

U.S.-ASEAN Relations:

**Revitalizing Military Ties, the Cambodian Tribunal,
and Problems with UNCTAD**

**by Sheldon Simon
Professor, Arizona State University**

The United States revitalized military ties with the Philippines in the "Balikatan" joint exercise from late January to early March, the first major military exercise between these armed forces since 1995. Defense Secretary Cohen visited Vietnam to establish limited military ties. Washington also joined UN efforts to add international jurists to the Cambodian tribunal being created to try surviving Khmer Rouge leaders. Meanwhile, in Bangkok, the February meeting of the United Nations Conference on Trade and Development (UNCTAD) revealed differences between developing and developed states over free trade, labor protection, and patent rights similar to those in the failed December World Trade Organization Seattle meeting.

U.S. Military Ties with Southeast Asia.

Perennially the military basket case in Southeast Asia, unable to monitor or defend territorial waters against smugglers, illegal fishing, or Beijing's occupation of Spratly features adjacent to the Philippine island of Palawan, President Joseph Estrada's government decided to revitalize military ties with the United States. Lacking the resources to implement a \$12 billion 15-year military modernization plan and facing once again a robust domestic insurgency in Mindanao, the government is unable to purchase the hardware needed to protect territorial seas and air space. Its limited defense resources are being allocated to cope with local insurgency.

Philippine Defense Secretary Orlando Mercado has admitted that China's presence in the Spratly islands is unmovable. A revitalized military relationship with the United States would hopefully serve two ends: to strengthen deterrence against further Chinese encroachments in the southeastern Spratlys and to elicit military assistance, including additional used F-5s from Saudi Arabia and upgrades of C-130s for maritime surveillance.

The "Balikatan" joint exercise from late January to early March, featuring almost 5,000 forces evenly divided between both countries, was the first large-scale joint maneuvers since 1995. The exercise followed the Philippine Senate's approval last year of a new Visiting Forces Agreement (VFA) between the countries. "Balikatan 2000" included land, sea, and air exercises as well as special forces training to promote interoperability -- all potentially relevant for any U.S. assistance to Philippine troops in a conflict environment. (In addition to the joint exercises, U.S. ships engaged in seven port visits to the Philippines since the May 1999 ratification of the VFA.)

U.S. arms transfers to the Philippines in early 2000 consisted of several infantry vehicles for Philippine forces in East Timor and a patrol boat to be deployed for coastal surveillance. The United States also earmarked \$5 million for military assistance in the U.S. foreign aid budget for 2001 -- the first U.S. allocation for military assistance to the Philippines in years.

The United States is also expanding its annual COBRA GOLD exercise in Thailand to include Singapore, making COBRA GOLD trilateral for the first time. Thai Prime Minister Chuan Leekpai welcomed Singapore's participation in the exercise, which involves some 200,000 personnel, as an "important contribution" to the region's "security architecture." The United States has sought to turn COBRA GOLD into a multilateral exercise since the early 1990s as part of an effort to develop regional defense coalitions. Singapore's addition is not unprecedented for the island city-state has also been a part of the Thai-U.S. COPE TIGER air exercise since 1995.

The Thai Air Force is also negotiating with the United States to acquire 18 used F-16A/B jets with some 4000 flying hours remaining. The money for this purchase comes primarily from the deposit refunded by the United States when Bangkok cancelled earlier plans to acquire F-18s.

In Vietnam, U.S. Defense Secretary William Cohen, the first high-ranking American defense official to visit the country since the Vietnam War's end in 1975, expressed hope for the development of military ties that would mark a final stage of normalization. Cohen's March 13-15 visit coincided with the start of a seven-week Vietnamese commemoration of their country's victory in the war. Prospects for military ties may be further delayed. For now, however, according to U.S. Ambassador Pete Peterson, the Vietnamese military remains suspicious of American motives. Secretary Cohen had been asking for a meeting with the Vietnamese since 1997; two previous dates were cancelled by Hanoi. Vietnamese leaders are highly sensitive to any Chinese perception that new military relations with the United States would be directed against China.

While there are no plans for American military aid to Vietnam, U.S. port calls may occur sometime this year. Other forms of cooperation were arranged as well, including medical research on tropical diseases and Agent Orange, a defoliant blamed for harming thousands in the war. The U.S. military will also help in removing land mines left behind from the conflict.

U.S. and UN Pressure for International Jurists in Khmer Rouge Trial.

Hun Sen's Cambodian government has been grappling with United Nations' conditions for approving Cambodian jurisdiction over a genocide trial for surviving Khmer Rouge leaders. Although they have surrendered to the Phnom Penh government, for the most part they are living as free men. Both the United Nations and U.S. officials distrust the Cambodian judiciary as ill trained, corrupt, and beholden to the Hun Sen regime. While Hun Sen has agreed to have foreign jurists serve alongside Cambodians, the UN has branded his insistence that Cambodian judges concur before any indictments or rulings are reached as a formula for "paralysis."

The United Nations prefers that international judges and prosecutors control any proceedings. However, Hun Sen objects that control by international jurists would violate Cambodian sovereignty. The United States has offered a compromise whereby the agreement of at least one foreign judge would be needed to pass rulings, but that does not resolve the prospect for stalemate if Cambodian judges disagree with their foreign colleagues. Some Cambodians fear the prospect of a trial on the grounds that sleeping dogs should not be disturbed. Conviction of Khmer Rouge leaders who still have supporters, they believe, could rekindle the civil war.

UNCTAD in Bangkok

The United Nations Conference on Trade and Development (UNCTAD) met in Bangkok in mid-February. The debates were a replay of the differences between developing and developed states over trade and development. While pay and labor conditions in developing states were the focus of WTO contention in Seattle last January, the UNCTAD meeting dealt with developed country trade restrictions and developing states access to pharmaceuticals from industrial states at reasonable prices.

Thai AIDS sufferers presented a vocal case at the UNCTAD meeting. With new HIV infections up 1.3 million in 1999 for South and Southeast Asia, advocates insisted that the United States allow Thailand to locally produce didanosine (ddl), a drug under patent protection by Bristol-Meyers Squibb. Thailand has asked to be exempted from these laws so that it can produce generic ddl, a far more affordable option than purchasing the branded version.

A 1992 U.S. law on intellectual property rights (IPR) protection granted exclusive rights to market products to the creators until substantial research and development costs had been recovered -- for pharmaceuticals up to 20 years. While there is an escape clause from the U.S. law for public health emergencies, Thailand has been loath to invoke it for fear of trade sanctions if Washington does not agree with Thailand's interpretation. (Thailand sends a quarter of its exports to the United States.)

Policy Implications

Renewed American exercises with the Philippines and the addition of Singapore to the annual U.S.-Thai COBRA GOLD exercise are all strong indicators that the United States remains committed to being a major part of the international security equation for Southeast Asia. Washington should further provide used aircraft and ships to the Philippines under favorable terms to enhance Manila's ability to monitor and control its air and sea spaces. With respect to the Cambodian tribunal, the United States should continue to back UN insistence that international jurists dominate any Khmer Rouge trial to insure that global standards of justice are applied. As for Thai concerns about manufacturing generic ddl, the United States should honor the emergency clause in its 1992 IPR law and guarantee there will be no trade retribution against Thailand if it manufactures the generic drug to assist AIDS patients.

Chronology of U.S.-ASEAN Relations January-March 2000

Jan. 6, 2000: Philippine Armed Forces Chief of Staff General Angelo Reyes announces that the "Balikatan" U.S.-Philippine joint military exercise will consist of almost 5,000 combined forces.

Jan. 7, 2000: The United States expresses support for the UN formula to convene a combined international and Cambodian judicial tribunal for surviving Khmer Rouge leaders.

Jan. 10, 2000: The U.S. State Department includes \$5 million in its 2000 aid budget for military financing for the Philippines.

Jan. 13, 2000: Tipped off by U.S. counter-drug agents, Thai police make one of their largest heroin seizures in several years, intercepting 277 pounds at Bangkok's international airport.

Jan. 14, 2000: United States Ambassador to the UN Richard Holbrooke warns the Indonesian army not to attempt a coup against President Abdurrahman Wahid's government.

Jan. 18, 2000: U.S. Congressional staff members visit Indonesia and are briefed on President Whaid's efforts to root out corruption.

Jan. 20, 2000: Two years after closing its consulate in the North Sumatra city of Medan, the U.S. State Department announces it will reopen the office. Its main task will be to keep tabs on the independence movement in Aceh province.

Jan. 20, 2000: Singapore announces it will participate in the annual U.S.-Thai COBRA GOLD exercise.

Jan. 20, 2000: The United States promises \$80 million in foreign aid for Indonesia in 2000.

Jan. 21, 2000: The Thai Air Force announces its hope that the United States will lower the asking price for 16 used F-16A jets about \$17 million from the \$157 million requested. The U.S. states that the jets still have 4000 hours flying time left which would enable the Thai to use them for about 20 years.

Jan. 25, 2000: Sergio de Mello, head of the UN Transitional Administration in East Timor, chooses the U.S. dollar as the new state's legal currency until the end of the transitional period before full independence.

Jan. 28, 2000: Filipinos protest outside the U.S. Embassy in Manila against the "Balikatan" exercise, claiming the return of U.S. soldiers would bring AIDS, abortions, and renewed prostitution.

Jan. 28, 2000: The United States announces it will resettle some 1500 Burmese students stranded in Thailand this year.

Jan. 28, 2000: "Balikatan," the first major joint U.S.-Philippine military exercise since the passage of the Visiting Forces Agreement (VFA), begins. It covers air, naval, and ground maneuvers and will conclude on Mar. 3.

Jan. 31, 2000: Philippine Secretary of Foreign Affairs Domingo Siazon states that the Spratly islands dispute is a strong reason for a greater U.S. presence in Southeast Asia.

Feb. 2000: Several infantry vehicles and a naval patrol vessel are scheduled to arrive in the Philippines this month as the first phase of a U.S. military assistance package, according to Defense Secretary Orlando Mercado.

Feb. 2000: The Singapore Air Force takes delivery of the first of 12 new F-16C fighters. This brings the air force total to 36.

Feb. 3, 2000: Ambassador Holbrooke tells the *Far Eastern Economic Review* that his warning to the Indonesian military not to engage in a coup was first cleared with Indonesian officials.

Feb. 3, 2000: The United States raises its aid commitment to Indonesia to \$125 million to support its transition to democracy.

Feb. 4, 2000: The Philippines creates a commission from the President's office to monitor the behavior of U.S. forces during the "Balikatan" exercise so that "no Philippine laws, morals, or traditions are violated...."

Feb. 8, 2000: Ambassador Holbrooke again warns the Indonesian military not to impede that country's human rights investigation.

Feb. 10, 2000: Assistant Secretary Roth explains that Indonesian President Wahid's meeting with Israeli Prime Minister Ehud Barak in Davos, Switzerland was in part based on the hope of eliciting aid from Israel and the Jewish community globally.

Feb. 16, 2000: The Asia-Pacific subcommittee of the U.S. House of Representatives Foreign Affairs Committee holds hearings on Indonesia.

Feb. 23, 2000: Indonesian armed forces chief Admiral Widodo expresses hope that the United States will lift its arms embargo given the political changes underway in Indonesia.

Feb. 28, 2000: The United States indicates it is exploring the possibility of helping the Philippines Air Force modernize through the purchase of used Saudi F-5 aircraft.

Mar. 2, 2000: Washington quietly resumes training Indonesian military officers in the United States, lifting the program's suspension imposed after Indonesian troops were implicated in the massacre of East Timor civilians.

Mar. 2, 2000: The visit of a nuclear-powered U.S. aircraft carrier, USS John C. Stennis, to Malaysia raises concerns that Southeast Asia's nuclear weapons free zone treaty had been violated; however, since no nuclear power has yet ratified the treaty and since nuclear-armed ships are allowed port calls, no violation was claimed by the Malaysian government.

Mar. 2, 2000: United States Assistant Secretary of State Stanley Roth states it is unlikely that American relations with Malaysia will warm until the latter improves its human rights practices.

Mar. 3, 2000: Thai officials state they believe Thailand will be removed from the U.S. list of drug transit countries within a few years after being placed on the list this year.

Mar. 6, 2000: Pentagon officials recommend that Singapore be allowed to purchase the AIM-120 Advanced Medium Range Air-to-Air Missile for its F-16s. Since this would introduce a new weapon system to the region, Washington may insist that the missiles remain in the United States for Singapore training use.

Mar. 13-15, 2000: Secretary of Defense William Cohen becomes the first U.S. defense secretary to visit Vietnam since the end of the Vietnam War in 1975.

Mar. 20, 2000: United States Customs officials and Thai authorities raided online pharmacies in Thailand that were selling drugs illegally over the Internet. Arrests were made in Bangkok, Chengmai, and Albany, New York in an operation that American officials described as a model for law enforcement cooperation.