

The *De Facto* Two-China Policy of the Philippines

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I. INTRODUCTION

Globalization is an undeniable reality. As a consequence thereof, the Philippines must evolve and adjust in order to survive and thrive in this highly competitive environment — to isolate one's self would be suicidal.

Both the *People's Republic of China* (China) and the *Republic of China* (Taiwan) are among the Philippines' closest trading partners.¹ Although we

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Cite as 60 ATENEO L.J. 607 (2016).

1. Philippine Statistics Authority, Foreign Trade Statistics of the Philippines: 2014, available at <https://psa.gov.ph/content/foreign-trade-statistics-philippines-2014> (last accessed Feb. 15, 2016).

formally adhere to the One-China Policy,² it will be the Author's strong contention to establish that the Philippines actually practices a *de facto* "Two-China Policy."

The Philippines recognized China through a joint *communiqué* on 9 June 1975.³ Further, on 17 December 1987, Executive Order (E.O.) No. 313 was issued, stating that "the Republic of the Philippines recognized the Government of the *People's Republic of China* as the sole legal government of China and that there is but one China and that Taiwan is an integral part of Chinese territory."⁴

II. BACKGROUND OF TAIWAN

In order to understand the One-China Policy, one must look at the geographic, political, economic, and military background of Taiwan.

The total area of Taiwan is 36,188 square kilometers.⁵ It lies some 180 kilometers off the southeastern coast of mainland China.⁶ It is surrounded by the East China Sea on its north, the Philippine Sea on its east, the Bashi Channel of the Luzon Strait on its south, and the South China Sea on its southwest.⁷

A. Government

Taiwan has its own working government.⁸ As provided in its Constitution, the President is the Chief of State.⁹ He is elected by popular vote for a four-year term together with the Vice-President, both of them having registered

2. Office of the President, Prohibiting Philippine Government Officials to Visit Taiwan or to Receive Calls by Visiting Taiwanese Officials, Executive Order No. 313 [E.O. No. 313], whereas cl. ¶ 2 (Dec. 17, 1987).

3. *Id.* whereas cl. ¶ 1.

4. *Id.* whereas cl. ¶ 2.

5. BBC, Taiwan country profile, available at <http://www.bbc.com/news/world-asia-16164639> (last accessed Feb. 15, 2016).

6. Shuchen Chang, Sea-Girdled Taiwan Creates First Central Marine Agency, available at <http://ens-newswire.com/2015/09/01/sea-girdled-taiwan-creates-first-central-marine-agency> (last accessed Feb. 15, 2016).

7. Kelly Roberts, Eastern Asia, available at <https://www.haikudeck.com/easternasia-education-presentation-ON8eHMvIZG#slide2> (last accessed Feb. 15, 2016).

8. Michaela Nesvarova, Taiwan: "Country that doesn't exist," available at http://www.utnieuws.nl/english/62488/Taiwan_Country_that_doesnt_exist (last accessed Feb. 15, 2016).

9. THE CONSTITUTION OF THE REPUBLIC OF CHINA art. 35 (Taiwan).

and run as a pair on the same ballot.¹⁰ The President has authority over the five administrative branches or *yuan*: the Control *Yuan*, the Examination *Yuan*, the Executive *Yuan*, the Judicial *Yuan*, and the Legislative *Yuan*.¹¹ The members of the Executive *Yuan*, including a Premier, are appointed by the President and constitute his Cabinet.¹² They are responsible for policy and administration.¹³ There are several agencies under the Executive *Yuan*, each focusing on a specialized field of service.¹⁴ Similar to the set-up in the Philippines under the 1987 Philippine Constitution, the Judicial or Court system of Taiwan is considered independent from the Executive and Legislative branch.¹⁵ All branches of the government of Taiwan act independently of China.

B. Economy

Taiwan has a developed capitalist economy that ranks as the 19th in the world in terms of purchasing power parity, 18th in the world in terms of gross domestic product (GDP) at purchasing power parity per capita, and 24th in nominal GDP of investment and foreign trade.¹⁶ It was also ranked the best place in Asia to start a business in the 2015 Global Entrepreneurship Index.¹⁷

Taiwan is a member of the Asian Development Bank (ADB),¹⁸ the World Trade Organization (WTO),¹⁹ and the Asia-Pacific Economic

10. ADDITIONAL ARTICLES TO THE CONSTITUTION OF THE REPUBLIC OF CHINA art. 2 (2000) (Taiwan).

11. Ministry of Foreign Affairs of Taiwan, Five Government Branches, *available at* <http://www.taiwan.gov.tw/ct.asp?xItem=21507&ctNode=1920&mp=1001> (last accessed Feb. 15, 2016).

12. *Id.* See also TAIWAN CONST. arts. 54 & 56.

13. See Ministry of Foreign Affairs of Taiwan, *supra* note 11. See also TAIWAN CONST. art. 3.

14. Ministry of Foreign Affairs of Taiwan, *supra* note 11.

15. *Id.*

16. INTERNATIONAL BUSINESS PUBLICATIONS, TAIWAN CUSTOMS, TRADE REGULATIONS AND PROCEDURES HANDBOOK 36 (2015 ed.) [hereinafter IBP TRADE].

17. John Liu, Taiwan best in Asia for entrepreneurs, *available at* <http://www.chinapost.com.tw/taiwan/business/2014/11/21/422312/Taiwan-best.htm> (last accessed Feb. 15, 2016).

18. Asian Development Bank, Members, *available at* <http://www.adb.org/about/members> (last accessed Feb. 15, 2016).

19. World Trade Organization, Members and Observers, *available at* https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last accessed Feb. 15, 2016).

Cooperation (APEC).²⁰ It is “an ad hoc observer at the Trade Committee under the Organization for Economic Cooperation and Development (OECD), enabling it to take part in certain OECD-related meetings upon invitation under the title of ‘Chinese Taipei.’”²¹ It is also a member of International Chamber of Commerce as “Chinese Taipei.”²² The economy of Taiwan signed an Economic Cooperation Framework Agreement with China on 29 June 2010,²³ and also a free trade pact with Singapore²⁴ and New Zealand.²⁵ Taiwan is currently seeking to join the Trans-Pacific Partnership by 2020, if economic requirements are met.²⁶ Taiwan also applied for membership in the Asian Infrastructure Investment Bank in 2015.²⁷ Taiwan’s top five trade partners in 2010 were China, Japan, the United States of America (U.S.), the European Union, and Hong Kong.²⁸

For the past 50 years, foreign trade has been the engine of Taiwan’s rapid growth.²⁹ Taiwan’s economy remains export-oriented.³⁰ It is thus highly

20. U.S. Department of State, Asia-Pacific Economic Cooperation, *available at* <http://www.state.gov/p/eap/regional/apec/> (last accessed Feb. 15, 2016) [hereinafter U.S. Dept. of State, APEC]. Taiwan is referred to as Chinese Taipei. *Id.*

21. Taipei Times, Taiwan Quick Take, *available at* <http://www.taipetitimes.com/News/taiwan/archives/2004/12/20/2003215936> (last accessed Feb. 15, 2016).

22. See International Chamber of Commerce, Chinese Taipei Business Council of ICC, *available at* <http://www.iccwbo.org/Worldwide-Membership/National-Committees/Chinese-Taipei-Business-Council-of-ICC> (last accessed Feb. 15, 2016).

23. Zhang Xiang ed., Chinese mainland, Taiwan sign landmark economic pact, *available at* http://news.xinhuanet.com/english2010/china/2010-06/29/c_113375203.htm (last accessed Feb. 15, 2016).

24. Jenny W. Hsu & Aries Poon, *Taiwan-Singapore Sign Free-Trade Pact*, WALL ST. J., Nov. 7, 2013, *available at* <http://www.wsj.com/articles/SB10001424052702303309504579182900090244112> (last accessed Feb. 15, 2016).

25. Lucy Craymer & Fanny Liu, *Taiwan and New Zealand Sign Free-Trade Pact*, WALL ST. J., July 10, 2013, *available at* <http://www.wsj.com/articles/SB10001424127887324425204578597022344060966> (last accessed Feb. 15, 2016).

26. Sheryl Tibung, A Primer on the Trans-Pacific Partnership, *available at* <http://www.stimson.org/summaries/a-primer-on-the-tpp> (last accessed Feb. 15, 2016).

27. Zhao Yanan, Hongkong, Taiwan seek to join AIIB, *available at* http://www.chinadaily.com.cn/china/201504/02/content_19978113.htm (last accessed Feb. 15, 2016).

28. IBP TRADE, *supra* note 16, at 37.

29. *Id.*

30. *Id.*

dependent on an open world trade regime and vulnerable to downturns in the world economy.³¹ The total value of trade increased over five-fold in the 1960s, nearly ten-fold in the 1970s, and doubled again in the 1980s.³² The 1990s saw a more modest, slightly less than two-fold, growth.³³ Export composition changed from predominantly agricultural commodities to industrial goods,³⁴ making the electronics sector Taiwan's most important industrial export and the largest recipient of U.S. investments.³⁵

The lack of formal diplomatic relations between Taiwan and its trading partners does not appear to have seriously hindered Taiwan's rapidly expanding commerce.³⁶ Taiwan maintains cultural and trade offices in more than 60 countries with which it does not have official diplomatic relations.³⁷ These developments reflect Taiwan's economic importance and its desire to become further integrated into the global economy.

C. *Military*

Taiwan's military force, the Republic of China Armed Forces, is composed of the Army, Navy, the Marine Corps, the Air Force, and the Military Police Force.³⁸ It accounted for 16.8% of the central budget in the fiscal year of 2003.³⁹ It was once called the National Revolutionary Army before being renamed as the Republic of China Armed Forces in 1947, pursuant to the Constitution of the Republic of China.⁴⁰ The primary goal of the Taiwan Armed Forces is to provide a credible deterrent against hostile action by establishing effective counter-strike and defense capabilities.⁴¹ Should hostilities occur, current Taiwan military doctrine centers upon the principle

31. *Id.*

32. *Id.*

33. *Id.*

34. IBP TRADE, *supra* note 16, at 37.

35. *Id.*

36. U.S. Department of State, Taiwan (11/04), *available at* <http://www.state.gov/outofdate/bgn/taiwan/40710.htm> (last accessed Feb. 15, 2016).

37. *Id.*

38. South Front, Military Analysis: Taiwan (Republic of China) Armed Forces and US Strategy towards China, *available at* <http://www.globalresearch.ca/military-analysis-taiwan-republic-of-china-armed-forces-and-us-strategy-towards-china/5505923> (last accessed Feb. 15, 2016).

39. The World Public Association Library, Taiwan Military, *available at* http://gutenberg.us/articles/Taiwan_military (last accessed Feb. 15, 2016).

40. *Id.*

41. INTERNATIONAL BUSINESS PUBLICATIONS, TAIWAN NATIONAL SECURITY AND DEFENSE LAW HANDBOOK 140 (2008 ed.) [hereinafter IBP NATIONAL SECURITY].

of “offshore engagement,” in which the primary goal of the armed forces in any conflict with China would be to keep as much of the fighting away from Taiwan for as long as possible to minimize damage to infrastructure and civilian casualties.⁴²

The Philippines, despite the passage into law of Republic Act (R.A.) No. 10349,⁴³ approved on 11 December 2012, amending R.A. No. 7898,⁴⁴ to include the establishment of a revised Armed Forces of the Philippines modernization program, is sadly no match to the might of the highly modernized and professional military force of Taiwan, the Republic of China Armed Forces.

The above factors illustrate why the Philippines cannot simply ignore Taiwan — cannot cut any of its ties nor cease any of its relationships — despite the supposed existence of the One-China Policy.

III. THE CONTROVERSY

In 1949, the Communist victory in the Chinese Civil War caused the evacuation of the nationalist *Kuomintang* government to Taiwan, along with about two million refugees.⁴⁵ But the *Kuomintang* government regarded the Communist government as illegitimate, claiming that the mainland was rightfully theirs to govern.⁴⁶ Taiwan offered a sense of security and protection to the fleeing *Kuomintang*, because it was an island separate from the Chinese mainland.⁴⁷ In 1971, after veteran *Kuomintang* leader Chiang Kai-shek refused a dual-representation deal, the United Nations (U.N.) recognized Communist China as the sole government of whole country.⁴⁸ Specifically, U.N. General Assembly (G.A.) Resolution 2578 on the “Restoration of the lawful rights of the People’s Republic of China in the

42. *Id.*

43. An Act Amending Republic Act No. 7898, Establishing the Revised AFP Modernization Program and for Other Purposes [AFP Modernization Act], Republic Act No. 10349 (2012).

44. An Act Providing for the Modernization of the Armed Forces of the Philippines and for Other Purposes [AFP Modernization Act], Republic Act No. 7898 (1995).

45. BBC, Taiwan profile — Timeline, available at <http://www.bbc.com/news/world-asia-16178545> (last accessed Feb. 15, 2016) [hereinafter BBC, Taiwan profile].

46. Michael Roberge & Youkyung Lee, China-Taiwan Relations, available at <http://www.cfr.org/china/china-taiwan-relations/p9223> (last accessed Feb. 15, 2016).

47. See generally BBC, History, available at http://www.bbc.co.uk/history/historic_figures/chiang_kaishek.shtml (last accessed Feb. 15, 2016).

48. BBC, Taiwan profile, *supra* note 45.

[U.N.]” provided — “[T]he representatives of the Government of the People’s Republic of China are the only lawful representatives of China to the [U.N.] and that the People’s Republic of China is one of the five permanent members of the Security Council[.]”⁴⁹

Today, China still considers Taiwan “a renegade province, and has tried repeatedly to persuade the island to negotiate a return to the fold.”⁵⁰ It asserts its right to rule Taiwan under *the succession of states theory*, which advocates state’s right to territorial integrity.⁵¹ On one hand, “China asserts that there is only ‘One China’ and Taiwan is an inalienable part of it.”⁵² On the other hand, Taiwan claims that it maintains all the characteristics of a State as defined under the Montevideo Convention of 1933,⁵³ and that it was not succeeded by China, because it has continued to exist long after China’s founding.⁵⁴ Such an assertion is consistent with the *declaratory theory of state recognition*, which states that “the existence of a state depends upon its possession of the required elements and not upon recognition by other states.”⁵⁵

China requires that all countries that have diplomatic relations with it agree and adhere to the One-China Policy.⁵⁶ As of 2015, only 21 U.N. Member States maintain official diplomatic relations with Taiwan.⁵⁷ The really crucial issue, however, is how interpret the term “One-China.”

49. G.A. Res. 2758, at 2, U.N. Doc. A/RES 2758 (Oct. 26, 1971).

50. Roberge & Lee, *supra* note 46.

51. See World Public Library Association, *Succession of States Theory*, available at http://www.gutenberg.us/articles/succession_of_states_theory (last accessed Feb. 15, 2016).

52. Roberge & Lee, *supra* note 46.

53. Convention on the Rights and Duties of States, *opened for signature* Dec. 26, 1933, 165 L.N.T.S. 19 (entered into force Dec. 26, 1934).

54. INTERNATIONAL BUSINESS PUBLICATIONS, TAIWAN COUNTRY STUDY GUIDE 43 (2013 ed.) [hereinafter IBP COUNTRY STUDY GUIDE].

55. JOAQUIN G. BERNAS, S.J., INTRODUCTION TO PUBLIC INTERNATIONAL LAW 74 (2009 ed.).

56. Edsel Tupaz & Ira Paulo Pozon, Philippine Consistency: The One-China Policy, available at <http://jurist.org/sidebar/2012/08/tupaz-pozon-one-china.php> (last accessed Feb. 15, 2016).

57. JD Leathers, Taiwan Yesterday and Today: An International Theory Brief, available at <https://www.linkedin.com/pulse/taiwan-yesterday-today-international-theory-brief-jd-leathers?trkSplashRedir=true&forceNoSplash=true> (last accessed Feb. 15, 2016).

China's position on the One-China Policy was well-discussed in a policy paper released by China's Taiwan Affairs Office⁵⁸ and Information Office,⁵⁹ which is quoted below —

Taiwan is an inalienable part of China. All the facts and laws about Taiwan prove that Taiwan is an inalienable part of Chinese territory. In April 1895, through a war of aggression against China, Japan forced the Qing government to sign the unequal Treaty of Shimonoseki, and forcibly occupied Taiwan. In July 1937, Japan launched an all-out war of aggression against China. In December 1941, the Chinese government issued the Proclamation of China's Declaration of War Against Japan, announcing to the world that all treaties, agreements[,] and contracts concerning Sino-Japanese relations, including the Treaty of Shimonoseki, had been abrogated, and that China would recover Taiwan. In December 1943, the Cairo Declaration was issued by the Chinese, U.S.[,] and British governments, stipulating that Japan should return to China all the territories it had stolen from the Chinese, including Northeast China, Taiwan[,], and the Penghu Archipelago. The Potsdam Proclamation signed by China, the U.S.[,] and Britain in 1945 (later adhered to by the Soviet Union) stipulated that "The terms of the Cairo Declaration shall be carried out." In August of that year, Japan declared surrender and promised in its instrument of surrender that it would faithfully fulfill the obligations laid down in the Potsdam Proclamation. On [25 October] 1945, the Chinese government recovered Taiwan and the Penghu Archipelago, resuming the exercise of sovereignty over Taiwan.⁶⁰

The One-China Policy has, in fact, been previously considered "as a straitjacket unfit for a sovereign people."⁶¹ But it must be ensured that Philippine domestic and foreign policies promote Philippine interests — the One-China Policy does not.

58. See generally Taiwan Affairs Office of the State Council PRC, available at <http://www.gwytb.gov.cn/en> (last accessed Feb. 15, 2016).

59. See China.org.cn, State Council Information Office of the People's Republic of China, available at http://www.china.org.cn/china/2014-04/15/content_32097062.htm (last accessed Feb. 15, 2016).

60. The Taiwan Affairs Office & The Information Office of the State Council, The One-China Principle and the Taiwan Issue, available at <http://www.taiwandocuments.org/white.htm> (last accessed Feb. 15, 2016).

61. *RF-Taiwan Relations Assessed*, PHIL. TIMES, Mar. 26, 1992, at 12 [hereinafter *RF-Taiwan Relations*].

IV. THE PHILIPPINES' RELATIONSHIP WITH TAIWAN

Philippine political and economic relations with China are embodied in the so-called One-China Policy. This Article will now illustrate the existence of both political and economic relations of the Philippines with Taiwan.

China's economic power is undisputed. Thus, the Philippines has strived hard to comply with the One-China Policy. The Philippines' efforts to comply with said policy has been discussed in the article entitled "Philippine Consistency: The One-China Policy," by Anthony Edsel Conrad F. Tupaz and Ira Paulo A. Pozon⁶² which the Author partly quotes below —

Since 1975, the Philippines has consistently upheld the "One-China Policy" as the governing principle of Philippine-Chinese diplomatic relations. Philippine support of the policy was first established in the Philippine-China Joint Communiqu[e] of [9 June] 1975, in which the Philippines clearly stated that it 'recognizes the Government of the People's Republic as the sole legal government of China, fully understands and respects the position of the Chinese [g]overnment that there is but one China and that Taiwan is an integral part of Chinese territory.'⁶³

The Author might agree that the Philippines *ostensibly* conforms to the One-China Policy. However, the Author asserts more strongly that, considering our strong ties and relations with Taiwan, we do not *in actual practice* adhere to the One-China Policy.

In order to ostensibly conform to the One-China Policy, and at the same time develop and maintain relations with Taiwan, the Philippines established the Manila Economic and Cultural Office (MECO) in Taipei.⁶⁴ Its counterpart in the Philippines, the Taipei Economic and Cultural Office (TECO)⁶⁵ was also established. It is important to observe that, although the TECO is technically a private institution, it is composed primarily of *career diplomats* who have "temporarily retired."⁶⁶ As codified by the 1961 Vienna

62. Tupaz & Pozon, *supra* note 56.

63. *Id.*

64. See Manila Economic and Cultural Office, About MECO, *available at* http://mecoph.mecog/index.php?option=com_content&task=view&id=13&Itemid=39 (last accessed Feb. 15, 2016).

65. See Taipei Economic and Cultural Office in the Philippines, Taiwan-Philippine Relations, *available at* <http://www.roc-taiwan.org/ct.asp?xItem=57628&CtNode=4705&mp=272&xp1=272> (last accessed Feb. 15, 2016).

66. *RF-Taiwan Relations*, *supra* note 61.

Convention on Diplomatic Relations,⁶⁷ diplomats are concerned with the *political relations* of states.⁶⁸ A chairman of the TECO, Wu Hsin-Hsing,⁶⁹ was the former Vice Minister of Taiwan's Overseas Chinese Affairs Commission (OCAC),⁷⁰ and Deputy Secretary General of the Straits Exchange Foundation.⁷¹

The MECO, the equivalent of a Philippine Embassy, is under the Office of the President, through the Executive Secretary —

It has under its supervision a trade and investment office directly under the Department of Trade and Industry, and a labor center directly under the Department of Labor. It has also promoted tourism and performed other consular functions and services[,] upon the instructions of the Department of Foreign Affairs and according to the latter's regulations.⁷²

E.O. No. 490,⁷³ enacted by Former President Maria Corazon C. Aquino in November 1991, delegated the supervision of the MECO to the Department of Foreign Affairs.⁷⁴ But Former President Joseph Ejercito Estrada changed this when he enacted E.O. No. 4 in July 1998,⁷⁵ which mandated (1) that operational supervision and control over the MECO

67. Vienna Convention on Diplomatic Relations, *opened for signature* Apr. 18, 1961, 500 U.N.T.S. 95 (entered into force Apr. 24, 1964) [hereinafter Vienna Convention].

68. *Id.* art 2.

69. Sandy Araneta, *New Taiwanese envoy vows closer bilateral ties*, PHIL. STAR, Sep. 20, 2003, available at <http://www.philstar.com/headlines/221346/new-taiwanese-envoy-vows-closer-bilateral-ties> (last accessed Feb. 15, 2016).

70. See Taipei Times, OCAC secret name list made, available at <http://www.taipeitimes.com/News/taiwan/archives/2002/11/12/0000179231> (last accessed Feb. 15, 2016).

71. See Taipei Times, Commitment to reunify is 'not possible now,' available at <http://www.taipeitimes.com/News/local/archives/2000/05/03/0000034536> (last accessed Feb. 15, 2016).

72. *Two Solons Want RP-Taiwan Ties to Protect Overseas Pinoy Workers*, MANILA STAND. TODAY, Sep. 6, 1998, at 1.

73. Office of the President, Transferring the Commission on Filipino Overseas from the Office of the President to the Department of Foreign Affairs, Executive Order No. 490 [E.O. No. 490] (Nov. 26, 1991).

74. *Id.*

75. Office of the President, Amending Sections 3, 4, and 5 of Executive Order No. 490 Otherwise Known as "Establishing the Principal Office in Manila of the Manila Economic and Cultural Office and Transferring the Supervision over its Operation and Activities to the Department of Foreign Affairs," Executive Order No. 4 [E.O. No. 4] (July 17, 1998).

would instead be under the Office of the President,⁷⁶ and (2) that the MECO would report directly to the Office of the Executive Secretary.⁷⁷ This return to executive supervisory authority was further clarified by E.O. No. 229.⁷⁸ But it was not until the administration of Former President Gloria Macapagal-Arroyo that the various functions of the MECO were *expressly authorized*, through the enactment of E.O. No. 15 in May 2001.⁷⁹ It was the first instance in which consular and business functions of the MECO were provided for *by law*.⁸⁰

The functions of a diplomatic mission under Article 3 of the Vienna Convention on Diplomatic Relations include the following:

- (1) Representing the State in the receiving State;
- (2) Protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
- (3) Negotiating with the Government of the receiving State;
- (4) Ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State; [and]
- (5) Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural, and scientific relations.⁸¹

Such functions must be exercised by representatives of both the Philippines and Taiwan, in order to establish and ensure the success of numerous agreements entered into between the two countries. These agreements are to be discussed in the succeeding paragraphs.

According to the *geopolitics theory*, states' foreign policies are determined by their location, natural resources, and physical environment.⁸² Foreign

76. *Id.* whereas cl. ¶ 2.

77. *Id.* § 1.

78. Office of the President, Amending Executive Order No. 490, Series of 1998, as Amended, Entitled "Establishing the Principal Office in Manila of the Manila Economic and Cultural Office and Transferring the Supervision over its Operations and Activities to the Department of Foreign Affairs," Executive Order No. 229 [E.O. No. 229] (Apr. 7, 2000).

79. Office of the President, Authorizing the Manila Economic and Cultural Office, Inc. ("MECO") to Perform Certain Functions Relating to Trade, Economic Cooperation, Investment, and Cultural, Scientific and Educational Exchanges, Executive Order No. 15 [E.O. No. 15] (May 16, 2001).

80. Tupaz & Pozon, *supra* note 56.

81. Vienna Convention, *supra* note 67, art. 3, ¶ 1.

policy options are therefore strongly influenced by regional, as well as worldwide political and economic circumstances. It is this undeniable reality that requires the Philippines to be more cunning and flexible in terms of its relations with other countries. As a country faced with issues, such as overpopulation, job shortages, a declining economy, and food shortages, the Philippines is forced to seek beyond its shores for possible solutions. It is thus beneficial and practical for our country to have political and economic relations with *both* China and Taiwan.

Article XII, Section 13 of the 1987 Philippine Constitution provides that “[t]he state shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity.”⁸³ Further, in preparing developing countries to meet the challenges of globalization and liberalization, the U.N. Economic and Social Commission for Asia and the Pacific attaches great importance to regional economic cooperation in trade and investment, at regional and sub-regional levels. In relation to this, the International Covenant on Economic, Social, and Cultural Rights also asserts that “[a]ll peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social, and cultural development.”⁸⁴

The Philippine government has insisted that the MECO *only* handles limited functions in both *economic and cultural affairs*, particularly the welfare of thousands of Overseas Filipino Workers now in Taiwan.⁸⁵ Such a justification is put forth in order to avoid antagonizing the Philippines’ relationship and commitments with China. Taiwan currently hosts 18,000 Filipino overseas workers.⁸⁶ It is, however, inaccurate to assert that these *economic and cultural affairs* exclude political and diplomatic relations, as these are all interrelated. It is through political action that individuals, as well as, states, attempt to realize their respective notions of public good, “by which we mean their perceptions of how society should be organized and whose interests should be promoted.”⁸⁷ Economic foreign policies are therefore partly if not wholly politically motivated, while political policies are partly if not wholly economically influenced.

82. CHARLES W. KEGLEY, JR. & SHANNON L. BLANTON, *WORLD POLITICS TREND AND TRANSFORMATION* 218 (2010-11 ed.).

83. PHIL. CONST. art.12, §13.

84. International Covenant on Economic, Social and Cultural Rights art. 1, *opened for signature* Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force Jan. 3, 1976) [hereinafter ICESCR].

85. *One-China Policy Affirmed*, MANILA BULL., Feb. 7, 2001, at F1.

86. Araneta, *supra* note 69.

87. ABDUL AZIZ SAID, ET AL., *CONCEPTS OF INTERNATIONAL POLITICS IN GLOBAL PERSPECTIVE* 21 (1995).

Moreover, the MECO even processes and issues visas to Philippine citizens intending to travel to Taiwan.⁸⁸ But this visa requirement for Philippine citizens has its exceptions. Beginning 8 August 2013, Philippine passport holders are exempted from the visa requirement, and are allowed to stay in Taiwan for up to 30 days, provided that they have never worked in Taiwan as blue-collar workers, and are currently holding valid visas or permanent resident cards for any of the following countries: the U.S., Canada, Japan, the United Kingdom, the European Union Schengen, Australia, or New Zealand.⁸⁹ It seems that Taiwan's intention was to attract more Philippine tourists.

The MECO also offers services that are typically offered by other foreign embassies in the Philippines, such as the authentication of documents issued in the Philippines for use or for filing in Taiwan.⁹⁰ The MECO has also sent representatives to aid Philippine-based citizens in Taiwan who may be in need. Thus —

The level of economic and industrial development a state enjoys [also] affects the foreign policy goals it [can pursue]. Generally, the more economically developed a state is, the more likely it is to play an activist role in the global political economy

...

Levels of productivity and prosperity also affect the foreign policies of the poor states [at the bottom]. Some [economically weak] states respond to their [situation] by complying subserviently with the wishes of the rich on whom they depend.⁹¹

Former President Fidel V. Ramos, in a speech delivered on 20 August 1992 before the Foreign Correspondents Club of Japan, stated that —

While residual political-military dangers may linger in the region, securing continued access to markets and technology must become Southeast Asia's primary concern. We have started re-orienting our diplomatic services to focus on foreign trade and investments in a

88. Manila Economic and Cultural Office, Visas and Permits/Information for Applicants, available at http://meco.ph/mecog/index.php?option=com_content&task=view&id=16&Itemid=53 (last accessed Feb. 15, 2016).

89. Taipei Economic and Cultural Office in the Philippines, Visa-Free Entry to the Republic of China (Taiwan) for qualified Philippine passport holders starting from August 08, 2013, available at <http://www.roc-taiwan.org/PH/ct.asp?xItem=409174&ctNode=4712&mp=272> (last accessed Feb. 15, 2016).

90. Manila Economic and Cultural Office, MECO-Consular Affairs, available at http://meco.ph/mecog/index.php?option=com_content&task=view&id=68 (last accessed Feb. 15, 2016).

91. KEGLEY & BLANTON, *supra* note 82, at 218-19.

word means the use of diplomacy for economic ends and also the use of economics to serve diplomatic ends.⁹²

Moreover, in *Tañada v. Angara*,⁹³ the Supreme Court averred that, while the Philippine Constitution “indeed mandates a bias in favor of Filipino goods, services, labor[,] and enterprises, at the same time, it recognizes the need for business exchange with the rest of the world on the bases of equality and reciprocity[.]”⁹⁴

Taiwan is the Philippines’ fourth largest trading partner, next to the U.S., Japan, and Singapore.⁹⁵ Trade between the two countries has reached at least \$5.6 billion in favor of the Philippines.⁹⁶ Taiwan has also played a major role in promoting tourism in the Philippines — at least 80,000 Taiwanese visit the Philippines every year.⁹⁷ Likewise, as abovementioned, the Taiwanese government has also encouraged Filipino tourists to visit Taiwan through its qualified visa exemption measure.

There are currently direct flights from Taiwan to Manila, Cebu, and Boracay, offered by local low-cost, budget airlines Cebu Pacific Air,⁹⁸ Philippine Airlines,⁹⁹ and other national airlines. International airlines such as Eva Air also offer flights to and from Manila and Taiwan.¹⁰⁰

Many overseas Filipino workers are deployed to Taiwan. As of April 2011, there were approximately 77,933 Filipino workers in Taiwan, with 22,994 people working as caregivers, and 53,868 of them working in the manufacturing and other sectors:¹⁰¹ factory workers, domestic workers,

92. Fidel V. Ramos, President, Republic of the Philippines, Address at the Foreign Correspondents Club of Japan (Aug. 20, 1992).

93. *Tañada v. Angara*, 272 SCRA 18 (1997).

94. *Id.* at 58.

95. Ernesto Hilario, Taiwan-Philippine ties growing ever stronger, *available at* <http://taiwantoday.tw/ct.asp?xItem=20410&ctNode=122> (last accessed Feb. 15, 2016).

96. Araneta, *supra* note 69.

97. *Id.*

98. See Cebu Pacific, Cebu Pacific Route Map, *available at* <https://www.cebupacificair.com/Pages/route-map.aspx> (last accessed Feb. 15, 2016).

99. See EDreams, Philippine Airlines Taipei to Manila (TPE-MNL), *available at* <http://www.edreams.com/offers/flights/airline/PR/philippineairlines/TPE/taipei/MNL/manila/> (last accessed Feb. 15, 2016).

100. See EVAAir, Route Map, *available at* http://www.evaair.com/images/englobal/global-route-map-201503_tcm33-32224.pdf (last accessed Feb. 15, 2016).

101. GMA News Online, 2,000 OFWs in Taiwan mark Rizal’s birthday, *available at* <http://www.gmanetwork.com/news/story/223937/news/pinoyabroad/2-000-ofws-in-taiwan-mark-rizal-s-birthday> (last accessed Feb. 15, 2016).

construction workers, fishermen, and professionals. Many of them send a large portion of their earnings back to their families in the Philippines.¹⁰²

According to figures by the Central Bank of the Philippines, Taiwan is the Philippines' 5th largest source of remittances, following Japan, Singapore, Hong Kong, and Korea.¹⁰³ In 2012 for example, overseas remittances coming from Taiwan totalled \$167.98 million.¹⁰⁴

The Philippines has also encouraged Taiwanese businessmen to invest in the Philippines. As a result, several Taiwanese businessmen have in fact set-up factories in various economic zones in the country, under the management of the Philippine Economic Zone Authority (PEZA). As of the year 2008, 1.16% of all investments in the Philippines accounted for under the PEZA come from Taiwanese businessmen or corporate entities.¹⁰⁵ The Author's aunt has in fact opened a factory in the Mactan Economic Zone manufacturing textile and garment related products.

Several agreements have already been entered into between Taiwan and the Philippines. The following are some examples:

- (1) In 1991, an agreement on sea lanes and a memorandum of agreement on agriculture and fisheries cooperation was signed by the representatives of the government of Taiwan and the Philippines.¹⁰⁶
- (2) An air service agreement ending a year-long air transport dispute between the two countries was concluded in September 2000.¹⁰⁷
- (3) A labor agreement was signed in 2001 reducing the financial burden of Filipino workers applying for work on Taiwan.¹⁰⁸
- (4) In November 2003, a Taiwan-Philippines Joint Economic Conference was also held.¹⁰⁹

102. Office of the President, *The Philippines and Taiwan: Stories of Love, Compassion, and Friendship*, available at http://president.gov.ph/daang_matuwid/the-philippines-and-taiwan-stories-of-love-compassion-and-friendship (last accessed Feb. 15, 2016).

103. Aya Lowe, *How Important is Taiwan for PH?*, available at <http://www.rappler.com/business/features/29314-how-important-is-taiwan-for-the-philippines> (last accessed Feb. 15, 2016).

104. *Id.*

105. Leila B. De Lima, Director General, Philippine Economic Zone Authority, *Update on PEZA Activities and Programs*, Address at the American Chamber of Commerce of the Philippines Inc. (July 31, 2008).

106. *New Taiwan Mission Due*, MANILA BULL., Aug. 26, 1991, at 1.

107. *RF, Taiwan Sign New Air Agreement*, MANILA BULL., Sep. 27, 2000, at 1.

108. *RF, Taiwan Sign New Labor Accord*, MANILA BULL., Feb. 22, 2001, at 1.

- (5) In March 2012, House of Representatives Committee Chair on Foreign Relations, Honorable Representative Al Francis Bichara, adopted House Resolution No. 2001, recognizing the initiative of the MECO in establishing a Mutual Legal Assistance Agreement.

It is to be noted that all agreements entered into by the Philippines with Taiwan are *not in the form of formal treaties*, but rather conform to what is known as *soft law* or *non-treaty agreements*. The Vienna Convention defines a treaty as “an international agreement conclude[d] between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.”¹¹⁰ Thus, international agreements, which conform to the aforementioned definition, would have the force and effect of a treaty under the Vienna Convention. Such agreements are therefore binding between the parties under the principle of *pacta sunt servanda*. Further, “soft law plays an important role in international relations because often states prefer non-treaty obligations as a simpler and more flexible foundation for their future relations.”¹¹¹

E.O. No. 313, issued by former President Corazon Aquino, provides:

- (1) No official of the Philippine government may visit Taiwan.
- (2) No official of the Philippine government may receive Taiwanese officials visiting the Philippines.
- (3) No official activity relating to Taiwan shall be carried out without the clearance of the Department of Foreign Affairs.¹¹²

This was further emphasized by Memorandum Circular No. 148, which stated that “the restriction on travel to Taiwan and on contact with representatives of Taiwan *should apply strictly to the President, the Vice President, the Secretary of Foreign Affairs and the Secretary of National Defense.*”¹¹³ The same Circular also required Philippine officials travelling to Taiwan to inform the DFA of the purpose of their visit, and mandated that such officials would only be permitted the use of their ordinary passports while traveling — as

109. Michelle Y. Remo, *Taiwan Keen on Bilateral Trade Deal with RF*, PHIL DAILY INQ., Dec. 5, 2003, at B5.

110. BERNAS, *supra* note 55, at 22 (citing Vienna Convention, *supra* note 67).

111. BERNAS, *supra* note 55, at 21.

112. Office of the President, Prohibiting Philippine Government Officials to Visit Taiwan or to Receive calls by Visiting Taiwanese Officials, Executive Order No. 313 [E.O. No. 313] (Dec. 17, 1987).

113. Office of the President, Prescribing the Guidelines for the Implementation of Executive Order No. 313, Series of 1987, Memorandum Circular 148 [Memo. Circ. 148] (Feb. 27, 1992) (emphasis supplied).

opposed to officials being free to use governmental papers or official titles abroad.¹¹⁴

Yet many government officials, as high-ranking as Congressmen and Vice Presidents, still visit and confer with their counterparts under the guise of “personal trips.” Even certain official visits, such as those frequently made by the Secretaries of the Department of Trade and Industry and the Department of Labor and Employment, have taken place despite a clear prohibition to the same.¹¹⁵

Taiwan has also extended financial and humanitarian assistance to the Philippines in the latter’s time of need. Super Typhoon Haiyan, known locally as Typhoon Yolanda, devastated the Central Philippines on 8 November 2013, causing more than 5,000 deaths and affecting over 10 million people. In response, the Ministry of Foreign Affairs (MOFA) of Taiwan worked jointly with domestic nongovernmental organizations (NGOs) to promptly launch relief efforts and facilitate the recovery of the disaster areas, in accordance with President Ma Ying-jeou’s declaration of Taiwan as a provider of humanitarian aid.¹¹⁶

On 10 November 2013, the Taiwanese government announced a cash donation of US \$200,000 to the Philippines.¹¹⁷

The Buddhist Compassion Relief Tzu Chi Foundation (Tzu Chi) and other Taiwanese NGOs also responded promptly with about 150 tons of relief supplies.¹¹⁸ These were delivered to the Philippines on 18 flights by Taiwanese Air Force C-130 Hercules cargo planes, between 12 and 21 November 2013, for distribution by the Philippine Department of Social Welfare and Development and local volunteers of Taiwanese NGOs.¹¹⁹

On 25 November 2013, the Taiwan naval vessel *Chung He* left for Cebu Port carrying 530 metric tons of relief supplies, for handover to representatives of the Philippine government and Taiwanese NGOs.¹²⁰

114. *Id.*

115. *RP may be Violating One-China Policy*, PHIL DAILY INQ., Nov. 12, 1992.

116. Taipei Economic and Cultural Office in the Philippines, Update on ROC relief aid to the Philippines in the wake of Typhoon Haiyan, *available at* <http://www.roc-taiwan.org/PH/ct.asp?xItem=456367&ctNode=4695&mp=272> (last accessed Feb. 15, 2016) [hereinafter *TECO*, Update on ROC Relief Aid].

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

Large quantities of goods were donated by several charitable organizations and businesses, including the Taiwanese Red Cross Society, Tzu Chi, Bliss and Wisdom Foundation, Fo Guang Shan Compassion Foundation, Dharma Drum Mountain Social Welfare and Charity Foundation, Ling Jiou Mountain Buddhist Society, Namchou Chemical Industrial Co. Ltd., I-mei Foods Co. Ltd., World Taiwanese Chambers of Commerce, Hsing Tian Kong, ROC I-Kuan Tao Association, Roman Catholic Diocese of Taichung, National Fishermen's Association, and National Unions.¹²¹ These relief items included prefabricated housing, solar panel generators, tents, rice, clothing, crackers and cookies, ready-to-eat food, and drinking water — all emergency supplies to help meet the pressing needs of people in disaster areas.¹²² They were distributed with the assistance of volunteers working for Tzu Chi and other Taiwanese NGOs in the Philippines, joined by over 16,000 Filipinos employed by Tzu Chi.¹²³

Clearly, the Philippines has consistently maintained friendly political and economic friendly relations with Taiwan, while at the same time, striving to publicly adhere to the One-China Policy, in order to appease China.

Sometime in the year 2002, for example, the Philippines initially accepted an offer from Taiwan to buy 24 fighter for a “token fee.”¹²⁴ It subsequently backed out of the agreement, however, after China objected to the transaction.¹²⁵ In the year 2003, the Philippines barred a planned visit to Manila by Taiwan's Vice President Annette Lu and Foreign Minister Eugene Chien, after a warning from China that it might dampen bilateral ties.¹²⁶

In February 2011, Philippine authorities deported Taiwanese nationals suspected of committing fraudulent activities in the Philippines.¹²⁷ It is to be highlighted, however, that based on these Author's observations, the Philippines only shelves or rejects agreements with Taiwan when China objects, or reacts negatively to such. This is consistent with the Author's assertion that the Philippines' does indeed strives to maintain good relationships with *both* Taiwan and China.

121. *Id.*

122. TECO, Update on ROC Relief Aid, *supra* note 116.

123. *Id.*

124. Max V. Soliven, *Don't buy those junk F-5E jets from Taiwan!*, PHIL. STAR, Mar. 8, 2002, available at <http://www.philstar.com/opinion/153078/don%C2%92t-buy-those-junk-f-5e-jets-taiwan> (last accessed Feb. 15, 2016).

125. *Id.*

126. Zee News, Philippines bans Taiwan VP, FM visit amid China pressure, available at http://zeenews.india.com/news/world/philippines-bans-taiwan-vp-fm-visit-amid-china-pressure_133404.html (last accessed Feb. 15, 2016).

127. Tupaz & Pozon, *supra* note 56.

International organizations, as subjects of international law, have also extended recognition to Taiwan. As abovementioned, the WTO,¹²⁸ APEC,¹²⁹ and additionally, the International Olympic Committee¹³⁰ have already admitted Taiwan as one of its members. So as not to offend China, however, terms such as “Chinese Taipei,” “the Separate Territory of Taiwan,” “Penghu,” “Kimmen,” and “Matsu” are used.

V. PHILIPPINES’ FOREIGN POLICY MOVING FORWARD

What type of policy should the Philippine adopt with regard to its relations with China and Taiwan? It seems that there are two possibilities: The first is to *clarify* and be more *transparent* regarding the dichotomy of its “*ostensible* One–China–*de facto*–Two–China” policy. The second is to simply maintain the status quo.

The first possibility would inevitably lead China to conclude that the Philippines is in violation of the One–China Policy, and should therefore be subject to economic sanctions as a result. This would certainly not be in the best interest of the Philippine people, especially taking into account internal and external economic and political issues the country is currently facing. China has acknowledged the Philippines’ strong ties with Taiwan, and has even issued a warning as to the possible involvement of the Philippines, if ever war is declared by China against Taiwan.¹³¹ Congress has attempted to review and revise the One–China Policy through House Resolution No. 87. Said Resolution asserted that the critical economic dilemma of the Philippines warranted the need for the government to take bolder moves to encourage more Taiwanese foreign investments into the country.¹³²

On the other hand, the second possibility, maintaining the status quo, would allow the Philippines to maximize the opportunities and potential present in dealing with *both* Taiwan and China. Doing so would help expand the Philippine economy, thus enabling it to meet the challenges brought about by globalization.

VI. DISCUSSION ON THE 2013 SHOOTING INCIDENT WITH TAIWAN AS A CASE STUDY

The Philippines’ handling of the recent 2013 incident involving Taiwan tested the diplomatic relationship between the two countries.

128. World Trade Organization, *supra* note 19.

129. U.S. Dept. of State, APEC, *supra* note 20.

130. Olympic.org, Chinese Taipei, *available at* <http://www.olympic.org/chinese-taipei> (last accessed Feb. 15, 2016).

131. *China:RP at Risk in War with Taiwan*, CEBU DAILY NEWS, Nov. 23, 2003, at 29.

132. H. Res. No. 87, 16th Cong. (2011).

On 9 May 2013, a Taiwanese fisherman was killed when one of the Philippine Coast Guard's patrolling vessels fired at the Taiwanese fishing boat *Guang Ta Hsin 28* off the Sea of Batanes.¹³³ On one hand, Taiwanese officials contended that the Taiwanese fishing boat was located just 154 nautical miles off Taipei's southernmost tip.¹³⁴ Philippine officials, on the other hand claimed that the Taiwanese vessel tried to ram a Bureau of Fisheries vessel, leaving the Philippine Coast Guard with no choice but to fire upon the fishermen.¹³⁵ They further claimed that the Philippine Coast Guard's only objective was to disable the vessel.¹³⁶ As a result, Hung Shih-Cheng, a sixty-five year old Taiwanese National, was killed.¹³⁷ The Taiwanese government demanded a formal apology and monetary compensation from the Philippine government.¹³⁸ On 15 May 2013, only six days after the incident, the Philippine government issued a formal apology to Taiwan.¹³⁹

The Philippine government's handling of the incident is in stark contrast to its delay in formally apologizing to the Hong Kong Government after the Manila Bus Hostage Crisis in the year 2010 that resulted in the death of tourists from Hong Kong. In that particular case, it took approximately four years before the Philippine government's apology was finally accepted by the Hong Kong Government.¹⁴⁰

The apology of the Philippine government to Taiwan had come after Taiwan threatened to conduct a naval military drill in waters near the

133. Joseph Santolan, Philippine coast guard kills Taiwanese fisherman in disputed waters, available at <https://www.wsws.org/en/articles/2013/05/14/scsd-m14.html> (last accessed Feb. 15, 2016).

134. Barbara Mae Dacanay, Philippines coastguard fires on Taiwan fishing vessel, available at <http://gulfnews.com/news/world/philippines/philippines-coastguard-fires-on-taiwan-fishing-vessel-1.1181640> (last accessed Feb. 15, 2016).

135. Amando Doronilla, *Taiwanese fishermen provoked Coast Guard into firing*, PHIL. DAILY INQ., May 28, 2013, available at <http://opinion.inquirer.net/53521/taiwanese-fishermen-provoked-coast-guard-into-firing> (last accessed Feb. 15, 2016).

136. Dacanay, *supra* note 134.

137. *Id.*

138. *Id.*

139. Agence France-Presse, *Philippines apologizes to Taiwan over fisherman's death*, PHIL. DAILY INQ., May 15, 2013, available at <http://globalnation.inquirer.net/74529/philippines-apologizes-to-taiwan-over-fishermans-death> (last accessed Feb. 15, 2016) [hereinafter Agence France-Presse, *Philippines apologizes*].

140. Matikas Santos, *Hong Kong accepts PH apology; sanctions also lifted*, PHIL. DAILY INQ., Apr 23, 2014, available at <http://globalnation.inquirer.net/102601/hong-kong-accepts-ph-apology> (last accessed Feb. 15, 2016).

Philippines.¹⁴¹ Taiwan's Central News Agency had said that the naval exercise would simulate the Philippines as the enemy,¹⁴² and would involve a Kidd-class destroyer, a Perry-class frigate and three coast guard frigates,¹⁴³ as well as a number of fighter jets and war planes. At the time, the number of Taiwanese tourists coming to the Philippines also decreased.¹⁴⁴ Some flights to and from Taiwan were even cancelled, as well as the new route of Cebu Pacific Air between Cebu and Taiwan, because of the low number of passengers.¹⁴⁵

Taiwan had also threatened to freeze the coming of Philippine workers to the island,¹⁴⁶ which would have immediately affected at least 16,000 overseas Filipino workers.¹⁴⁷

After a closed-door meeting with Antonio Basilio, the then *de facto* Philippine Ambassador to Taipei, Taiwan Foreign Minister, David Lin, told reporters that:

- (1) “[T]he Philippines has voiced deep regret and apology for the incident[;]”¹⁴⁸
- (2) The Philippines would send a special envoy to Taiwan to convey apologies and condolences to the family of the fisherman[;]¹⁴⁹ and
- (3) The Philippines would provide “financial assistance” to the victim’s family.¹⁵⁰

141. Agence France-Presse, *Philippines apologizes*, *supra* note 139.

142. *Id.*

143. *Id.*

144. Othel V. Campos, *Taiwan tourists decrease*, THE STANDARD, June 9, 2014, available at <http://www.thestandard.com.ph/business/149398/taiwan-tourists-decrease.html> (last accessed Feb. 15, 2016).

145. Agence France-Presse, *Cebu Pacific cancels launch of Cebu-Taiwan flights amid row*, PHIL. DAILY INQ., May 30, 2013, available at <http://business.inquirer.net/124449/cebu-pacific-cancels-launch-of-cebu-taiwan-flights-amid-row> (last accessed Feb. 15, 2016).

146. Agence France-Presse, *Philippines apologizes*, *supra* note 139.

147. Andrei Medina, *At Least 16,000 OFWS jobless due to hiring freeze in Taiwan*, available at <http://www.gmanetwork.com/news/story/316667/pinoyabroad/news/at-least-16-000-ofws-jobless-due-to-hiring-freeze-in-taiwan> (last accessed Feb. 15, 2016).

148. Agence France-Presse, *Philippines apologizes*, *supra* note 139.

149. *Id.*

150. *Id.*

Both the Philippine and Taiwanese governments agreed to jointly launch an investigation into the incident, which sparked outrage in Taiwan at a time of heightened tensions in the region over rival claims to the nearby West Philippine Sea (South China Sea).¹⁵¹ The two sides also agreed to open fishery talks “as soon as possible,” so as to avoid the recurrence of similar incidents.¹⁵²

The Philippines and Taiwan agreed to cooperate in the investigation of the death of the Taiwanese national.¹⁵³ The National Bureau of Investigation recommended the filing of criminal charges against the Philippine Coast Guard personnel liable.¹⁵⁴ A team of Taiwanese investigators even traveled to Manila to examine the Philippine Coast Guards’ weapons, interview them, and see the video of the chase between their vessel and the fishing boat.¹⁵⁵ A National Bureau of Investigation team likewise traveled to Taiwan, examined the fisherman’s boat, interviewed its crew, and studied the Taiwanese coroner’s autopsy report.¹⁵⁶

The above incident led to calls from different sectors to review the One-China Policy or, at the very least, reconsider how it should be interpreted. In an article entitled “Officials Urge [Government] to Review One[-]China Policy,”¹⁵⁷ it was reported that “the tangled mess that the Philippine government had to handle over the killing of a Taiwanese fisherman should prompt Manila to review its One-China Policy, which prevents the country from negotiating with Taiwan on a diplomatic and political level,” and, accordingly, “the Philippines should review its ‘interpretation and implementation’ of the One[-]China Policy.”

The handling of the crisis highlights the importance given by the Philippines with regard to its relationship with Taiwan. The concerns of the Taiwanese government, acting on behalf of the victim, were addressed immediately and without much conflict or bickering, much unlike the

151. *Id.*

152. *Id.*

153. *Id.*

154. Nancy C. Carvajal, *NBI: Philippines coast guards liable*, PHIL. DAILY INQ., June 12, 2013, available at <http://globalnation.inquirer.net/77313/nbi-philippine-coast-guards-liable> (last accessed Feb. 15, 2016).

155. *Id.*

156. *Id.*

157. Bernice Camille V. Bauzon, *Officials Urge Govt to Review One China Policy*, MANILA TIMES, May 28, 2013, available at <http://www.manila.times.net/officials-urge-govt-to-review-one-china-policy/4906> (last accessed Feb. 15, 2016).

handling by the Philippine government of its diplomatic crisis with Hong Kong involving the Manila bus hostage taking.¹⁵⁸

VII. CONCLUSION

*No state has ever accomplished everything it wished in its foreign policy. Goals tend to be formulated in absolute terms — a government speaks of security, peace, or growth. Thus the ends of policy are unlimited, but the means are sharply limited. Most states, even the large and powerful, have priorities that help guide policy choices.*¹⁵⁹

It is therefore of utmost importance for the Philippines to establish and practice a policy that is consistent with its economic and political goals, so as to ensure or at least maximize its success and sustainability.

The Philippines is a free and sovereign nation, and has the freedom and liberty to determine its domestic and foreign policies, subject to certain restrictions provided for by international law. This fact serves as the foundation for Philippine relations with *both* Taiwan and China, and a continuation of the “*ostensible* One-China — *de facto* Two-China” policy. Such a policy would enable the Philippines to maximize trade and other benefits, in order to ensure economic survival and competitiveness.

The reality is that both Taiwan and China are important for the Philippines’ growth as a nation and economy, and the Philippines cannot forsake its relationship with either of the two countries.

158. See Santos, *supra* note 140.

159. SAID, ET AL., *supra* note 87, at 31.