of a military basket,” especially as Guam will most likely continue to be strategically important.

The “No Military” Option

An overview of countries reveals that there are more than thirty that do not have any standing militaries, including Andorra, Aruba, Costa Rica, Grenada, Iceland, Kiribati, Liechtenstein, Nauru, St. Vincent and the Grenadines, and Dominica. The reasons for these countries’ lack of armed forces range from protection from other states (similar to the freely associated states) to the abolishment of their armed forces after violent events to them having too small of a population. The crux of this subsection regarding independence has been describing how armed forces could look if Guam decided to develop its own. There is strong reason to believe that an independent Guam may decide not to establish a military force, but it must be pointed out that complete dependence on another country for defense presents an opportunity for exploitation. Also, Guam still exists within a violent geographical region, and it will be unwise for an independent Guam to make the decision not to develop a military based on decisions of countries with drastically different histories and geopolitical contexts. Despite this, an independent Guam will have to decide if it would be pragmatic for the country to have its own military force.

National security and defense will have to be a key concern for an independent Guam’s survival as a strategically located small state, and it is not an easy task, no matter which geopolitical scenario Guam may see in the times ahead.

1321 Total Defence, “What is Total Defence?”

Free Association

The freely associated state of Guam, depending on negotiations, may follow the defense provisions of the freely associated states of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands. If Guam follows this model, then it is not expected that Guam will have a standing military of its own, as the United States would be responsible for defense of the island, thus alleviating this responsibility. Although, it should be acknowledged that this protection could be potentially severed in the future for a multitude of reasons, such as a change in US grand strategy, a changing domestic politics, or cataclysmic world events. This could be positive or negative. Despite this, not having to worry about the formation of a military could allow the freely associated state of Guam to focus its resources and time on other aspects of the country.

In the negotiations between Guam and the United States, Guam's negotiating team could make an arrangement for the citizens of Guam to be able to enlist in the US Armed Forces. This is the case in all three of the freely associated states, as can be seen below.

Section 341:

Any person entitled to the privileges set forth in Section 141 shall be eligible to volunteer for service in the Armed Forces of the United States but shall not be subject to involuntary induction into military service of the United States so long as such person does not establish habitual residence in the United States, its territories or possessions.

Section 342:

The Government of the United States shall have enrolled, at any one time, at least two qualified students, one each from the Marshall Islands and the Federated States of Micronesia, as may be nominated by their respective Governments, in each of:

- (a) The United States Coast Guard Academy pursuant to 14 USC. 195; and
- (b) The United States Merchant Marine Academy pursuant to 46 USC. 1295b(b)(6). 1295b(6)(C) shall not apply to the enrollment of students pursuant to Section 342(b) of this Compact.

For reference, 46 USC. 1295b(b)(6) reads, "The Secretary of Transportation shall ensure that the country from which an individual comes under this subsection will reimburse the Secretary for the cost (as determined by the Secretary) of the instruction and allowances received by the individual."¹³²² This

1322 Section 342 of the Compact of Free Association.

could provide possible economic and other types of opportunities for citizens of a freely associated Guam if they were to enlist into the US military.

Non-citizens in the US Armed Forces

The United States allows for non-citizens to enter the Armed Forces as enlisted service members. However, they cannot become officers because US law requires one to be a citizen to become a commissioned officer. In order for non-citizens to serve in the military, they need to have permission to work in the United States, possess an I-551 (known as a Permanent Residence Card), have already obtained a high school diploma, and be able to speak English. It is expected that, because of a history of military service in the US Armed Forces, citizens of the country of Guam in free association with the United States may continue to view US military service as a career option if available. However, if continued military service is desired by the citizens of the freely associated State of Guam, it should ensure that this is explicitly negotiated so that they can continue to serve (if US citizenship is not retained).

| MILITARY/MILITIA | |
|---------------------|---|
| STATUS | EFFECTS |
| <i>Statehood</i> | <ul style="list-style-type: none"> Continued ability to join the US military, with no expected disturbance or obstacle to military service. Possible increase in Veterans' Affairs funding. Most predictable and stable option regarding US military service. No foreseeable cons regarding US military service in the case of statehood. |
| <i>Independence</i> | <ul style="list-style-type: none"> Ability to develop its own military force. As an independent country, Guam could craft its own military strategy that is not tied to US strategy. |

| | |
|---------------------------------------|--|
| | <ul style="list-style-type: none">• Unlikely that Guam will have a strong military of its own and the country will have to decide if it would be pragmatic to develop its own military force. |
| <p><i>Free Association</i></p> | <ul style="list-style-type: none">• May still be able to join the US military.• With US protection, no real need to develop one's own military.• If economically challenged, citizens may see joining US military as best career path leading to a possible exodus of Guam citizens. |

