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Table of Contents

EXECUTIVE SUMMARY.....	iv
ACKNOWLEDGEMENT.....	v
INTRODUCTION.....	1
FORGING TIES TOWARD NORMALIZATION OF BILATERAL RELATIONS.....	3
LOSING THE STRATEGIC PARTNERSHIP.....	7
THE HUMAN RIGHTS CONUNDRUM.....	13
BILATERAL AND REGIONAL EFFECTS ON U.S. LETHAL ARMS SALES.....	18
THE CHINA FACTOR: THE EFFECTS OF LETHAL ARMS SALES.....	23
RECOMMENDATIONS.....	29
END NOTES.....	31
BIBLIOGRAPHY.....	34

Executive Summary

Title: In Support of a U.S. Policy Shift to Sell Lethal Weapons to the Socialist Republic of Vietnam

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Thesis: In the past, United States government officials denied the government of Vietnam's request to buy lethal arms and pursue a greater military bilateral relationship due to the country's poor human rights record. The research will examine Vietnam's human right record, and explore ramifications the potential sale of lethal weapons could have on U.S.-Vietnam bilateral relations and its effect on Vietnam's military relations in the region.

Discussion: The normalization of U.S.-Vietnam bilateral relations were forged by collaboration on difficult war-legacy issues during a time when neither country had official relations with the other. Since the United States reestablished diplomatic relations with the Socialist Republic of Vietnam over 20 years ago, Vietnamese military and government officials have repeatedly requested that the U.S. government sell lethal arms to advance the ability of the Vietnamese military to defend the country and increase military engagement to counter China's military strength in the region. The United States government, however, has consistently denied the establishment of a strategic relationship and sale of lethal weapons due to Vietnam's poor human rights record. In the past, U.S. officials were not incline to agree to the request for fear that Vietnam would use lethal weapons on the members of its own population that continue to call for greater political reform and are critical of domestic government policy. The following research will examine how bilateral relations, including Vietnam's human rights record, has progressed to the point where the United States should establish a formal strategic bilateral relationship and pursue a greater military relationship, which includes the sale of lethal arms to the Socialist Republic of Vietnam.

Conclusion: Vietnam has made significant progress on its human rights record to the point where the United States should establish a formal strategic bilateral relationship and pursue a more in-depth military relationship, which includes the sale of lethal arms to the Socialist Republic of Vietnam.

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Finally, to my Boston Terrier, Champ, who always seemed to want to play just as I was hitting my stride in drafting segments of the thesis. Now that this project is complete...let's go play!

Introduction

The United States and Vietnam first established diplomatic relations in 1950 but official bilateral recognition was short lived. Under Prime Minister Ho Chi Minh, Vietnam's 1954 victory in its war of independence from France, its long-time colonial ruler, ended the U.S. government's official recognition of Vietnam and led to over a decade of U.S. military involvement in the country. President John F. Kennedy's decision in 1961 to send nearly 2,000 U.S. military advisors to help prevent the spread of communism signaled U.S. commitment to the war in Vietnam.¹ On April 30, 1975, the last remaining Americans were forced to abandon the U.S. Embassy in Saigon as soldiers from the North Vietnamese Army entered the city. The abrupt end to the war prevented the United States from achieving its prime objective of preventing South Vietnam from becoming a Communist state and led to decades of political isolation between the United States and Vietnam.

Not until 1995, two decades after the fall of Saigon, did the United States, under President Bill Clinton, reestablish diplomatic relations with the government of Vietnam.² Still reeling from the social and economic effects brought about by decades of war, the Vietnamese government welcomed the opportunity for greater trade and investment with its one-time political and military rival. U.S. bipartisan political support for the normalization of diplomatic relations from prominent Members of Congress and former Vietnam veterans Senator John McCain and Senator John Kerry helped a skeptical U.S. veteran community to support greater engagement with Vietnam by emphasizing the country's strategic importance in Southeast Asia and the opportunity for U.S. multinational corporations to gain an economic foothold in the region.³ A reluctant and politically savvy Vietnamese-American community, much of whom were forced to flee Vietnam as refugees after the war, viewed greater bilateral engagement as an

opportunity for the United States to pressure the government in Hanoi directly by imposing an arms embargo against the country to create better human rights conditions in Vietnam.

Since normalization of diplomatic relations, Vietnamese military and government officials have repeatedly requested that the United States sell lethal arms to advance the ability of the Vietnamese military to defend the country from Asian military rivals such as China.⁴ The United States had consistently denied the sale of arms due to Vietnam's poor human rights record. In the past, U.S. government officials were not inclined to agree to the request for fear that Vietnam would use the weapons on members of its own population that called for greater human rights and democratic reform.

The visit by President Obama to Vietnam in April 2016 paved the way for a new chapter of U.S. – Vietnam bilateral relations by publicly declaring that the United States would seek opportunities to sell weapons to Vietnam if the country's human rights record continues to improve.⁵ The announcement, yet to be acted upon by the United States, has caused a political stir across the U.S. government and among the Vietnamese-American community and non-governmental organizations concerned that Vietnam's human rights record has not improved to the point where the U.S. should sell arms to the government of Vietnam, establish a bilateral strategic partnership, and that the sale of such weapons will encourage direct military competition with China. The issue of whether to sell weapons to Vietnam is a timely political “hot button” issue, given China's sole claim to the South China Sea and the military growth of other countries in Southeast Asia. This paper will argue human rights conditions in Vietnam have progressed to the point where the United States should sell lethal arms to Vietnam. The research will also explore ramifications the potential sale of lethal weapons could have on U.S.-Vietnam bilateral relations and its effect on Vietnam's military ties in the region.

Forging Ties Toward Normalization of Bilateral Relations

The path to normalization of diplomatic relations between the United States and Vietnam in 1995 was an indeterminate endeavor, given the turbulent past between the two countries. The level of mistrust and suspicion that existed after the war on both sides could have been insurmountable for other nations to overcome. Ironically, it was the horrible aftermath of the war that led to preliminary levels of cooperation between the two countries, which would eventually result in the reestablishment of diplomatic bilateral relations and development of an emerging strategic relationship – to include the sale of lethal weapons.

Only two years after the end of the Vietnam War, United States President Jimmy Carter created the Woodcock Commission in February 1977, which was tasked to oversee the accounting of U.S. Prisoners of War and military personnel Missing in Action (POW/MIA).⁶ In March 1977, President Carter dispatched Leonard Woodcock, the former head of the United Autoworkers Association and the first U.S. ambassador to China, along with members of the commission to Hanoi to begin talks with senior Vietnamese government officials.⁷ Keeping with their mandate, members of the commission centered discussion during the three-day visit on accounting for American military personnel.

Vietnam government officials, however, meeting with U.S. officials for the first time since the end of the war, used the opportunity to raise the issue of reestablishing bilateral relations. “The conversation on the prospect of normalization of bilateral relations was of keen interest to Prime Minister Pham Van Dong, Foreign Minister Nguyen Duy Trinh, and Vice Foreign Minister Phan Hien, as they proposed that negotiations on normalization begin soon in Hanoi or Paris.”⁸ Vietnamese officials, as a prelude to “healing the wounds of war” and the reestablishment of bilateral relations, argued that the United States had a legal and humanitarian

responsibility to contribute to the country's post-war reconstruction given the "destruction of Vietnam's economic base, cultural establishments, natural resources and ecological environment."⁹ Members of the Woodcock Commission refused to discuss the possibility of establishing bilateral relations give the commission's mandate, but did promise to relay the request to officials in Washington. Prior to departing Hanoi, the delegation participated in a repatriation ceremony and accepted the remains of 12 recovered individuals believed to be those of missing American military personnel.¹⁰

On the delegation's return to Washington, President Carter agreed to continue discrete communication with senior government Vietnamese officials on POW/MIA issues. Senior Carter administration officials, along with members of Congress, however, were not willing to pursue the reestablishment of bilateral relations if Vietnamese government officials were adamant that the United States must provide restitution to Vietnam. Further complicating the situation was Vietnam's decision in 1978 to invade Cambodia following border clashes between the two countries. After Vietnam's invasion of Cambodia, officials from the United States Department of State held "that normalization of relations with Vietnam must be based on withdrawal of the Vietnamese military from Cambodia as part of a comprehensive settlement and Hanoi's continued cooperation on POW/MIA issues and other humanitarian concerns."¹¹ Vietnam's hope of reestablishing diplomatic relations with the United States would not resurface until the collapse of the Soviet Union.

In the interim, cooperation between the United States and Vietnam on POW/MIA issues continued to expand exponentially from the late 1970s through the early 1990s in an "unofficial" capacity as the two countries had yet to establish bilateral relations. The government of Vietnam allowed U.S. military officials, under Presidents George H.W. Bush and Bill Clinton, substantial

access to Vietnamese military and government records, permitted U.S. military representatives to interview Vietnamese senior military officials, and granted American officials unprecedented access to U.S. military crash sites located throughout the country.¹² Any attempt, however, by the Vietnamese government to broach normalization of bilateral relations was stiff armed by the United States so long as the Vietnamese military occupied Cambodia. The eventual collapse of the Soviet Union in 1991 would leave Vietnam in desperate need of a long-term ally to provide security assistance and economic investment. The void left by the absence of Vietnam's Soviet patron provided President George H.W. Bush with the necessary political and economic leverage to force Vietnam to peacefully end the Cambodian conflict.

United States government officials believed that normalization of bilateral relations with Vietnam could lead to greater U.S. economic and political influence in the region, and help offset a declining Russia and counterbalance rising Chinese influence. Focused on reestablishing relations with the United States since the late 1970s, and now in desperate need of long-term economic and security assistance, senior Vietnamese government representatives accepted U.S. demands to fully withdraw remaining forces from Cambodia and officially restore peace. On October 23, 1991, the government of Vietnam signed the United Nations Cambodia Comprehensive Political Settlement.¹³ With POW/MIA issues trending in a positive trajectory and the Vietnamese military now out of Cambodia, the first key diplomatic requirements had been achieved.

Only two months after agreeing to end the conflict in Cambodia, Vietnamese officials used the positive trajectory between the U.S. and Vietnam to increase cooperation on war-legacy issues by authorizing the United States Department of Defense to establish the Joint POW/MIA Accounting Command (JPAC) office in Hanoi.¹⁴ Aimed at increasing search and identification

activities, the JPAC office was the only U.S. government agency in Vietnam since formal bilateral relations had yet to be established. The growing POW/MIA relationship between the two countries once again placed U.S. and Vietnamese military officials on the battlefield, but growing collaboration would instead create a foundation for a robust bilateral relationship.

In January 1995, President Bill Clinton, with the help of key bipartisan members of the U.S. Congress, which included Senators John McCain, John Kerry, and Bob Kerrey, highlighted to the American public the substantive progress achieved on the historically sensitive POW/MIA issue.¹⁵ All three senators played an instrumental role, as Vietnam Veterans, in convincing a skeptical U.S. veteran community that greater engagement with Vietnam would continue to produce progress on POW/MIA joint activities. In July 1995, with broad bipartisan Congressional support, President Clinton announced the normalization of diplomatic relations. By August, the U.S. Embassy in Hanoi was officially opened with U.S. military personnel from the JPAC office raising the American flag over the U.S. embassy in Hanoi.¹⁶ Before departing office, President Clinton emphasized that U.S. policy priorities toward Vietnam would include joint-cooperation on MIA issues, improvement on human rights issues, an increase in trade and investment, and highlighted that progress on these issues could lead to a strategic relationship in the future.¹⁷ These topics continue to serve as the foundation of U.S.-Vietnam bilateral relations and would play a fundamental role in the U.S. government's willingness to sell lethal arms to Vietnam.

Since the first post-war meeting in Hanoi between the Woodcock Commission and Vietnamese officials in Hanoi in 1977, United States limited discussion on the normalization of diplomatic relations with the government of Vietnam and were unyielding in their belief that tangible progress needed to be made on key policy issues. The positive developments and

political will displayed by Vietnamese officials made it clear to U.S. representatives that Vietnam was committed to expanding its relationship with its one-time adversary. The newly established bilateral relationship had in some respects surpassed Hanoi's much more established relationships with Russia and China. The U.S.-Vietnam relationship was not founded exclusively on a traditional "patron-client" association that defined Vietnam's previous bilateral relations with the Soviet Union and eventually with China. The normalization of U.S. – Vietnam relations was instead forged by cooperating on difficult war-legacy issues. Increasing efforts by both countries led to accounting for the repatriation of nearly 700 missing U.S. service personnel.¹⁸ The significant amount of collaboration on war-legacy issues, at a time when neither country had diplomatic relations with the other, remains unprecedented in diplomatic and military history. The level of cooperation by U.S. and Vietnamese officials served as a unique opportunity for senior military officers from both countries to reconcile inherent differences from the war, while at the same time forging a robust bilateral relationship. The normalization of official bilateral relations and the positive trend of the security relationship led officials from both countries to acknowledge the time had come to elevate the growing relationship to a strategic partnership.¹⁹

Losing the Strategic Partnership

Military officials from the United States and Vietnam cooperated on POW/MIA issues for nearly two decades before the normalization of diplomatic relations were established in 1995. The well-established partnership between military officials from both countries presented President George W. Bush and his successor, President Barack Obama, with the opportunity to fully expand the growing security relationship and for the first time deliberate the sale of lethal weapons to Vietnam.

In 2005, the Bush administration set precedent by establishing the first International Military Education and Training (IMET) agreement with the Vietnamese Ministry of Defense.²⁰ The IMET program, a jointly supported U.S. Department of State and U.S. Department of Defense initiative, aims to train future military leaders from various foreign countries. The initial IMET Vietnam program focused on improving the English language skills of Vietnamese military officials to increase their participation in regional and international training seminars. U.S. officials determined that the long-term goal of increasing use of a common language would expose Vietnamese military officials to a vast array of like-minded international military contacts and training opportunities to support the growing U.S.-Vietnam security relationship.

In 2006, intent on expanding the U.S.-Vietnam security relationship to the fullest potential possible, Bush administration officials, at the request of Vietnamese military officers, explored the idea of removing the U.S. ban on the sale of lethal weapons to Vietnam.²¹ Like the previous Clinton administration, President Bush used his time in office to urge the government of Vietnam to make progress on its human rights and religious freedom record. U.S. officials continually emphasized to their Vietnamese counterparts that progress on human rights issues would allow Vietnam to take full advantage of the growing security relationship with the United States. However, an intensely unified coalition made up of human rights NGO representatives, members of the Vietnamese-American community, and outspoken members of the U.S. Congress all demanded that Vietnam make greater progress on its human rights record before the ban be lifted.²² Ultimately, the combination of a negative public relations campaign by human rights NGOs and intense political pressure by constituents from the Vietnamese-American community was too much for the administration to ignore. President Bush was limited to amending the International Traffic in Arms Regulations (ITAR), which allowed the U.S. to

authorize non-lethal defense articles and defense services to Vietnam on a case by case basis.²³

The U.S. ban on the sale of lethal weapons remained in place, but the security relationship between both countries would continue to expand.

Despite not being able to eliminate the U.S. ban on lethal weapons to Vietnam, President Bush's balanced foreign policy approach of providing military training through the IMET program, amending ITAR to allow the delivery of non-lethal weapons, and pressing Vietnam to follow through on its human rights commitments all underscored to Vietnamese officials that progress on all fronts is necessary for the bilateral relationship to grow. Regardless of the political leanings of previous presidential administrations, the continuity and consistency of U.S. foreign policy toward Vietnam has proved to be a critical key component in the successful development of the bilateral relationship.

President Barack Obama, during the eight years of his administration, did not deviate from the same foreign policy goals of previous presidential administrations. President Obama emphasized the importance of expanding the U.S. – Vietnam security relationship and demanding progress on Vietnam's human rights record. Continuity in U.S. policy goals and expectations in dealing with Vietnam has been crucial in gaining the trust and confidence of Vietnamese officials and was a major factor in President Obama gaining Vietnam's approval to participate in the first annual senior-level Defense Policy Dialogue (DPD) in 2010. The DPD for the first time permitted senior military officials from both countries to actively participate in a formal security dialogue, which created a surge of security-related topics to be discussed. Within the next three years, security relations between both countries thrived and reached unexpected heights. By 2011, during the second round of DPD talks, the two sides signed a Memorandum of Understanding on Advancing Bilateral Defense Cooperation, which included five areas of

defense cooperation: 1) continuation of regular high-level dialogues, 2) exchanges on maritime security, 3) U.S. training on search and rescue operations, 4) humanitarian assistance and disaster relief, and 5) support for Vietnam to participate in peacekeeping operations.²⁴ The unequivocal level of support and commitment offered by the United States during the second round of the Defense Policy Dialogue was met with a similar offering from Vietnamese counterparts a year later.

In 2012, senior communist government officials invited U.S. Secretary of Defense Leon Panetta to become the highest-ranking official since the end of the Vietnam war to visit Cam Ranh Bay, the country's most strategic deep-water port located on the South China Sea.²⁵ Allowing the most senior civilian U.S. military official the opportunity to tour a key military installation located on the South China Sea sent a powerful message to regional actors of Vietnam's intent to expand security relations with the United States and offset growing Chinese aggression in the South China Sea.²⁶

The decision by the Vietnamese government to permit the Secretary of Defense to tour Cam Ranh Bay played a key role in prompting the Obama administration to place greater emphasis on the advancement of human rights and support for the bilateral security relationship by proposing the United States and Vietnam elevate the level of engagement to a "strategic partnership." The Obama administration believed the signing of a strategic partnership would eventually lead to the sale of lethal weapons to Vietnam and succeed where the Bush administration had previously failed.

Under President Obama, the establishment of strategic partnerships proliferated in the Asia-Pacific region due to the structured and multifaceted framework placed on highlighting areas of bilateral cooperation between two parties.²⁷ Throughout his administration, President

Barack Obama placed greater emphasis than previous presidents on developing strategic partnerships with likeminded nations. The proposal of a strategic partnership with countries in the region was not unique since the Obama administration signed similar agreements with leaders from likeminded countries such as Singapore, Indonesia, and India.

Vietnam, however, brought a unique set of circumstances. Officials from the Obama administration proceeded in a careful manner as an agreement between the United States and Vietnam could be interpreted by Chinese officials as a direct pretext to marginalizing China's influence in the region. Goal-driven rather than driven by regional or security threats, a strategic partnership would allow the United States and Vietnam to address common challenges and seize joint opportunities, rather than countering a specific country.²⁸ The U.S. and Vietnam viewed the possible signing of a strategic partnership as a formal means to elevate the existing relationship by prioritizing greater collaboration on human rights and security cooperation, which could eventually lead to the sale of lethal weapons.

Various human rights groups have politicized Vietnam's human rights and religious freedom record to undermine the growing bilateral relationship. The debate over the potential security partnership served as a powerful example of how limited information and historical mistrust could derail a key policy initiative. International human rights organizations, which included Amnesty International and Human Rights Watch, coalesced with members of the politically well-informed Vietnamese-American community to lobby senior members of the U.S. Congress to actively oppose the proposed partnership. Critics of the strategic partnership argued that Vietnam had failed to improve its human rights and religious freedom record and was therefore not worthy of such distinction. The detractors added that the U.S. would lose political and economic leverage by agreeing to sign a strategic partnership with Vietnam, which would

provide government officials in Hanoi a free pass to trounce human rights. The debate in Congress increased to the point the confirmation of U.S. Ambassador to Vietnam, David Shear, was put on hold to pressure the Obama administration to place more emphasis on human rights and religious freedom.²⁹

Viewing the U.S. public political debate from Hanoi, conservative elements within the Vietnamese Communist Party (VCP) grew distrustful of the involvement between senior representatives of Congress and the politically active members of the Vietnamese-American community. Since the end of the war, elements of the VCP despised former Vietnamese citizens that supported the government of South Vietnam during the war as well as citizens that later fled Vietnam for a better life in the United States. At the same time, members of the Vietnamese-American community, still affected by the outcome of the war and having been forced to depart their ancestral homeland, would not accept the signing of a strategic partnership unless the VCP relinquished political power in support of democratic elections.

VCP officials were disturbed by what they described as an “aggressive level of interaction” and what they viewed as calls for regime change from representatives of Congress and international human rights representatives.³⁰ The growing political debate in the United States eventually persuaded the VCP that pursuing a strategic partnership was not in the best interest of Vietnam. In the end, U.S and Vietnamese government officials agreed that a much less prominent “comprehensive partnership” would be a more appropriate label to define the existing U.S.-Vietnam relationship. Officials from both sides decided to sign a comprehensive partnership which encompassed nine areas of cooperation, including the increase in defense and security cooperation and the promotion and protection of human rights.³¹ The sale of lethal weapons would once again be put on hold.

The signing of a comprehensive partnership vice a strategic partnership was a political setback to U.S. and Vietnamese officials willing to elevate the bilateral relationship. However, the internal U.S. debate emphasized to members of the VCP the importance that Americans place on the promotion of human rights. The debate also demonstrated the resiliency of the bilateral relationship and proved that both sides were committed to creating a robust partnership no matter the obstacle. The most promising element gained by the signing of a comprehensive partnership, however, was the agreement by U.S. and Vietnamese officials to add human rights to the list of areas for greater cooperation, which placed the issue on a higher level of importance. Similarly, Vietnamese government officials agreed to add human rights to the list of areas of cooperation to prove to human rights detractors that Vietnam was committed to making significant progress.

The Human Rights Conundrum

Human rights and religious freedom continues to be the most contentious issues facing the U.S.-Vietnam bilateral relationship. Politicization of the issue by groups opposed to greater engagement with Vietnam, and resistant to the sale of lethal weapons, continues to impede growth of the overall bilateral relationship.

A vocal and politically well-informed Vietnamese-American community, along with representatives of international human rights organizations, were correct in publicly criticizing Vietnam for its utter disrespect for human rights and nearly non-existent support for the promotion of religious freedom at the time U.S.-Vietnam bilateral relations were established. Evidently, the absence of meaningful engagement between Vietnam and members of the international community on human rights issues reflected the country's dismal human rights record at the time. Since normalization of relations in 1995, the United States has coerced, compelled, and cooperated with Vietnam to respect and promote human rights and religious

freedom issues. Given the starting point that existed prior to normalization and the unceasing commitment on human rights issues, the United States has proven to human rights critics that greater engagement with Vietnam has led to substantial progress on this contentious issue.

Since normalization of bilateral relations with Vietnam, all United States presidential administrations, have made human rights and religious freedom a U.S. foreign policy priority. It has long been customary for newly deployed U.S. ambassadors to Vietnam to use their two-three-year tenure to routinely press Vietnamese senior government officials to make tangible progress on human rights and religious freedom. U.S. diplomats are expected to make it exceptionally clear to their Vietnamese counterparts that lack of progress on human rights could mean diminished political, economic, and security bilateral assistance from the United States.

Direct support of the ambassador's effort to promote human rights falls to the U.S. State Department's Bureau of Human Rights, Democracy and Labor (DRL) and its mandated annual Human Rights Dialogue (HRD). The yearly dialogue, which alternates between Hanoi and Washington, provides senior officials from both countries the opportunity to raise human rights issues of concern in a frank manner aimed at achieving short and long-term goals. For the past 20 years, the DRL Assistant Secretary of State has led the U.S. delegation in meetings with his or her Ministry of Foreign Affairs counterpart, usually at the vice minister level.³² In previous years, to emphasize the importance of Vietnam making progress on crucial human rights issues, the U.S. human rights delegation has included senior officials from the U.S. Department of Justice, Department of Homeland Security, representatives of the National Security Council and the Office of the Vice President.

From 2012-2014, despite repeated criticism from human rights detractors, Vietnam achieved a significant amount of progress on human rights and religious freedom in large part to

a whole-of-U.S.-government effort. During the timeframe, the U.S. embassy human rights officer took the initiative, with the assistance and approval by the ambassador and senior embassy staff, to recommend that all U.S. government officials visiting Vietnam allocate time during their respective meetings with senior Vietnamese officials to raise the topic of human rights and religious freedom. During the 2012-2014 timeframe, visiting U.S. officials from the U.S. Department of Defense, the Federal Bureau of Investigation, Department of the Treasury, Members of Congress, and officials from other U.S. departments and agencies used formal meetings to reinforce the message that human rights progress must be achieved. During a visit to Hanoi, then Secretary of State Hillary Clinton also used the opportunity to emphasize to senior officials that “absent progress in human rights, it will be difficult to make progress in other areas of our bilateral relationship.”³³ The continuous message on the importance of Vietnam achieving progress on human rights coming from various senior U.S. officials representing different departments and agencies had a profound effect during the annual human rights dialogue.

The whole-of-government effort was successful in achieving human rights reforms that included the release in 2013 of the three most notable prisoners of conscience, which included Ly Cong Dinh (lawyer and democracy activist originally sentenced to 16 years), Father Ly (former Catholic priest and democracy activist) and Nguyen Van Hai (human rights activist and Internet blogger sentenced to 12 years). Recognizing the import role civil society can play in a country’s social, political, and economic development, Vietnamese officials made an about-face in 2013 by hosting the executive-director of Amnesty International, a long-time outspoken critic of Vietnam’s human rights and religious freedom record. During the visit, both sides agreed to continue to engage in further dialogue on possible areas of collaboration on how to bring about sustainable progress on human rights issues. In late 2013, the government of Vietnam signed the

United Nations Convention Against Torture (CAT) and would eventually ratify the CAT along with the UN Convention on the Rights of the Disabled in June 2015.³⁴

Regarding religious freedom, in 2005 the U.S. State Department and Congress identified Vietnam as a severe violator of religious freedom under the 1998 International Religious Freedom Act (IRF Act).³⁵ Vietnam found itself in the company of perennial violators North Korea, Iran, China, Saudi Arabia, and Eritrea. However, within two years of being listed on the IRF Act as a severe violator of religious freedom known as a “Country of Particular Concern,” Vietnam made substantial progress to be removed from the list and to date is the only country to be taken off the list. Examples of progress on religious freedom include the recognition of indigenous and internationally well-known faith-based institutions such as: Buddhism, Catholicism, The Baha’i Faith, Dao Dua, Dao Mau, Protestantism, Eastern Orthodox, Hinduism, Islam, Judaism, and The Church of Jesus Christ of Latter-day Saints.³⁶ Members of these religious groups report less government intervention and harassment than in years past. Within the last 3-4 years, religious groups have reported an increase in the membership of their respective organizations given the growing freedom to worship. The government has also allowed members of the same religious groups to travel abroad to participate in religious conferences and partake in religious pilgrimages. In 2012, twenty members of the Baha’i Faith were permitted for the first time to conduct an obligatory religious pilgrimage to Haifa, Israel.³⁷ The government of Vietnam also continues to encourage the participation of thousands of Catholics each year in the pilgrimage to the Basilica of La Vang in central Vietnam.

The overall assessment of a country’s human rights record can best be articulated by human rights and democracy practitioners. In Vietnam, these spirited patriots continue to peacefully compel the government to promote and respect internationally recognized human

rights principles. During a private conversation on January 6, 2017, one of Vietnam's most respected advocates disclosed his unfiltered belief that political activists continue to be carefully monitored and at times harassed by local law enforcement officials. He also expressed concern over government restrictions on the Internet and other forms of social media. However, the same individual shared that the overall human rights situation in Vietnam has improved within the last 5-10 years. He highlighted that people can publicly voice criticism of domestic government policy and participate in peaceful demonstrations without fear of brutal government crackdowns that were once commonplace. He also underscored continued progress on religious freedom. When asked about his views on the U.S. sale of weapons to Vietnam, the individual rejected any notion that the sale of weapons would mean a loss of U.S. leverage on human rights issues. He added that a "strong and growing partnership with the U.S. has helped to advance human rights in Vietnam and increasing ties between the two countries will create greater opportunity for both countries to work together on human rights issues."³⁸ The individual firmly believes that the U.S. sale of lethal weapons and the expanding U.S.-Vietnam security relationship are essential due to the productive role the U.S. plays in raising human rights as a fundamental issue of the bilateral relationship. He ended the conversation by emphasizing that a decision by the U.S. not to sell weapons to Vietnam would create a void that would quickly be filled by Russia or possibly China, which would exclude any demand on Vietnam to make progress on human rights issues.

There is still much to accomplish regarding human rights and religious freedom in Vietnam, but it must be noted that an impressive amount of progress has been achieved in the last few years thanks to the persistence of the U.S. Department of State, U.S. Embassy officials and the informal relationship that exists between human rights organizations and members of

Vietnamese-American community. Unfortunately, for some, Vietnam's human rights record will forever be tied to the outcome of the war as these same individuals oppose greater engagement with Vietnam. Critics of Vietnam's human rights record must come to realize that the country's record will never be perfect, but consistent U.S. engagement with Vietnam has led to sustainable progress. Continuous engagement and application of political pressure has achieved practical results. Human rights critics should acknowledge the human rights achievements and realize that politicization of the issue decreases sustainable progress.

Significant progress can and must continue to be achieved on internationally recognized human rights norms. However, compelling Vietnamese government officials to make progress on human rights for the last 20 years and not adequately reward the country when substantial progress is made only lessens U.S. credibility in the eyes of senior Vietnamese officials. Proving to Vietnam that making progress on difficult issues, such as human rights, will serve to reinforce positive behavior and lead to sustainable progress only if the country is appropriately rewarded for making the right decision. Critics of Vietnam's human rights record should view the country in today's social and political context and embrace the fact that greater bilateral engagement has led to significant progress on human rights and religious freedom.

Bilateral & Regional Effects of U.S. Lethal Arms Sales

The significant progress achieved by Vietnam on its human rights record over the last 20 years should allow the United States government to pursue a strategic relationship and sell lethal weapons to the government of Vietnam. Permitting the sale of lethal weapons will primarily enable the Vietnamese government to adequately protect its citizens. With over 2,000 miles of coastline, Vietnam is dependent on access to major waterways for trade, investment, and economic survival. Vietnamese citizens living along the coast are reliant on the sea as many

make a living as fishermen. In recent years, Vietnamese fishermen and cargo vessels operating in the South China Sea have been vulnerable to attack and kidnapping by members of the Al-Qaeda affiliated terrorist group, Abu Sayyaf.

Established in the late 1990s, Abu Sayyaf has made millions of dollars from its kidnapping-for-ransom attacks, which serves to help finance terrorist operations in the Philippines and throughout Southeast Asia. In November 2016, five crewmen were abducted by the militant group when their Vietnamese cargo vessel operating in international waters along the Vietnam/Philippine border was attacked.³⁹ Unremitting terrorist attacks have led to the deaths of innocent victims in international waters and Vietnamese fishermen continue to report their fishing vessels being fired upon by members of the Southeast Asian terrorist group.

In 2015, a longstanding request from Vietnamese officials for U.S. support to help counter the wave of terrorist attacks was acknowledged when visiting Commandant of the U.S. Coast Guard, Admiral Paul Zukunft, met in Hanoi with Lieutenant General Vo Van Tuan, deputy chief of the general staff of the Vietnam People's Army.⁴⁰ During the meeting, the two sides agreed to the establishment of information sharing and maritime security training as part of the Obama-initiated Defense Policy Dialogue (DPD) memorandum of understanding. Continued engagement on this issue led Secretary of Defense Ash Carter to agree to the sale of American-made Metal Shark patrol vessels. A mainstay of the U.S. Navy and Coast Guard, as well as state and federal law enforcement officers, the all-weather and fast response Metal Shark is capable of undertaking security, humanitarian, and search and rescue operations.⁴¹ Support for the sale of U.S. lethal weapons will allow the patrol boats to be fully operational by mounting machine guns that would provide the Vietnamese coast guard and military with the necessary means to protect its citizens and pursue terrorists operating along its border. Providing adequate maritime vessels

without appropriate lethal weapons to support the maritime platform will continue to inhibit Vietnam from protecting its citizens and lead to the loss of more innocent lives.

In addition to countering terrorism, allowing for the sale of lethal weapons will increase the opportunity for the Vietnamese military to play a more active role in global peacekeeping missions. Current U.S. foreign policy toward Vietnam includes bilateral security cooperation through the Global Peace Operations Initiative (GPOI). A U.S. State Department initiative through the Bureau of Political-Military Affairs, the GPOI security assistance program enhances international capacity to effectively conduct United Nations and regional peace support operations by building partner country capabilities to train and sustain peacekeeping proficiencies; increasing the number of capable military troops and formed police units available for deployment; and facilitating the preparation, logistical support, and deployment of military units.⁴²

The U.S. sale of lethal weapons to Vietnam would enable the country to increase the capacity of its military professionals to participate in future United Nations peacekeeping missions with likeminded militaries from around the world. The U.S.-Vietnam GPOI program was established in 2013, and in the short amount of time, Vietnam has proven its dedication by deploying five non-combatant officers to UN peacekeeping operations in South Sudan and the Central African Republic.⁴³ Vietnamese military officials have expressed their desire to increase the number of skilled military participants with the assistance of advanced military training. As part of traditional GPOI programs, the United States provides lethal weapons and training to help prepare foreign troops to participate in UN-sponsored peacekeeping missions around the world. The sales ban on lethal weapons, however, precludes Vietnam from receiving advanced military training, which includes exposure to lethal weapons and tactical training, substantive classroom

instruction on respect for rule of law, protection of human rights, and civilian security as the underlining mission of peacekeeping operations. Strengthening the capacity of Vietnamese forces in a multilateral setting and increasing opportunities to work with troops from around the world can improve Vietnam's operational effectiveness and produce a better trained and disciplined force.

Ultimately, allowing for the sale of lethal weapons to Vietnam will also assist in expanding the overall bilateral relationship with the United States. Vietnamese government and military officials for the last decade have used visits by the U.S. President, Secretary of Defense, Secretary of State, and port visits by U.S. warships to strategically important sea ports to make known their intent to boost military ties and increase the growing relationship with the United States. After the April 2016 visit by President Barack Obama, the Arleigh Burke-class destroyer, *USS John S. McCain*, and the Emory S. Land-class submarine, *USS Frank Cable* became the first commissioned U.S. Navy warships to visit Cam Ranh Bay since the end of the Vietnam War.⁴⁴ Permitting a U.S. naval destroyer and Land-class submarine to dock at Cam Ranh Bay, a strategic Vietnamese military installation on the South China Sea, sent a powerful message to countries in the region that Vietnam is committed to ensuring the strategic relationship develops even in the face of growing Chinese military aggression in the South China Sea.

For over twenty years, the U.S. navy has conducted maritime exercises with traditional allies Singapore, Indonesia, Malaysia, and Thailand as part of the Southeast Asian Cooperation and Training (SEACAT) and Cooperative Afloat Readiness and Training (CARAT) program.⁴⁵ The Vietnamese navy is excluded from participating in the long-standing exercises and direct bilateral U.S. interaction is limited to the stand alone Naval Engagement Activity (NEA). Most NEA activities are centered on a range of non-combat events, which includes subject matter

exchanges, symposia on military medicine, maritime law, and participation of community-related service projects. In October 2016, to expand the security relationship between the U.S. and Vietnam, NEA activities for the first time included sea phase exercises such as search and rescue scenarios and a more complex event involving the Code of Unplanned Encounters at Sea (CUES), which is a series of non-binding rules-of-the-road to prevent an escalation of tensions between different militaries at sea.⁴⁶ Vietnam, however, continues to lag well-behind the military competency of its Asian neighbors due to the U.S. ban on lethal weapons and is excluded from participating in joint regional training exercises because it lacks the requisite military capability. Vietnam continues to be uniquely excluded from future military SEACAT and CARAT exercises because of the outdated U.S. lethal weapons ban and the inability of the U.S. to train and develop the military capabilities of Vietnamese forces. By not pursuing a strategic relationship and selling lethal arms to Vietnam, the United States is emasculating a potential key security ally in a critical area of the world.

The United States should regard Vietnam as an important partner in Southeast Asia at a time when the disjointed and incoherent political rhetoric from Philippine President Rodrigo Duterte continues to cast doubt on U.S.-Philippine bilateral relations. During a press conference in Beijing in October 2016, Duterte stated he wanted U.S. troops out of the Philippines in the next two years and that he would pursue an independent foreign policy. “I do not need their [U.S.] arms. I do not want missiles established in my country. I do not need to have the airports to host the U.S. bombers, I want them out,” stated Duterte.⁴⁷ During a separate press conference in November 2016, Duterte again threatened to have U.S. troops out of the Philippines in two years and added that he looked to establish greater ties with Beijing.

As one of America's most steadfast allies in Asia, a decision by the Philippine government to remove U.S. forces would be a major setback to bilateral relations and America's interest in the Asia-Pacific region. Pursuing a strategic partnership and selling lethal weapons to Vietnam will increase U.S.-Vietnam bilateral relations to a point where the United States in the future might consider Vietnam as a viable option to station troops or at a minimum increase its military presence if President Duterte decides to remove troops from the Philippines. For decades, Vietnam's foreign policy has been predicated on three principles summed up as the "Three Nos." The three principles of Vietnam's non-alignment theory include: 1) No participation in military alliances, 2) No foreign military bases on Vietnamese territory, and 3) No reliance on one country to fight against another.⁴⁸ Vietnam is well-aware that its long held strategic policy, once believed to be sacrosanct, might soon be outdated and need to be modified to protect its sovereignty. The increase in Chinese military aggression in the South China Sea could be the impetus for Vietnam abandoning its rigid foreign policy strategy in place of a more flexible approach that will help the country redefine its political and military priorities by increasing cooperation with United States to help bring stability to the region and keep Chinese military antagonism in check.

The China Factor: The Effects of Lethal Arms Sales

Current political and military relations in Asia are commonly shaped by thousands of years of historical engagement. The same can be said when examining the complexity of Vietnam-Sino relations. China ruled Vietnam for over 1,000 years until Vietnam briefly gained independence in 939 A.D. and again drove out the Chinese for a second time in 1428.⁴⁹ The historically complicated bilateral relationship has been characterized by periods of constructive diplomatic relations as well as direct military confrontation. In 1979, China and Vietnam

severed ties after China attacked Vietnam during a two-month border conflict, which ended with Vietnamese forces inflicting heavy casualties on Chinese troops and driving back the invading force. As claimants to the Paracel and Spratly Islands in the disputed South China Sea (known as the East Sea to Vietnam), both countries have engaged in several military clashes.⁵⁰ In 1974, China used military force to advance its sovereignty claims by expelling South Vietnamese from a garrison near the Paracel Islands. A more intense conflict between Vietnamese and Chinese naval forces took place in 1988 near the vicinity of Johnson South Reef when Chinese naval vessels sunk several Vietnamese ships and over 70 Vietnamese sailors lost their lives.⁵¹ The attack remains the most violent attack to date by Chinese naval forces in the South China Sea.

By 2012, China's expanding military presence in the South China Sea was bolstered by diplomatic and political maneuvering aimed at imposing economic sanctions against international oil companies that explored or helped Vietnam drill in its own territorial waters. Both countries were now on a collision course over exploration of resources in the disputed territorial waters. In December 2012, Chinese vessels cut the sonar cables of a Vietnamese government-owned oil exploration vessel working in disputed waters, and in 2014 a Chinese government-supported oil and gas exploration rig was positioned near an area that Vietnam considers an exclusive economic zone.⁵² Vietnam used the 2014 incident to solicit international support, most notably from the United States, to pressure China not to unilaterally act on its claims in the South China Sea.

Vietnamese government officials are much more willing to publicly condemn Chinese military aggression in the region. Government officials in Hanoi are cautious not to provoke their much stronger and more capable military neighbor, but are no longer willing to allow China complete freedom to carry out its expansionist policy. Vietnamese officials

consider China's increased presence in the South China Sea as a direct affront to its political and economic sovereignty.

Vietnam's national security goals and priorities, including how to deal with the territorial disputes in the South China Sea, were articulated in 2009 with the release of a Ministry of National Defense strategic "white paper." The document emphasizes the importance of Vietnam protecting its sovereignty to increase economic development, fight poverty, and create domestic stability. The paper highlights that "Vietnam must solve historical and newly emerging territorial disputes, such as the South China Sea, through peaceful means based on international law."⁵³ The strategy paper, however, does stress the importance of balancing the use of international law with the country's ability to obtain adequate military weapons for protection. Vietnamese officials continue to publicly accentuate the country's core military principle of "no first use of force and self-restraint," but also recall past violent confrontations with China and are willing to take the necessary military safeguards.⁵⁴ According to Tung Nguyen Vu, the former Deputy Chief of Mission to the Embassy of Vietnam in the United States, "Vietnam believes war with China is unthinkable; many in Vietnam believe China is too large for the country to engage in an open armed conflict and insist on a non-military approach and adherence to international law."⁵⁵ Vietnam's request to purchase lethal weapons is based on self-defense and the protection of sovereignty, while at the same time engaging in diplomatic efforts with members of the international community to bring about a peaceful resolution to the dispute in the South China Sea.

Vietnam relies heavily on the United States, given America's unwavering position on territorial disputes facing the South China Sea. The United States is not a claimant in the South China Sea, and refuses to back one claimant over another. Instead, the United States has

repeatedly asserted its own broad interests in freedom of navigation and regional stability, and support for multilateral dialogue between China and Southeast Asian claimants that foster stability.⁵⁶ The U.S. position is widely accepted by Vietnam and other Southeast Asian nations, which is in direct contrast to China's view that its long-standing historic rights and maritime use supports its sovereign claim of a vast portion of the South China Sea. In July 2016, the Permanent Court of Arbitration in The Hague, convened under the authority of the United Nations Convention of the Law of the Sea (UNCLOS), dismissed historical Chinese claims to the South China Sea and added that China's expansionist policy and construction of man-made islands was in violation of international law.⁵⁷ The court's decision was immediately rejected by the Chinese government and since the decision is not legally binding and unenforceable under international law, China's naval expansionist practices in the region continue. China's refusal to abide by the court ruling presented by The Hague, and the country's continued aggressive military presence in the South China Sea has deepened Vietnam's support of a greater U.S. presence in the region. Vietnamese government officials are well-aware of U.S. policy not to support one claimant over another, but insist that greater emphasis by the U.S. through public statements or diplomatic action, aimed at preventing all claimants – including China – from undertaking unilateral action and adhering to rule of law would be more productive.⁵⁸

In May 2016, Senator John McCain, chairman of the U.S. Senate Armed Services Committee, sent a letter to the Vietnamese Secretary General and Secretary of the Central Military Commission, Nguyen Phu Trong, expressing commitment to help build the maritime capacity of the Vietnamese Coast Guard and Navy and to enhance military maritime information sharing and response capabilities in the South China Sea.⁵⁹ Providing military support, cooperation, and training emphasized in Senator McCain's letter would significantly assist in

building bilateral security relations between the United States and Vietnam. Furthermore, proper military education and training conducted by the U.S. military, which is desperately needed by the Vietnamese military, would assist Vietnam becoming an indispensable and responsible regional military ally in a strategically important region of the world.

A decision by the United States to sell lethal weapons to Vietnam will undoubtedly have a direct effect given the increasing political and military sensitivities between China and Vietnam in the South China Sea. Certain defense and military analysts have expressed concern the sale of U.S. weapons to Vietnam could provoke an already aggressive Chinese military and politically-sensitive government.⁶⁰ Gauging China's political reaction and not provoking one of the largest military forces in the world is an essential element to consider before supplying weapons to Vietnam. The United States, however, does have decades of experience on how to deal with China on sensitive issues like the sale of arms to countries in the region.

To help reduce possible tension from China that might come with the sale of arms to Vietnam, the United States should follow the "lessons learned" from its 30-year Taiwan strategy. There is not a more sensitive military or political relationship in the region than the one between China and Taiwan. To Chinese officials, Taiwan is a breakaway province that dates to 1949 when the Chinese Nationalist government (Koumingtang) under control of President Chiang Kai-shek sought refuge in Taiwan after being defeated by Mao Zedong's communist forces. The PRC asserts that there is only "One China" and Taiwan is an inalienable part of it.⁶¹ For decades since, the Chinese government has sought to delegitimize the Taiwanese government and work to reunite the Chinese mainland and Taiwan under one unified government.

In 1979, the United States established formal diplomatic relations with Beijing by concluding a joint communiqué stating that "the United States acknowledges the Chinese

position that there is but one China and Taiwan is part of China.”⁶² The United States Congress, responding to this diplomatic maneuver, passed the Taiwan Relations Act, which promises to supply Taiwan with defensive weapons, and essentially protect Taiwan against a military attack by China. In keeping with the congressionally-mandated Taiwan Relations Act, the United States has sold arms to Taiwan for over 30 years and expanded military ties with Taipei. In 2015, the United States announced a \$1.83 billion arms package for Taiwan that included two Perry-class frigates, amphibious assault vehicles, anti-tank missiles, surface-to-air missiles, and upgrades to a variety of other weapon systems.⁶³ The large number of lethal weapons sales is not unique as previous transactions have included diesel submarines, P-3 anti-submarine aircraft and decommissioned U.S. Kidd-class destroyers.

Each sale of lethal arms to Taiwan has produced fleeting levels of friction between China and the United States. Chinese officials have continuously threatened to induce economic sanctions against U.S. corporations in retaliation for the sale of U.S. weapons to Taiwan. China could try to apply pressure on U.S. suppliers by attacking their civilian commercial interests, some analysts say, though this may trigger retaliation from the U.S. against Chinese firms—something Beijing can ill afford amid a deepening economic slowdown.⁶⁴ In the end, Beijing is limited on its threats of penalizing American multinational corporations and diplomatic engagement between the two countries continues, as the U.S. insists that weapons supplied to Taiwan are to be used only for defensive purposes.

Previous experience from selling arms to Taiwan has demonstrated to U.S. officials that high dollar and massive military package deals tend to have an adverse effect on Chinese officials.⁶⁵ The publicity of large military package deals with Taiwan increases diplomatic tension between the U.S. and China. The Chinese tend to equate publicly of a military deal with

a direct attack on China's status and reputation in the region and officials believe a public war of words against the U.S. is justified. To help reduce tension between the United States and China, the U.S. should limit the amount of sales to Vietnam. The sale of lethal weapons to Vietnam should be done in a piecemeal approach without media fanfare, which will decrease the opportunity for diplomatic friction between the United States and China. The United States can achieve its goal of establishing a long-lasting security relationship with Vietnam by prioritizing the type of military equipment that is truly needed by Hanoi. The U.S. should also emphasize that the sale of weapons to Vietnam is exclusively for defensive purposes. In addition, continued military engagement and training with Vietnamese forces, if done without provocation, can prove that the United States is intent on seeing Vietnam as a key and responsible military ally intent on the protection of its own territory. Continued military and diplomatic engagement between China and the United States is central to keeping the lines of communication open between both countries. The U.S. should use the lines of communication to emphasize that Vietnam has no aspirations of expanding its sovereignty and is instead focused on reaching a peaceful agreement on territorial issues facing claimants in the South China Sea.

Recommendations:

The United States should actively pursue the sale of lethal weapons to Vietnam. The following list of recommendations is intended to expand the U.S.-Vietnam bilateral relationship, ease potential diplomatic/military friction from countries in the region, and increase opportunities for training and development.

- Vietnam has proven its commitment to expand the bilateral relationship by making good on its promise to increase POW/MIA cooperation during a time when bilateral relations between the two countries were non-existent. The Vietnamese government is intent on developing a long-term security relationship with the United States. Selling lethal weapons would help ease Vietnamese concerns that the U.S. is also committed to the long-term relationship.

- The U.S. should use the sale of weapons to increase the military capabilities of the Vietnamese navy with the goal of having Vietnam participate in SEACAT and CARAT military training exercises between the U.S., Singapore, Indonesia, Malaysia, and Thailand. The U.S. should also use the sale of lethal weapons to expand the Global Peace Operations Initiative and include Vietnam in U.N. peacekeeping missions.
- To help ease possible friction between the United States, China and Vietnam, the United States should follow lessons learned from its 30-year “Taiwan Strategy.” The sale of lethal weapons to Vietnam should be done in a piecemeal approach without great publicity. The U.S. should also emphasize to China that the sale of weapons to Vietnam is exclusively for defensive purposes.
- Vietnamese officials have diplomatically and publicly articulated U.S. demands that threat of force and coercion by the Chinese military in the disputed South China Sea cannot stand. Vietnam has proven it possesses the political and diplomatic skills necessary to find a peaceful solution to the territorial dispute. The United States and Vietnam, along with ASEAN countries, should use regional and international multilateral organizations to emphasize that China’s expansionist policy and construction of man-made islands in the South China Sea are a violation of international law.
- Human Rights and Religious freedom will continue to be a contentious issue. The sale of lethal weapons to Vietnam will increase bilateral engagement on human rights. The U.S. must demonstrate that progress on human rights will be appropriately acknowledged and regression will have consequences. Leverage by the U.S. will not be lost by selling weapons to Vietnam as the U.S. Congress can use its authority to review the sale on a case-by-case basis and link potential sales with progress on human rights. The United States Department of State can creatively address human rights concerns by inviting U.S. Department of Defense officials to participate in the annual Human Rights Dialogue to raise concerns with Vietnamese representatives. A whole of U.S. government approach on human rights worked in the past and could lead to greater progress in the future.
- The United States and Vietnam should revisit the idea of signing a Security Partnership prior to the first sale or export of weapons to Vietnam. The United States should focus the new partnership by expanding the IMET program to include inviting mid-level and senior Vietnamese officials to participate in the Army War College, U.S. Marine Corps University Command and Staff College, National Defense University, and other similar civil/military training programs to increase knowledge, skills, and exposure to U.S. military and diplomatic professionals.

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