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Malaysia: Background and U.S. Relations

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Summary

Malaysia, a majority Muslim nation in Southeast Asia, has long been a partner in U.S. security and economic initiatives in the region, although political sensitivities in Malaysia have constrained both sides from forging deeper ties or even acknowledging how close the relationship is. Bilateral relations have improved over the past decade, especially under Prime Minister Najib Razak, who has made relations with the United States a priority. The Obama Administration has emphasized deeper engagement with Malaysia and other “emerging partners” in Southeast Asia as part of the strategic “rebalancing” of U.S. resources and attention to the Asia-Pacific region. Congress has expressed interest in a variety of issues in U.S.-Malaysia relations over the years, especially regarding trade, security cooperation, human rights, and Malaysia’s diplomacy.

The two nations are major trade and investment partners. In 2013, Malaysia was the 25th-largest market for U.S. exports and the 18th-largest supplier of U.S. imports. The United States was Malaysia’s 4th-largest export market (after Singapore, China, and Japan) and the 4th-largest supplier of imports (after China, Singapore, and Japan). Both countries are parties to the Trans-Pacific Partnership (TPP) negotiations, which aim to create a high-standards trade agreement among 12 countries comprising nearly 40% of the global economy. The United States’ main trade-related concerns are Malaysia’s government procurement policies, protection of intellectual property rights, and market access for key goods and services.

Despite a diverse ethnic and religious mix, Malaysia has enjoyed considerable political stability since it gained independence in 1957. Political coalitions led by the United Malays National Organization (UMNO), the country’s dominant political party, have ruled Malaysia without interruption since independence. UMNO is a staunch proponent of the preeminent position of ethnic Malays and other indigenous groups, collectively known as *bumiputra*. The United States occasionally has criticized the Malaysian government for its weak human rights protections, constraints on press freedom, and prosecution of opposition political leaders like Anwar Ibrahim.

Malaysia achieved high rates of GDP growth through the 1970s and into the 1990s, as did other East Asian economies. It is now considered a middle-income country, relatively prosperous compared to most other Southeast Asian countries, and has retained its Muslim identity through periods of rapid modernization. As in politics, Malaysia’s economy is divided along regional and ethnic lines; a wide ranging economic program known as the New Economic Policy attempts to address socio-economic disparities by privileging ethnic Malays and other indigenous groups in government contracts, education, and government hiring.

Malaysia has been a constructive diplomatic actor on numerous regional and global issues. Efforts to promote moderate Islam and marginalize religious extremism have been a major part of Malaysian diplomacy, including acting as a mediator in conflicts between Muslim separatist groups and the central government in both Thailand and the Philippines. Kuala Lumpur maintains good relations with its neighbors and has promoted cooperation among the 10 countries in the Association of Southeast Asian Nations (ASEAN). Malaysia is one of several Southeast Asian countries with maritime and territorial claims in the South China Sea, although it has assumed a low profile in those disputes. U.S.-Malaysia security cooperation includes counter-terrorism activities, numerous military exercises, ship visits, and military education exchanges.

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Introduction

This report analyzes U.S.-Malaysia relations and the economy, domestic politics, and diplomacy of Malaysia. Congress has expressed interest in a variety of issues in U.S.-Malaysia relations, especially regarding trade, security cooperation, and human rights. The report provides background information on current events and policy debates related to Malaysia.¹

Overview

The relationship between the United States and Malaysia is a complex one. Bilateral ties are considerably closer than often is acknowledged, but lingering mistrust and political sensitivities in Malaysia constrain the establishment of a deeper strategic relationship. Malaysia, a majority Muslim nation of 30 million people, is a partner in numerous U.S. security and economic initiatives in Southeast Asia. It is a major U.S. trading partner and a site of substantial U.S. investment. Malaysia, for many years one of the leading voices behind building “Asia-only” regional institutions, is now seen as an advocate of a strong U.S. presence in the Asia-Pacific region. Some experts believe that Malaysian concerns about China’s assertiveness in the South China Sea have been the main driver behind closer U.S.-Malaysia strategic ties.² Yet, some issues have proven contentious over recent years—particularly U.S. counter-terrorism strategy and policy in the Middle East—and many observers still perceive a ceiling on the degree to which the two countries can deepen their relationship.

The Obama Administration’s strategic “rebalancing” of foreign policy priorities to Asia has placed substantially increased attention on the nations of Southeast Asia, including Malaysia. Although the rebalancing has not featured high-profile bilateral initiatives with Malaysia, most observers say U.S.-Malaysia relations have warmed considerably in recent years. Malaysia is one of 12 nations negotiating the Trans Pacific Partnership (TPP), a potential trade agreement that is the United States’ highest-priority economic initiative in Asia. The United States and Malaysia also conduct numerous military exchanges, training exercises, and port visits and cooperate in counter-terrorism and maritime domain awareness.

Malaysia harbors a strong self-image as a moderate leader within the Islamic world, and this role sometimes complicates its relationship with the United States. Malaysia has criticized the U.S. counter-terrorism strategy and its support for Israel, maintaining that these policies created a perception that the United States was “anti-Islam,” and that U.S. rhetoric generated broader support for Islamic militancy. However, Malaysian statements along these lines have moderated in recent years, especially under the current Prime Minister, Najib Razak.

¹ Other CRS products cover issues related to Malaysia. These include CRS Report R42694, *The Trans-Pacific Partnership (TPP) Negotiations and Issues for Congress*, coordinated by Ian F. Fergusson, CRS Report R42344, *Trans-Pacific Partnership (TPP) Countries: Comparative Trade and Economic Analysis*, by Brock R. Williams, and CRS Report R42930, *Maritime Territorial Disputes in East Asia: Issues for Congress*, by Ben Dolven, Mark E. Manyin, and Shirley A. Kan. Archived reports include CRS Report RL33445, *The Proposed U.S.-Malaysia Free Trade Agreement*, by Michael F. Martin, CRS Report RL33878, *U.S.-Malaysia Relations: Implications of the 2008 Elections*, by Michael F. Martin, and CRS Report RL34194, *Terrorism in Southeast Asia*, coordinated by Bruce Vaughn.

² Joshua Kurlantzick, “Obama in Malaysia: A Strategic Partnership?” Council on Foreign Relations, Asia Unbound blog, April 8, 2014.

Figure I. Malaysia and Surrounding Areas

Source: Graphic created by CRS.

Modern Malaysian History

For most of its early history, the territory that comprises the modern state of Malaysia was a collection of small, separate kingdoms or sultanates. After Islam was introduced to Southeast Asia by Muslim traders, most of the indigenous population adopted the religion. In the late 18th through mid-19th centuries, during the height of European imperialism, various principalities on the Malaysian Peninsula and northern Borneo fell under the British sphere of influence. Britain administered these resource-rich states through local leaders and eventually knit together these territories into the Federated Malay States in 1895. Japan briefly ousted the European powers from Southeast Asia during World War II, but Britain restored its governance of the Malaysian territories after 1945, inaugurating the Federation of Malaya in 1948.

While indigenous political groups, including the United Malays National Organization (UMNO), agitated for independence during the postwar period, the Malayan Communist Party waged a prolonged guerrilla campaign against British rule. The British and their anti-Communist allies in Malaysia defeated the Communist campaign, sometimes employing brutal tactics; this period is known as “the Emergency.” Peninsular Malaya gained its independence as a constitutional monarchy in 1957, and the colonies of Singapore, Sabah, and Sarawak were relinquished by

Britain in 1963 into the new Federation of Malaysia. Indonesian ruler Sukarno opposed this union and instigated low-level military conflict (known as *konfrontasi*) with newly enlarged Malaysia until 1965. Singapore was forced out of the federation and became independent in 1965 amid a series of political disagreements between Malaysian and Singaporean leaders.

Race riots between Malays and Chinese that erupted in May 1969 in Kuala Lumpur shook the social foundations of Malaysia and catalyzed reform of the political system. A major consequence of the race riots was the New Economic Policy (NEP), which sought to remedy socioeconomic disparities by favoring *bumiputra*—ethnic Malays and other indigenous groups—over the economically dominant Chinese minority. The Malaysian government promoted agricultural improvements, natural resource exploitation, and export-oriented industrialization (reserving opportunities for *bumiputra*) that led to consistent economic growth through the 1970s and 1980s.

In the political sphere, the UMNO-led coalition of ethnically based parties has maintained its preeminence since independence and delivered a measure of stability to Malaysia despite internal diversity and a volatile external security environment. A central figure in recent Malaysian history is Mahathir Mohamad, who was Prime Minister from 1981 until 2003 and remains politically active. Mahathir helped to shape a more secular Malaysia by limiting the political strength of religious leaders and curtailing the privileges of Malaysia’s royalty. He also aggressively sought to rein in critical voices in the political arena, the media, and civil society. Many aspects of Malaysia’s current political landscape were shaped by the Mahathir era, as both prime ministers who followed him, as well as opposition leader Anwar Ibrahim, were at one time his protégés within UMNO.

Challenges for Malaysia

Malaysia faces numerous internal and external challenges as it seeks to attain its goal of becoming a prosperous, developed country that is influential in Southeast Asia and around the world. Chief among Malaysia’s domestic challenges are ethnic and religious sensitivities and tensions, a volatile political climate with an increasingly active political opposition, and fragile protections for human rights.

Compared to most of its Southeast Asian neighbors, Malaysia has a relatively high average income, but its economy is still undergoing the transition to high technology, high value-added industries. Many economic reform proposals confront opposition from rural, Malay-centric interest groups. As one of the leading countries in ASEAN (the Association of Southeast Asian Nations), Malaysia faces the diplomatic challenges of promoting regional trade integration, maintaining security and stability, and creating an attractive climate for outside investment. The rise of China brings many opportunities to East Asian countries, as well as concern about Beijing’s increasing assertiveness in regional affairs.

Basic Data
Population: 30,040,000 (April 2014 est.)
Area: 126,895 sq. mi. (slightly larger than New Mexico)
Gross domestic product (GDP): \$326.3 billion (2013)
Per capita GDP: \$10,895
Ethnicities: Malay/ <i>bumiputra</i> 67%, Chinese 25%, Indian 7%, others 1%
Religions: Islam 61%, Buddhism 20%, Christianity 9%, Hinduism 6%, others 2%
Life expectancy at birth: male 72 years, female 77 years
Government type: Federal Constitutional Monarchy (Parliamentary Democracy)
Prime Minister: Mohamed NAJIB bin Abdul Najib Razak (inaugurated April 3, 2009)
Sources: Population, ethnicity, religion, and life expectancy data from Malaysian Department of Statistics. GDP data from Malaysia’s Economic Planning Unit.

U.S.-Malaysia Political Relations

Bilateral ties between the United States and Malaysia long have been both highly cooperative and publicly contentious. Malaysia is a strong partner in many U.S. security and economic initiatives, but domestic Malaysian sensitivities, particularly regarding the nation's identity in the Muslim world, have constrained Malaysian leaders from undertaking high-profile partnerships with the United States. The decision to “elevate” the U.S.-Malaysia relationship to a “Comprehensive Partnership,” announced during President Obama’s April 2014 visit, indicates that the two countries are cooperating on a wider range of issues than in the past.³

The Obama Administration’s strategic “rebalancing” to the Asia-Pacific region has placed a high priority on deepening relations with Southeast Asian countries, and Malaysian Prime Minister Najib Razak has spoken frequently about building stronger relations with the United States. With its participation in the TPP negotiations, Malaysia is part of the Administration’s signature economic initiative in the region. Obama became the first U.S. President to visit the country since 1966, and his visit served as a catalyst to promote bilateral cooperation in several areas. He particularly highlighted people-to-people ties, for example the Fulbright English Teaching Assistant program, which brings American youth to teach in Malaysia.

The Najib government has taken visible steps to support U.S. initiatives. In 2010, Malaysia enacted legislation to strengthen its restrictions on the shipment of nuclear materials and in 2014 officially joined the U.S.-led Proliferation Security Initiative. Malaysia sent 40 military medical personnel to Bamiyan province in Afghanistan in 2010, and it subsequently has rotated four deployments to support Afghan reconstruction—a notably public move in a Muslim-majority nation where U.S. actions in Iraq had led to large protests at the U.S. Embassy in Kuala Lumpur.

The high visibility of these initiatives marks a change for the bilateral relationship. U.S. relations with Malaysia were particularly fraught under long-time Prime Minister Mahathir, who was a vocal advocate of “Asia-only” regional organizations. Malaysians were particularly upset both by U.S. criticism of Malaysia’s economic policy during the Asian Financial Crisis in 1998, when Malaysia instituted strong controls on capital flows in order to protect its currency; and by high-level U.S. criticism of Malaysia’s judiciary after Anwar Ibrahim, then Malaysia’s Deputy Prime Minister, was arrested and subsequently convicted of sodomy, which is a crime under Malaysian law. (See “Domestic Politics”, below.) Following Mahathir’s retirement as Prime Minister in 2003 (he remains a politically active Member of Parliament), some of the barriers to warmer bilateral ties eased, although Malaysia continues to strongly oppose U.S. support for Israel. Washington and Kuala Lumpur agreed to discuss a Free Trade Agreement in 2005, and although those negotiations did not ultimately conclude in an agreement, Malaysia is an active participant in the TPP negotiations.

The United States periodically has raised concerns about human rights and democracy issues in Malaysia. In March 2014, after Malaysia’s highest appeals court overturned the acquittal of Anwar Ibrahim, now a prominent opposition leader, on a separate sodomy charge—a decision that many observers deemed politically motivated and that potentially barred Anwar from seeking a state governorship—the U.S. State Department said, “The decision to prosecute Mr. Anwar and

³ “Joint Statement by President Obama and Prime Minister Najib of Malaysia,” White House, Office of the Press Secretary, April 27, 2014.

his trial have raised a number of concerns regarding the rule of law and the independence of the courts.”⁴ Although President Obama spoke out on human rights issues during his April 2014 visit, he did not meet personally with opposition political leaders, who met with National Security Advisor Susan Rice. This apparent consideration for the ruling party contrasts with Vice President Al Gore’s praise for Anwar and the opposition *reformasi* (reform) movement during a visit to Kuala Lumpur in 1998.

The official U.S. reaction to Malaysia’s most recent nationwide parliamentary elections in May 2013, in which opposition parties alleged that widespread electoral fraud contributed to the ruling coalition’s victory, was muted. A State Department spokesman said, “We were pleased to see Malaysians across the political spectrum engaged in the electoral process in large numbers with unprecedented enthusiasm.” He also noted, however, “We are aware of concerns about voting irregularities and note that the opposition parties faced significant restrictions on access to the media. Addressing these issues is important to strengthen confidence in the electoral process.”⁵

Malaysia’s Economy

Prior to the 2008 global financial crisis, Malaysia had been one of the fastest growing economies in the world over the past 25 years (see **Table 1**). Malaysia was able to recover from the global recession and an economic downturn in 2009 comparatively quickly, and its economic performance in early 2014 was close to its pre-crisis level. At the same time, however, Prime Minister Najib remained under some domestic pressure to find ways of achieving the nation’s self-proclaimed goal of becoming a developed nation by 2020, while addressing the country’s regional and income disparities.

Table 1. Selected Indicators for Malaysia’s Economy

	2007	2008	2009	2010	2011	2012	2013
Real GDP Growth	6.3%	4.8%	-1.5%	7.2%	5.1%	5.6%	5.0%-6.0%
Nominal GDP (billions of U.S. dollars)	193.6	231.0	202.3	246.8	287.9	303.5	326.3
Per Capita Income (U.S. dollars)	7,218	8,460	7,278	8,729	10,012	10,381	10,687
Inflation Rate—CPI	6.4%	6.1%	0.6%	1.7%	3.2%	1.7%	2.0%-3.0%
Unemployment Rate	3.3%	3.3%	3.7%	3.4%	N.A.	N.A.	3.1%
Exchange Rate (Ringgits/\$)	3.44	3.33	3.52	3.22	3.06	3.09	3.09

Sources: 2007-2012 data from the World Bank; 2013 data from Malaysia’s Economic Planning Unit.

Notes: GDP—gross domestic product; CPI—consumer price index; N.A.—not available.

⁴ Jen Psaki, “Conviction of Malaysian Opposition Leader Anwar Ibrahim,” U.S. Department of State, Washington, DC, March 7, 2014, <http://www.state.gov/r/pa/prs/ps/2014/03/223148.htm>.

⁵ Patrick Ventrell, U.S. Department of State Daily Press Briefing, Washington, DC, May 6, 2013, <http://www.state.gov/r/pa/prs/dpb/2013/05/208988.htm#Malaysia>.

Malaysia’s economy is regionally and sectorally diversified. The State of Selangor, which surrounds the capital of Kuala Lumpur, is the largest contributor to the nation’s GDP, followed by Kuala Lumpur. The State of Johor, located next to Singapore, and the State of Sarawak, on the island of Borneo, also are significant contributors to the GDP. These four regions are Malaysia’s most prosperous areas and form the core for the nation’s manufacturing and services sectors. By contrast, the states of Kedah, Kelantan, Perak, and Perlis, along the border with Thailand, as well as the State of Sabah on the northern tip of the island of Borneo, are relatively poorer regions of Malaysia with less manufacturing and services activity.

Malaysia also is economically divided along urban/rural lines and between its ethnicities. Malaysia’s urban centers, such as Kuala Lumpur, are relatively prosperous and support a growing middle class, while its rural areas are comparatively underdeveloped. Malaysia’s major ethnic groups face differing economic conditions. The Chinese Malaysians are generally prosperous and play an important role in the nation’s commercial and trade sectors. The Indian Malaysians are split into a comparatively wealthy few and a comparatively poor many. Though they constitute a majority of the population, Malays and other indigenous people (i.e., *bumiputra*) traditionally have been considered economically disadvantaged, leading to the 1971 introduction of the New Economic Policy (NEP) mentioned above.

Roughly half of Malaysia’s GDP comes from the services sector. Manufacturing provides an additional 26% of GDP and mining contributes 13%. Agriculture supplies 11% of GDP. Trade-related services (such as finance, insurance, and business services) and tourism-related services dominate the services sector. Malaysia mainly manufactures consumer electronics, much of it parts and components for export and use in regional manufacturing supply chains. Malaysia exports three major crops: cocoa, palm oil, and rubber.

Trade Relations with the United States

Malaysia is a significant trading partner for the United States, but the United States is an even more important trading partner for Malaysia. In 2013, Malaysia was the 25th-largest market for U.S. exports and the 18th-largest supplier of U.S. imports. By contrast, the United States was Malaysia’s 4th-largest export market (after Singapore, China, and Japan) and the 4th-largest supplier of imports (after China, Singapore, and Japan).

Table 2. Official Merchandise Trade Figures: Malaysia and United States

(U.S. dollars in billions)

Year	Malaysia Trade Data		U.S. Trade Data	
	Exports to United States	Imports from United States	Imports from Malaysia	Exports to Malaysia
2013	N.A.	N.A.	\$27.3	\$13.0
2012	\$19.7	\$15.9	\$26.7	\$12.9
2011	\$18.9	\$18.1	\$26.5	\$14.2
2010	\$19.0	\$17.5	\$26.6	\$14.0
2009	\$17.3	\$13.9	\$23.9	\$10.4
2008	\$24.9	\$17.0	\$31.6	\$13.0

Source: International Monetary Fund, *Direction of Trade Statistics*; U.S. International Trade Commission

The two nations report significantly different amounts for their bilateral trade, with the United States listing higher values for imports from Malaysia and lower values for exports to Malaysia over the last five years (see **Table 2**).⁶ As a result, the United States reports a higher bilateral trade deficit with Malaysia, while Malaysia reports a lower bilateral trade surplus.

In merchandise trade, electrical machinery and equipment dominate trade flows in both directions, reflecting Malaysia's role as a major source for consumer electronics. According to official 2013 U.S. trade data, \$5.4 billion in electrical machinery and equipment (as listed under harmonized tariff schedule [HS] 85) was exported to Malaysia and \$14.8 billion was imported from Malaysia, representing 42% of total exports and 54% of total imports. Other major exports to Malaysia were (in order) aircraft and aircraft parts (HS 88)—\$1.6 billion; and machinery and mechanical equipment (HS 84)—\$1.4 billion. Other major imports from Malaysia were (in order) machinery and mechanical appliances (HS 84)—\$4.0 billion; optical, photographic, cinematographic, medical or surgical instruments and apparatus (HS 90)—\$1.6 billion; and rubber and rubber articles (HS 40)—\$1.4 billion.

According to the U.S. Bureau of Economic Analysis (BEA), U.S. services exports to Malaysia in 2012 totaled \$2.45 billion, and services imports from Malaysia totaled \$1.36 billion. About one-third of U.S. services exports to Malaysia and over half of the services imports from Malaysia were business, professional, or technical services.

Over 600 U.S. companies operate in Malaysia, many in the electronics and information technology industries. Total U.S. foreign direct investment (FDI) in Malaysia as of the end of 2012 was \$12.39 billion. Roughly half of this was in manufacturing (largely electronics), and about a quarter was in mining. By contrast, Malaysia has very little FDI in the United States. According to BEA, the total value of Malaysia's FDI in the United States as of 2012 was \$662 million.

Trans-Pacific Partnership Negotiations

Both Malaysia and the United States are parties to the ongoing negotiations to create a new trade agreement known as the Trans-Pacific Partnership (TPP).⁷ The United States entered into negotiations with the four members (P4)—Brunei, Chile, New Zealand, and Singapore—of the Trans-Pacific Strategic Economic Partnership in 2008. Malaysia was accepted as the ninth negotiating party in October 2010.⁸ The Obama Administration has made the successful conclusion of the TPP talks a major priority for its international trade policy.⁹

Prior to joining the TPP talks, Malaysia had been negotiating a bilateral trade agreement with the United States since March 2006.¹⁰ In October 2010, the U.S. Trade Representative officially

⁶ The discrepancy between the official Malaysian and U.S. trade statistics is not unusual. The United States evaluates its exports and imports differently from most other nations, but the methods of accounting are equally accurate.

⁷ For more about the TPP negotiations, see CRS Report R42694, *The Trans-Pacific Partnership (TPP) Negotiations and Issues for Congress*, coordinated by Ian F. Fergusson.

⁸ Australia, Peru, and Vietnam joined the TPP talks in 2008. Mexico and Canada joined in 2012, and Japan in 2013. A new member cannot join the negotiations unless it gains consent from all the current parties to the talks.

⁹ Penny Pritzker, "America's Economic Future in the Asia-Pacific," remarks as delivered at the Johns Hopkins University School of Advanced International Studies, Washington, DC, April 17, 2014.

¹⁰ For more information about the bilateral trade talks, see CRS Report RL33445, *The Proposed U.S.-Malaysia Free Trade Agreement*, by Michael F. Martin.

notified Congress that the bilateral trade talks would be folded into the TPP negotiations. Talks on the bilateral trade agreement reportedly had stalled on several issues, including

- Malaysia’s government procurement policies, which give preferential treatment for certain types of Malaysian-owned companies;
- provisions for intellectual property rights (IPR) protection; and
- market access for key commodities and services.

These same issues reportedly pose problems in the TPP negotiations. The language in a proposed chapter on state-owned enterprises has supposedly been an area where the United States and Malaysia have significant differences of opinion.¹¹ One issue on which Malaysian TPP negotiators reportedly have found common ground with at least some Americans engaged in TPP-related advocacy is a proposed exclusion of tobacco. A letter signed by 45 U.S. state attorneys general in January 2014 called on the U.S. Trade Representative (USTR) to support the Malaysian proposal to “carve out” tobacco from all provisions of the TPP.¹² They asserted that this measure would “preserve the ability of state and local governments to regulate tobacco products to protect the public health.” Meanwhile, the USTR has advanced an alternative proposal that contains general exceptions necessary to protect life and health—and applies those to tobacco—but allows the invocation of dispute settlement over tobacco control regulations.

Prime Minister Najib repeatedly has expressed his support for the TPP but faces strong opposition to the trade agreement at home. Malaysia’s farmers want greater access to the U.S. market, but are concerned about increased competition from U.S. agricultural exporters. Some Malaysian manufacturing sectors are apprehensive about increased competition from major U.S. corporations. Malaysia’s health care providers and the population in general are worried about access to affordable pharmaceuticals if IPR provisions supported by the United States are included in the TPP agreement. Some of the possible provisions on government procurement and state-owned enterprises are viewed by some Malaysians as unacceptable infringement on Malaysia’s sovereignty and its system of ethnic preferences. Finally, opposition politicians have strongly criticized the government for a lack of transparency in pursuing the negotiations. Under Malaysian law, a TPP agreement, if concluded, must be approved by the Cabinet, with Parliament able to question government ministers on issues addressed in the agreement.

Other Trade Issues

While the TPP negotiations are the main focus at present, other issues also affect trade relations between Malaysia and the United States. The United States has had concerns about Malaysia’s IPR protection and would like greater market access for U.S. exports. USTR placed Malaysia on its Special 301 Watch List in 2000 for allegedly inadequate IPR protection, but removed it in 2011. In addition, according to USTR, Malaysia’s tariffs and other restrictions on the import of automobiles, automobile parts, and agricultural goods (e.g., regulations on halal food) exceed international norms and restrict U.S. trade with Malaysia. Finally, Malaysia maintains limits on foreign ownership in certain sectors (for example, architectural, engineering, and financial

¹¹ “Malaysia Flags Major TPP Outstanding Issues, Says U.S. Needs TPA to Close,” *Inside U.S. Trade*, February 28, 2014.

¹² “45 State Attorneys General Call for Tobacco Carve Out in the TPP,” Action on Smoking & Health website, January 28, 2014, <http://ash.org/45-state-attorneys-general-call-for-tobacco-carve-out-in-the-tpp>.

services), as well as licensing and registration restrictions that block greater access for U.S. companies and individuals.¹³

Malaysia will assume the chair of ASEAN in 2015, during which the 10 ASEAN members are to finalize their ASEAN Economic Community (AEC) agreement and the 16 nations negotiating the Regional Comprehensive Economic Partnership (RCEP) are supposed to conclude their talks. RCEP is a proposed regional trade agreement among the 10 ASEAN members (Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, and Vietnam), plus Australia, China, India, Japan, New Zealand, and South Korea—similar to the proposed TPP. RCEP negotiations are in their initial stages, but the 16 nations involved have set a goal of concluding the agreement by 2015. Some observers perceive RCEP as a competitor to the TPP, and worry that Malaysia and other nations that are a party to both talks will shift their focus to RCEP if the TPP talks stall. USTR has stated that it sees the two trade agreements as complementary and that the United States is not interested in joining the RCEP negotiations at this time.

Domestic Politics

Malaysia has enjoyed a high degree of political stability since it gained independence in 1957. Political coalitions led by the United Malays National Organization (UMNO), the country's dominant political party, have ruled Malaysia without interruption since independence. The present coalition is known as Barisan Nasional (BN, or National Front). Each of Malaysia's seven Prime Ministers has been a member of UMNO, a Malay-nationalist party that draws its membership from the country's Malay majority. The head of state is technically the monarch of Malaysia, the *Yang di-Pertuan Agong*, a position that rotates among the sultans of nine Malay states every five years. The monarch's powers are largely ceremonial.

UMNO's position at the center of the ruling coalition reflects the importance of ethnicity, and to a lesser degree religion, in Malaysian politics. In the 1970s, in an effort to reduce tensions between the nation's Muslim Malay majority and minority groups (primarily Chinese and Indian), UMNO leaders implemented the NEP. At the same time, UMNO recruited smaller parties that represented the country's Chinese and Indian communities into the ruling coalition. In the decades since, the question of the NEP's *bumiputra* preferences, and more broadly of ethnic identity, has become one of the defining issues in Malaysian politics.

Malaysia's political landscape is marked by several obstacles to achieving a more robust democracy. Uneven election districting has long elevated the importance of rural electoral districts, and Malaysian election laws require that the states of East Malaysia also retain disproportionate numbers of parliamentary seats—both of which work to UMNO's advantage, as many of these districts are UMNO strongholds. Opposition leaders frequently face government harassment and legal action that many allege is intended to be defamatory.¹⁴

Despite these structural handicaps, Malaysian politics has become increasingly competitive over the past two national elections, in 2008 and then 2013. The BN coalition failed to win two-thirds

¹³ "2014 National Trade Estimate Report on Foreign Trade Barriers," Office of the United States Trade Representative, Washington, DC, March 2014.

¹⁴ "Malaysia: Anwar Ibrahim Decision 'A Bleak Day for Justice'," Amnesty International, March 7, 2014.

of the Parliament's seats in these elections, for the first time. Minority voters in particular shifted their support to opposition parties because of disillusionment with corruption and with the persistence of what many minorities consider to be discriminatory pro-Malay affirmative action policies. The primary opposition coalition is known as the Pakatan Rakyat (PR, or People's Alliance) and consists of three major parties: the Democratic Action Party (DAP), the Parti Keadilan Rakyat (PKR, or Keadilan), and the Parti Islam se-Malaysia (PAS). PR is a loose coalition that represents dramatically different constituencies and policy agendas. The poor election results of the ruling coalition's minority-based parties have raised concerns among some Malaysian observers about the potential for growing ethnic polarization in the country.¹⁵

In May 2013, the BN won nationwide parliamentary elections, but the results were controversial. The BN won only 47% of the popular vote compared with 51% for the opposition coalition, but won 133 out of Parliament's 222 seats—over 60% of the Parliament. Opposition parties alleged that widespread electoral fraud contributed to the BN's victory, and a series of public protests ensued, drawing tens of thousands of people to several protests in Kuala Lumpur. Some political observers believe the ruling coalition's performance in the elections has weakened Prime Minister Najib's political position, and therefore Najib may take a cautious stance on controversial economic reforms and foreign policy initiatives, such as the TPP.¹⁶

The position of opposition leader Anwar Ibrahim is of particular sensitivity in Malaysia, and in U.S.-Malaysia relations. From 1993 to 1998, Anwar was the country's Deputy Prime Minister, a UMNO member who was widely considered the heir apparent to longtime Prime Minister Mahathir. After a public break with Mahathir in 1998, Anwar was arrested and accused of sodomy, a crime under Malaysian law. In response to the accusations and evidence of abuse in detention, in October 1998 the U.S. Senate passed S.Res. 294, which called on the Malaysian government to hold a fair trial for Anwar and to preserve the right to express political views freely. U.S. government officials and many international groups criticized the subsequent trial as politically motivated, but Anwar was convicted in 1999 and remained in prison until 2004, when Malaysia's Supreme Court overturned the conviction. He subsequently became the most prominent figure in the country's political opposition. In 2008, Anwar was arrested again for a separate sodomy charge. He was acquitted of the charge in 2012, but, in March 2014 Malaysia's highest appeal court overturned the acquittal and reinstated the charge, sentencing him to five years in prison and potentially costing him the chance to stand in an important state election.

International human rights groups long have criticized other aspects of Malaysia's human rights record. The State Department's 2013 Country Report on Human Rights Practices reported, "The most significant human rights problems included obstacles preventing opposition parties from competing on equal terms with the ruling coalition; restrictions on freedoms of speech, assembly, association, and religion; and restrictions on freedom of the press, including media bias, book banning, censorship, and the denial of printing permits."¹⁷ The State Department gave Malaysia a poor rating (Tier 2 Watch List) in the 2013 Trafficking in Persons report, which noted that the country is home to more than 2 million undocumented foreign laborers.¹⁸

¹⁵ Huihui Ooi, "What's Next, Malaysia?" Atlantic Council, The New Atlanticist blog, May 16, 2013, <http://www.atlanticcouncil.org/blogs/new-atlanticist/whats-next-malaysia>.

¹⁶ Jeremy Grant, "Knives out for Malaysia PM Najib Razak," *Financial Times*, February 5, 2014.

¹⁷ 2013 Country Report on Human Rights Practices: Malaysia, U.S. Department of State, Washington, DC, February 27, 2014, <http://www.state.gov/j/drl/rls/hrrpt/2013/eap/220209.htm>.

¹⁸ Trafficking in Persons Report 2013, U.S. Department of State, Washington, DC, June 19, 2013.

The Najib government has taken some incremental steps to reduce restrictions on freedom of expression. In September 2011, Najib announced that Malaysia's long-standing Internal Security Act (ISA) would be repealed. Seven months later, in April 2012, Parliament passed a new law called the Security Offenses (Special Measures) 2012 Act (SOSMA), which relaxed some of the ISA's provisions, stating that "no person shall be arrested or detained ... solely for his political belief or political activity" and limiting the period individuals can be detained by police without formal charge. However, SOSMA toughened other provisions; for example, allowing police to intercept communications without judicial approval. Human rights groups have criticized the new measures as still overly restrictive.¹⁹

Malaysia's Diplomacy and Regional Relations

Malaysia harbors a strong self-image as one of Southeast Asia's regional leaders, and as a moderate, Muslim-majority state that can be a political and economic model for others in the Islamic world. It also has been a mediator in seeking to resolve some regional conflicts, most prominently peace talks between the Philippine government and a separatist group in the southern Philippines.

Malaysia was one of the six founding members of ASEAN, Southeast Asia's primary multilateral forum, and it has been a steady proponent of the consensus-based model for regional coordination. Kuala Lumpur was chosen to chair ASEAN in 2015, the year the body hopes to complete the proposed ASEAN Economic Community agreement to strengthen trade and investment bonds. Malaysia is active in many ASEAN initiatives, including the ASEAN Defense Ministers Meeting-Plus (ADMM+), where it worked with Australia as co-chairs of a multilateral maritime security exercise in September 2013.

Among other important issues for Malaysia in its relations with neighboring countries are managing relations with Singapore, with which Malaysia has a deep economic interdependency; dealing with the sometimes-violent separatist insurgency in southern Thailand, along Thailand's borders with Malaysia; combatting piracy in the Straits of Malacca along with Indonesia and Singapore; repelling Philippine armed groups that claim parts of Malaysian territory in Sabah; and managing immigration and migrant labor communities from Indonesia, Burma, and other neighbors.

South China Sea Maritime Disputes

Malaysia is one of four Southeast Asian nations with maritime territorial disputes with China (the others are Brunei, the Philippines, and Vietnam). It generally has pursued a less forceful diplomatic approach with China than have the Philippines and Vietnam, and it has sought to have all parties agree to a Code of Conduct to manage behavior in disputed waters. Negotiations between ASEAN's 10 members and China over such a code began in September 2013. Chinese claims in the South China Sea overlap with the Exclusive Economic Zone (EEZ) to which Malaysia is entitled under international law, including the U.N. Convention on the Law of the Sea. Malaysia's own claims also overlap with territorial claims made by the Philippines, Vietnam, and Taiwan.

¹⁹ See Human Rights Watch, *Smoke and Mirrors: Malaysia's "New" Internal Security Act*. June 19, 2012.

Because Malaysia is farther geographically from China than the Philippines and Vietnam, incidents at sea between its vessels and vessels from China comparatively are less frequent than Sino-Philippine or Sino-Vietnam incidents. However, in 2013 and 2014 Chinese naval vessels operating as far south as James Shoal, about 50 miles north of the Malaysian coast in Borneo, raised concerns in Malaysia that Chinese territorial assertions in Malaysian-claimed waters may grow more frequent. Observers note that Malaysia has considerable economic interests in the South China Sea—particularly in oil and gas development. Chinese maritime law enforcement vessels reportedly have interfered with the operation of vessels operated or contracted by Malaysia’s state energy company Petronas.²⁰

Over the past decade, Malaysia regularly has sought to foster more cooperation among Southeast Asian claimants in efforts to resolve their own disputes and to bolster their claims in disputes with China. For example, in 2007 Malaysia joined Vietnam in submitting a joint extended continental shelf claim to the U.N. Commission on the Limits of the Continental Shelf—a submission that China formally protested. Malaysia’s maritime territorial dispute with Brunei was resolved when the two countries signed a boundary agreement in April 2009, facilitated by a subsequent agreement between Petronas and the Brunei government to develop energy blocks off Borneo Island. Some observers describe the agreement as a potential model for utilizing joint development as a means to resolve territorial disputes.²¹

Security Cooperation

The Malaysian military participates in a variety of cooperative security activities on a bilateral and multilateral basis with partners from Southeast Asia and outside the region. Malaysia is a member of the Five-Power Defense Arrangement (FPDA), an agreement between Malaysia, Australia, New Zealand, Singapore, and the United Kingdom to coordinate for mutual defense. The Malaysian and Singaporean militaries cooperate very closely. Malaysia periodically conducts bilateral military exercises with its larger neighbors, China and India. Through the ASEAN-led security groupings—the ASEAN Regional Forum (ARF), the ASEAN Defense Ministers’ Meeting (ADMM), and the ADMM Plus—Malaysia has participated actively in regional security dialogues and cooperative activities. As an example of the potential for conflict avoidance mechanisms in the region, in 2013 Malaysia and Vietnam agreed to establish a “direct connection” communication link between a Malaysian naval base and Vietnam’s Southern Command.²² In the Straits of Malacca, the Malaysian military and maritime law enforcement work closely with counterparts from Singapore and Indonesia on anti-piracy measures that have considerably lessened the incidence of piracy in the heavily traveled waters over the past decade.

Conflict Mediation and Promotion of Moderate Islam

Malaysia promotes itself as a leading voice for moderate Muslim countries; Kuala Lumpur maintains good relations with the United States and other Western countries while speaking out for Islamic causes, such as the status of the Palestinians. Malaysia is an active participant in the Organization of Islamic Conferences (OIC), and even has launched its own initiative, the Global

²⁰ Carlyle A. Thayer, “Can ASEAN Rise to the Chinese Challenge?” Yale Global Online, March 18, 2014.

²¹ See, for instance, Clive Schofield, “Maritime Energy Resources in Asia: Legal Regimes and Cooperation,” National Bureau of Asian Research, February 2012.

²² “Malaysia boosts its regional defense cooperation,” *United Press International*, November 1, 2013.

Movement of Moderates (GMM), to diminish extremist voices and improve the public image of Muslims worldwide.

Within Southeast Asia, Malaysia has played an active role as a mediator in conflicts between rebel Muslim groups and the central government in both Thailand and in the Philippines. Malaysia helped to broker a 2014 peace agreement between Manila and the Moro Islamic Liberation Front (MILF), a group that seeks more autonomy for the Muslim minority in the southern Philippines.

U.S.-Malaysia Security Relations

In a 2002 speech in Washington, DC, then-Defense Minister Najib Razak called the cooperative U.S.-Malaysia defense relationship “an all too well-kept secret.”²³ Despite discord at the political leadership level, the United States and Malaysia have maintained a steady level of defense cooperation since the 1990s, and several aspects of that cooperation improved in the 2010s as the overall relationship warmed. The Obama Administration’s strategic rebalancing to the Asia-Pacific region has put more emphasis on bolstering security ties with Malaysia and other so-called “emerging partners.”

During the 2000s, a major focus of U.S.-Malaysia security cooperation was counter-terrorism activities aimed at terrorist networks operating in Southeast Asia.²⁴ Malaysia itself has not been a base for major terrorist or insurgent groups, but it played a central role as a moderate Muslim voice against terrorism and as a capacity-building partner, establishing the Southeast Asia Regional Centre for Counter-Terrorism in 2003. Based on a 2002 bilateral Memorandum of Understanding on counter-terrorism, the law enforcement and intelligence communities of the United States and Malaysia also have enhanced their cooperation in areas such as tracking financial flows. In FY2013 and FY2014, the United States provided Malaysia with \$2 million in assistance through the International Narcotics Control and Law Enforcement (INCLE) program and the Nonproliferation, Anti-Terrorist, Demining and Related Programs (NADR).

The U.S. and Malaysian defense establishments have built solid ties through frequent military exercises, combined training, ship visits, and military education exchanges. Every year, dozens of Malaysian officers study at U.S. professional military education institutions through International Military Education and Training (IMET) programs. The United States and Malaysia jointly fund these exchanges to build interpersonal connections and to improve the professionalism of the Malaysian military. In 2013, the U.S. and Malaysian militaries conducted over 75 cooperative activities, highlighted by jungle warfare training at a Malaysian facility, bilateral exercises like Kris Strike, and multilateral exercises like Cobra Gold, which is held in Thailand and involves thousands of personnel from several Asian countries plus the United States. Since 2010, Malaysia has participated in the biennial “Rim of the Pacific” (RIMPAC) multilateral naval exercises held near Hawaii. U.S. military vessels dock at ports in Malaysia for re-supply, for maintenance, and to allow U.S. servicemembers to build ties with their Malaysian counterparts.

²³ Najib bin Abdul Razak, “U.S.-Malaysia Defense Cooperation: A Solid Success Story,” remarks as prepared for delivery at the Heritage Foundation, Washington, DC, May 3, 2002.

²⁴ For more information, see CRS Report RL34194, *Terrorism in Southeast Asia*, coordinated by Bruce Vaughn.

As the number of U.S. ship visits to Malaysia rose from single digits in the early 2000s, to 10s of visits in the late 2000s, and then to more than 30 visits in 2011, the U.S. Navy began to investigate the suspicious port-hosting contracts of a Malaysian businessman, Leonard Glenn Francis. In 2013, the Navy concluded that Francis's company, Glenn Defense Marine Asia (Glenn Marine), had bribed high-ranking American officers and bilked the Navy out of tens of millions of dollars.²⁵ The Glenn Marine scandal led to the investigation of two admirals and a Navy-wide review of similar supply contracts around the world.

The Mysterious Disappearance of Flight MH370: What Did We Learn?

In the early morning hours of March 8, 2014, Malaysia Airlines Flight MH370, flying from Kuala Lumpur to Beijing, ceased normal communication with air traffic controllers and deviated from its course. The path of the missing aircraft was uncertain for more than a week after its disappearance. Eventually, data from military radar in the area and from satellites operated by the British company Inmarsat determined the flight's likely trajectory: the aircraft appeared to have veered west over the Malay Peninsula and then flew south over the Indian Ocean. Malaysian authorities announced on March 24 that the flight "ended in the southern Indian Ocean;" the crew and 239 passengers presumably died.²⁶ As of mid-April 2014, there was no clear cause for the diversion of Flight MH370 and its presumed crash into the ocean.

In the international and Malaysian reporting on the plane's disappearance, several narratives emerged that attempt to draw broader conclusions from this incident. Critics of the Najib government argue that the Malaysian authorities performed poorly in this crisis and displayed an endemic inefficiency, poor coordination, paternalism, and incompetence.²⁷ Defenders of the government's performance point out that the case of Flight MH370 was uniquely complex and that few governments have the capacity for handling such an incident.²⁸

The need for international cooperation in locating the missing aircraft showcased both the strengths and weaknesses of cooperative efforts in the Asia-Pacific region. On one hand, observers (in China, especially) criticized the Malaysian government for being too slow to share information and for being unwilling to reveal data from military sources.²⁹ The ad hoc response from the international community showed the limits of existing international organizations to handle such an incident. On the other hand, many countries contributed military and civilian resources to locating the plane and coordinated their search efforts.³⁰

The United States assisted Malaysia in several aspects of the response. FBI agents aided in the investigations of passengers and crew in Malaysia. Officials from the National Transportation Safety Board (NTSB), along with technical advisers from Boeing and the Federal Aviation Administration (FAA), helped to determine the trajectory of Flight MH370. The U.S. military mobilized a number of ships and aircraft, including highly specialized equipment, to search for the downed plane at a cost of at least \$7.3 million through mid-April 2014.³¹ A senior U.S. official praised the Malaysian government for its efforts and asserted that the cooperative effort to investigate the plane's disappearance could help to build bilateral ties.³²

U.S.-Malaysia security cooperation extends around the world, to include peacekeeping, counter-piracy, and reconstruction operations. As mentioned above, from 2010 until 2013 Malaysia

²⁵ Christopher Drew and Danielle Ivory, "Navy Was Warned of Contractor at Center of Bribery Inquiry," *New York Times*, November 20, 2013.

²⁶ "Transcript of Malaysian Prime Minister Najib Razak's statement on flight MH370," *Associated Press*, March 24, 2014.

²⁷ Hui Mei Liew Kaiser, "Tall Stories," *Foreign Policy*, March 25, 2014.

²⁸ "Tough for Malaysia If Foreign Govts Slow to React or Not Forthcoming with Info," *Star* (Malaysia), March 20, 2014.

²⁹ Gordon Lubold, "The Fear of Sharing and the Search for Flight 370," *Foreign Policy*, March 30, 2014.

³⁰ Santha Oorjitham, "Missing MH370: Unprecedented Level of Cooperation," *Star* (Malaysia), March 21, 2014.

³¹ For more information on U.S. military participation in the search for flight MH370, see the U.S. Defense Department website, "Navy Assists Search for Malaysian Airliner," http://www.defense.gov/home/features/2014/0314_flight370.

³² Yoichi Kato, "INTERVIEW/ Evan Medeiros: China's Attempt to Isolate Japan Worsens Bilateral Relations," *Asahi Shimbun*, April 6, 2014.

deployed a contingent of 40 military medical personnel to Afghanistan, where they made contributions to public health (especially women's health) and clean water access. The U.S. and Malaysian navies cooperate to combat piracy near the Malacca Strait and, as part of the international counter-piracy coalition, off the Horn of Africa. Malaysia is a large contributor to U.N. peacekeeping operations, and has roughly 900 personnel serving in several missions, as of April 2014. In December 2013, Malaysia became the first country to complete the peacekeeping training program run by the U.S. State Department's Office of the Global Peace Operations Initiative.

Malaysia has purchased high-technology U.S. weapons systems in the past, notably the F/A-18D Hornet strike fighter aircraft, but its recent major defense purchases mostly have been of European equipment. The most modern Malaysian fighter aircraft is the Russian Su-30MKM Flanker, and the French "Scorpene" design won the contract for Malaysia's only two submarines. The Malaysian defense budget for FY2013 was \$4.72 billion. Reportedly, U.S. defense firms are interested in establishing close partnerships with their Malaysian counterparts to cooperate in military procurement.³³

Outlook

Many observers believe that, in the near term, bilateral U.S.-Malaysia relations may benefit from the same factors that have produced warmer ties in recent years: Prime Minister Najib's relatively pro-American alignment and the Obama Administration's rebalancing strategy. President Obama's April 2014 visit to Malaysia helped to solidify the relationship by "reinvigorating" the Senior Officials Dialogue. The main policy challenge for Washington and Kuala Lumpur in the immediate future will be the TPP negotiations. The result of the negotiations and the domestic process of ratification, in which Congress would play the key role, will be a major factor in defining the overall state of U.S.-Malaysia relations.

The future of domestic politics in Malaysia is difficult to forecast with confidence. The ruling BN coalition no longer has a stranglehold on political power, but the opposition coalition PR has been unable to gain a parliamentary majority in the last two national elections. The distribution of seats in favor of rural constituencies and the deference of the mainstream press to government narratives will continue to favor the UMNO-led coalition. On the other hand, dissatisfaction with government inefficiency and corruption could give the opposition enough popular support to capture a majority in the next elections, which must be held by 2018. The government's treatment of Anwar Ibrahim runs the risk that it could engender more sympathy for the opposition leader and could backfire on UMNO in the long run.

Many observers believe the NEP's set of ethnic preferences also will be a key issue for Malaysia in the years ahead. Although the NEP has been given some credit in addressing Malaysia's income disparities and maintaining peaceful relations among ethnic groups, it also has fostered resentment among Malaysia's Chinese and Indian minorities. The NEP policies favoring *bumiputra*-owned domestic companies in government hindered earlier FTA negotiations with the United States. However, many analysts see the NEP as a bedrock of the Malaysian political

³³ Andrew Shapiro, "U.S.-Malaysia Partnership," remarks as prepared for delivery at Malaysia Armed Forces Defense College, Kuala Lumpur, Malaysia, February 15, 2012.

economy and believe that any move strongly to scale back preferences for *bumiputra* would face deep opposition from many members of the Malay ethnic majority.

Prime Minister Mahathir long promoted a “Vision 2020,” which sought to make Malaysia into a developed country by that year, and the 2020 goal has been taken up by subsequent UMNO-led governments. Although Malaysia’s GDP has grown steadily in the last decade, rebounding quickly from the 2008-2009 global financial crisis, several challenges remain. Within Southeast Asia and worldwide, Malaysia faces stiff competition from other low-wage countries attempting to promote their manufacturing sectors and grow exports. Some observers argue that the quality of the education system is not sufficient for development of a high-technology economy. Many of Malaysia’s top students go abroad for higher education, or find work overseas after graduation, a phenomenon known as “brain drain.” At the same time, the TPP and RCEP trade agreements could be an opportunity to grow the Malaysian economy through expanded trade.

Many of Malaysia’s challenges in the years ahead will mirror those of other Southeast Asian nations. Like others in ASEAN, Malaysia continually seeks to balance the involvement of the United States, China, Japan, India, and others in regional affairs, while maintaining its own independence and that of ASEAN broadly. Malaysia competes with other Southeast Asian nations as an exporter and as a destination for foreign investment, but Southeast Asia as a region also competes with other parts of the world. Southeast Asian nations must decide how deeply to proceed with economic integration aimed at promoting a broader regional trading and investment hub. As ASEAN’s chair in 2015, the organization’s target year for completing an ASEAN Economic Community, Malaysia will face challenges in balancing the region’s trade and investment agendas, while also providing leadership on regional security issues such as lowering tensions in the South China Sea.

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