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Cooperation from Strength

The United States, China and the South China Sea

Edited by Patrick M. Cronin

Contributors: Patrick M. Cronin, Peter A. Dutton, M. Taylor Favel,
James R. Holmes, Robert D. Kaplan, Will Rogers and Ian Storey



Center for a
New American
Security

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CHAPTER I:
COOPERATION FROM STRENGTH: U.S. STRATEGY
AND THE SOUTH CHINA SEA

By Patrick M. Cronin and Robert D. Kaplan

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Cooperation from Strength
The United States, China and the South China Sea



COOPERATION FROM STRENGTH: U.S. STRATEGY AND THE SOUTH CHINA SEA

By Patrick M. Cronin and Robert D. Kaplan

I. EXECUTIVE SUMMARY

American interests are increasingly at risk in the South China Sea due to the economic and military rise of China and concerns about its willingness to uphold existing legal norms. The United States and countries throughout the region have a deep and abiding interest in sea lines of communication that remain open to all, both for commerce and for peaceful military activity such as humanitarian interventions and coastal defense. China, however, continues to challenge that openness, both by questioning historical maritime norms and by developing military capabilities that allow it to threaten access to this maritime region.

The geostrategic significance of the South China Sea is difficult to overstate. The South China Sea functions as the throat of the Western Pacific and Indian Oceans – a mass of connective economic tissue where global sea routes coalesce, accounting for \$1.2 trillion in U.S. trade annually. It is the demographic hub of the 21st-century global economy, where 1.5 billion Chinese, nearly 600 million Southeast Asians and 1.3 billion inhabitants of the Indian subcontinent move vital resources and exchange goods across the region and around the globe. It is an area where more than a half-dozen countries have overlapping territorial claims over a seabed with proven oil reserves of seven billion barrels as well as an estimated 900 trillion cubic feet of natural gas.

Defending U.S. interests and promoting the status quo need not – and should not – lead to conflict with China. Both the United States and China will continue to benefit from cooperation and, indeed, no Asian country has benefitted more from the U.S.-led system of international order than China. Nevertheless, managing tensions and advancing cooperation in the South China Sea will require persistent, painstaking attention in Washington.

In the decades ahead, the challenge for the United States will be how to preserve historic norms regarding the freedom of navigation while adapting to the growing power and activity of regional actors, including China. The aim is cooperation, but cooperation can best be advanced from a position of strength. This will require maintaining U.S. strength and wider regional cooperation, a concept that might be called “cooperative primacy.”

To protect U.S. and allied interests in the South China Sea and preserve longstanding legal norms, U.S. policymakers should take five general steps:

First, the United States should strengthen its naval presence over the long term by building toward a 346-ship fleet rather than retreating to the 250-ship mark that the United States faces due to budget cuts and the decommissioning of aging warships in the next decade. Diplomatic and economic engagement with China and others will work better when backed by a credible military posture. However, growing the Navy must be contingent on healthy economic growth in the future – a strategic priority for the United States.

Second, the United States should foster a new web of security partnerships. The “hub and spoke” model of alliances between the United States and its East Asian partners is being eclipsed by a broader, more complicated and more diffuse web of relationships in which Asian countries are the primary drivers. Building a distributed network of stronger partners and allies in Southeast Asia should be an important, long-term objective of the United States.

Third, the United States needs to ensure that peace and security in the South China Sea remain at the top of its diplomatic and security agenda. Freedom of navigation is a universal concern, and maritime cooperation and mechanisms for peacefully resolving disputes should continue to be tackled in regional forums. The United States also needs

to build multilateral institutions over the long run while recognizing that it may need to focus on bilateral or minilateral approaches in practice to avoid provoking China.

Fourth, the United States should promote further economic integration within the region, as well as between the United States and the region, with a particular focus on trade. Trade is the currency of the realm in Asia and can help link America’s strategic investments to the most dynamic region in the world.

Fifth and finally, the United States will need to get its China policy right. This will require active diplomatic and economic engagement backed by a strong U.S. military and a growing economy. A realistic policy begins by shoring up American power and then actively supports rules-based cooperation; it avoids military conflict but not diplomatic confrontation.

II. INTRODUCTION

American interests are increasingly at risk in the South China Sea. Defending these interests need not – and should not – lead to conflict with China. However, managing tensions and advancing cooperation in the South China Sea will require persistent, painstaking attention in Washington.

The significance of the South China Sea remains undervalued, debated chiefly among experts on the region rather than by a broad cross-section of the national security community. Yet the South China Sea deserves priority attention. As the decades-old rules-based system fostered by the United States is being called into question by a rising China, the South China Sea will be the strategic bellwether for determining the future of U.S. leadership in the Asia-Pacific region. The issue of whether the Western Pacific remains an open, stable and prosperous maritime commons or increasingly becomes a polarized hotbed of contestation with Cold War-like rigidities is likely to be settled in this critical body of water. The South China Sea is where countries such as Vietnam, Malaysia and the Philippines face “Finlandization” by China if U.S. naval and air power diminishes. The South China Sea, in short, is where globalization and geopolitics collide.

To the extent that the world economy has a geographical center, it is in the South China Sea. About 90 percent of all commercial goods that travel from one continent to another move across water, and half of those goods in terms of gross tonnage (one-third in terms of monetary value) traverse the South China Sea.¹ The South China Sea functions as the throat of the Western Pacific and Indian Oceans – the mass of connective economic tissue where global sea routes coalesce, accounting for \$1.2 trillion in U.S. trade annually.² China’s overwhelming dependence on a secure Malacca Strait – its so-called “Malacca dilemma” – is shared to some extent by all major industrial nations.³ To

varying degrees, they all depend on this exceedingly narrow choke point joining the Indian Ocean to the Western Pacific – the Bay of Bengal to the South China Sea – so that Middle Eastern oil and natural gas can safely transit the high seas en route to the burgeoning middle-class conurbations of East Asia that are so critical to the world economy.

The South China Sea will be the strategic bellwether for determining the future of U.S. leadership in the Asia-Pacific region.

Geopolitics is the countervailing force to globalization, dividing the world rather than uniting it. The South China Sea is where a militarily rising China is increasingly challenging American naval preeminence – a trend that, if left on its present trajectory, could upset the balance of power that has existed since the end of World War II and threaten these sea lines of communication (SLOCs). As the principal guarantor of global freedom of navigation, the United States has a deep and abiding interest in ensuring that SLOCs remain open to all, not only for commerce but also for peaceful military activity, such as humanitarian interventions and coastal defense.

The United States can best protect a peaceful and prosperous regional order by preserving access to critical SLOCs. The inability of the United States to project sufficient power into the South China Sea would alter the security calculus for all of the countries in the region. If U.S. forces not only lose the ability to complicate the planning of adversaries but also become increasingly vulnerable to China’s steadily modernizing military, other states

in the region would have seemingly little alternative to bandwagoning with a powerful China.

As China continues to rise, the United States is perceived to be in at least relative, if not absolute, decline. Arguably, no metric of relative decline is more worrisome than the possible further diminution of U.S. maritime power. Whereas the Reagan-era U.S. Navy boasted almost 600 warships, the number presently stands at 284. Although the Navy's goal is to expand to 313 warships, current defense budgets, coupled with production delays and cost overruns, do not support that goal. Furthermore, with budget cuts in the offing, as well as the mass decommissioning of warships in the next decade because of age, the United States faces the prospect of a Navy with 250 ships or fewer.⁴

Of course, numbers of ships are only one dimension of naval power. Other dimensions include gross tonnage, weapons and capabilities aboard, the level of training of crews and joint interoperability across different military services, and the United States is in little danger of ceding superiority in these areas anytime soon. Moreover, there is talk in Washington of building a grand coalition of the navies of all freedom-loving countries to relieve the United States of its maritime burden as its power wanes.⁵ Nevertheless, numbers matter. A ship cannot be in two places at once and presence is a metric of naval power. America's reach should match its sprawling interests around the globe. In considering the ramifications of a smaller Navy, few places need more attention from Pentagon planners than the South China Sea, which connects the energy storehouses of the Middle East with the increasingly prosperous populations of East Asia.

We argue that American military dominance in the South China Sea will recede in relative terms as other nations, principally China, improve their naval and air forces and better integrate anti-ship

ballistic missiles, fifth-generation aircraft, submarines and surface combatants (including aircraft carriers) and cyber and outer space systems. This is a natural historical phenomenon. However, it is crucial that the adjusted balance of forces that emerges from this very dynamic situation be able to protect maritime trade through free and secure SLOCs.

The aim is cooperation, but cooperation can best be advanced through strength. Diplomatic and economic engagement will work better when backed by a credible military posture. This will require maintaining primacy through both U.S. strength and wider regional cooperation, a concept that might be called "cooperative primacy."

This capstone chapter amplifies the risks to the United States and its need to pursue both cooperation and primacy. It then examines China's shifting strategic posture vis-à-vis the South China Sea, before delving into several facets of maritime security, from the operational to the normative. Finally, it concludes with five general recommendations to guide U.S. policymakers. To prepare this capstone chapter, we traveled throughout Asia and parts of the South China Sea, interviewed chiefs of defense from across the region, met with other officials and experts and were briefed by specialists in Beijing, Shanghai, Singapore, Hanoi, Washington, the U.S. Pacific Command in Honolulu and elsewhere. We have also conducted expert seminars, commissioned papers for this volume and consulted reports published by think tanks throughout the United States and East Asia.

III. U.S. INTERESTS IN THE SOUTH CHINA SEA

The geostrategic significance of the South China Sea for the United States is difficult to overstate. The South China Sea is the demographic hub of the 21st-century global economy, where 1.5 billion Chinese, nearly 600 million Southeast Asians and 1.3 billion inhabitants of the Indian subcontinent move vital resources and exchange goods across the region and around the globe. More than a half-dozen countries – moving counterclockwise around the Sea: China, Taiwan, Vietnam, Malaysia, Singapore, Indonesia, Brunei and the Philippines – have overlapping territorial claims over a seabed that has proven oil reserves of seven billion barrels, as well as an estimated 900 trillion cubic feet of natural gas.

If Chinese calculations are correct, the South China Sea will ultimately yield 130 billion barrels of oil or more (although there is some doubt about these estimates, as Will Rogers discusses elsewhere in this volume). This would mean that the South China Sea contains more oil than any area of the globe except Saudi Arabia – leading some Chinese observers to call the South China Sea “the second Persian Gulf.”⁶ If there really is so much oil in the South China Sea – and if China can control it – then China may be able to lessen its reliance on the narrow and vulnerable Strait of Malacca (as well as the alternative Sunda and Lombok Straits) through which it imports so much energy from the Middle East. The China National Offshore Oil Corporation has invested \$20 billion in the belief that such amounts of oil really do exist in the South China Sea.⁷

It will be easier to avoid open conflict in the South China Sea than it will be to avoid growing competition. On the surface – amid the ebb and flow of conflicting territorial claims, legal disputes and military tensions – the recent upsurge in diplomatic theatrics over who owns what in the South China Sea does not appear to be intense enough to

heighten the risk of major interstate conflict in the near term. Indeed, the wealth of energy resources beneath the seabed and the shared reliance on freedom of navigation are prompting calls for new multilateral mechanisms for advancing stability and commerce. However, the South China Sea has also become the epicenter of what appears to be a long-term geopolitical struggle in which classical power politics and nationalism are intensifying alongside the rise of China.

Will the United States maintain a credible sea control capacity of the South China SLOCs or will China's anti-access and area-denial capabilities fundamentally neutralize that threat and thereby alter the strategic assumptions throughout the Indo-Pacific region?

There is an ineluctable geostrategic contest at work in the South China Sea, and that contest can be boiled down to this question: Will the United States maintain a credible sea control capacity of the South China SLOCs or will China's anti-access and area-denial capabilities fundamentally neutralize that threat and thereby alter the strategic assumptions throughout the Indo-Pacific region?

Whereas the other countries of the region maintain specific territorial claims based on their coastlines, China claims the vast middle of the

Sea itself. In the not-too-distant future, China's reemergence and its concomitant ability not only to press these claims but back them with military capabilities may call into question the credibility of American military might and decades of U.S. regional predominance: predominance that has kept regional disputes from escalating into warfare.

In this way, the South China Sea represents the wider global commons in microcosm – not only in its maritime and air dimensions but also in the crucial domains of cyberspace and outer space. In the South China Sea, all of these domains are potentially threatened by China's attempt, through military purchases and deployments, to deny American naval access. This is one reason why 16 of 18 countries at the East Asia Summit in November 2011 underscored the importance of maritime security, with most backing the need for multilateral mechanisms for resolving differing claims in the South China Sea.⁸

In the decades ahead, the challenge for the United States will be how to preserve historic norms – freedom of navigation above all else – while adapting to the growing power and activity of regional actors. Maintaining global public goods tied to the freedom of navigation will require continuing U.S. preeminence, especially naval primacy. At the same time, adaptation and increasing cooperation will be necessary. Thus, the United States must cooperate, but from a position of strength.

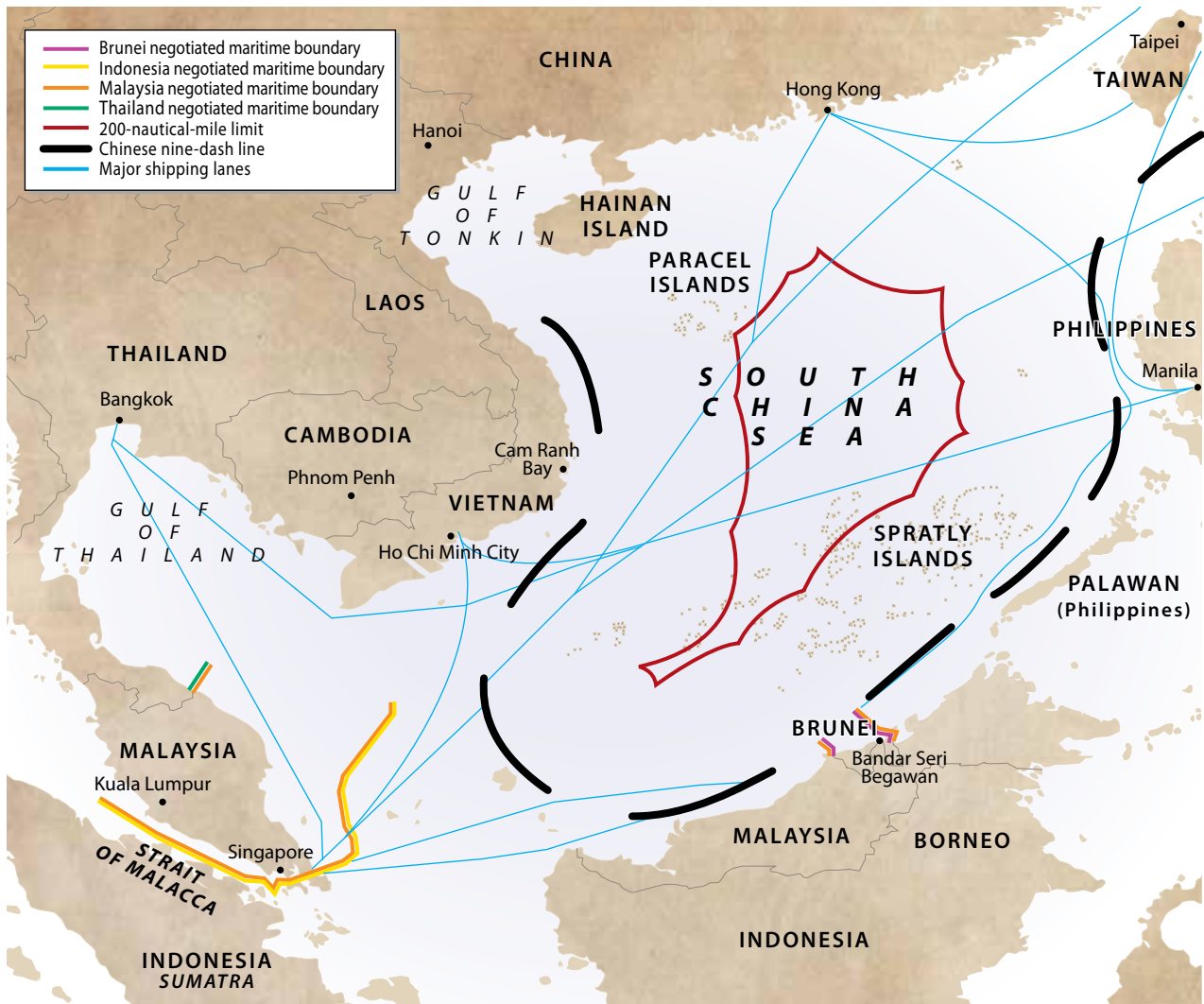
Although it may seem oxymoronic, cooperation from a position of strength is a way to foster regional diplomatic and economic integration while collectively preserving the balance of power as China rises. This approach is not contrary to China's interests: In fact, no Asian country has benefitted from this U.S.-led system as much as China. However, because the status quo is not sustainable indefinitely, the aim of cooperative primacy is to build a wider multilateral framework for stable change that preserves the rules of the

road for good order at sea. The economic and military rise of China threatens to unleash a storm of change in the South China Sea region. It is therefore crucial to maintain the key elements of the status quo: free trade, safe and secure SLOCs, and full-bodied independence – free of intimidation – for all the littoral countries within a rules-based international order.

As used here, primacy does not have to mean dominance: It means that the United States retains its role as a regional power in order to shepherd its allies and partners into doing more on their own behalf. In this way, the balance of power can be maintained, even as the burden on the United States decreases. The important thing, as President Obama stressed during a visit to the region in November 2011, is that all countries play by the same set of rules.

Multilateral security arrangements would partly help to check the ambitions of individual powers and thereby allow diplomacy and commercial affairs to transcend overt military competition. Bedeviling these issues is the battle over control of geographic space. Territorial disputes persist over specks of land in the South China Sea that, though submerged during high tide, may be surrounded by vast energy deposits. To wit, Brunei claims a southern reef of the Spratly Islands. Malaysia claims three islands in the Spratlys. The Philippines claims eight islands in the Spratlys and significant portions of the South China Sea. Vietnam, Taiwan and China each claim all of the South China Sea, as well as all of the Spratly and Paracel island groups.

Because these claims are so complex as to be nearly unsolvable, the United States has sought to mobilize the region around a common multilateral framework, building on the bilateral arrangements that presently define Washington's relations with the region. The United States working together with others can best hold China to international legal standards, if not actually change its behavior



Source: Middlebury College, Asian Studies Virtual Library, southchina.org. Accessed September 29, 2011.

in any fundamental way. But it will take persistent, long-term effort.

Despite the increasing summit-level attention focused on Asia and the South China Sea, much of Washington's strategic focus remains on the Middle East, which remains volatile despite a decade of warfare and state-building. In the summer of 2010, following acerbic verbal volleys between U.S. Secretary of State Hillary Rodham Clinton and Chinese Foreign Minister Yang Jeichi at the ASEAN⁹ Regional Forum in Hanoi, a distinguished American statesman queried

his State Department colleagues about why the United States was confronting China and pressing for a multilateral mechanism to avert conflict in the South China Sea.¹⁰ For at least this American statesman, the South China Sea did not hold obvious geopolitical value for the United States.

The United States must rebalance away from the conflict-ridden Middle East and toward the Asia-Pacific region, the center of the world economy. The SLOCs of the South China Sea are at the nexus of globalization and geopolitics. Less obvious is the fact that the South China Sea may be a critical

battleground for a transition in global power. It is where a rising China's quest for influence will most profoundly call into question America's superpower status in East Asia. America's interest and will are already being questioned.¹¹ The question of whether China and India will be able to rise together peacefully will be determined by how their naval power is used on either side of the Malacca Strait – in the South China Sea and the Bay of Bengal.¹² The emerging balance of power between a rising China and a relatively declining United States might be severely tested in the South China Sea, which is bound by China to the north, archipelagic Southeast Asia to the south and mainland Southeast Asia (Vietnam, which calls the body of water the East Sea) to the west. Trade is geographically determined by the location of natural resources and nodes of population – and both argue for the geopolitical and geoeconomic centrality of the South China Sea.

U.S. officials have discussed the need for a strategic shift toward Asia for a decade, going back to the 2001 Quadrennial Defense Review.¹³ The Obama administration recently articulated a grand strategy that would attempt this pivot – a logical progression of bipartisan U.S. national security policy.¹⁴ However, Washington should not assume that China will seek to facilitate an American pivot.

Much may depend on whether China views the deepening of America's posture in Asia as a mostly rhetorical shift or a potential strategic one.¹⁵ In either case, the United States faces serious challenges. Although America's alliances with the Republic of Korea and Japan are strong and likely to remain so – the legacy of mid-20th-century wars – America's position in the South China Sea region is less firmly moored by history, both in terms of force posture and with respect to clear, common objectives.

IV. CHINA'S EMERGING SOUTH CHINA SEA STRATEGY

China is impelled forward from its continental land mass out into the South China Sea by geography, history, resources and a clear desire to control its own vital SLOCs – sea lines that are subject to major vulnerability in the narrow Malacca Strait, as well as in the other South China Sea chokepoints of the Lombok, Makassar and Sunda Straits. In fact, if the Malacca Strait were closed for just one day, the disruption in energy supplies might cause social unrest in China, according to a well-placed officer of the People's Liberation Army.¹⁶ The vulnerability of the Malacca Strait to disruption makes China interested in alternative land routes for transporting energy and other goods.¹⁷

China's rapid rise to the point where a blue-water navy is becoming possible is creating tremendous uncertainty about future order in East Asia. America's strategy going back to World War I, and especially during the Cold War, focused on preventing any single power from dominating the Eurasian land mass. However, as economic and military power has shifted from the western to the eastern extremity of Eurasia – witness the Euro crisis and the implosion of European defense budgets – a more formidable China will inevitably seek to express its nationalism, historic rights and economic and resource needs through growing naval power. China's naval power, in turn, can easily be clustered in the South China Sea, at the confluence of the Pacific and Indian oceans. China is also fixated on building a blue-water navy to help safeguard its SLOCs all the way around the navigable seaboard of Eurasia to the Horn of Africa.¹⁸ It will be impossible to separate China's desire to achieve sea control over the SLOCs from a threat to open navigation.

China has strong motives, including legitimate historical reasons, to protect its wealthy South China

Sea coastal provinces, an area that constitutes about half of its total shoreline. The very wealth of these provinces depends on secure sea lanes in the South China Sea that China is certainly within its rights to protect. Moreover, the vast majority of China's energy imports and other goods pass through the South China Sea, and as Rogers argues elsewhere in this volume, the sea itself holds a tremendous bounty of fish stocks, hydrocarbons and minerals. This potential bounty motivates the competing claims for what would otherwise be worthless islands.¹⁹

China leads the region in arms modernization, even as it seeks to retain a veneer of tranquility.²⁰ The bulk of China's submarine force is diesel-electric, whereas America's is nuclear. However, diesel-electric boats are often quieter and may actually be better-suited to the crowded, murky waters of the East Asian littoral. China has over 60 submarines and will have around 75 in the next few years, slightly more than the United States (and only about 55 percent of U.S. submarines will be stationed in the Pacific). According to two naval experts, China has been "outbuilding the United States in new submarines by four to one" since 2000 and by "eight to one" since 2005, even as the U.S. Navy's antisubmarine warfare forces have diminished.²¹

Chinese commentators and officials deny any malevolent intent regarding the United States in the South China Sea and sing the oft-heard refrain that such zero-sum thinking is a relic of the past. Yet although the Cold War is history, power politics is not. These denials mask Chinese national interests.²² Although China has historically been a land power looking inward to Eurasia, it is increasingly poised to become a naval power, a trend facilitated by China's success in easing tensions on its numerous land borders. In the past three decades, the People's Liberation Army Navy has grown from an auxiliary force supporting amphibious operations against Taiwan to an

offshore defensive force to a budding blue-water naval force aiming to push foreign navies out of its "near seas." China's resources and goods flow primarily through the oceans, and in at least this sense, geography appears to be destiny.

Given that almost all of the region's countries depend on China for trade and economic development, most will be very cautious in their dealings with Beijing – whether it is democratic or authoritarian – and will try to believe in China's benign intentions. China's power is not merely a matter of more submarines and new military means. It is also based on China's demographic heft, economic dominance and geographical centrality to the region. China will be eager to leverage its relationships in the South China Sea to accommodate its stature as a dominant power and to extract concessions or favorable conditions.

On the other hand, the closer countries move toward China, the more they also want to hedge against its power. Although China tries to use hard power softly (for instance, by relying on civilian law enforcement rather than naval forces to support its maritime claims in the South China Sea), its neighbors sometimes flinch at even Chinese soft power in the form of trade, aid and cooperation. The past few years suggest that most countries in the region are keen to preserve the presence of U.S. warships and fighter jets as a safety net.

Countries in the region are equally keen not to see the United States stir up tensions with China, which is why, immediately after the United States flexes some muscle, the region is filled with stories asking whether the United States is instigating a new Cold War.²³ Chinese officials are seeking, as Taylor Fravel and Peter Dutton argue elsewhere in this volume, to exploit this constraint by balancing occasional exertions of assertiveness with more frequent exercises of diplomatic reassurance. China will wish to prevent any anti-China balancing behavior from emerging.

Beyond geography, there is something deeper that propels China forward into the South China Sea and out to the coasts of Japan, Taiwan, the Philippines and Indonesia: China's own partial break-up by Western powers in the relatively recent past, after having been a great power and world civilization for millennia. Unless one understands what happened to China in the past 150 years, one simply cannot comprehend what motivates China today in the South China Sea. In the 19th century, as the Qing Dynasty became the sick man of East Asia, China lost much of its territory – the southern tributaries of Nepal and Burma to Great Britain; Indochina to France; Taiwan and the tributaries of Korea and Sakhalin to Japan; and Mongolia, Amuria and Ussuria to Russia.²⁴ In the 20th century came the bloody Japanese takeovers of the Shandong peninsula and Manchuria in the heart of China. This was all in addition to the humiliations forced on the Chinese by the extraterritoriality agreements of the 19th and early 20th centuries, through which Western nations wrested control of parts of Chinese cities – the so-called Treaty Ports. China, having survived that nightmare and having reached a zenith of land power and territorial stability not seen since the Ming Dynasty of the 16th century and the Qing Dynasty of the late 18th century, is now about to press outward at sea in order to guard its SLOCs to the Middle East and thus secure the economic well-being of its vast population. China's very urge for an expanded strategic space is a declaration that it never again intends to let foreigners take advantage of it as happened during the previous two centuries.

Once China has sufficient influence, the South China Sea will be for China what the Greater Caribbean (including the Gulf of Mexico) was for an emerging United States – a physical and symbolic manifestation of regional hegemony. Remember, it was dominance of the Greater Caribbean Basin that effectively gave turn-of-the-20th-century America dominance over the

Western Hemisphere, with power to spare for affecting the balance of power in the Eastern Hemisphere. Something similar might ensue were China to ever become the hegemon of the South China Sea. It is true that the Caribbean has not figured prominently in power politics for a century, but that is because its inclusion in an American sphere of influence is taken for granted, not because it is any less important.²⁵

China's claim to the South China Sea, in addition to being rooted in geography, is – to say the least – historical. Chinese analysts argue that their forebears discovered the islands in the South China Sea during China's Han Dynasty in the second century BC. They also maintain that in the third century AD, a Chinese mission to Cambodia mentioned the Paracel and Spratly Island groups; that in the 10th through 14th centuries (during the Song and Yuan dynasties), many official and unofficial Chinese accounts indicated that the South China Sea came within China's national boundaries; that in the 15th through 19th centuries (the Ming and Qing dynasties), various maps included the Spratlys in Chinese territory; and that in the early 20th century (late Qing dynasty), the Chinese government tried to exercise jurisdiction over the Paracels. Those justifications say nothing of the de facto rights that Chinese fishermen have enjoyed in the South China Sea for centuries and the detailed records they have kept of islands, islets and shoals.²⁶ In addition, various official maps were made by the Nationalist Kuomintang government before and after World War II that incorporated South China Sea dry-land formations into Chinese territory. These maps also featured the historical nine-dashed line,²⁷ which Chinese analysts argue preceded the interpretations of contemporary international law. As we explain below, the nine-dashed line claims about 90 percent of the South China Sea for Beijing.

What would greater Chinese interest in the South China Sea and East Asia mean in practical and

geopolitical terms? After all, China is as interested in international commerce as any country. Social stability depends on a steady flow of resources and goods in and out of China through the South China Sea. Thus, China's stability depends on a thriving economy, which, in turn, depends on trade with others. China also lacks the insatiable imperial drive for territory that characterized international relations in the 19th and early 20th centuries. (China, as truculent as it might be on occasion, is certainly no Imperial Japan following the Meiji Restoration.)

Whether the future Chinese regime is democratic or authoritarian will matter less than we think, for China's strategic geography will remain the same.

However, China's geographical centrality to the region suggests it would play a more active role in directing regional affairs. China's sometimes heavy-handed approach to water management of the Mekong Delta²⁸ may well presage Beijing's approach toward the other states in the South China Sea littoral.²⁹

Chinese order is currently maintained by legitimacy expressed as economic growth. If China's economy keeps growing robustly – and that is a big if – China could well expect other states to relinquish some of their freedom of maneuver in exchange for China's benevolent hegemony, legitimized by its technocratic governance. One Chinese military officer has suggested that China only used military aggression when it was weak, in the early years of the People's Republic of China, in the Korean War and against

India. However, this version of history ignores, for instance, that a stronger China used force when Vietnam was reeling at the end of the Vietnam War. That is precisely when China occupied the Paracel Islands in the northwestern part of the South China Sea that remain in dispute today.³⁰

China ultimately could grow more democratic, but a more democratic China would not necessarily guarantee a less assertive China. A democratic China might be culturally and economically more vibrant and dynamic, with a well-rooted sense of nationalism, and thus have more capital to devote to military procurements. Conversely, a China that continues on an authoritarian, or even semi-authoritarian, path will exhibit a degree of aggression that might sway countries in the region to cooperate with it. Whether the future Chinese regime is democratic or authoritarian will matter less than we think, for China's strategic geography will remain the same.³¹

Few believe that China seeks conflict. Indeed, the opposite appears to be the case. China probably prefers an indirect approach and may wish for influence without ever resorting to brute force. If China can tip the balance of power in its favor, it can increasingly dominate its smaller neighbors while incrementally nudging the U.S. Navy further and further out behind the Western Pacific's first island chain.³² Experts on the region describe this as Finlandization. This term is defined by its ambiguity: The Soviet Union's dominance of Finland's foreign policy during the Cold War was generally not overt. Yet Finland knew there were lines it could not cross, and thus its sovereignty was demonstrably compromised. This is exactly what Vietnam, Malaysia, Singapore, Brunei and the Philippines fear. Taiwan, at the South China Sea's northern extremity, may already be in stages of Finlandization, with 1,500 short-range ballistic missiles focused on it from the Chinese mainland, even as hundreds of commercial flights per week link it with China.³³

China may seek to dominate neighboring states through a combination of coercion and cooperation. As Ian Storey argues in his chapter of this volume, Chinese policy has been predictable and consistent, alternating between reassurance and expanded influence; some in Southeast Asia derisively dub the Chinese policy “talk and take.” The borrowed term of Finlandization may well explain how China might coerce its neighbors. After all, if China can reduce its neighbors’ desire or ability to work with America as a counterweight to Chinese power, then it could exercise regional power even as it forces an isolated Taiwan into closer reunion. Even longstanding U.S. allies are not likely to remain impervious to the influence of China’s increasing military and economic clout. China already casts a long shadow over America’s treaty ally Thailand, and a weakly governed Philippines may one day succumb to Chinese influence despite conflicting claims over the Spratly Islands. If China’s economy can keep growing, these developments may be but a taste of things to come.

China consistently rebuffs attempts to internationalize South China Sea disputes through various multilateral forums. By solving disputes bilaterally, China is able to divide and conquer; multilateral mechanisms put China in a weaker position. When China saw regional states starting to coalesce on a common policy of maintaining the territorial status quo in the summer of 2011 (facilitated by the United States), China changed the narrative by accepting a vague set of implementation guidelines for a nonbinding Declaration of Conduct.³⁴ This preempted the array of regional actors insisting on multilateral mechanisms. China then managed to improve bilateral relations with the two most vociferous claimants to South China Sea waters, Vietnam and the Philippines. Clearly the threat of internationalizing South China Sea disputes and shining a public spotlight on Chinese actions catalyzes China into diplomatic action.

V. MAINTAINING MARITIME SECURITY AND INTERNATIONAL LAW IN THE SOUTH CHINA SEA

Maritime security has dominated much of the recent diplomatic agenda in Southeast Asia, including the 2010 and 2011 ASEAN Regional Forums and related meetings in Vietnam and Indonesia. Maritime security in both its military and commercial civilian dimensions includes three facets:³⁵ competing territorial and sovereignty claims, especially over the two major island groups, the Paracels and Spratlys; basic maritime rights, as countries make different bases for their claims and also seek to uphold international law as interpreted by the United Nations Convention on the Law of the Sea (UNCLOS); and freedom of navigation, including control over the SLOCs and what activity can take place within any particular country’s Exclusive Economic Zone (EEZ).³⁶

Although maritime security tensions have escalated in the South China Sea in the past two or three years, they remain less directly militarized than the disputes that flared up between 1988 and 1995, which included skirmishes between China and Vietnam over Johnson South Reef and between China and the Philippines over Mischief Reef. This begs the question of why nations were quicker to move into military confrontation during the previous era. Perhaps in that period, which emerged at the end of, and in the immediate aftermath of, the Cold War, states felt freer to use military force without fear that every dust-up could precipitate the specter of a nuclear exchange. It was, moreover, before the current era of globalization. Countries today are using hard power more softly and indirectly, withholding information about territorially remote incidents, conducting military operations out of the public eye (especially beneath the ocean and in cyberspace) or patiently pursuing measured military modernization.

Regional countries, especially members of ASEAN, want the United States to stay engaged and

militarily present to maintain a maritime balance of power. Yet these countries also appear to be hedging their bets through deeper defense modernization programs and defense agreements with each other.³⁷ This helps explain why the countries of Asia are generally leading the world in modernizing their military forces, especially in the air, naval and cyberspace domains.

This modernization is most clearly seen in the acquisition of – or interest in the acquisition of – submarines.³⁸ Submarines, whatever their technological capability, help create uncertainty in the mind of a potential adversary from the moment they submerge. When the Vietnamese first made public their purchase of six Russian Kilo class submarines (along with Russian support for refurbishing Cam Ranh Bay, where those submarines will be tethered beginning around 2013), the general who confirmed it made clear that Vietnam was purchasing them to keep neighbors – principally China – from meddling with Vietnam.³⁹

Of course, China leads regional military modernization, and it appears bent on deploying an array of naval and air platforms, missiles and asymmetric capabilities such as anti-satellite weapons and cyberwarfare capabilities that could jeopardize America's high-tech battle networks.⁴⁰ Although critics rightly note the limitations of some of China's current systems (even the much-touted DF-21D, its "carrier-killer" anti-ship ballistic missile), it seems likely that a determined and more prosperous China will eventually harness the capabilities needed to prosecute an area-denial strategy that threatens open access to this maritime region.⁴¹

Despite its military build-up, China has sought to dampen concerns about maritime security and to increase goodwill and trust. As suggested by China's success in the 2011 ASEAN Regional Forum and its subsequent confidence-building measures with Vietnam and new investment in the Philippines, China appears quite capable of mixing episodic

assertiveness with more reassuring diplomacy and economic activity. Moreover, while nearly all states share some level of anxiety over China's growing power, they also benefit from China's economic growth and trade, and trade – something the United States had not strongly emphasized before the recent flurry of trade agreements and the hosting of the Asia-Pacific Economic Council summit in Hawaii in November 2011 – is the currency of the realm in Asia. In 2011, China's trade with ASEAN countries was topping out at \$400 billion and growing.⁴²

The balance of military power will provide the ultimate guarantee of freedom for Vietnam, Taiwan, the Philippines, Indonesia, Singapore, Malaysia and Brunei – as well as for others outside the region, including Japan, Korea and Australia. Sustaining a favorable balance of power requires having sufficient U.S. warships and fighter jets to ensure that the United States retains a sufficient qualitative edge, at least in the perception of military elites in China and in the countries that America seeks to reassure.

Although American defense officials remain confident of U.S. capabilities, many in the region are worried by the prevailing trends. Others outside the South China Sea, especially in Japan, India and Australia, are measuring American staying power not only by economic metrics but also by America's ability to meet the challenges in the South China Sea. As a high-ranking diplomat from Southeast Asia warned one of us, if the United States were to withdraw one aircraft carrier strike group from the Western Pacific, it would be a "game-changer," pushing littoral countries toward Finlandization. This is no small point. A single strike group includes a carrier, cruisers, destroyers, frigates and submarines. With only 11 such strike groups spread across the globe, the loss of even one in Asia, as the diplomat correctly warned, would have major effects. Aircraft carrier strike groups are simply the organizing principle of American naval power.

What are the prospects for bolstering the capacity of other regional actors to undertake more responsibility for providing regional maritime security? As James Holmes argues in his chapter of this volume, alliances are strongest when two or more countries share a common threat as well as objectives. Looser coalitions, including those that are more tacit or informal, are harder to form and less likely to spring into action without a clear *casus belli*. In the littoral areas around the South China Sea, the United States seeks to fortify old alliances with countries like the Philippines and forge new ones with countries like Vietnam and Indonesia at precisely the same time when its naval power is diminishing in historical terms. American coalition building thus faces a double hurdle.

Some geopolitical nuance is needed here. As the examples of Vietnam and the Philippines show, if the United States hopes to bolster powers that share an interest in free access to the South China Sea and stability there, then it must understand that it will encounter resistance if it presses too much. For example, India is as suspicious of China as any country, but even so, it will not wish to make China an overt adversary. There are simply limits to what others can do because few will want to antagonize China. Although the littoral states are not compromised by declining military budgets like the states of Europe, they remain constrained by having China as their neighbor and largest or near-largest trading partner.

No country is as nervous about its maritime security in the face of possible declining U.S. naval power as Vietnam, which suffered a humiliating military scuffle with China in 1979 on its northern land border. In that same year, Vietnam saw its ally, the Soviet Union, abandon it in its moment of need; thus, Vietnam will hardly trust an alliance with a country half a world away like the United States. Nevertheless, Vietnam is eager for a closer partnership with the United States, perhaps one that begins with a strategic dialogue about how

to engage China but also includes more tangible military cooperation. Bilateral naval exercises with Vietnam would surely get China's attention, and such a step should not be undertaken lightly, given how suspiciously China has viewed its southern neighbor throughout history. In fact, a full-fledged American-Vietnamese naval exercise at this juncture would be particularly provocative.

That said, the United States and Vietnam are rapidly moving closer to one another in terms of strategic objectives. This development, too, is the legacy of a mid-20th-century war. Precisely because Vietnam overcame the U.S. military in the 1960s and 1970s, it has no colonial-era chips on its shoulder and can now psychologically meet the United States as a diplomatic equal.

Similarly, there are serious limitations to what the Philippines, a U.S. treaty ally, can do to bolster its constabulary capabilities. As Holmes notes, the fact that a 1960s-era U.S. Coast Guard vessel has been sold to the Philippines and has instantly become the flagship of its navy underscores those limitations.⁴³ The announcement that a second cutter will soon be transferred to the Philippines will still leave the Philippine Navy with only modest coastal capability.⁴⁴ Moreover, although Japan and the Philippines signed a strategic partnership, most of Japan's support will likely involve coast guard abilities. (However, coast guard abilities should not be taken lightly: Most of the world's navies are actually coast guards because very few have authentic blue-water capabilities.⁴⁵)

International Legal Norms

International law and norms provide a common basis for cooperation, legitimate action and national expectations. Peace and prosperity depend on such normative expectations and legal mechanisms for peacefully resolving differences.

China's rise is stirring concern about the future of globalization based on open market access and

international institutions. China not only seeks to deal with smaller neighboring countries one by one but also resorts to its own domestic laws and policies, including its 1992 law governing rights in and around the South China Sea, to determine what is right or wrong.⁴⁶ China wants to approve which foreign vessels can enter its EEZs and which ones, such as U.S. surveillance ships, cannot enter the 200-nautical-mile zone. However, most countries support the U.S. interpretation of international law suggesting that such peaceful passage is permitted under UNCLOS. The United States and most of ASEAN would prefer to resolve differences through an agreed-on multilateral mechanism and an international legal framework.

China's domestic claims of exclusivity are primarily based on the nine-dashed line, which loops southward from the Chinese coast near the borders of Vietnam and Malaysia toward Singapore, then loops north along Malaysian Sarawak and Sabah, Brunei and the Philippines near Taiwan, thus encompassing the entire heart of the South China Sea. Yet as one analyst points out, many Chinese experts accept that this line does "not translate to full sovereignty over the whole South China Sea."⁴⁷ In fact, it is the very ambiguity of the line that causes such nervousness among the littoral countries. Chinese officials point out that they inherited this historical line from previous, noncommunist governments in the early part of the 20th century, and it remains unclear how Beijing itself now regards the line's legality. However, any Chinese leader who concedes that the line does not have legal status would become extremely vulnerable to attacks from domestic nationalists.

One issue is the degree to which some Chinese claims under international law are at odds with other Chinese claims and whether these claims are a byproduct of a segmented government. In short, it is not clear whether China is pursuing a consistent strategy in the South China Sea. Many different actors enforce Chinese law, including

civilian agencies, and their policies and statements are not always well coordinated. The Chinese government is apparently trying to address this problem by establishing a new interagency process to coordinate the myriad military and civilian agencies of government with responsibilities in the South China Sea.⁴⁸ To the extent that this greater policy coherence will help to clarify China's ambiguous claims – many of which are based on submerged land features that do not qualify under international law as islands – regional states may grow increasingly reassured. For example, China could narrow its claim from broad historical rights to legally-based claims of UNCLOS-delineated maritime rights surrounding land features within the South China Sea.

From the vantage point of the United States and others in the region, there is no simple means to erect agreed-on rules for the region. International law, including the current UNCLOS, could help, even if the United States Senate does not ratify the treaty. The United States can still assert that it recognizes most of its provisions as customary international law, and that this will be the basis for American maritime strategy in the South China Sea. It can continue to bolster the arguments of the majority of UNCLOS signatories that support peaceful military activity in EEZs but outside of territorial waters.

VI. COOPERATION FROM A POSITION OF STRENGTH

The United States should cooperate from a position of strength in order to preserve an open, rules-based regional order. A combination of strengthening the U.S. naval presence, promoting nascent security ties among Asian countries outside of traditional U.S. alliances, mobilizing multilateral cooperation on agreed-on rules of the road, building an open regional trading system and forging a realistic relationship with China can best preserve a favorable balance for cooperation.

1. Reverse the Decline of the U.S. Navy

The United States should lead with diplomacy and economic power, but those instruments of statecraft need to be backed by military power. The South China Sea is first and foremost a naval theater, and the ultimate purpose of a modern navy is to move air power forward. However, increasing Chinese capabilities are putting U.S. naval combatants and fixed bases at risk and thus threatening to end a long period in which the United States could either control or threaten the control of critical SLOCs. Hence, the first recommendation for U.S. policymakers is to arrest the decline in U.S. maritime power in order to retain a sufficient balance of power to credibly control – or at least defend – access to the SLOCs in and around the South China Sea.

In modern warfare, the air, sea, space and cyberspace domains cannot be easily disaggregated. Preparing for attacks on the critical battle networks in cyberspace and outer space and countering China's progress in long-range missiles that can hit aircraft carriers and other ships at sea (as well as deny the United States secure, large fixed bases) will be fundamental to ensuring sufficient capability to project American power.

Although some will view military modernization and cooperation as antithetical to a peaceful,

prosperous, open trading system, such military capabilities are essential for averting conflict so that commerce and cooperation can flourish. Especially as more and more nations acquire warships and submarines, the cumulative effect of such national deterrents can further strengthen peace, or at least the absence of interstate war, by ensuring that any would-be aggressor cannot be certain of easy victory. Sea power and economic progress, in other words, do not necessarily conflict with one another and may be codependent variables for a stable and growing East Asia.

This report is not arguing for a far-bigger Navy and Air Force today, in these economically troubled times. Nor is it certain that China's economy and defense budget will continue to grow at the current rate; a socioeconomic crisis in China can surely not be ruled out. (Although many predictions of a slow-down have not yet been borne out, no one can predict the future.) However, the Navy and Air Force should, at a minimum, retain their present capabilities in the Pacific. The United States cannot afford to reduce the number of its carrier strike forces or long-range aircraft devoted to this region.

As Chinese military capabilities continue to grow throughout this decade, the United States should build toward the 346-ship fleet recommended in 2010 by the bipartisan Quadrennial Defense Review Independent Panel⁴⁹ – the economy permitting – rather than retreating to the 250-ship mark discussed earlier. Furthermore, the United States should put more destroyers and submarines – rather than only the smaller littoral combat ships – to sea in the Indo-Pacific. Littoral combat ships are good for engaging ASEAN partners with small navies, but larger warships are better at providing the kind of attributes needed to deter an increasingly capable Chinese military.⁵⁰ We emphasize that the 346-ship fleet recommended by the Independent Panel is a long-range goal only and that restoring a strong economy – on which any defense is founded – must be a strategic priority

for the United States. Assuming healthy economic growth in the future, the United States should invest in a larger Navy.

2. Foster a New Web of Security Partners

Building a distributed network of stronger partners and allies in Southeast Asia should be an important long-term objective of the United States. Instead of trying to be at the center of all these relationships, the United States has an interest in the potential new burden-sharing and deterrent benefits of a more distributed set of capabilities and relationships.

As the region increasingly hedges against a rising China and is concerned about possible American retrenchment, Asian countries are increasingly establishing new security partnerships with one another. The embryonic web of alignment throughout the region – encompassing not only ties among Southeast Asian nations but also links between individual countries in Southeast Asia with outside countries such as Japan, Korea, Australia and India – is well under way and likely to pick up steam in the years ahead. This emerging pattern of power relations is ushering in a new era with profound implications for America’s engagement with the region.

The “hub and spoke” model of alliances between the United States and Japan, South Korea, Australia, Thailand and the Philippines is being eclipsed by a broader, more complicated and more diffuse web of relationships in which Asian countries are the primary drivers. For instance, both Japan and South Korea have announced that they are increasing security cooperation with others in the region, including Australia, India and some ASEAN members; these are precisely the kinds of trends that the United States should encourage.⁵¹ Additionally, as India and other centers of power emerge, the region itself is transforming from an Asian-Pacific region to an Indo-Pacific region.

Nationalism in South China Sea countries such as Vietnam and Indonesia – as well as in countries

further afield like India, Japan and Korea – may be the best basis for stitching together common interests in a loose, almost invisible network of like-minded and increasingly capable maritime states that are willing to help deflect Chinese hegemony. Vietnam has an interest in not being Finlandized by China. Indonesia has an interest in protecting its sprawling offshore energy reserves and fish stocks. India, Japan and South Korea are all powers in their own right that seek to balance against China. Nationalism is on the rise.

Assuming healthy economic growth in the future, the United States should invest in a larger Navy.

Although a NATO-like security alliance has not been possible in Asia and will remain both problematic and undesirable in the future, the United States should simultaneously hasten a new constellation of emerging security ties across the Indo-Pacific region in general, while bolstering the basic maritime capacity of individual partners and allies in Southeast Asia in particular. These two complementary strands of partner-building can provide a low-cost and less provocative means of preserving peace and complicating the plans of any would-be regional aggressor. The United States should encourage alliances and effective strategic partnerships between the Asia-Pacific states themselves, as another means of helping to shape a firm but cooperative environment for a rising China. A dispersed, resilient and stronger military capability should improve the ability to retain and secure both the southern straits leading into the South China Sea and the strategically vital geography just outside of the South China Sea (including islands and atolls in

the Riau Archipelago, Palau, the Admiralty Islands, the Marshall Islands and the Northern Solomons).

These new arrangements may enable the United States to have friendly ports for temporarily stationing its ships and material or exercising military forces. In many cases, such places might be used instead of bases and may require little additional investment in order to achieve the basic goal of enhancing the uncertainty of any country planning on aggression. Obviously, if direct threats were to materialize over time, then further steps would have to be taken to ensure that these new access agreements and cooperative steps were effective and resilient for potential operations.

At present, the United States is moving forward in strengthening the capacity of both old and new partners. For example, it is already working on transferring technology, conducting more exercises and military exchanges, and negotiating more access arrangements for U.S. forces among most maritime Southeast Asian states. Yet these efforts do not go far enough.

Capacity among smaller Southeast Asian countries will be limited by domestic challenges and the competing imperative of maintaining cooperation with China, a major trading partner of all regional countries including the United States. For now, goals should focus on enhancing uncertainty for any aggressor by building useful partnership capacity. Building the constabulary and coast guard functions of regional countries can encourage them to take more responsibility for maintaining a balance of power and a rules-based system.

The Philippines and, especially, Vietnam are key actors in the future of the South China Sea. Although the Philippines has recently received a good deal of attention because of the transfer of an aging U.S. Hamilton class Coast Guard cutter and the announcement that a second one will be on its way in 2012, Vietnam is arguably the crucial

swing state when it comes to the South China Sea. If Vietnam does not resist China's rising power, weaker and less assertive states, such as the Philippines, have little chance of blocking Chinese hegemony. Vietnam has resisted Chinese power throughout its history.⁵² Recently, Vietnam has been actively courting a closer relationship with the United States; yet if U.S. power appeared to be in retreat, Vietnam would have no alternative but to live with Chinese regional hegemony.

At the same time, the United States has some reason to be wary of a stronger relationship with Vietnam because the United States also needs cooperation with China. Vietnam's primary strategic interest is to hedge against China in any way it can. Moreover, China would no doubt view direct bilateral military activity, such as U.S.-Vietnamese naval exercises, as a provocation to be addressed through a combination of military, diplomatic and economic measures of its own. It is no accident that China and Vietnam reached a bilateral deal in October 2010 to reduce tensions. This deal allowed China to demonstrate that it can address any problem with Vietnam bilaterally and that Vietnam does not need to seek help from the United States.

Because the United States needs to maintain cooperation with China, America's individual strategic partnerships in Southeast Asia are likely to be the essential building blocks of a latent regional alliance that would only coalesce in the event of a clear and present danger. Strategic partnerships based on strong common interests (in effect, tacit alliances) can be stronger than formal alliances and are less likely to provoke a hostile Chinese response (as opposed to harsh rhetoric) that would polarize the region. This last point is especially valid if the region continues to build understanding and practical cooperation with China.

The United States also needs a coherent strategy for redistributing its military presence throughout the Indo-Pacific region. At a minimum, the United

States needs to complement its traditional forward presence in Japan and Korea with other areas that would, at least theoretically, complicate the planning of China (or any nation) against the United States. In order to retain a strong military presence in the region, the United States should continue to seek more locations, not more bases: that is, subtle military access agreements rather than virtual sovereignty over foreign territory. U.S. forces need to remain in South Korea and Japan, although there is still scope for further reductions of burdens placed on the host countries, especially on Okinawa, Japan, which houses the vast majority of U.S. forces in Japan on a mere 6 percent of Japan's territory.

Retaining major U.S. bases in Northeast Asia needs to be complemented by creating greater potential and more resilient areas for stationing forces. Thus, the cost-effective dispersal and hardening of America's military force posture throughout the region is necessary. This must be done in a way that minimizes frictions that would make U.S. partners more susceptible to Chinese coercion. The decision in the summer of 2011 to locate two littoral combat ships in Singapore is a leading example. Whether those two ships and crews are based in Singapore or just frequently stationed there, this model of flexible presence could be pursued with other ASEAN countries, including the Philippines and Vietnam. Australia, lying at the confluence of the Pacific and Indian oceans, could emerge as America's most vital partner in the Anglosphere because of its location, a 21st-century equivalent of 20th-century Great Britain. The United States has recently enhanced its defense agreement with Australia to allow greater access to Australian military bases without permanently stationing U.S. troops there.⁵³ During his visit to Australia in November 2011, President Obama announced that within a few years, up to 2,500 U.S. Marines would be constantly rotating through Australia's Northern Territory, where they could train with the Australian Defence Force as well as others from the region.⁵⁴

3. Strengthen Multilateral Norms and Institutions

The United States needs to ensure that peace and security in the South China Sea remain at the top of its diplomatic and security agenda. This can involve everything from track-two meetings, such as the now-annual conference hosted by Vietnam in Hanoi, to the official machinery related to ASEAN, including the ASEAN Regional Forum and East Asia Summit. China's counter-narrative, buttressed by its own domestic law and increasing trade ties with countries in the region, is gaining some support; as much as possible, the United States should prevent China's argument from gaining traction. By asserting sovereignty over sea lanes – as the nine-dashed line suggests – Beijing has taken a position that no other nation can support.⁵⁵ The United States has a natural opportunity to press for what is in the interest of all nations in the region.

Cooperation from a position of strength involves using the aforementioned methods to strengthen America's position in order to advance effective multilateral cooperation. Some aspects of that cooperation need to help legitimize multilateral rules, and other aspects should focus on wider multistate operational exercising and activity.

Cooperation should begin with more dialogue and diplomatic engagement. With Cambodia, Burma and Laos set to chair ASEAN meetings in 2012, 2014 and 2016, respectively, it may become unrealistic to expect much headway at the ASEAN Regional Forum and East Asia Summits in the next few years because these nations are only marginally concerned with South China Sea issues. The ASEAN Defense Ministerial Meeting process, however, provides a more promising forum for promoting maritime cooperation in the South China Sea. Other high-level fora that could help promote such cooperation include the U.S. Pacific Command's annual Chiefs of Defense conferences, as well as

the unofficial Shangri-La Dialogue conducted by the International Institute for Strategic Studies every June.

The institutions and mechanisms for addressing conflicting claims and interests remain weak, and there is no direct U.S. role in some of them, such as the 2002 Declaration of Conduct between ASEAN and China. Efforts to convince China to avoid maritime incidents through existing bilateral mechanisms will continue to be hampered by a fundamental clash of interests: China simply does not wish to grant the United States a legitimate surveillance role in the South China Sea, not far from China's primary submarine base on Hainan Island.⁵⁶

The United States needs to build multilateral institutions over the long run but should recognize that it may need to focus on bilateral or minilateral approaches in practice to avoid provoking China. Such an approach invites Chinese cooperation but does so through a position of strength. Through multilateral institutions in the region (from the East Asia Summit to the ASEAN Plus Eight Defense Cooperation) coupled with initiatives undertaken by U.S. Pacific Command or regional actors such as Australia, the United States should build and support effective, inclusive military and security cooperation across the Indo-Pacific region. Promoting broader regional cooperation will stand as a challenge to any future aggressive behavior.

One practical way to forge inclusive and serious cooperation may be conducting multilateral naval exercises, especially those focused on humanitarian assistance and disaster relief missions. The United States has conducted a series of such exercises in recent years, as Holmes discusses in his chapter. At present, maritime cooperation occurs within subregions, such as the Indian Ocean Naval Symposium, ASEAN and the South Pacific Forum. U.S. Pacific Command could periodically conduct

a wider Indo-Pacific dialogue designed to promote multilateral training and exercises. However, as discussed above, a coalition of willing Southeast Asian states – supported by outside maritime powers like Japan, India and Australia – could also take the lead in such a multilateral exercise.

Barring dramatic developments in threat and threat perception, there is no prospect of a regional alliance on the horizon. However, bilateral alliances and partnerships may be deepened, and they, in turn, can serve as a basis for wider trilateral or minilateral cooperation among three or four countries. For example, the new Australian-U.S. joint basing arrangement may open up new doors for multilateral exercises with other allies and partners, such as Korea, Japan, India and members of ASEAN. Meanwhile, bilateral assistance can fashion more able partners, and inclusivity with respect to both strategic dialogue and practical maritime cooperation can develop into a latent coalition – a coalition that could swiftly solidify into a counterweight to regional assertiveness and aggression, should they arise.

4. Invest in Open Regional Trade

The United States should promote further economic integration within the region, as well as between the United States and the region. In addition to contributing to a vibrant and cohesive regional economy, economic integration can help link America's strategic investments to the most dynamic region in the world.⁵⁷ The potential growth of the Trans-Pacific Partnership – an economic arrangement linking the United States and the countries of East Asia – could one day provide such an umbrella preferential-trade regime. If the United States and others fail to follow through on such region-wide integration, a system led by the Chinese – and unfavorable to the United States – may well emerge to fill the vacuum.

Although U.S. leadership at the November 2011 Asia-Pacific Economic Cooperation summit in

Hawaii emphasized the importance of the Trans-Pacific Partnership, many of America's closest allies have looked at the slow pace at which the United States has embraced regional trade and wondered whether the United States is serious about such a partnership. This perceived lack of commitment extends to other countries as well. Japan, for instance, has thus far only given highly conditional indications that it will become a full-fledged member of the Trans-Pacific Partnership, and without countries like Japan, the Trans-Pacific Partnership will remain a minor institution.⁵⁸ In contrast, Australia, Vietnam and Peru announced support for the Trans-Pacific Partnership in November 2008; Malaysia joined in October 2010; and Canada, the Philippines, South Korea and Taiwan have expressed varying degrees of interest in joining.

*The Trans-Pacific Partnership
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Trade need not be a zero-sum activity. The Trans-Pacific Partnership can form the basis of an inclusive, open trading system, in which all countries of the region have an equal opportunity to join. Because the Trans-Pacific Partnership will develop gradually, China will have a great deal of time to react to and shape its evolution. Moreover, the Trans-Pacific Partnership will benefit China if it chooses to support trade liberalization.

5. Forge Realistic Relations with China

The United States will need to get its China policy right. This will likely require active diplomatic and economic engagement backed by a strong U.S. military and a growing economy. U.S. policy should also encourage allies to do more on their own behalf in the security realm – and more with each other. Rather than adopting an overly optimistic framework of global cooperation – or an unduly pessimistic relationship of inevitable conflict – the United States needs hard-headed, even assertive, realism with respect to China. A realistic policy begins by shoring up American power and then actively supports rules-based cooperation; it avoids military conflict but not diplomatic confrontation.

Many Chinese policies and actions – including a reluctance to fairly value its currency, attempts to replace the dollar as the world's reserve currency, a lack of military transparency, an alarming number of suspected cyber attacks, continued political and economic support for North Korea and an unwillingness to enforce U.N. sanctions against North Korea – suggest that China wants to redefine the regional order. Additional examples can be observed in China's recent actions in the South China Sea: stepping up maritime patrols, increasing submarine deployments and interfering with energy exploration by neighboring countries, notably Vietnam and India. These actions have been perceived by most in the region as growing assertiveness.⁵⁹

Yet even if this perception is not correct, as Fravel argues in this volume, regional actors will continue to remain suspicious of China's lack of transparency, booming economic growth and defense modernization. China may not want to control the entire region, but it clearly wants to be at the center of it.

In the future, the United States will have to determine how it can retain an overall cooperative relationship with China without losing its

military edge in the region, in order to guard against Chinese regional hegemony. Economic and political multipolarity are welcome, but because of China's geographical advantage, military multipolarity carries the potential of China becoming the *de facto* dominant power. The best way to guarantee a rules-based, open-market-based system is by ensuring that America retains at least some significant military advantage. Retaining stalwart maritime and air capability in the face of severe budget deficits, however, will require persistent, bipartisan support from a wide range of U.S. decisionmakers from both major political parties.

VII. CONCLUSION

The United States must not concede the South China Sea as a sphere of Chinese influence. Although it will require the determination of a broad swath of the U.S. national security community, the United States should pursue both primacy and cooperation in the South China Sea. These two goals may appear to conflict with each other, but in fact, the search for greater cooperation while preserving U.S. influence is a longstanding – if unwritten – approach to regional security.

The United States and the countries of the region share a vital interest in unimpeded access to the seas, and America will not tolerate unilateral action on the part of any actor to bully its neighbors and erode established rules. Rather than retreat, the United States should increase engagement around the South China Sea littoral basin. U.S. policy should focus on presence and coalitions, mixed with diplomatic and economic engagement. As Secretary Clinton noted, “One of the most important tasks of American statecraft over the next decade will therefore be to lock in a substantially increased investment – diplomatic, economic, strategic, and otherwise – in the Asia-Pacific region.”⁶⁰

With China striving to dominate the Western Pacific, East Asian countries are keener than ever to partner with the United States. Yet these same countries also wish to avoid conflict with an increasingly powerful China that is also a principal trading partner. U.S. grand strategy should focus on preserving strength and increasing engagement across the Indo-Pacific region, where the world's most dynamic economies reside.

The United States should pivot away from counterinsurgency and counterterrorism work in the greater Middle East and toward East Asia.⁶¹ Although the United States will need to retain

The United States and the countries of the region share a vital interest in unimpeded access to the seas, and America will not tolerate unilateral action on the part of any actor to bully its neighbors and erode established rules.

military equities in both regions, the shift to East Asia will continue to be a pressure point so long as China continues to rise. America will always be a Pacific nation, but increasingly peace and prosperity will require that America also remain a Pacific power.

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CHAPTER II:
MARITIME SECURITY IN THE SOUTH CHINA SEA
AND THE COMPETITION OVER MARITIME RIGHTS

By M. Taylor Fravel

J A N U A R Y 2 0 1 2

Cooperation from Strength
The United States, China and the South China Sea



MARITIME SECURITY IN THE SOUTH CHINA SEA AND THE COMPETITION OVER MARITIME RIGHTS

By M. Taylor Fravel

Since 2009, the competition for maritime rights in the South China Sea has emerged as the most important security issue in East Asia. Indeed, one analyst even declared recently that the South China Sea is the “new central theater of conflict” in the world.¹

Yet despite persistent competition, armed conflict in the South China Sea is far from inevitable for several reasons. Regional states are competing over maritime rights more than other security issues, especially claims to territorial sovereignty over islands and reefs. The competition over maritime rights in the South China Sea has not become militarized, nor has it reached the levels of instability that the region witnessed between 1988 and 1995. The July 2011 agreement between the Association of Southeast Asian Nations (ASEAN) and China over guidelines for implementing the 2002 Declaration on the Conduct of Parties in the South China Sea has created diplomatic breathing space that can be exploited to reduce tensions. Cooperative initiatives could reduce future competition over maritime rights but will require political will and diplomatic creativity to move forward.

Moreover, although China is increasingly defending its claims in the South China Sea, the scope and contents of these claims have not changed. Chinese leaders perceive that other states are challenging long-held Chinese claims, and China is responding with improved civil maritime enforcement capabilities. China has avoided more provocative measures, such as using naval forces to enforce its claims.

To analyze and assess the risk of armed conflict in the South China Sea, this chapter reviews trends in regional maritime security during the past few years, including territorial sovereignty over island groups, maritime rights to exploit resources in the water column and seabed and freedom of navigation. Competition over each of these issues could

increase regional instability or even lead to armed conflict. However, opportunities for increased cooperation on security issues also exist. Looking forward, the United States must balance efforts to maintain stability in the South China Sea with actions that could inadvertently increase instability, such as becoming more involved in trying to resolve the dispute – an action that many regional states would interpret as a move away from the traditional U.S. policy of neutrality in territorial disputes.

Maritime Security Interests in the South China Sea

Many states, in the region and around the world, have maritime security interests in the South China Sea. These interests include claims to territorial sovereignty over islands and coral reefs, claims to exclusive rights to develop maritime resources, freedom of navigation on the high seas and the consequences of ongoing naval modernization in the region.² Competition over any or all of these interests could affect regional stability. Nevertheless, since roughly 2006, the key maritime security issue in the South China Sea has been the competition to claim, assert and enforce maritime rights in these waters.

CLAIMS OF SOVEREIGNTY OVER ISLANDS AND CORAL REEFS

The first aspect of maritime security involves sovereignty claims to islands and other land features, such as coral reefs. In the South China Sea, there are two distinct disputes over territorial sovereignty. The first is a bilateral dispute between China and Vietnam over the sovereignty of the Paracel Islands, which China has controlled completely since 1974.³ The second is a multi-lateral dispute over the Spratly Islands, which include roughly 230 features, primarily small islands, islets and coral reefs. Vietnam, China and Taiwan all claim “indisputable sovereignty” over all these land features. The Philippines claims 53 features, whereas Malaysia claims 12.⁴ Vietnam

currently occupies 27 features, the most of any claimant. The Philippines occupies eight features; China, seven; Malaysia, five; and Taiwan, one. The first feature was occupied in 1956 when Nationalist troops from Taiwan permanently garrisoned Taiping (Itu Aba) Island, the largest of the disputed islands. Other claimants did not begin to establish a permanent presence until the early 1970s. China began to establish a physical presence in January 1988, which resulted in a clash with Vietnam in March 1988 that killed 74 Vietnamese sailors. The last land features were occupied by Malaysia and Vietnam in 1998 and 1999, respectively. China has not occupied a contested feature since late 1994, when it seized the aptly named Mischief Reef.⁵

CLAIMS TO MARITIME RIGHTS AND JURISDICTION

The second maritime security interest involves claims to maritime rights, especially claims to Exclusive Economic Zones (EEZs) and continental shelves. Maritime rights involve questions not of sovereignty but of jurisdiction – whether states have the right to exploit whatever resources are contained in the water column and seabed (especially petroleum but also fisheries and other minerals). Maritime rights are only contested in a portion of the South China Sea, which is a large body of water stretching from the mouth of the Pearl River in China to the tip of Indonesia’s Natuna Island. Generally speaking, the EEZ that China claims from its coast, including Guangdong Province and Hainan Island, is largely undisputed.⁶ Yet the southern portion of the sea is heavily contested by all of the claimants to the Spratlys and Paracels, as well as Indonesia.

Different states justify their claims to maritime rights in different ways. Vietnam, the Philippines, Malaysia and Brunei assert their claims from their coasts. Indonesia asserts maritime rights from Natuna Island. China, however, bases its maritime rights on its claims to sovereignty over disputed island groups, such as the Spratlys, in addition to the

coast of the Chinese mainland. Yet most (but not all) of the features in the Spratlys would not qualify as islands under Article 121(3) of the United Nations Convention on the Law of the Sea and thus cannot serve as the basis for a claim to an EEZ or extended continental shelf. As a result, many observers view China's EEZ claim as expansive because it covers a larger area of maritime rights than other littoral states and as illegitimate because part of the claim appears to be based on land features that would not qualify as islands under Article 121(3).⁷ Moreover, the "nine-dashed line" that appears on Chinese maps of the region creates further ambiguity because, as Ian Storey argues elsewhere in this volume, the Chinese government has never defined what this line represents.

FREEDOM OF NAVIGATION

The third aspect of maritime security involves freedom of navigation, including the security of the sea lines of communication that pass through these waters. Some of the busiest shipping lanes in the world pass through the South China Sea. Freedom of navigation affects the interests of all sea-faring states, including the United States, not just the states that claim territorial sovereignty or maritime rights as discussed above. Confrontations involving commercial actors and Chinese civil maritime law enforcement agencies from 2009 to 2011 raised concerns about the freedom of navigation in these waters. In addition, China (along with other developing maritime powers, such as Brazil and India) maintains that coastal rights can restrict foreign military activities within the EEZ, even though most other countries disagree.⁸ Although China has not sought to apply this interpretation to the competition over maritime rights in the South China Sea, it might do so in the future. To date, China's efforts to enforce limits on freedom of navigation have occurred in the EEZ off its coast. The May 2009 confrontation over the USNS Impeccable, for example, occurred roughly 75 miles southeast of Hainan.⁹

NAVAL MODERNIZATION

The fourth maritime security interest involves the consequences of naval modernization by developing states in the region. The disputes in the South China Sea create strong incentives for states to bolster their naval capabilities and presence, which in turn can increase the likelihood that armed force might be used. In addition, as littoral states increasingly rely on sea-borne trade and maritime resources, their maritime interests have expanded. Vietnam, for example, intends to increase the share that the maritime economy contributes to its gross domestic product (GDP) from 48 percent in 2005 to 55 percent in 2020.¹⁰ Likewise, the majority of China's trade, especially energy supplies, travels by sea. To protect these new interests, as well as to defend their sovereignty and other claims, littoral states are actively modernizing their naval and other armed forces. The resulting shifts in the balance of power – and the development of platforms with longer range and greater endurance – could become increasingly competitive and destabilizing.

Competition over these different maritime security interests could increase instability in the region. Among the four categories, the disputes over territorial sovereignty and maritime rights could most easily escalate to the use of military force. Two significant naval clashes have occurred between China and Vietnam, one in 1974 over the Crescent Group in the Paracels and one in 1988 over Johnson Reef in the Spratlys. As the competition over maritime rights increases, the odds of armed clashes between navies from the claimant states grows; such clashes would increase instability and raise questions about the freedom of navigation in these waters for all sea-faring states.

The Growing Competition over Maritime Rights

Conflict over the territorial sovereignty of the contested islands and coral reefs is an enduring feature of maritime security in the South China Sea. However, regional tensions since 2006

have primarily involved competing claims to maritime rights and jurisdiction over resources. The principal actors in this competition include diplomats, commercial players such as fishermen and oil companies and national civil maritime law enforcement agencies. Military power and naval forces have played a secondary role, as this competition over maritime rights has not yet become militarized.

Reliable information about the competition over maritime rights is hard to find. Snapshots of events and trends can be gleaned from media reports, but definite conclusions are hard to support. Most information comes from media outlets in the various claimant countries. In China and Vietnam, these media outlets have direct or indirect ties to the state.

All states are also actively seeking to shape public and international opinion. The media, whether state-owned or not, plays an important role in this process. For these reasons, individual reports of events can be difficult to verify. In addition, not all confrontations among the claimants are reported, which makes it hard to track changes in behavior over time. Although Vietnam and the Philippines appear to have increased their reporting of events in the South China Sea since 2009, China has not. Confrontations involving Chinese ships, especially Chinese fishermen, are almost never reported in the Chinese media, most likely because the government wants to avoid the criticism that it is not doing enough to protect its citizens.

As documented below, the current round of tensions has not yet reached the levels of instability that the region witnessed from 1988 to 1995. Then, naval forces played a prominent role. A major armed clash, in which 74 Vietnamese were killed, occurred between China and Vietnam in March 1988. Tensions began to subside after Chinese foreign minister Qian Qichen attended the 1995 ASEAN Regional Forum and pledged that China

would seek to settle the various disputes according to international law, including the United Nations Convention on the Law of the Sea.¹¹

THE DIPLOMATIC DIMENSION

Diplomatic disputes have triggered the most recent tensions over maritime rights in the South China Sea. In the mid-2000s, Vietnam increased its efforts to develop its offshore petroleum industry in cooperation with foreign oil companies. Between 2006 and 2007, China responded by issuing 18 diplomatic objections to foreign oil companies involved in these exploration and development projects.¹² Most of these demarches challenged the legality of Vietnam's exploration projects. In May 2006, for example, the Indian national oil company, Oil and Natural Gas Company Videsh, signed a production-sharing contract with Petro Vietnam for blocks in the Phu Khanh basin. China claimed that ONGC's project fell within a disputed area of the South China Sea and was thus illegal.¹³ The demarche suggested that only claimant countries could be involved in such development activities.¹⁴ In July 2008, as Vietnamese development efforts continued, reports surfaced that China had begun to directly threaten foreign oil companies investing in Vietnam. According to a report in the *South China Morning Post*, Chinese diplomats in Washington "made repeated verbal protests to ExxonMobil executives ... and warned them that its future business interests on the mainland could be at risk, according to sources close to the U.S. firm."¹⁵

Diplomatic tensions over maritime rights increased in the weeks before the May 2009 deadline for submissions to the U.N. Commission on the Limits of the Continental Shelf (CLCS). The commission reviews and qualifies claims by states to extended continental shelf rights beyond 200 nautical miles.¹⁶ If a territorial or maritime dispute exists, however, then the commission's rules dictate that it "shall not consider and qualify a submission made by any of the States concerned in the dispute."¹⁷ As a result, all the claimants in

the South China Sea have strong incentives to challenge the continental shelf submissions where sovereignty or maritime rights claims overlap. Accordingly, China and the Philippines both objected to Vietnam's submission and to the joint Vietnamese-Malaysian submission. All the claimants then issued claims and counterclaims.¹⁸

Even though the May 2009 deadline for submissions had been established 10 years earlier, its impending arrival significantly increased the competition over maritime rights in the South China Sea. By submitting claims to the commission, many regional states formally expanded their claimed maritime rights beyond a 200-nautical-mile EEZ from their coastlines, thereby increasing the intensity of competition over maritime rights. Previously, these states had either not stated that they would claim extended continental shelf rights or had clearly delineated the length of the continental shelf that they claimed. In addition, in the notes submitted to the commission, states not only contested each other's claims to maritime rights but also their sovereignty claims to the Paracels and the Spratlys. Finally, China's first diplomatic note contesting Vietnam and Malaysia's submissions included a map of the region that depicted the Paracel and Spratly Islands along with the nine-dashed line. Although the Chinese note did not mention the line, Vietnam viewed the map as an expansion of China's claims. The implications of this map are discussed below.

COMMERCIAL ACTIVITY AND CIVIL MARITIME LAW ENFORCEMENT

As states asserted and defended their claims through diplomacy since 2006, they also sought to demonstrate and enforce the maritime rights that they claimed. In particular, countries have sought to exercise these rights through commercial fishing and hydrocarbon exploration activities, as well as efforts, especially by China, to enforce these claims by contesting the commercial activities of other states.

Fishing

Fishermen have played a central role in asserting claims to maritime rights in the South China Sea. These waters have served as fishing grounds for all littoral states, and many of these traditional fishing grounds overlap. As a result, fishermen will often justify operating in disputed waters through their country's claims to maritime rights. Chinese fishermen operate in the southern portion of the South China Sea near Indonesia and Vietnam, for example, while Vietnamese and Philippine vessels operate in the northern portions near the Paracel Islands.

During the past decade, China has strengthened its ability to supervise fishing in the disputed waters and to enforce its domestic fishing laws. The principal Chinese agency tasked with this mission is the South Sea Region Fisheries Administration Bureau (SSRFAB, *nanhaiqu yuzhengju*), which is a department in the Bureau of Fisheries Administration within the Ministry of Agriculture.¹⁹ In addition to regulating China's domestic fishing industry in the South China Sea, the SSRFAB has two objectives that affect the disputes over maritime rights. First, SSRFAB vessels escort Chinese fishing boats (*huyu*) when they operate in disputed waters. The escorts provide aid to the fishing boats, but also exercise Chinese jurisdiction over these waters (thus supporting China's claims to maritime rights) and protect Chinese fishermen when they are challenged by vessels from other states. Second, the SSRFAB seeks to prevent foreign ships from operating within China's claimed EEZ by boarding and inspecting these vessels, levying fines and confiscating catches and equipment, as well as by expelling ships from waters claimed by China.

In the past decade, the SSRFAB has steadily increased its presence in the South China Sea. The number of days in which SSRFAB vessels were at sea increased from 477 in 2005 to 1,235 in 2009 (including operations in the Gulf of Tonkin as well as in both disputed and undisputed portions of the South China Sea). At the same time, the number of

Vietnamese ships operating in the waters around the Paracel Islands began to increase, perhaps because of the implementation in 2004 of the 2000 Chinese-Vietnamese fishing agreement that limited fishing in the Gulf of Tonkin. China sees these Vietnamese ships as directly challenging its claims to sovereignty over the islands and to maritime rights in the adjacent waters. In 2009, the SSRFAB organized 11 special operations (*zhuanxiang xingdong*) around the Paracels conducted by the Yuzheng 308 and Yuzheng 309, each of which lasted for about 24 days.²⁰ In 2009, China expanded the duration of a unilateral fishing ban above 12 degrees north in the summer months that had been in place since 1999 and dispatched SSRFAB vessels to enforce this ban.²¹

The combination of increased Vietnamese fishing operations and a strengthened SSRFAB resulted in a growing number of confrontations at sea. In 2008 and 2009, SSRFAB vessels confronted and “expelled” (*qugan*) more than 135 and 147 foreign boats, respectively, most of which were likely Vietnamese.²² In addition, China began detaining Vietnamese fishing boats and their crews, sometimes levying a fine or even confiscating the boat. A Vietnamese newspaper reports that, between 2005 and October 2010, China detained 63 fishing boats with 725 men.²³ Roughly half of these detentions occurred in 2009, when Vietnamese sources indicate that China detained or seized 33 boats and 433 fishermen.²⁴ The increase in detentions coincided with diplomatic activity surrounding competing claims (described in the previous section) and a Chinese perception that Vietnam was increasing the number of fishing ships operating in disputed waters. Total numbers for 2010 are unavailable, but they appear to be much lower, around seven.²⁵ The practice of detaining Vietnamese fishing boats halted in 2011, but China continues to confiscate the catches of ships it claims are operating in Chinese waters around the Paracels.²⁶ Some of these confrontations have been deadly.

Although China’s detention of foreign fishing boats receives a great deal of media attention, confrontations involving fishing boats from other claimant states are also common. According to one Chinese source, more than 300 incidents have occurred since 1989 in which Chinese trawlers were fired upon, detained or driven away. In 2009, for example, Vietnamese vessels reportedly fired three times on Chinese boats, wounding three Chinese fishermen. That same year, 10 Chinese trawlers reportedly were seized.²⁷ Similarly, Vietnam and the Philippines routinely detain fishermen from each other’s countries.²⁸

Petroleum

Similar dynamics affect the exploration activities of oil companies in disputed waters. As discussed above, Vietnam’s development of offshore oil sparked demarches and at least a few threats from China against foreign oil companies. In the first half of 2011, China interfered with seismic surveys conducted by Vietnam and the Philippines within their claimed EEZs. China’s Marine Surveillance Force (MSF, *haijian budui*), which is part of the State Oceanographic Administration, has been the principal Chinese agency involved in this series of confrontations. As with the Bureau of Fisheries Administration, one mission of the MSF is to “safeguard maritime rights and interests,” in addition to enforcing Chinese laws regarding maritime affairs.²⁹ The South China Sea branch of the MSF was established in 1999 with responsibility for the waters adjacent to Macao, Hong Kong, Guangdong, Hainan and the disputed islands; it now has 13 ships. According to the State Oceanographic Administration, the MSF started regular (*dingqi*) law enforcement cruises to “protect rights” in 2006.³⁰ In April 2010, for example, MSF vessels conducted a cruise in southern portion of the South China Sea, dropping a sovereignty marker on James Shoal.³¹

Information about the scope and frequency of MSF patrols in the South China Sea is not

available in unclassified sources. In the first half of 2011, however, MSF ships were involved in two separate incidents in which they challenged and disrupted seismic survey activities by Vietnam and the Philippines. The first incident occurred in March, when two MSF vessels “expelled” (*ganqu*) a Philippine seismic survey vessel in the Reed Bank area in the northwestern portion of the Spratly Islands. According to Philippine press reports, the MSF vessels aggressively maneuvered around the ship and forced it to leave the area. The second incident occurred in late May, when an MSF ship cut across the stern of the seismic survey vessel Binh Minh 2, owned by PetroVietnam, and severed its towed cable. According to Vietnamese reports, three MSF vessels had been shadowing the Binh Minh 2, which was operating 120 nautical miles off the coast of central Vietnam.³²

A third incident involving Chinese fishing boats and SSRFAB vessels occurred in early June, but accounts differ. According to Vietnam, a Chinese fishing boat with a “specialized cable-slashing device” became ensnared in the towed cables of the Viking II, a Norwegian ship that was surveying an exploration block for Talisman Energy (Canada) off the coast of southern Vietnam in the southwestern portion of the South China Sea.³³ According to China, the fishing boat’s net became tangled with the sonar equipment on the Viking II, suggesting that poor seamanship might be to blame.³⁴

These confrontations demonstrate three important points about the competition over maritime rights. First, China escalated its efforts to exercise and enforce its maritime rights when it severed those cables. No similar incidents were reported in previous years, although after the May incident, a Vietnamese official stated that similar acts had occurred in 2010.³⁵ Second, the official response to the May incident from China’s Ministry of Foreign Affairs (MFA) suggests that the cable-cutting was intended to deter Vietnam from asserting its claims and to bolster China’s own claim to

Although China’s detention of foreign fishing boats receives a great deal of media attention, confrontations involving fishing boats from other claimant states are also common.

jurisdiction. The MFA spokesperson suggested that the action was a deliberate attempt to enforce China’s claims. The day after the incident, the spokesperson stated, “The law enforcement activities by Chinese maritime surveillance ships against Vietnam’s illegally operating ships are completely justified.”³⁶ Third, all three incidents occurred after survey activity by other claimants increased, underscoring the dynamic nature of the current competition over maritime rights. The Philippines initiated a new survey of Reed Bank in February 2011, just before the March 2 incident. The incidents involving Vietnam occurred following new surveys that began in March.

THE MILITARY DIMENSION

As discussed above, most of the confrontations among the claimants have involved commercial actors and civil maritime law enforcement agencies. By contrast, military forces have played an indirect and secondary role in the competition over maritime rights in the South China Sea, principally as an important reminder of China’s growing capabilities that could be used in the dispute. The key components of the military dimension of the recent tensions are the steady modernization of China’s naval forces and displays of China’s enhanced military power through cruises and exercises.

Military Modernization

Although China and Vietnam have both modernized their naval forces during the past decade, China's efforts have exceeded those of Vietnam to a substantial degree. Within the People's Liberation Army Navy (PLAN), the South Sea Fleet (SSF) based in Zhanjiang, Guangdong, now boasts some of China's most capable surface combatants, including five of the seven modern destroyers that China developed indigenously in the past 10 years.³⁷ It also includes the Kunlunshan, China's first modern landing platform dock, which displaces 20,000 tons and can transport one battalion of marines.³⁸ The SSF is the most capable of the PLAN's three fleets. Since 2008, six ships have participated in at least one escort mission in the Gulf of Aden to conduct counter-piracy patrols, which has been the first sustained overseas use of China's naval forces, and the SSF has organized half of the eight flotillas to the Gulf of Aden.

The SSF's infrastructure has also been upgraded recently, including the expansion of the important Yulin naval base at Sanya on Hainan Island. Although the base was enlarged to accommodate China's expanding fleet of modern submarines (including the new Jin class of ballistic missile submarines, or SSBNs, developed at the end of the 2000s), it also has new docks for surface combatants. For many regional observers, enlarging the base symbolized China's expanding naval forces and its focus on projecting naval power throughout the South China Sea. To be sure, the main reason for the expansion of the Yulin naval base was to strengthen China's nuclear deterrent (by serving as a base for SSBNs) and to house its expanding submarine fleet (which would play a crucial role in a Taiwan conflict). Nevertheless, given the base's location on Hainan Island, China's southernmost province astride the northern portion of the South China Sea, the expansion also demonstrated the new capabilities that China

could bring to bear in the South China Sea disputes and the potential to deploy even more forces in the region in the future.

On a much smaller scale, Vietnam has also been modernizing its air and naval forces, largely by acquiring foreign weapons. Because of its modernization effort, defense spending in Vietnam increased from 1.9 percent of its GDP in 2005 to 2.5 percent in 2009.³⁹ The most significant development was the decision in December 2009 to purchase six Kilo class submarines from Russia. When the submarines are delivered in 2014, Vietnam will have a small but advanced submarine force. Vietnam also ordered two Gepard class frigates in 2006 that were delivered in 2011 and 37 fighter aircraft between 2004 and 2010, including 24 advanced Su-30MKs.⁴⁰ Taken together, these advances show that Vietnam is developing the means to deter China from using its naval forces in disputes in the South China Sea.

Increased Naval Presence

The scope and content of PLAN exercises display China's growing naval power in the region. The PLAN has increased the number of exercises by task forces (*biandui*) of several ships operating together and the number of exercises in the South China Sea, including the disputed waters. Many, if not all, of these exercises reflect the growing capabilities of the PLAN that were produced by the modernization drive in the late 1990s. Although recent tensions have not led to military action, reports of these exercises increase regional fears that China will use force to defend its claims – especially when these exercises occur in disputed waters.

During 2010, the PLAN conducted a number of high profile and publicly reported exercises in the South China Sea. In March 2010, the North Sea Fleet conducted a long-distance exercise with a task force of six ships, including one destroyer, three frigates, a tanker and a salvage vessel. The

task force traveled from Qingdao through the Miyako Strait and then turned south, passing through the Bashi Channel between Taiwan and the Philippines before stopping at Fiery Cross Reef in the South China Sea.⁴¹ In July 2010, the SSF organized a large-scale live-ammunition exercise held in an undisclosed location in the South China Sea that involved ships from all three fleets and included China's most advanced surface combatants.⁴² In November 2010, the SSF organized another large-scale exercise, named Jiaolong-2010, which involved 1,800 marines and included more than 100 armed helicopters, mine sweepers, subchasers, landing craft, amphibious armored vehicles and assault boats, and pieces of "direct fire" (*zhimiao*) weaponry. The exercise simulated an amphibious landing and breakthrough on a beachhead, although the location was not specified.⁴³ These exercises demonstrated new capabilities that China could potentially use to defend its claims in the South China Sea.

Is China Becoming More Assertive in the South China Sea?

Analysts often see the tensions in the South China Sea as evidence of growing Chinese assertiveness. As Michael Swaine and I have argued elsewhere, however, it is not actually clear that China has become more assertive.⁴⁴ On the one hand, China has not altered or expanded the content of either its sovereignty claims or maritime rights claims in the South China Sea. In a contrast to events during the late 1980s and early 1990s, China has also not used armed force to resolve the current competing claims on its own terms. On the other hand, China now possesses greater capabilities to defend its claims and has been more willing to use these capabilities, especially since 2009. Other claimant states have also asserted their claims more actively. China views its actions as responding to the assertiveness of other states that challenge Chinese claims.

Assertiveness implies new and unilateral actions to change the status quo in a dispute or relationship.

It is not actually clear that China has become more assertive. China has not altered or expanded the content of either its sovereignty claims or maritime rights claims in the South China Sea.

Although China's claims to maritime rights encompass most of the South China Sea, the content of those claims has not changed. The People's Republic of China (PRC) has claimed sovereignty over the Paracel Islands and Spratly Islands since 1951 and draws on the claims of previous Chinese governments. The PRC first began to claim maritime rights from these features in 1958 during the crisis over Jinmen. China's sovereignty and maritime rights claims were later codified in a series of laws regarding territorial seas and EEZs that were passed by the National People's Congress in 1992 and 1998, respectively. China's sovereignty and maritime rights claims were reiterated in the May 2009 note verbale that China submitted to the CLCS. China submitted this note, however, not because it had chosen to press its claims more assertively but because other states had submitted claims that overlapped with China's. As noted earlier, claimant states had strong incentives to challenge each other's submissions in order to defend their own claims.⁴⁵

Some observers argue that China expanded its claim by including a map with the nine-dashed line in the May 2009 submission. The line and its inclusion on Chinese maps, however, are not new. The line first appeared in an atlas published by the Republic of China in 1947 and was formally

announced in 1948. At the time, however, the line was not defined officially, and it remains undefined today. The note verbale submitted with the map, for example, did not define the line or even refer to it. The contested islands were the only geographic features that were both contained in the note and named on the map. In addition, the map submitted to the CLCS was the first map of the region that China had ever submitted to the U.N.; none of the previously submitted documents about maritime claims had included any maps.⁴⁶ Had China submitted a map with its 1992 law on territorial seas, for example, it would have included the nine-dashed line because the line appeared on official Chinese maps at the time. Finally, as Greg Austin has noted, the use of dashed marks on Chinese maps suggested “indefinite or uncertain boundary.”⁴⁷ Consistent with this view, the PRC removed two of the original dashes in the Gulf of Tonkin in 1953, indicating that the line itself was subject to change.

In April 2010, reports surfaced that China had labeled the South China Sea as a “core interest” on par with Taiwan and Tibet. Yet no senior Chinese leader has ever publicly described the South China Sea as a core interest, although it may have been discussed in one or more private meetings between U.S. and Chinese officials.⁴⁸ By contrast, senior Chinese leaders frequently have described Tibet and Taiwan as core interests.⁴⁹ The only exception appears to be an English-language article published on the Xinhua News Agency website in August 2011, which stated that China “has indisputable sovereignty over the [South China] sea’s islands and surrounding waters, which is part of China’s core interests.”⁵⁰ In this context, the article most likely referred to territorial sovereignty over the islands and the related 12-nautical-mile territorial seas (maritime space over which states exercise sovereignty), not to the South China Sea as a whole or the waters enclosed by the

nine-dashed line. To date, no senior Chinese leader has repeated this statement.

As discussed previously, China has been increasingly able and willing to enforce its claims to maritime rights in the South China Sea. In particular, the expanding fleets of the Bureau of Fisheries Administration and MSF in the South China Sea have enabled China to respond to what Beijing perceives as multiple challenges to its claims (see Table One). The diplomatic demarches to foreign oil companies in 2006 and 2007, for example, were a response to increased Vietnamese exploration in waters claimed by China. Likewise, the dramatic increase in the detention of Vietnamese fishing boats in 2009 coincided with an increased presence of Vietnamese ships in the waters around the Paracels, often within the territorial seas that China claims around these islands.

The one Chinese action that stands out as new and unilateral involves harassing seismic survey vessels and interfering with their operations, especially the cable-cutting incident in May 2011. Based on the number of Chinese ships from the MSF that were involved and the content of the MFA’s response, this appears to have been an effort to clearly signal China’s opposition to such Vietnamese activity. An increased frequency of similar incidents in the future would indicate greater Chinese assertiveness in the South China Sea.

Furthermore, China has chosen not to undertake other provocative measures. Diplomatically, top Chinese leaders have not publicly visited any of the Spratly Islands. Militarily, China has not actively used naval forces to enforce its claims to maritime rights nor has it sought to use armed force. Instead, China has relied on its civil maritime law enforcement agencies, especially the Bureau of Fisheries Administration and the MSF.⁵¹ Relying on these civilian agencies appears to be a deliberate choice and suggests that China has sought to limit the potential for escalation

TABLE ONE: PERCEIVED CHALLENGES TO CHINA'S CLAIMS

DATE	ACTIONS OF OTHER SOUTH CHINA SEA CLAIMANTS
2006-2007	Vietnam increases offshore petroleum exploration projects in waters claimed by China.
Jan. 2007	The Fourth Plenum of the Vietnam Communist Party's Central Committee adopts a resolution mandating the development of a national "Maritime Strategy Towards the Year 2020." The strategy envisions that maritime industries, especially fishing and petroleum, would account for 55 percent of GDP in 2020, up from 48 percent in 2005.
April 2007	Vietnam elevates Trường Sa (Spratly Island) to the level of a "township" under the Trường Sa District.
Nov. 2007	The Philippine legislature begins debate on an archipelagic baselines law, which includes 53 features from the Spratlys as part of the Philippine archipelago.
June 2008	The 2004 joint seismic survey agreement with the Philippines and Vietnam expires, dashing China's hopes for "joint development" (Deng Xiaoping's guideline for managing these disputes).
Feb. 2009	The Philippine legislature passes an archipelagic baseline law, which includes claims to some of the Spratlys. The bill is signed into law in March 2009.
March 2009	Malaysian Prime Minister Badawi makes a public visit to Swallow Reef, a feature in the South China Sea occupied by Malaysia, to demonstrate Malaysia's claim.
May 2009	Vietnam and Malaysia submit claims to the U.N. for extended continental shelves in the South China Sea.
Nov. 2009	Vietnam's Foreign Ministry hosts a large international academic conference on the South China Sea to launch its campaign to "internationalize" the dispute.
Dec. 2009	The number of Vietnamese fishing vessels taking refuge in the Paracel Islands, controlled by China since 1974, increases (many are detained by China).
Jan. 2010	Vietnam assumes the rotating chairmanship of ASEAN and begins a public effort to build consensus within ASEAN regarding the South China Sea.
March 2010	The Vietnamese Prime Minister makes a public visit to one of the Vietnamese-held Spratly Islands to demonstrate Vietnam's claim.
April 2010	Approximately 20 Vietnamese fishing and coast guard vessels surround a Chinese fisheries administration patrol vessel.
July 2010	The United States and 11 other countries express concern about the situation in the South China Sea during the annual meeting of the ASEAN Regional Forum.
Nov. 2010	Vietnam's Foreign Ministry hosts a second international academic conference about the South China Sea.
Feb. 2011	The Philippines begins a seismic survey in the waters near Reed Bank.
March 2011	Vietnam begins seismic surveys in waters claimed by China.
April 2011	The Philippines submits a note verbale to the U.N. contesting China's claims from its May 2009 note to the U.N.
June 2011	Five legislators from the Philippines visit Thitu Island. Vietnam holds live-fire naval exercises in the South China Sea.

Source: Michael D. Swaine and M. Taylor Fravel, "China's Assertive Behavior – Part Two: The Maritime Periphery," *China Leadership Monitor*, 35 (Summer 2011).

through how it chooses to assert and enforce its claims to maritime rights. A shift to using naval forces – and not law enforcement agencies – against civilians from other claimant states would indicate greater Chinese assertiveness.

In sum, China has not been as assertive in this dispute as many observers contend. China has not changed either the content or the scope its claims, although ambiguity continues to surround the meaning of the nine-dashed line. Overall, with the exception of the cable-cutting incidents, China has generally responded to perceived challenges to its long-held claims and has chosen to do so through its civil maritime law enforcement agencies rather than its military forces.

Diplomatic Pause? China's Efforts to Moderate its Approach Since July 2011

Concern among the claimants about growing tensions in the South China Sea produced an agreement between China and ASEAN in July 2011 on guidelines for implementing the 2002 Declaration on the Conduct of Parties in the South China Sea (DoC). Although the implementation guidelines lack substance, they were intended to decrease tensions and prevent any further escalation. When combined with other recent developments, the guidelines suggest that China may have started to moderate the manner in which it asserts and exercises the maritime rights it claims. China has sought to improve its tarnished image in the region and to reduce the role of the United States in the dispute, a role which had increased following Secretary of State Hillary Rodham Clinton's statement about U.S. interests in the region at the July 2010 meeting of the ASEAN Regional Forum (ARF).⁵²

The guidelines specify only confidence-building measures, including workshops on environmental protection, navigational safety and search and rescue operations, and transnational crime.⁵³ This limits their utility in three ways. First, they were designed to implement the 2002 DoC, which itself

was intended only as a first step toward a binding Code of Conduct for activity in the South China Sea. Second, the 2002 DoC (and any resulting Code of Conduct) does not address the conflicting claims to territorial sovereignty or maritime rights. It is intended only to manage tensions, not to resolve the underlying conflicts of interest. Third, the guidelines are unimpressive even in the context of implementing the DoC because they only involve a limited set of activities.

Nevertheless, the guidelines are symbolically important. The agreement shows that China and Vietnam, the principal antagonists, are seeking to prevent tensions from escalating. China and ASEAN had been discussing these guidelines for several years, but they disagreed over whether the guidelines would state explicitly that ASEAN would follow its standard practice of meeting as a group before holding talks with China. Within ASEAN, Vietnam was most adamant about including this provision in the guidelines. In late June 2011, a breakthrough occurred when Vietnam's deputy foreign minister Ho Xuan Son traveled to Beijing as a special envoy. According to a statement released following his visit, China and Vietnam agreed to accelerate bilateral negotiations over maritime issues and to "boost the implementation of the [DoC] ... so that substantial progress will be achieved soon."⁵⁴ It is likely that China and Vietnam agreed to halt their standoff over the implementation guidelines during Ho's trip. A few weeks later, Vietnam reportedly dropped its insistence that such language be included in the guidelines, and China agreed that ASEAN would continue its practice of meeting as a group before meeting with China (as happened at the July 2011 ASEAN meeting). Although this agreement was not included in the implementation guidelines, it was included in the official summary record of the meeting. The diplomatic breakthrough over the guidelines allowed all sides to demonstrate their commitment to limiting the escalation of tensions.

China has also moderated other aspects of its behavior. As discussed previously, China has detained fewer Vietnamese fishing vessels since 2009: China detained 33 ships in 2009 but only seven in 2010. As of this writing in the fall of 2011, China has not detained any Vietnamese ships and crews this year, although the SSRFAB continues to confiscate the catches and equipment of ships operating in Chinese waters. Vietnamese reports confirm this change in China's rules of engagement for the vessels from the Bureau of Fisheries Administration that regulate China's fishing industry.⁵⁵ The SSRFAB detentions were consistent with its domestic operations, as it routinely boards, inspects, fines and detains Chinese fishing vessels, in addition to foreign ones. Thus, the change in its approach to Vietnamese ships in 2011 can only be explained as a response to pressure from outside the bureau to harmonize its actions with Chinese diplomacy and reduce tensions in the South China Sea.

Top Chinese leaders have subsequently reaffirmed that China's approach to the disputes in the South China Sea should remain based on Deng Xiaoping's guideline of "sovereignty is ours, set aside disputes, pursue joint development."⁵⁶ Shortly after the July 2011 meeting of the ARF, the print edition of the *Renmin Ribao* included a full page devoted to the importance of pursuing joint development; this was described as an "authoritative forum" (*quanwei luntan*).⁵⁷ Such a collection of essays on the South China Sea in the official newspaper of the Chinese Communist Party may be unprecedented and was likely designed to signal "unify thought" (*tongyi sixiang*) within the party on this issue. Likewise, Hu Jintao emphasized this approach during the August 2011 visit of Philippine President Benigno Aquino III. Hu stated, "Before the disputes are resolved, the countries concerned may put aside the disputes and actively explore forms of common development in the relevant sea areas."⁵⁸ Hu apparently did not stress the first element of Deng's guideline, which

emphasizes Chinese sovereignty; this may have been a further effort to reduce tensions. Finally, during General Secretary of the Communist Party of Vietnam Nguyen Phu Trong's trip to China in October 2011, China and Vietnam signed an agreement on basic principles for guiding the resolution of maritime issues, including the disputes over the Paracels and Spratlys.⁵⁹ The agreement was apparently concluded when State Councilor Dai Bingguo visited Vietnam in September 2011.⁶⁰

It remains to be seen whether the change in China's behavior will extend beyond fishing to offshore petroleum and other sectors. The May 2011 cable-cutting incident seemed intended to signal China's opposition to what it views as Vietnam's unilateral development of offshore petroleum. It is not yet clear how China will respond to similar seismic survey work that both Vietnam and the Philippines plan to undertake in the future and whether China will continue to interfere with these operations. The cable-cutting episode may be similar to the 2009 USNS Impeccable incident, when Chinese naval, civil maritime law enforcement and fishing ships maneuvered dangerously around a noncommissioned and unarmed survey ship of the U.S. Navy and attempted to snag its towed cable. Yet following this clear signal of opposition to U.S. activity in China's EEZ, no further incidents have occurred even though U.S. surveillance activities continue. China has not interfered with these surveillance activities in order to manage the potential for escalation. China may have made a similar calculation after the hydrocarbon incidents in May and June 2009, choosing to reduce tensions after signaling its opposition to such activities.

Potential Areas of Cooperation Over Maritime Rights in the South China Sea

Competing claims over territorial sovereignty are always difficult to resolve and are even more challenging in the Spratly Islands because so many states have overlapping claims. In principle, however, conflicting claims over maritime rights

should be easier to resolve than claims over territory, as they involve resources that are more easily divided or shared. As a result, temporary or even permanent agreements can help manage this element of security competition in the South China Sea. There are at least four possible areas of cooperation, which draw on China's cooperative efforts with some of its maritime neighbors beyond the South China Sea.

JOINT REGULATION OF FISHING IN DISPUTED WATERS

China has signed fishing agreements with most of its neighbors; some of these agreements create joint fishing zones for fleets from both countries. In 2000, China and Vietnam established a cooperative zone with shared jurisdiction over fishing and also established mechanisms to govern this zone. Such an agreement could be extended to include a broader area where Chinese and Vietnamese EEZs overlap south of Hainan Island and east of Vietnam. In addition, as Peter Dutton has suggested, a multilateral fishing organization could be established using the Northwest Atlantic Fisheries Organization as a model.⁶¹

JOINT CIVIL MARITIME LAW ENFORCEMENT ACTIVITIES

One promising model for joint civil law enforcement is the North Pacific Coast Guard Forum, which includes organizations from China and the United States. Participants in the forum have conducted joint exercises and operations relating to maritime law enforcement.⁶² This organization could provide a model for claimants in the South China Sea.

JOINT DEVELOPMENT OF PETROLEUM RESOURCES

A June 2008 agreement between China and Japan contained a formula for the joint exploration and development of petroleum in the East China Sea. Of course, the agreement has not been implemented, reflecting the challenges inherent in this type of cooperation. Nevertheless, it does indicate

how such an agreement could be drafted, perhaps starting with the area in which the joint seismic survey was conducted or a part of this area.

NAVAL FORCES

Since 2005, Chinese and Vietnamese naval forces have conducted 11 joint naval patrols in the Gulf of Tonkin.⁶³ As a first step, the scope of these patrols could be extended farther south to encompass a broader area. Such patrols could also be expanded in a multilateral setting to include forces from other claimant states.

Cooperation in all of these areas demands political will and diplomatic creativity, and will almost certainly require participating states to agree that these activities would not prejudice each other's claims to maritime rights and territorial sovereignty. The South China Sea claimants have already established some form of cooperation in several of these areas, but it may still prove quite difficult to expand cooperation in these ways. Nevertheless, any combination of these joint endeavors would help to limit the competition over maritime rights in the region, which would enhance regional stability.

Conclusion

A number of states – including China – have increased their efforts to claim, assert, exercise and enforce competing claims to maritime rights in the South China Sea. This competition over maritime rights is related to but distinct from other components of maritime security in the region, including competing claims to territorial sovereignty over island groups, freedom of navigation and naval modernization. Although some observers focus on China as the primary antagonist, the competition stems from an increasing willingness of all claimants, especially Vietnam, to assert and defend their claims. The July 2011 agreement between ASEAN and China over guidelines for implementing the 2002 DoC has created breathing space that might be exploited to reduce the competition over maritime rights through a variety of cooperative

mechanisms. Political will and diplomatic creativity, however, will be necessary for such initiatives to move forward.

The United States has a direct stake in freedom of navigation in the South China Sea and in regional stability more generally, including the peaceful resolution of disputes. Nevertheless, the disputes over maritime rights and territorial sovereignty in the South China Sea pose distinct challenges that the United States must navigate. On the one hand, the United States should reaffirm its interests in the region when they may be challenged. At the July 2010 meeting of the ARF, for example, Secretary Clinton clearly articulated U.S. interests in the South China Sea, including freedom of navigation, unimpeded commerce, respect for international law and peaceful dispute resolution.⁶⁴ The unprecedented expression of American interests in the region helped produce China's July 2011 agreement with ASEAN on implementing guidelines. China seeks to limit the U.S. role in resolving the South China Sea dispute and hoped to limit discussion of the issue at the 2011 ARF meeting by instead concluding the agreement with ASEAN (which does not include the United States). In this instance, U.S. diplomacy helped prevent tensions from escalating further.

Yet on the other hand, the United States should maintain its longstanding principle of neutrality and not taking sides in the territorial disputes of other countries. The disputes in the South China Sea are complicated and multifaceted. To the extent that U.S. policy takes sides in these disputes – or is perceived as taking sides – it risks transforming these disputes into a bilateral conflict between the United States and China. In addition, to the extent that claimant countries believe that the United States will defend their actions against China, they may take bolder and riskier actions that could increase instability in the South China Sea.

These challenges for the United States were evident just before the November 2011 East Asian Summit

in Bali. During a press conference in Manila three days before the summit, Secretary Clinton appeared to side with the Philippines by referring to “disputes ... that exist primarily in the West Philippine Sea between the Philippines and China.”⁶⁵ The West Philippine Sea is the name that the Philippines began to use in June 2011 to refer to the South China Sea (which is the standard name for this body of water).⁶⁶ Reinforcing this interpretation, Voice of America published an article entitled “US Secretary of State Backs Philippines in South China Sea Dispute.”⁶⁷ Similarly, the Philippines viewed American policy as supporting its position in the dispute. According to the Philippine presidential spokesperson, the U.S. presence “bolsters our ability to assert our sovereignty over certain areas.”⁶⁸ Clinton's statements not only appeared to undermine the principle of maintaining neutrality in the territorial disputes of other countries, but may also embolden the Philippines to be more assertive in the South China Sea.

Looking forward, the United States must balance efforts to maintain stability in the South China Sea against actions that could inadvertently increase instability, especially greater involvement in the resolution of the dispute itself – an action that would be seen in the region and beyond as moving away from the principle of neutrality. The United States should affirm the principles that Secretary Clinton articulated in July 2010 and apply them equally to all claimants in the South China Sea disputes, not just China. The United States should not take a position on what specific modes or forums should be used to resolve or manage these disputes, so long as they are agreed upon by the claimants without coercion. The United States should not offer to facilitate talks or mediate the dispute. Striking the right balance between these policies will help maintain stability and prevent conflict in the future.

ENDNOTES

1. Robert D. Kaplan, "The South China Sea Is the Future of Conflict," *Foreign Policy* (September/October 2011).
2. For a detailed examination of these different types of interests, see Peter Dutton, "Three Disputes and Three Objectives: China and the South China Sea," *Naval War College Review*, 64 no. 4 (2011), 42-67.
3. Before the January 1974 clash between China and South Vietnam, China controlled only the islands in the Amphitrite Group in the eastern part of the archipelago. After the 1974 clash, China gained control over the Crescent Group. See M. Taylor Fravel, *Strong Borders, Secure Nation: Cooperation and Conflict in China's Territorial Disputes* (Princeton, NJ: Princeton University Press, 2008), 272-287.
4. Greg Austin, *China's Ocean Frontier: International Law, Military Force, and National Development* (Canberra, Australia: Allen & Unwin, 1998), 153-154.
5. For a recent review of these developments, see Fravel, *Strong Borders, Secure Nation*, 267-299.
6. For a more detailed discussion of China's claims, see M. Taylor Fravel, "China's Strategy in the South China Sea," *Contemporary Southeast Asia*, 33 no. 3 (December 2011).
7. By submitting claims for extended continental shelf rights to the U.N. in 2009, Vietnam and Malaysia indicated that they would not claim maritime rights from the contested islands, although they have not yet said so explicitly. In a subsequent note, the Philippines indicated that the Spratly Islands did not meet the criteria under Article 121(3) and thus could not be used to claim maritime rights. Another element of China's claim is the assertion that its 1998 EEZ law would not influence China's "historical rights." The content and geographical scope of these historic rights, however, was not defined in this law.
8. Ren Xiaofeng and Cheng Xizhong, "A Chinese Perspective," *Marine Policy*, 29 no. 2 (March 2005), 139-146.
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17. *Rules of Procedure of the Commission on the Limits of the Continental Shelf* (New York: United Nations, 2008), 22.
18. A list of all submissions and objections is available on the commission's website: http://www.un.org/Depts/los/clcs_new/commission_submissions.htm.
19. Within the Bureau of Fisheries Administration, law enforcement activities are supervised by the Fisheries Administration Command Center (*yuzheng zhihui zhongxin*). Responsibility for patrols and other law enforcement activities is divided among regional fisheries administrations, including the Yellow Sea and Bohai Gulf Region Fisheries Administration (*huangboqu yuzhengju*), the East Sea Region Fisheries Administration (*donghaiqu yuzhengju*) and the South Sea Region Fisheries Administration.
20. Nongyebu yuyeju, ed., 2010: *Zhongguo yuzheng nianjian* [2010: China Fisheries Yearbook] (Beijing: Zhongguo yuye chubanshe, 2010), 124.
21. *Ibid.*, 124-125.
22. Nongyebu yuyeju, ed., 2009: *Zhongguo yuzheng nianjian* [2009: China Fisheries Yearbook] (Beijing: Zhongguo yuye chubanshe, 2009), 147; Nongyebu yuyeju, ed., 2010: *Zhongguo yuzheng nianjian*, 124.
23. "Vietnam Demands Unconditional Release of Fishermen Held by China," *Than Nien News*, October 8, 2010. (*Than Nien News* is published by the Vietnam National Youth Federation.)
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32. "VN Condemns Chinese Intrusion," Vietnam News Agency, May 28, 2011.
33. "Regular Press Briefing by MOFA's Spokesperson Nguyen Phuong Nga on June 9th, 2011," June 9, 2011, http://www.mofa.gov.vn/en/tt_baochi/pbnfn/ns110610145220#tr5qmcP0xVB6.
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35. Ben Bland and Kathrin Hille, "Vietnam and China Oil Clashes Intensify," *The Financial Times*, May 27, 2011. A report from Vietnam, however, suggested that such incidents had not occurred in the past. See "Russian captain condemns cable destruction," Vietnam Net, June 2, 2011. (Vietnam Net is part of Vietnam's Ministry of Information and Communications.)
36. "Foreign Ministry Spokesperson Jiang Yu's Regular Press Conference on May 31, 2011," <http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t827089.htm>. By contrast, the MFA's response to the June incident suggested that it might have been unintended. Similarly, the location of the incidents suggests that they were designed to signal China's maximal claims to maritime rights. All were located near the limits of a hypothetical 200-nautical-mile EEZ that China could claim in the South China Sea from the five largest features of the Spratly Islands (Taiping [Taiwan], Thitu [Philippines], West York [Philippines], Spratly [Vietnam] and Northeast Cay [Philippines]).
37. These include the only Luhai class destroyer (which entered service in 1997) and all four Luyang I and II class destroyers (which entered service between 2002 and 2003). The PLAN is organized into three fleets: the North Sea Fleet, the East Sea Fleet and the South Sea Fleet.
38. For information on ship deployments, see *Directory of PLA Personalities* (Honolulu: Serold, various years).
39. SIPRI Military Expenditure Database, 2011.
40. SIPRI Arms Transfers Database, 2011.
41. Regarding the exercise, see IISS Strategic Comments, "Chinese navy's new strategy in action," 16 no. 16 (May 2010); and Greg Torode, "Exercises Show PLA Navy's Strength," *South China Morning Post*, April 18, 2010.
42. Zhong Jijun, "Zhuoyan shengchang tixi zuozhan nengli, jiji tuijin junshi xunlian zhuanbian [Grasp Generating Systems Operations Actively Promote the Transformation in Military Training]," *Jiefangjun Bao*, July 29, 2010, 1. (*Jiefangjun Bao* is the official paper of the PLA.)
43. Deng Ping and Liu Fengang, "Nanhai jiandui zuzhi 'jiaolong-2010' shibing shidan yanxi [South Sea Fleet Organizes 'Jiaolong-2010' Live Fire Exercise]," *Jiefangjun Bao*, November 4, 2010, 2.
44. Michael D. Swaine and M. Taylor Fravel, "China's Assertive Behavior – Part Two: The Maritime Periphery," *China Leadership Monitor*, 35 (Summer 2011).
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46. For a list of documents that China has submitted to the U.N. relating to its maritime sovereignty claims, see <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/CHN.htm>.
47. Austin, *China's Ocean Frontier*, 207.
48. Michael D. Swaine, "China's Assertive Behavior – Part One: On 'Core Interests,'" *China Leadership Monitor*, 34 (Winter 2011). Uncertainty remains about precisely what language Chinese officials used in their private discussions – namely, whether they referred to the contested islands as part of China's core interests (consistent with Dai Bingguo's formulation of China's core interests in 2009, which included territorial integrity) or whether they referred to the waters of the South China Sea as a whole.
49. *Ibid.*
50. "China-Philippines Cooperation Depends on Proper Settlement of Maritime Disputes," Xinhua News Agency, August 31, 2011.
51. One of China's other civil maritime law enforcement agencies, the coastal defense units of the Border and Maritime Defense Force (*bianhaifang budui*), known as the "maritime police" (*haijing*), has not been active in the South China Sea disputes. These are People's Armed Police units under the Ministry of Public Security and are responsible for policing Chinese ports and coasts.
52. China's position is that the disputes among the claimants should be handled bilaterally, not multilaterally, and should exclude any role for outside powers. Clinton's statement in July 2010 challenged both of these aspects of China's approach. See Secretary of State Hillary Rodham Clinton, "Remarks at Press Availability," National Convention Center, Hanoi, Vietnam, July 23, 2010, <http://www.state.gov/secretary/rm/2010/07/145095.htm>.
53. Qin Jize and Cui Haipei, "Guidelines Agreed with ASEAN on Sea Disputes," *China Daily*, July 21, 2011. (The *China Daily* is an English-language state-run paper in China.)
54. "Viet Nam-China joint press release," June 26, 2011.
55. "PRESS DIGEST – Vietnam newspapers – May 31," Reuters, May 30, 2011.
56. Deng's guideline for this dispute was developed in the 1980s. His intent was to delay the resolution of the contested claims and focus on cooperative efforts in order to prevent tensions in the dispute from harming China's broader bilateral relations with other claimant states. Events between 2009 and 2011 raised questions about whether Deng's guideline still governed China's approach to the disputes in the South China Sea.
57. See *Renmin Ribao*, August 2, 2011, 23.

58. "China, the Philippines Agree to Downplay Maritime Disputes, Enhance Economic Ties," Xinhua News Agency, August 31, 2011.
59. "Guanyu Zhidao Jiejue Zhongguo Yu Yuenan Haishang Wenti Jiben Yuanze Xieyi [Agreement on Basic Principles Guiding the Resolution of Maritime Issues between China and Vietnam]," Chinese Ministry of Foreign Affairs, October 12, 2011, <http://www.fmprc.gov.cn/chn/gxh/tyb/zyxw/t866484.htm>.
60. "ZhongYue Shuangbian Hezuo Zhidao Weiyuanhui Diwuci Huiyi Lianhe Xinwengao [Joint Press Statement of the Fifth Meeting of the China-Vietnam Steering Committee on Cooperation]," Chinese Ministry of Foreign Affairs, September 8, 2011, <http://www.fmprc.gov.cn/chn/gxh/tyb/zyxw/t856547.htm>.
61. Dutton, "Three Disputes and Three Objectives," 42-67.
62. Patrick Markowitz, "A Model for International Cooperation at Sea: The North Pacific Coast Guard Forum," n.d., http://www.jhuapl.edu/cfgms/presentations/NPCGF_IMSS.pdf.
63. "China, Vietnam Complete Joint Naval Patrols," Xinhua News Agency, June 23, 2011.
64. Clinton, "Remarks at Press Availability."
65. "Presentation of the Order of Lakandula, Signing of the Partnership for Growth and Joint Press Availability with Philippines Foreign Secretary Albert Del Rosario," November 16, 2011, <http://www.state.gov/secretary/rm/2011/11/177234.htm>.
66. China's name for the South China Sea is the South Sea (*nanhai*). South China Sea is the name used by the Office of the Geographer at the U.S. Department of State.
67. Simone Orendain, "US Secretary of State Backs Philippines in South China Sea Dispute," Voice of America, November 16, 2011.
68. Daniel Ten Kate and Julianna Goldman, "Obama Targets Maritime Security as China Spars with Philippines over Sea," Bloomberg, November 17, 2011.



CHAPTER III:
CHINA'S BILATERAL AND MULTILATERAL DIPLOMACY
IN THE SOUTH CHINA SEA

By Ian Storey

J A N U A R Y 2 0 1 2

Cooperation from Strength
The United States, China and the South China Sea



CHINA'S BILATERAL AND MULTILATERAL DIPLOMACY IN THE SOUTH CHINA SEA

By Ian Storey

China's increasingly assertive actions in the South China Sea are raising concerns in Southeast Asia and beyond because they potentially threaten access to vitally important sea lanes, increase the risk of an armed skirmish or crisis at sea and may worsen relations between the United States and China. Yet despite these tensions, China is not likely to try to resolve disputes in the South China Sea through military force, as the costs of doing so would greatly outweigh the benefits. Instead, Chinese officials are more likely to continue the policy they have followed for more than two decades: emphasizing their commitment to peace, stability and cooperation while simultaneously asserting their jurisdictional claims and expanding China's physical presence in the South China Sea.

This chapter analyzes China's interests in the South China Sea and how Chinese diplomatic efforts seek to both reassure neighbors and strengthen China's claims to disputed areas. It then examines why China prefers bilateral diplomacy to multilateral diplomacy and why China has nevertheless negotiated two agreements with the Association of Southeast Asian Nations (ASEAN) during the past two decades. It concludes by arguing that the fundamental dynamics that shape Chinese policy are unlikely to change and, therefore, that the status quo is likely to persist.

Chinese Interests in the South China Sea

The People's Republic of China (PRC) has three key interests in the South China Sea, which are all interrelated. First, it wants to assert what it sees as its historic rights, including sovereignty over all the geographical features and possibly even the entire maritime space. Second, it wants to secure access, on the basis of those historic rights, to maritime resources, principally fish, oil, gas and undersea minerals. Third, it wants to ensure that its sea lines of communication (SLOCs) are secure because these trade arteries are so vital to China's economic prospects and great power aspirations.

CHINA'S SOVEREIGNTY CLAIMS

China asserts “indisputable sovereignty over the South China Sea islands and their adjacent waters.”¹ It bases its sovereignty claims on discovery, longstanding historical use and administrative control by successive Chinese governments stretching back to the Han Dynasty in the second century BC.² China supports its claims by referencing maps, archaeological findings and historical records. However, none of the evidence is especially compelling under modern international law, which favors the sovereignty claims of those states best able to prove continuous and effective administration. The PRC cannot prove this because the central government was weak during the domestic turmoil and foreign invasions of the 19th and 20th centuries and, thus, could not effectively administer the atolls. This partly explains China’s reluctance to submit its claims to international legal arbitration. It should be noted, however, that the historical claims of the other parties are also weak.

One of the most important historical documents on which China bases its claims is a map issued by the Nationalist (Kuomintang) Chinese government in 1947 that shows a discontinuous line passing down the west coast of the Philippines, skirting the coast of Borneo and then continuing northward along the east coast of Vietnam. After it was established in 1949, the PRC adopted this map as one of the foundations of its claims in the South China Sea. Today, official PRC maps of Southeast Asia show 10 dashes, but maps of the South China Sea include only nine, which is why it is usually referred to as the nine-dashed line.³ China officially submitted this map to an international organization for the first time on May 7, 2009, when it was attached to a protest note to the United Nations Commission on the Limits of the Continental Shelf (CLCS) over a joint Malaysia-Vietnam submission.⁴ Despite the fact that the map has existed for over six decades,

China has been reluctant to explain the meaning of the nine-dashed line and how it can be justified under international law, especially the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which China ratified in 1996.

The map can be interpreted in two ways. The first is that the nine dashes mark the general areas around the major land features that China claims. At least one of those land features is an island, which would grant the claimant a 200-nautical-mile exclusive economic zone (EEZ) under international law. Other major features are reefs rather than islands, which would grant the claimant 12 nautical miles of territorial waters but would not create an EEZ. This interpretation would be broadly consistent with international law established by UNCLOS. It is also consistent with PRC domestic legislation passed in 1992, which claims the Paracels, Spratlys, Pratas Reef, Macclesfield Bank, Scarborough Shoal, Senkaku/Diaoyu Islands, Penghu and Dongsha Islands.⁵ Although China’s exact claims remain somewhat ambiguous, this approach is generally consistent with international law.

The second interpretation is that the nine-dashed line delimits China’s “historic waters” in the South China Sea – meaning China would effectively be claiming the entire body of water within the line. As Singapore’s Ambassador-at-Large, and former President of the Third United Nations Conference on the Law of the Sea, Tommy Koh has observed, such a claim would be incompatible with existing international law.⁶ Nonetheless, China’s increasingly assertive behavior toward the other claimants – including pressuring foreign energy corporations not to participate in offshore exploration, imposing an annual fishing ban and interfering with the oil and gas survey activities of Southeast Asian oil companies – does suggest that Beijing is pursuing this second interpretation.⁷

Southeast Asian officials view this development with concern. Philippine Foreign Secretary Albert

del Rosario has described the map as “effectively giving them sovereignty over the South China Sea,” and Singapore’s former senior minister and law expert Professor S. Jayakumar has described the map as “puzzling and disturbing” because it has no basis under UNCLOS and can be “interpreted as being a claim on all the maritime areas within the nine dotted lines.”⁸ Such an interpretation undermines some norms of international law and endangers the right to freedom of navigation.

The extent of China’s claims, its periodically belligerent behavior and its refusal to explain the map has generated considerable concern across Southeast Asia. Vietnam rejects China’s claims, Indonesia and the Philippines have formally challenged the nine-dashed line at the U.N. and Singapore has called on Beijing to clarify its claims.⁹ Yet the Chinese government refuses to do so, for two possible reasons. First, China may be reluctant to clarify the precise meaning of the map because the map provides a maximalist negotiating position should the various parties ever agree to seek a diplomatic resolution of their competing claims. Second, the map has effectively painted the government into a corner: It would be difficult to reconcile the map with UNCLOS, yet discarding it would trigger a strong nationalist backlash. No Chinese politician has been willing to take this risk, and it is particularly unlikely that any politician will choose to do so before the leadership transition during the 2012 Communist Party Congress, at which the fifth generation of Chinese leaders will assume office.

MARITIME RESOURCES

The South China Sea includes one of the world’s most important fishing grounds, accounting for as much as one-tenth of the global landed catch.¹⁰ These fish stocks, which are rapidly being depleted, are not only vitally important to the food security of Asian countries but also a lucrative source of income for fishermen across the region. More important, however, the South China Sea

also contains crude oil and natural gas deposits. As a result of ongoing tensions in the region, international energy companies have not conducted detailed surveys in the South China Sea, and estimates of existing potential reserves vary considerably. Chinese estimates range from a very optimistic 100 billion to 200 billion barrels of oil, whereas U.S. and Russian estimates cite a more realistic 1.6 billion to 1.8 billion barrels of oil.¹¹

China has become increasingly interested in these potential oil resources since the early 1990s, as both energy prices and global demand have risen. China’s actions are partially driven by the perception that the South China Sea represents “a new Persian Gulf.”¹² As China’s dependence on imported oil has grown – foreign oil made up 52 percent of China’s total oil use in 2009, a share that rose to 55 percent in 2010, for example¹³ – energy security has become a more important aspect of the South China Sea dispute. This helps explain China’s recent aggressive behavior toward survey ships chartered by Southeast Asian governments. Through commentaries in the state-run press, the PRC has accused certain Southeast Asian claimants of “plundering” the maritime resources of the South China Sea, resources that China claims ownership of due to the nation’s “historic rights.”¹⁴ China regularly asserts that the activities of foreign energy companies in the South China Sea violate Chinese sovereignty. China has called on the other claimants to stop searching for potential resources in areas that China claims, but both Vietnam and the Philippines have rejected this demand on the grounds that China’s expansive claims are untenable.¹⁵

SEA-LANE SECURITY

China’s economic growth depends on secure SLOCs, which enable China to export manufactured goods to international markets and to import commodities, raw materials and energy resources. According to some estimates, 80 percent of China’s imported energy passes through Southeast Asia’s

strategic chokepoints – the Malacca, Singapore, Lombok, Makkassar and Sunda Straits – and the South China Sea.¹⁶ This strategic vulnerability is popularly known as the “Malacca dilemma.”¹⁷ The capabilities of the People’s Liberation Army Navy (PLAN) have improved over the past decade, but it does not yet have the capabilities to exercise effective control over distant SLOCs, such as those that pass through the Indian Ocean.¹⁸ However, China is increasingly exerting greater influence over the SLOCs closer to home, especially in the South China Sea. The Paracel and Spratly Islands lie astride those SLOCs, and this is a key reason why China seeks to control these archipelagos.

China’s Policy in the South China Sea

Chinese policy regarding the territorial and maritime boundary disputes in the South China Sea has been relatively consistent since the late 1970s. China has sought to reassure the other disputants by repeatedly stressing its peaceful intentions in the region and its willingness to jointly manage maritime resources, while simultaneously seeking to prolong discussions on the problem so that it has time to consolidate its claims in the South China Sea. As China’s military capabilities have strengthened and its political self-confidence has grown, it has behaved more assertively in the South China Sea. China responds to criticisms of its behavior by making tactical adjustments, but the fundamentals of its policy remain unchanged. Some Southeast Asian officials have described this dual-track policy as “talk and take.”¹⁹

REASSURING REGIONAL NEIGHBORS

In the late 1970s, when China sought the support of the founding members of ASEAN regarding Vietnam’s occupation of Cambodia,²⁰ Deng Xiaoping suggested a formula to “resolve” the dispute: Claimants should put aside their sovereignty claims and jointly develop maritime resources. However, it is not clear whether Deng or his successors ever considered it a realistic proposal. China has never demonstrated a willingness to put aside

its territorial claims nor has it ever proposed a framework for such joint development (as discussed below). Nevertheless, the idea remains a mantra of PRC policy, and this is unlikely to change.

For many years, China insisted that the South China Sea dispute was a bilateral issue. However, in the late 1990s, it made a tactical decision to diplomatically engage ASEAN on the problem, which resulted in the 2002 Declaration on the Conduct of Parties in the South China Sea (DoC).²¹ The agreement was intended to lower tensions and build trust by implementing cooperative confidence-building measures (CBMs). Yet China has consistently played the role of spoiler, both in negotiating the agreement and in subsequent implementation efforts. Each time China seemed to make a concession, whether in signing the initial accord or in agreeing to implementation guidelines in 2011, it then proceeded to forestall practical implementation of the guidelines or any CBMs.

China has sought to buttress its sovereignty claims in the South China Sea over the past several years. Beyond China’s protest to the CLCS in May 2009, senior Chinese officials reportedly told their U.S. counterparts in early 2010 that the South China Sea was a “core interest.”²² According to U.S. Secretary of State Hillary Rodham Clinton, State Councilor Dai Bingguo – China’s most influential foreign policy adviser to the senior leadership – reiterated this assertion at the U.S.-China Strategic and Economic Dialogue in Beijing in May 2010.²³ Some observers interpreted this as elevating the matter to the same level as ultra-sensitive issues such as Taiwan and Tibet. This suggested that the South China Sea dispute was non-negotiable and that China was prepared to use force to uphold its claims.²⁴

Referring to the South China Sea as a “core interest” also sent ripples of concern across the region. At the July 2010 ASEAN Regional Forum (ARF) meeting, 12 countries – including all the ASEAN claimants – raised concerns about developments in

the South China Sea, much to China's consternation.²⁵ Afterward, Chinese government officials and scholars stopped referring to the South China Sea as a core interest. Notably, Chinese President Hu Jintao did not describe the South China Sea as a core interest during his state visit to the United States in January 2011.²⁶ However, the issue resurfaced in August 2011, when a commentary carried by the Xinhua News Agency – the Communist Party of China's official mouthpiece – reiterated China's "indisputable sovereignty over the seas, islands and their surrounding waters" and that these areas were part of "China's core interests."²⁷ Almost immediately afterward, the State Council released a white paper entitled "China's Peaceful Development," which listed sovereignty as one of the PRC's "core interests," together with national security, territorial integrity and national unity.²⁸ The white paper also asserted China's right to "resolutely safeguard" these four key areas. Although it did not explicitly mention the South China Sea, the document suggested that Beijing does regard the area as one of its core interests.

China asserts that it is willing to engage the other South China Sea claimants in bilateral talks, but as discussed below, these have never gained traction. Nevertheless, China continues to insist on addressing this issue bilaterally, rather than multilaterally, and vehemently rejects what it calls the "internationalization" of the dispute. China therefore opposes discussing the issue at regional security meetings such as the ARF and the East Asia Summit. In fact, China succeeded in keeping the issue off the ARF agenda until 2010, when, as noted above, 12 countries raised concerns about China's increasingly assertive actions in the South China Sea. China will almost certainly try to ensure that the South China Sea dispute is not addressed by the maritime security working group established by the ASEAN Defense Ministers' Meeting Plus in October 2010, although this may prove difficult given increasing regional concerns.²⁹

Beijing utterly rejects the role of third parties in the dispute, particularly the United States, which it has accused of interference or "meddling." China has suggested that growing U.S. interest in the South China Sea is driven by ulterior motives, such as using the dispute as a pretext to expand its military presence in Asia, and has warned Southeast Asian countries – particularly Vietnam – against encouraging U.S. involvement.³⁰ When Secretary of State Clinton suggested that the United States might facilitate talks on implementing the 2002 DoC, China was adamantly opposed.³¹

China has sought to reassure the other disputants by repeatedly stressing its peaceful intentions in the region and its willingness to jointly manage maritime resources, while simultaneously seeking to prolong discussions on the problem so that it has time to consolidate its claims in the South China Sea.

The PRC also rejects international legal arbitration, partly because this would involve a multilateral institution but also because China does not have a strong case. China has refused to entertain the 2011 Philippine proposal to submit their overlapping territorial and boundary claims to the International Tribunal of the Law of the Sea (ITLOS), the body established under UNCLOS

to settle maritime disputes between countries that have ratified the agreement.³² This proposal attempted to build regional support for internationalizing efforts to resolve the South China Sea dispute. Yet China opted out of ITLOS when it ratified UNCLOS, which means that China will almost certainly continue to oppose the proposal. Although several Southeast Asian countries have submitted territorial disputes to the International Court of Justice for adjudication, the PRC would almost certainly oppose a joint submission to the court regarding the South China Sea.³³

CHINA'S PRESENCE IN THE SOUTH CHINA SEA

Over the past two decades, China has gradually expanded its physical presence in the South China Sea. This slow but steady pace is partly a result of resource constraints, but it is also a deliberate effort to avoid overly alarming neighboring countries. China has expanded its presence primarily by increasing the frequency of patrols by vessels belonging to the PLAN and to maritime law enforcement agencies, such as the South Sea Regional Fisheries Administration Bureau and the China Marine Surveillance (CMS) service. China has generally used its civilian maritime law enforcement agencies, rather than the PLAN, to enforce its jurisdictional claims in the South China Sea, as the use of warships would likely escalate tensions.³⁴ However, there have been periodic reports of PLAN warships directing fire at fishing trawlers and confronting the naval forces of Southeast Asian countries in the South China Sea. For instance, in 2010, the Japanese press described a standoff between Chinese and Malaysian naval forces, and in February 2011, a PLAN frigate was reported to have fired warning shots at Philippine fishing boats near Jackson Reef.³⁵ The South Sea Regional Fisheries Administration Bureau has led China's efforts to enforce its annual unilateral fishing ban. CMS vessels intimidated several Philippine and Vietnamese survey ships in 2011. On March 3 of that year, two CMS vessels harassed

the Philippine-chartered MV *Veritas Voyager* near Reed Bank (west of Palawan Island) and forced it to withdraw.³⁶ Two months later, on May 26, CMS vessels deliberately cut cables towing seismic survey equipment behind the PetroVietnam vessel *Binh Minh 02*, which was operating within Vietnam's EEZ.³⁷ Then, on June 9, a specially-equipped Chinese trawler severed the cables of another Vietnamese-chartered survey ship, the *Viking 2*.³⁸ These incidents demonstrate that China is using its maritime capabilities not only to enforce its jurisdictional claims but also to send a message to the Southeast Asian claimants regarding the costs of defying China.

PRC officials have stated that China will not use force to resolve the dispute.³⁹ The DoC and ASEAN's 1976 Treaty of Amity and Cooperation, which China acceded to in 2003, both prohibit using force to settle interstate disputes. The PLAN has not been involved in a serious military clash in the South China Sea since it attacked Vietnamese forces at Johnson Reef in 1988, resulting in over 70 Vietnamese fatalities. China understands that overt military action would be counterproductive in that it would completely undermine the "peaceful rise/development" argument,⁴⁰ rapidly drain the reservoir of goodwill that China has built up in Southeast Asia over the past decade and cause some ASEAN states to strengthen their strategic ties to the United States. Nevertheless, modernization of the PLAN has given China the capabilities to apply coercive pressure against the other claimants and, if needed, to use decisive force. Some hard-line elements within the military have reportedly advocated using military force to "teach a lesson" to Southeast Asian countries, but at present, there is no evidence to suggest that this is anything but a minority view within the armed forces.⁴¹ Nevertheless, as the PLAN and other maritime agencies become more active and aggressive in the South China Sea, the risk increases that an accidental incident at sea could escalate into a

more serious military and diplomatic crisis. The complete absence of mechanisms to prevent conflict between the claimants makes this scenario all the more worrisome.

China's behavior during the first six months of 2011 perfectly illustrates its dual-track policy of reassurance and consolidation. In order to undo some of the diplomatic damage caused by Chinese actions in 2010, senior Chinese officials – including Premier Wen Jiabao, Foreign Minister Yang Jiechic and Defense Minister General Liang Guanglie – traveled across Southeast Asia to reassure other regional states that China's rise was peaceful and economically beneficial and that it did not seek hegemony. Regarding the South China Sea dispute, in particular, senior leaders reiterated support for the DoC, respect for freedom of navigation and a desire to jointly develop seabed resources. At the Shangri-La Dialogue in June in Singapore, General Liang played down tensions by describing the situation in the South China Sea as “stable” and stating that China desired “peace and stability.”⁴² Yet as described earlier, tensions since March have been fueled by the aggressive activities of Chinese patrol ships off the Philippine and Vietnamese coasts, bringing into sharp relief the gap between China's words and deeds.

Although the PRC has not occupied a single atoll since Philippine-claimed Mischief Reef in 1995, the reported unloading of construction materials by Chinese vessels on Iroquois Reef-Amy Douglas Bank in May 2011 may indicate a change in policy.⁴³ If the reports are true – and the Philippine authorities have not yet provided compelling physical or photographic evidence of the alleged incident – it would be the most serious violation of the DoC since it was signed, as one of the key clauses prohibits occupying unoccupied atolls. Although China has not occupied any of the Spratly features since 1995, it has actively built up its military infrastructure in the Paracels and on the eight atolls it controls in the Spratlys. It

should be noted, however, that this kind of activity is not prohibited by the DoC and that Malaysia and particularly Vietnam have also upgraded their facilities in the Spratlys.

CHINA'S BILATERAL DIPLOMACY WITH SOUTHEAST ASIAN CLAIMANTS

China insists that the South China Sea dispute can only be resolved through bilateral negotiations, despite the multilateral nature of the problem. However, no substantive negotiations between China and any of the Southeast Asian claimants have occurred during the past two decades; this can largely be attributed to power asymmetries, a perceived lack of sincerity on China's part, the absence of effective diplomatic mechanisms and, most recently, hardening positions by the major players. Senior Chinese leaders do discuss the dispute with their Southeast Asian counterparts at summit meetings, but the final communiqués of these meetings invariably lack specifics and go little beyond platitudes about the need to maintain peace and stability in the South China Sea.

Southeast Asian claimants do not like China's insistence on a bilateral approach. Because China is the strongest party involved, others fear that it is trying to “divide and rule” and that China would leverage its power in any bilateral negotiation. Moreover, China only supports bilateral negotiations when it is one of the parties. It is unlikely that the Chinese government would recognize the validity or legality of a negotiated agreement between two or more Southeast Asian countries concerning their overlapping sovereignty claims in the South China Sea. China demonstrated this in May 2009, when it strongly objected to the part of the joint Malaysia-Vietnam submission to the CLCS that involved an area of seabed in the southern central South China Sea. In its *note verbale*, the PRC restated its “indisputable sovereignty over the islands in the South China Sea and the adjacent waters” and argued that the Malaysia-Vietnam submission had “seriously infringed China's sovereignty, sovereign rights and

jurisdiction in the South China Sea” and called on the commission not to examine it.⁴⁴

Before any serious bilateral negotiations, China would likely insist on two conditions: that its sovereignty over the South China Sea atolls be non-negotiable and that the claimants shelve their sovereignty claims and jointly develop resources with the PRC under Deng’s formula. China has already made this plain in the Paracel Islands. Vietnam also claims sovereignty over the islands, but Beijing refuses to discuss the matter with Hanoi on the grounds that its 1974 occupation effectively closed the matter. The Paracels dispute is thus truly intractable.

Furthermore, China has never outlined how Deng’s formula might be implemented. Key questions remain unanswered, including but not limited to the following: Where would the joint survey activities take place? Which countries would participate? Would Taiwan be allowed to join? And how would the costs and profits be shared? In 2005, China, the Philippines and Vietnam agreed to conduct a joint three-year seismic study in the South China Sea known as the Joint Marine Seismic Undertaking (JMSU). Even before the study was completed, however, the JMSU had become embroiled in political controversy in the Philippines when it was revealed that some of the survey work had been carried out in Philippine waters in ways that contravened the country’s constitution.⁴⁵ The agreement quietly lapsed in June 2008 and has not been renewed.

The prospects for joint development became even less likely after China submitted the map containing the nine-dashed line to the CLCS in 2009. Both Vietnam and the Philippines have asserted that China’s map has no basis in international law and that it cannot form the basis of a joint development agreement because it covers over 80 percent of the South China Sea – including areas that overlap with their EEZs. Both countries argue that joint development can only take place in areas

recognized by all parties as disputed.⁴⁶ Yet it will be extremely hard to distinguish between disputed and nondisputed areas as long as China does not clarify its claims.

Notwithstanding the severe obstacles, the Philippines recently proposed a new joint development proposal effort called the Zone of Peace, Freedom, Friendship and Cooperation (ZoPFF/C). It envisages a two-step process. First, it would segregate disputed areas such as the Spratlys from areas that the Philippines does not consider contested, such as coastal waters and continental shelves. As noted, Manila has argued that China’s claims to nearly the entire South China Sea are invalid and that it intends to challenge Beijing’s nine-dashed line map at ITLOS. Second, the claimants would withdraw their military forces from occupied atolls and establish a joint cooperation area to manage maritime resources. The ASEAN foreign ministers agreed to consider the Philippine plan in July 2011, and in September, a meeting of legal representatives from the member states reportedly concluded that the Philippine proposal had a legal basis.⁴⁷ China, however, opposes the ZoPFF/C. It reportedly protested the meeting of ASEAN legal experts, and commentaries in the state-run press have derided the proposal as a “trick” and accused the Philippines of lacking sincerity.⁴⁸ Without China’s support, this proposal has little chance of ever being enacted.

Among the six claimants, only Vietnam and China have established a formal mechanism to address the dispute. In 1994, they established a joint working group to discuss maritime disputes in the South China Sea. Past bilateral negotiations between China and Vietnam have successfully resolved disputes, including issues related to the land border and the Gulf of Tonkin. However, the pace of progress on the South China Sea dispute has been glacial, presumably because China refuses to discuss the Paracels and because neither side is willing to compromise its sovereignty claims. Nevertheless,

the process continues. In an interview conducted in May 2011, Vietnam's Deputy Foreign Minister, Ho Xuan Son, revealed that the two countries had undertaken five rounds of talks aimed at establishing "guiding principles" for a solution to the dispute.⁴⁹ Two further rounds of talks were held in June and August 2011, despite increased Sino-Vietnamese tensions. The Vietnamese media reported that a "preliminary consensus" had been reached during the seventh round of talks in August 2011.⁵⁰ Yet details of the "consensus" were vague and merely repeated previously agreed on positions: Both sides repeated their commitment to the DoC, the importance of avoiding actions that would "complicate" disputes and their agreement not to use force. Nevertheless, later in the month, Chinese and Vietnamese defense officials agreed to continue "consultations and negotiations."⁵¹

China has not established a formal diplomatic mechanism to discuss the South China Sea with the Philippines, Malaysia or Brunei. The Philippines does conduct annual defense and security talks with the PRC, but it is unclear whether the South China Sea dispute has been addressed at these meetings, or at all. Philippine President Benigno Aquino recently ruled out bilateral negotiations with China over the dispute, preferring instead to submit Philippine claims to ITLOS.⁵² Malaysia seems more amenable to bilateral negotiations with China, but there is no evidence that substantive talks have taken place between the two countries. The same is true for Brunei and China.

China's Multilateral Diplomacy with ASEAN on the South China Sea

Despite its stated preference for bilateralism, China has participated in multilateral diplomacy with ASEAN since the early 2000s in order to help burnish its regional image and improve relations with Southeast Asia in the wake of the 1997-98 Asian financial crisis. Diplomatic engagement between China and ASEAN led to the 2002 DoC,

Despite its stated preference for bilateralism, China has participated in multilateral diplomacy with ASEAN since the early 2000s in order to help burnish its regional image and improve relations with Southeast Asia.

but in the nine years since the DoC was signed, the parties have failed to effectively implement its provisions. China has been adept at impeding the process, suggesting that it was never really serious about implementing the agreement. A potential breakthrough occurred in July 2011, when the two sides finally agreed on implementation guidelines. However, as discussed below, the guidelines are unlikely to significantly reduce tensions, at least in the short term. The DoC calls on the parties to develop a formal code of conduct for the South China Sea, but the prospects for such a code are quite dim because of China's opposition and problems associated with ASEAN leadership over the next four years.

The origins of the DoC can be traced back to heightened friction in the South China Sea in the mid-1990s following China's occupation of Mischief Reef. In an attempt to reduce tensions, ASEAN agreed to draw up a code of conduct. Because of the complexity of the sovereignty dispute, the code was envisaged not as a conflict resolution mechanism but as a conflict management device that would ultimately foster an environment conducive to a political or legal resolution of the problem. ASEAN approached China in 1999 about participating in negotiations,

but Beijing reacted coolly, arguing that the 1997 ASEAN-China Joint Statement already represented the highest-level political code of conduct.⁵³ In early 2000, however, China reversed its position and agreed to discuss a code of conduct with ASEAN. This reflected a shift in Chinese foreign policy during the late 1990s that recognized the value of multilateral platforms in conveying the message that China's rising power did not pose a threat to regional stability.

Two years of discussions followed, during which China successfully shaped the contents of the agreement to reflect its own policies and interests. In particular, China succeeded in deleting a reference to the geographical scope of the agreement (Vietnam wanted the Paracels named) and a clause prohibiting upgrades to existing infrastructure on occupied atolls. China, supported by Malaysia, also succeeded in having the agreement designated as a "declaration" rather than a "code," as Vietnam and the Philippines preferred. This was more than mere semantics: A declaration would have been a political statement of intent rather than a binding instrument with legal overtones or sanctions. Nevertheless, to satisfy Hanoi, the final draft affirmed that the ultimate goal of the parties was to frame a formal code of conduct for the South China Sea.

The DoC was signed at the 8th ASEAN Summit on November 4, 2002, in Phnom Penh. The signatories agreed to observe international norms of behavior, such as peaceful resolution of disputes and the agreement not to use or threaten to use force; to respect freedom of navigation; to exercise "self-restraint" so as not to "complicate or escalate" disputes (most importantly, not to "inhabit" nonoccupied features); to undertake cooperative CBMs; to conduct consultations and dialogues; and to work toward a code of conduct.

Tensions ebbed during the first half of the 2000s, and the DoC was frequently cited as one reason why. All of the claimants abided by the provision

not to inhabit unoccupied features, verbal sparring between the disputants continued but did not escalate significantly, and the 2005 JMSU was justified under Paragraph 6 of the DoC, which calls for joint scientific research. In reality, however, the DoC had little bearing on the dynamics of the dispute. With the possible exception of the JMSU, none of the confidence-building measures identified in the DoC were enacted, principally because ASEAN and China failed to make progress on a framework to implement the agreement. It was not until 2004 that senior officials agreed to establish a Joint Working Group to draw up implementation guidelines. Over the next four years, this group met only three times – in 2005, in 2006 and, informally, in 2008 – and it failed to reach a consensus on the way forward. The principal stumbling block was not the substance or the geographical location of cooperative activities but a relatively minor point of procedure: China opposed including a clause in the guidelines (Paragraph 2) stating that the ASEAN members would consult among themselves prior to meeting with PRC officials. ASEAN found it very difficult to accept China's position, as the 2007 ASEAN Charter requires members to "coordinate and endeavor to develop common positions" in the conduct of external relations.⁵⁴ Nevertheless, ASEAN officials bent over backwards to try and assuage China's concerns by rephrasing the clause 21 times, without success.⁵⁵ Given that China could not, and cannot, prevent the ASEAN members from conferring, it can only be concluded that China sought to impede implementation.

Escalating tensions in 2009-10 demonstrated the consequences of the failure to implement the DoC. Those tensions also challenged ASEAN's credibility and its oft-repeated claim to "centrality" of Asia's security architecture. As chair of ASEAN in 2010, Vietnam prioritized the issue, with a modicum of success: The Joint Working Group met twice in 2010 – in Hanoi in April and in Kunming in December – but did not achieve

an agreement. Indonesia also pushed the issue when it held the ASEAN chair in 2011: The Joint Working Group met in April in Medan, which coincided with a dramatic increase in tensions in the South China Sea. As M. Taylor Fravel notes in this volume, China adopted more aggressive tactics between March and June, including harassing survey ships chartered by Vietnam and the Philippines. By mid-year, tensions in the South China Sea had escalated to their highest point since the end of the Cold War.

In late July, however, the impasse was finally broken when ASEAN, out of a pressing need to move the DoC process forward and as a way of testing China's repeated pledges that it was committed to implementing the process, agreed to drop the formal statement that its members would consult before meeting with China. Instead, the final version of Paragraph 2 stated that the parties intended to "promote dialogue and consultations." Nevertheless, according to one report, the summary record of the meeting between ASEAN and Chinese officials indicates that ASEAN intends to continue such prior consultations.⁵⁶ China likely accepted this because a deal with ASEAN helped deflect criticism of its recent belligerent behavior and because the guidelines represented an overall diplomatic victory for Beijing. The guidelines are extremely vague and will not damage China's interests or prevent it from pursuing its policy in the South China Sea. The guidelines state that the DoC will be implemented in a "step-by-step" manner, that participation in cooperative projects will be voluntary and that CBMs will be decided by consensus. In short, the guidelines do not go beyond similar clauses contained in the DoC.

China was clearly pleased with the outcome, as it had not made any concessions and gained kudos for its constructive attitude. Foreign Minister Yang Jiechi said that the conclusion of the guidelines was of "great significance."⁵⁷ Philippine

Foreign Secretary Albert del Rosario provided a more sober and realistic assessment when he described it as a step forward, while warning that "the necessary elements to make the guidelines a success are still incomplete" and that the DoC still "lacked teeth."⁵⁸ Nevertheless, the ASEAN-China agreement does open the way for talks on how to design and carry out CBMs. This process will test whether China is sincere about implementing genuine CBMs or whether it will endeavor to draw out the process.

ASEAN made this concession to China as a step toward achieving a formal code of conduct. Indonesian Foreign Minister Marty Natalegawa highlighted this when he told reporters at the ARF that the status quo in the South China Sea was "not an option" and that "the guidelines are behind us and we can move on to the conduct of code."⁵⁹ Later, Natelegawa said that framing the code was now the "main game" in the South China Sea.⁶⁰ However, China has not supported this view. Foreign Minister Yang has said that his country is open to such an agreement "at an appropriate time," a phrase Chinese officials invariably use to describe a distant goal.⁶¹ China prefers to implement the DoC first, before moving to a formal code.⁶² In recognition of China's reluctance to proceed with the code, ASEAN has decided to take the initiative.

According to the communiqué issued at the end of the ASEAN foreign ministers' meeting in July, the member states had already begun discussing a code of conduct, and senior officials were asked to submit a progress report to the 19th ASEAN Summit in November 2011.⁶³ However, the Chair's report offered little concrete progress. It reaffirmed the importance of the DoC, stressed the need "to intensify efforts" to achieve a regional code of conduct, welcomed the adoption of the implementation guidelines reached in July 2011, welcomed an ASEAN discussion to identify "the possible key elements of a regional code of conduct" and

underscored “the importance of a rules-based approach in the management as well as settlement of disputes.”⁶⁴

Yet ASEAN’s view of China’s role remains unclear. If China is invited to participate in the discussions on framing the code, it will likely seek to prolong talks and dilute the proposals, as it did with the DoC. If ASEAN frames a code itself and asks external powers to accede to it, China will almost certainly refuse because it was not a party to the talks.

This pessimistic outlook for the code of conduct is exacerbated by ASEAN’s upcoming leadership changes. The limited progress achieved during the past two years resulted from the fact that Vietnam and Indonesia actively promoted these efforts when they held the ASEAN chair in 2010 and 2011, respectively. Yet this diplomatic momentum is unlikely to be sustained over the next four years. Cambodia will take over the chair in 2012. The Hun Sen government has close political and economic links to the PRC and will not want to risk damaging those ties over the Spratlys. Phnom Penh also has close links to Hanoi, but it is unlikely to actively promote the code of conduct while it holds the chair. In 2013, Brunei takes over the rotating chairmanship. Although Brunei is a claimant state, it has never taken any major initiatives on the South China Sea, and it lacks the political clout of ASEAN’s larger members. Myanmar and Laos will occupy the chair in 2014 and 2015, respectively. As with Cambodia, both countries are close to China and do not see the South China Sea as a priority.

Conclusion

China’s interests in the South China Sea will expand over the coming decades as nationalist sentiment rises, the country’s thirst for natural resources grows and sea-lane security becomes even more important. Chinese policy will likely remain consistent, both in content and execution. The PRC is unlikely to make any concessions on

its sovereignty claims. It will continue to insist on bilateralism, although serious talks are unlikely to occur. It will reject third-party or legal arbitration, and it will increasingly use its maritime assets to assert its territorial and jurisdictional claims and to telegraph to Southeast Asian countries the dangers of defiance.

Yet China is unlikely to use decisive force to resolve the dispute because doing so would substantially damage its international image and regional diplomacy and those costs would far outweigh the benefits. China’s efforts to expand effective control over the South China Sea are therefore likely to proceed incrementally. The status quo is likely to remain intact for the foreseeable future, and as a result, tensions will continue to ebb and flow.

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CHAPTER IV:
CRACKS IN THE GLOBAL FOUNDATION:
INTERNATIONAL LAW AND INSTABILITY
IN THE SOUTH CHINA SEA

By Peter A. Dutton

J A N U A R Y 2 0 1 2

Cooperation from Strength
The United States, China and the South China Sea



CRACKS IN THE GLOBAL FOUNDATION: INTERNATIONAL LAW AND INSTABILITY IN THE SOUTH CHINA SEA

By Peter A. Dutton

China is asserting its interests in ways that threaten the foundational norms that govern the global maritime commons. This trend is most evident in the South China Sea, where China's policies and activities are challenging stability and security.

China is challenging these norms in two ways. First, it is challenging established provisions of the United Nations Convention on the Law of the Sea (UNCLOS), which allows states to claim Exclusive Economic Zones (EEZs) and continental shelves. Instead, China bases its maritime jurisdictional rights on a historical a "nine-dashed line," instead of an EEZ or a continental shelf.¹ This view regarding how states may legitimately claim maritime resource rights increasingly is causing friction with its South China Sea neighbors.

Second, China is challenging the rights of navies to conduct operations, undertake exercises and gather intelligence in the EEZs of other states. Though China benefits substantially from the existing order, Beijing's views about some key norms governing military activities throughout the global system diverge from those of the United States and other like-minded countries. Such Chinese activities are both creating instability in the South China Sea and undermining international legal norms designed to suppress international instability and armed conflict.

China's challenge to existing maritime norms is creating hairline fractures in a global order that governments created after two world wars to advance peace and prosperity. For decades, that order has provided access to markets, resources and trade, as well as mechanisms for peaceful dispute resolution. Asia – and East Asia, in particular – has benefitted tremendously from this global system, with China, Japan, South Korea, Indonesia and Taiwan ranked as the world's 2nd-, 3rd-, 12th-, 15th- and 19th-largest economies, respectively.² Although the cracks in this order so far remain hairline fractures, sustained and effective

American leadership will be needed to resist these Chinese challenges and solidify the foundation of the current global order.

The Three Pillars of Modern Globalization

Open, market-based access to resources and trade is one of the pillars of modern globalization. It is a key difference from globalization a century ago and an important stabilizing force that allows all states access to the means for growth and development. In particular, this system has been the single most critical enabler of China's economic rise. Unlike Japan and Germany, which, at the beginning of the last century, felt isolated by unyielding colonial powers from the resources they needed to increase their wealth and power, China has been able to compete for resources on a reasonably equal footing with the established powers. China has benefited enormously from the fact that it did not have to break the system in order to join it. In some senses, the century began much as it ended. According to Alan Taylor, in 1911, "global capital markets were just as impressive in their degree of integration ... as they are today."³ Foreign investment as a percentage of global gross domestic product (GDP) rose steadily between 1870 and 1914, declined deeply between 1914 and the 1980s because of the two world wars and the Cold War that followed and then surged quickly again in the last two decades of the 20th century.⁴ Similarly, world trade as a percentage of global GDP was 10 percent in 1870, rose to 21 percent in 1914, fell to 9 percent in 1938 and rose to 27 percent by 1992.⁵

There were, however, key structural differences between 1911's globalized world and globalization today. In 1911, vast empires dominated the globe, especially the Eurasian and African continents and their peripheries. The British Empire and its Dominions included the United Kingdom; Canada; Australia; New Zealand; South Africa; the Indian sub-continent; large portions of eastern, western and southern

Africa; Malaysia; portions of South America, Central America and the Caribbean islands; Hong Kong and other concessions in China; and numerous islands dispersed widely across the globe. In total, Britain controlled approximately 25 percent of the world's territories and about the same percentage of its population, thereby dominating major portions of the world's resources and markets. Similarly, France controlled Indochina, Madagascar and other Indian Ocean islands and approximately one-third of Africa. Russia dominated the center of Eurasia, with approximately 20 percent of the world's territories, and the Dutch, Portuguese, Germans and Italians all directly controlled overseas territories, their resources and their markets.

In 1911, there were only 45 fully independent countries, with the 21 countries in North and South America making up nearly 47 percent of that total.⁶ Thus, only 24 sovereign states controlled all of Europe, Africa, many parts of Asia, the Asian archipelagos, Australia and Oceania, as well as the populations and resources of this vast expanse of the earth. China, although nominally independent, was barely so. By the end of 1911, the final remnants of the once-great Qing Dynasty had crumbled, and a weak republic was just beginning to emerge from the ashes. In many areas, especially along the coast, stability was maintained as much by the eight foreign states with concessions in China as by any indigenous power.⁷ By contrast, in 2011, there are 197 independent states worldwide.⁸

Thus, one key difference between 1911 and 2011 is that a wider dispersal of political authority has allowed indigenous populations to gain greater access to resources and markets. Although local political conditions certainly create a spectrum of indigenous access to, and control over, the profits from local resources, the increased number of states participating in the global trading system has fostered competition and market principles overall.

The second pillar of modern globalization is the development of *international institutions* that foster political, economic and military stability, enabling states to predictably access resources and markets. In 1911, the Hague Conventions – a very limited set of agreements primarily focused on the conduct of war – were the only existing international agreements open to all states. They were barely a decade old at the time, and some of the Hague Conventions never achieved universal acceptance. They established the world’s only standing international institution, the Permanent Court of Arbitration, which was just getting started when World War I brought the movement toward international cooperation to a halt. The court’s intended purpose was to assist countries in arbitrating disputes, but it was not widely accepted in its early years and heard few cases. In part, this was because there were relatively few universally accepted international norms and laws in 1911 for the court to apply. Thus, the accumulation of national power – especially military power – remained the primary way for states to accrue national wealth. Because a small number of sovereigns controlled substantial territories, resources and markets under the colonial system, these leaders were well positioned to develop military power and could effectively exclude a rising power from developing similar wealth. Thus, rising powers generally saw no option but to break the existing system by force in order to develop. Norms and laws prohibiting the use of force were therefore slow to emerge.

Even as these norms began to coalesce – especially in the aftermath of World War I – rising powers ultimately rejected them. They saw the developing norms as constraints used by status quo powers, such as Britain and France, to maintain their global dominance and, thereby, prevent rising powers, such as Germany and Japan, from gaining wealth, power and influence. Today’s norms, rules and institutions were developed after World War II to manage

fluctuations in economic power without resorting to war. The current extensive international institutional architecture and well-developed international law provide a strong normative structure to support market-based access to resources, the independence of sovereign states, the protection of these states from aggression and the free trade of global goods.

The third pillar of globalization is *stability in the global commons* (on which the remainder of this chapter focuses). The foundation of stability in the global commons has two key components. First, *free access for maritime power* secures trade and protects the sovereignty of states. Maritime power, it should be noted, includes both naval power and the sea-going law enforcement forces of coastal states, such as coast guards. Second, a *framework for resource jurisdiction* allocates sovereign rights to maritime resources in specified geographic regions of the seas while retaining international freedoms of access and use for nearly all other non-resource-related activities.

Managing the Maritime Commons

In the maritime commons, naval power provides the stability at sea that enables the proper functioning of the global system and the resulting economic benefits to states. Naval power relies on broad rights of access to the world’s oceans in order to ensure regional security from interstate conflict; such access allows states to deter and dissuade other states from pursuing aggressive policies. The Charter of the United Nations enshrines these concepts in its preamble, which states that the U.N. was established “... to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest.”⁹

In addition to keeping peace between states, naval power fills an additional constabulary or policing role. In limited situations, it can exercise universal jurisdiction to suppress especially disruptive

criminal activities at sea, such as piracy or human trafficking. The constabulary role of naval power can also support the legitimate law enforcement prerogatives of flag states over their own vessels and coastal states within their waters by exercising jurisdiction on their behalf when requested. In this way, naval power has been effectively employed to suppress illegal narcotics trade; transnational terrorism; proliferation of conventional arms and proliferation of weapons of mass destruction, their precursors, components and delivery systems. This partly fulfills the call of the U.N. Charter “to practice tolerance and live together in peace with one another as good neighbors, and ... to employ international machinery for the promotion of the economic and social advancement of all peoples.”¹⁰

Perhaps because no country exercises sovereignty over the global maritime commons, international institutions have developed to promote international laws about its management. That was not always the case. During the century from 1911 to 2011, several key aspects of the law governing the global maritime commons changed considerably both because of technology developments that made it possible to drill for oil and gas under the seabed and because of pressure on important fish stocks caused by overfishing and lack of authoritative management. As a result, coastal states gradually gained increasing authority to exercise jurisdiction and to regulate many activities at sea, especially those related to resources. Despite these trends, states deliberately preserved the essential norms that enabled them to use naval power to suppress maritime threats to the safety of commerce and national security.

Through this process, the sea was transformed from a vast ungoverned space to an area of which more than 40 percent is subject to state authority of some kind. Specifically, in 1911, there were only three types of ocean space – internal waters, territorial seas only three miles in width and

Today, China is challenging the foundational right of free access at sea for military purposes, despite having greatly benefited from the global and regional maritime stability achieved by American and allied seapower.

high seas. Today, there is a patchwork of maritime jurisdictions, including contiguous zones, archipelagic waters, international straits, EEZs, continental shelves and extended continental shelves. As these different types of jurisdictions were developed during the 20th century, the United States ensured that access norms were preserved – even as coastal states gained increasing authority over the ocean’s resources – in order to ensure that the security functions of naval power could be reliably and legitimately undertaken when and where necessary.

Although some have tried to argue otherwise,¹¹ the perspective that access to the maritime commons should be free and unfettered has always been central to American thinking about security strategy and legal policy. Indeed, the United States has repeatedly gone to war to preserve these values. The first use of military power by the newly created United States involved dispatching American naval power to protect freedom of the seas from the Barbary pirates off the coast of North Africa. A key cause of the war between Britain and the United States in 1812 was wrongful impressment of American merchant sailors by British warships and British attempts to restrict American trade with France and its territories.

During the early years of the 20th century, as one observer recently noted:

US policy during World War I rested as much on safe transit of a large number of American troops and a huge amount of logistical support through the Atlantic's U-boat-patrolled seas as it did on a coalition strategy with allied forces on the ground in northern Europe. When conflict broke out again two decades later, the dovetailing relationship between sea and land power remained central to American grand strategy. The United States supplied the tools Winston Churchill asked for, but only after they traveled safely over water first.¹²

Today, China is challenging the foundational right of free access at sea for military purposes, despite having greatly benefited from the global and regional maritime stability achieved by American and allied seapower in the years since 1978, when Hua Guofeng initiated China's policy of Opening Up and Peaceful Development.¹³ This maritime stability, guaranteed by American naval power, enabled more than three decades of rapid, export-driven Chinese economic growth based in great part on seaborne trade. Nonetheless, China persists in pressuring the United States and other East Asian naval powers to accept more restrictive norms regarding coastal state and foreign naval interaction in the new maritime zones developed during the 20th century, particularly EEZs. In addition, China challenges its neighbors and all maritime states by claiming expansive and exclusive authority over the South China Sea.

Challenging the Framework for Order in the South China Sea

The United Nations Convention on the Law of the Sea is perhaps the most important maritime security framework that applies to the South China Sea. It defines limits for coastal state sovereignty and jurisdiction at sea and carefully balances coastal state and international rights and obligations in

ways that reasonably protect the interests of both coastal states and the international community. Chinese domestic law and policies undermine this framework for maritime order in two ways.

First, China claims exclusive authority over sweeping regions of the South China Sea in ways that UNCLOS simply does not support. The legal mechanisms by which China claims such authority begin with the 1992 Law of the People's Republic of China [PRC] on the Territorial Sea and Contiguous Zone, which specifies that China has sovereignty over each of the groups of islands in the South China Sea – the Pratas Islands (Dongsha), the Paracel Islands (Xisha), Macclesfield Bank (Zhongsha) and, by far the most numerous group, the Spratly Islands (Nansha). International law only recognizes a state's sovereignty over territory that it physically occupies or, at least, maintains effective administration and control over, including the ability to exclude others.¹⁴ The PRC occupies the Paracels and can reasonably claim effective control over Macclesfield Bank. The forces of the Republic of China (ROC, or Taiwan) occupy Pratas Island, but to the extent that the PRC and the ROC represent one sovereign entity, China can claim sovereignty there as well. However, the situation in the Spratly Islands is very different. There are more than 100 small features, only about 53 of which are occupied or controlled by a claimant country. The PRC dominates only eight of those 53, but nonetheless, Chinese domestic law asserts China's sovereignty over all of the Spratly Islands.

Second, the 1998 Law of the People's Republic of China on the Exclusive Economic Zone and Continental Shelf claims jurisdiction over a zone extending 200 nautical miles from all of China's territories. In a key April 2011 submission to the U.N., China formally claimed for the first time a full 200-nautical-mile EEZ around each of the Spratly Islands.¹⁵ Through these legal mechanisms, China's domestic law and state policy assert

jurisdictional authority over nearly all of the South China Sea, roughly coinciding with the nine-dashed line. This inevitably causes friction with other claimants – most notably Vietnam and the Philippines – who legitimately expect that their EEZs will be based on their long coast lines and the norms of UNCLOS.

Having caused friction with its neighbors, China also seeks to limit the right of naval powers to ensure that these frictions do not escalate into conflict. Chinese domestic law and policy challenge the existing international maritime order by attempting to reverse the existing balance of coastal state and international rights to operate freely in EEZs. Article 58 of UNCLOS states that “in the exclusive economic zone, all States ... enjoy, subject to the relevant provisions of this Convention, the [high seas freedoms] of navigation and overflight ... and other internationally lawful uses of the sea related to these freedoms.” Nonetheless, Chinese scholars and officials have interpreted UNCLOS and existing norms in ways that challenge the right of foreign navies to operate in its EEZ.¹⁶ China thus seeks to hamstring foreign navies from performing stabilizing activities at sea, including in the South China Sea.

The EP-3 incident, the *Impeccable* incident and many other less-reported U.S.–China military frictions – like the many frictions between Japanese maritime defense and coast guard vessels – result from Chinese attempts to enforce this excessive degree of authority over its maritime periphery.¹⁷ Those who argue that the United States would never allow similar information and intelligence-gathering activities off its own coasts should recall the American experience during the Cold War. For decades, the United States tolerated Soviet air and naval intelligence-gathering units just off the U.S. coastline, and during nearly the entire Cold War, the international standard for territorial seas was only three nautical miles. It was not a welcome practice, but it was accepted as legal.

Today, Russian submarines and aircraft continue to perform such operations without protest from the United States.¹⁸

Chinese anti-access policies may be designed only to expand its jurisdiction and control over the South China Sea and other near seas, but these practices will have a global impact even if the Chinese do not intend it. A key principle of international law is that law evolves as the norms that support it evolve. Thus, if other states accept China’s view that the law of the sea allows it to prohibit foreign military activities in its EEZ, for instance, China will have introduced a new norm into the law that would shift the existing balance of coastal state and international rights at sea. Another key principle is that international law applies equally in all places. Thus, if China succeeds in shifting the norms for East Asia, other states in other regions could assert the same right. In this manner, Chinese actions have serious implications for the global norms that support security and stability at sea.

China appears to have already pressured at least one of its neighbors to adopt its views on the law of the sea. On May 15, 2011, the Kingdom of Thailand became the most recent country to accede to UNCLOS. Thailand’s ratification statement relays its government’s understanding that the freedom of navigation does not include the right of foreign navies to undertake military exercises in its EEZ “or other activities which may affect the rights or interests of the coastal State.” These and other unspecified “non-peaceful” activities may not occur, in Thailand’s view, without the consent of the coastal state.¹⁹ This language echoes the statements of Chinese officials and scholars almost verbatim.²⁰

Although a substantial majority of states currently recognize and support the traditional interpretation of the law of the sea, which supports free access for maritime power, support for a more restrictive interpretation continues to exist

in the broad, geostrategically important arc across the southern Eurasian continent from the Gulf of Aden to the Sea of Japan. Kenya, Somalia, Iran, Pakistan, India, Bangladesh, Burma, Thailand, Malaysia and North Korea, like China, have all expressed some degree of support for anti-access maritime norms as a matter of state policy. This perspective is growing slowly, but it is growing and could negatively affect the interests of other states that rely on stability and security in the maritime commons for their national well-being. Those who support open maritime access need to consistently and publicly counter this growing viewpoint in order to strengthen this key element of regional and global stability.

Additionally, expressions of support for the norms must be backed up by operational activities and exercises because coastal states' objections to freedom of navigation for naval operations in the EEZ could also hinder the ability of the United States and other states to use their navies to perform constabulary tasks against nontraditional threats in the region. Piracy, for instance, has been a persistent problem in the South China Sea, although it gets less attention than the much larger piracy problem off the Horn of Africa.²¹ Regional governments recognize the issue, however, and in 2010, the Cooperation and Afloat Readiness and Training (CARAT) regional maritime exercises – a series of bilateral exercises between the U.S. Navy and Southeast Asian military forces – included visit, board, search and seizure activities to help build the regional maritime capacity to counter piracy.

Challenging the Resource Framework in the South China Sea

Chinese claims to jurisdictional authority over the South China Sea are presumably an attempt to expand its maritime buffer zone. However, China is also attempting to control the resources in the water column and below the seabed. This creates a second category of disputes with its neighbors.

UNCLOS was negotiated during the 1970s and early 1980s in response to several destabilizing trends in the maritime domain. Even though all South China Sea states have ratified UNCLOS, all of those trends remain present in the region today. One such trend was the increasing capability of states during the 20th century to exploit the living and nonliving resources of an ever-widening portion of the maritime littoral areas. The United States undertook the first act of any state in the modern era to exercise broad jurisdictional rights at sea with the 1945 Truman Proclamations, which unilaterally asserted the right to the resources on and under the continental shelf of the United States. The proclamations also created high-seas fisheries conservation zones under the exclusive jurisdiction of the United States in order to manage and protect the fish stocks to the benefit of the American people. These proclamations sparked a global race to control maritime resources through a variety of competing mechanisms, which resulted in a global hodge-podge of coastal state claims to exclusive resource rights, thereby increasing frictions at sea.

The newly created U.N. began conducting negotiations to establish maritime order and reduce frictions in the 1950s, resulting in the 1958 Geneva Conventions on the Law of the Sea. However, those conventions proved insufficient. Protracted international negotiations eventually led in 1982 to a set of grand bargains that form the UNCLOS framework, which remains active in the South China Sea region today. Two aspects of the convention were specifically designed to bring reasonable order to the race for sea resources: Baselines that separate a coastal state's land from its maritime zones and, therefore, mark the beginning of its seaward reach, and EEZs that mark the primary outer boundary of a coastal state's maritime reach.

BASELINES

Baselines are the boundaries at or near the shoreline between a coastal state's fully sovereign territory and the maritime zones that extend seaward from it. A unified system of baselines is intended to limit the seaward reach of a coastal state's authority over the oceans. However, the international law regarding baselines has not prevented China – and, so far, Vietnam – from making claims that have aggravated some disputes in the South China Sea.

Articles 5 and 7 of UNCLOS specify that the baseline is normally the low water line along the coast. Article 7 allows coastal states to deviate from the normal rule under a very limited set of circumstances, primarily in areas with deeply indented coastal inlets. Such inlets include the fjords of Norway, for example, and areas along the southwestern coast of the Korean peninsula. However, baselines are generally supposed to be drawn based exclusively on the state's coastal geography, so that all maritime claims are based on a uniform set of open and undeniable features. Neither UNCLOS nor general international law recognizes any non-geographical exceptions to drawing baselines.

Article 47 of UNCLOS allows states composed entirely of islands with no mainland territory – known as archipelagic states – to draw baselines around the outermost edge of their islands and to claim a special status for and exercise a high degree of authority over the enclosed waters. Few states qualify as archipelagic states, but there are two such states with borders in the South China Sea: the Philippines and Indonesia.

China's Baselines

China's mainland baselines are all expressed in terms of its coastal geography. However, in several offshore locations, China's baselines exceed those allowed by UNCLOS and international case law, inappropriately enclosing more than 2,500 square nautical miles of ocean space, primarily in the East

China Sea, from full international use. In the South China Sea, China has also drawn straight baselines around the Paracel Islands, which unequivocally violates the UNCLOS rule that only archipelagic states may make such a claim.

Vietnam's Baselines

From the north of its coastline to the south, Vietnam draws excessive baselines based on offshore islands, rather than the low tide line of its shores. The claims in the southern and southwestern portions of its coastline are extraordinary in the context of existing international norms. Vietnam purports to enclose more than 27,000 square nautical miles that, according to current norms in international law, should be open to international use. Although Vietnam does use geographic features to describe its baselines, it does so in a manner inconsistent with UNCLOS and international case law. Thus, as with China, the UNCLOS-established baselines regime has not constrained Vietnam's behavior – at least so far. The Vietnamese government is considering changing its maritime laws so that its baselines comply with UNCLOS. If it does so, Vietnam could demonstrate that it expects other countries in the region to abide by the provisions of UNCLOS in order to foster regional peace and stability.

Baselines of Indonesia and the Philippines

As the two archipelagic states in the region, Indonesia and the Philippines are entitled to enclose large bodies of water within their baselines and to assert sovereign authority over them. Although Indonesia's system of straight baselines did not conform to the requirements of international law when they were first drawn in 1960, Indonesia successfully lobbied during the UNCLOS negotiations in the 1970s to have its system adopted for all archipelagic states. Today, Indonesia's baselines are widely accepted.

The Philippines, however, long maintained baselines inherited from the period of Spanish

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colonization. Its baselines did not conform with UNCLOS until changes were made in March 2009 as part of the nation's effort to meet a submission deadline for the UNCLOS Continental Shelf Commission. In other words, to specify its continental shelf, the Philippines had first to specify the baselines from which it would be drawn. Republic Act 9522 was passed by the Philippines Congress and signed into law on March 10, 2009, and Filipino baselines now comply with UNCLOS.²²

Before that law passed, however, China reportedly put significant pressure on members of the Philippines Congress to support a baseline bill that would exclude the Spratly Islands and Scarborough Reef from within the Philippines archipelagic baselines. China wanted the Philippines to draw baselines around its "home" islands and treat the Philippines-claimed Spratlys and Scarborough Reef as "separate regimes of islands" that would be outside the archipelagic baselines.²³ Presumably, China sought to prevent the Philippines from claiming these South China Sea islands as

inseparable Philippine sovereign territory – which drawing archipelagic baselines including both the Philippines home islands and the additional islands (which the Philippines calls the Kalayaan Islands) would have done. Because it has to contend with the issue of Taiwan's status, China is sensitive to the increased political difficulty that a Filipino government would face in negotiating away rights to territories that Philippines law considers inseparable or "core" to the nation's territory. After a difficult political period, the final baselines law treats the Philippines' claims to the Kalayaan Islands and Scarborough Reef as separate from its archipelagic claim. This left some in the Philippines upset that their government had succumbed to Chinese pressure, a resentment that adds fuel to the nationalist frustrations with ongoing Chinese interference with Philippine efforts to perform surveys on Reed Bank.²⁴

In conclusion, the system of baselines established under UNCLOS did not prevent at least two key South China Sea states – Vietnam and China – from making unlawful maritime claims. However, as discussed below, Vietnam complies with the UNCLOS rules for maritime boundary delineation far more than China does.

EXCLUSIVE ECONOMIC ZONES

EEZs are perhaps the most important UNCLOS framework for achieving resource security and stability. The EEZ was designed to reduce disputes over the resources in the water column and over the resources of the seabed out to 200 nautical miles from a coastal state's baselines. UNCLOS gives a coastal state specified jurisdictional rights to manage, protect and preserve the living and nonliving resources in that zone and clearly stipulates that a state's jurisdictional claim over resources must be based on its coastal geography. However, China bases its maritime jurisdictional claim in the South China Sea on the nine-dashed line, which does not reference any feature of its coastal geography – or even its baselines, for that

matter. This fundamentally violates international law and the norms of expected state behavior about maritime boundaries. China's claim based on the nine-dashed line therefore represents one of the two major sources of regional friction and instability in the South China Sea – the other being the sovereignty disputes over the sea's islands themselves.

The Chinese government has never clearly stated exactly what sort of claim the nine-dashed line in the South China Sea represents.²⁵ However, China's claim that it has EEZ and continental shelf rights within the nine-dashed line based on Chinese "ownership" of the Spratlys is not supported by international law because few if any of the Spratlys' islets, reefs and sandbars can support an indigenous human population or sustain economic activity of their own. UNCLOS Article 121(3) clearly specifies that for an island or other geographic feature to receive zones beyond its territorial sea – that is, an exclusive economic zone or an extended continental shelf – the island must "sustain human habitation or economic life of [its] own."

For nearly 30 years after UNCLOS was negotiated, international law provided little guidance about how to interpret this clause. In 2009, however, the U.N. International Court of Justice heard a maritime delimitation case between Ukraine and Romania. Snake Island is a rocky offshore island in the Black Sea that belongs to Ukraine. It is slightly larger than 0.2 square kilometers and is about 41 meters above sea level at its highest point. It has a lighthouse, but little fresh water or vegetation, and although it has a small number of military and scientific personnel stationed there (much like the Spratly Islands in the South China Sea), it requires regular resupply of food, water and other necessities from the mainland in order to sustain these personnel. The International Court of Justice ruled that Snake Island did not generate an exclusive economic zone or a continental shelf and, therefore, did not significantly

alter the maritime boundary between the two states.²⁶ When China submitted its letter to the U.N. claiming an exclusive economic zone for the Spratly Islands – nearly all of which are much less significant features than Snake Island – it directly rebuked the court's decision, which suggests a Chinese disregard for international law of the sea and the U.N. bodies that are charged with interpreting it.

In stark contrast to China's approach, Vietnam and Malaysia have claimed EEZs and extended continental shelf rights in the South China Sea that are entirely consistent with UNCLOS.²⁷ The Philippines and Indonesia each also maintain proper 200-nautical-mile EEZ claims around their archipelagic baselines, which are drawn geographically in accordance with UNCLOS.²⁸ Unlike China, these four claimants to some or all of the Spratly Islands have entirely refrained from claiming an EEZ or an extended continental shelf to which these features are simply not entitled. These four claimants have all relied on existing international law to define their rights at sea.

Thus, in addition to island sovereignty and resource zone disputes between China and its maritime neighbors, there is also a fundamental contest over the normative framework by which these disputes should be settled in the first place. Should UNCLOS, as the widely accepted international regime developed to provide maritime stability in the face of competition for maritime resources, govern the settlement of these disputes? Or should the basis for dispute resolution be China's perspective on its historic entitlements and its increasing power to enforce them? China's approach to its maritime entitlements presents a significant challenge to all states – not just its neighbors in the South China Sea – in that China is disputing not only local boundaries but also the existing framework that governs international rights at sea.

Conclusion

Instead of reinforcing the existing international legal order, China is seeking to change the rules and norms that define international maritime rights. In the South China Sea, this results in friction, as China's neighbors and the United States insist on preserving their maritime rights. Managing this friction will be challenging, but the United States and its regional friends and allies should continue to work together to encourage China to accept the existing norms and support the pillars of globalization rather than undermining them. This perspective was reflected in the Department of Defense's *2011 Annual Report to Congress on Military and Security Developments Involving the People's Republic of China*, which states, "The United States welcomes a strong, prosperous, and successful China that reinforces international rules and norms and enhances security and peace both regionally and globally."²⁹ Unfortunately, that statement must still be taken as aspirational with regard to the laws, rules and norms that govern maritime security and provide order in the maritime global commons.

In truth, these norms have also been weakened by American neglect. Even as the Chinese have put pressure on the existing system, the United States has failed to exercise full, effective and active leadership. By its failure to ratify UNCLOS, the United States remains – along with such dubious international companions as Iran and North Korea – fundamentally a spectator in a system that it largely created, that governs international relations and activities in the maritime domain and that has now been accepted by 161 states and the European Union.

Those who argue that the United States should think twice before ratifying UNCLOS because the Convention "has done nothing to avert the current impasse in the South China Sea" are only partially right.³⁰ True, UNCLOS has not deterred Chinese regional maritime expansionism, at least

in part because the United States has failed to ensure its leadership over this cornerstone of the global system. By failing to ratify UNCLOS, the United States has allowed China, which ratified it in July 1996, to pursue its own interpretations and to pressure others with the mantle of institutional legitimacy. Thailand's recent ratification statement shows this clearly and is not a healthy development for a global system predicated on free and open trade through a stable maritime domain. Additionally, those South China Sea states that are attempting to conform with UNCLOS norms in order to shape Chinese behaviors and limit China's excessive claims in the South China Sea will require full American leadership and support to be successful.

Although the cracks in the foundation so far remain hairline fractures, sustained and effective American leadership over the pillars of the global system will be essential to repair the damage and to keep the foundation solid. In the South China Sea, this will require the United States to continue to encourage progress by all parties to the region's disputes toward bringing their laws and claims into compliance with UNCLOS. Furthermore, the United States must maintain a sustained focus on this strategically important region, providing consistent diplomatic leadership supported by a strong regional military presence.

Lasting stability also requires that other states – both within the region and outside it – whose trade and security interests require freely navigable sea-lanes in East Asia speak up in defense of the system and the norms that govern it. American officials should encourage this as well. Only with such cooperative leadership will the South China Sea take its place among the regions of the world where international rules and norms for stability in the global commons, applied through cooperative international relationships and organizations, enhance global wealth and security by fostering market-based access to resources and trade.

ENDNOTES

1. For a detailed discussion of the nine-dashed line, see the chapter by Patrick M. Cronin and Robert D. Kaplan in this volume.
2. This ranking is based on Purchase Power Parity data as of September 2010 and as reported by the International Monetary Fund: www.imf.org/external/pubs/ft/weo/2010/02/weodata/weorept.aspx.
3. Alan M. Taylor, "Globalization and New Comparative Economic History," *NBER Reporter Research Summary* (Winter 2006), cambridgeforecast.wordpress.com/2007/05/07/globalization-1870-1914-versus-globalization-today.
4. *Ibid.*
5. *Ibid.*
6. These 45 countries were Afghanistan, Argentina, Austro-Hungary, Belgium, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, France, Germany, Greece, Guatemala, Haiti, Honduras, Italy, Japan, Liberia, Luxembourg, Mexico, Nicaragua, Netherlands, Norway, Ottoman Empire, Panama, Paraguay, Persia, Peru, Portugal, Russia, Siam, Spain, Sweden, Switzerland, United Kingdom, United States, Uruguay and Venezuela.
7. Eight states had concession rights in China in 1911: Austro-Hungary, Belgium, France, Germany, Italy, Japan, Russia and Great Britain. Additionally, Portugal possessed Macau, Japan possessed Taiwan and the United Kingdom possessed Hong Kong.
8. This includes the 196 member states of the United Nations, plus the Vatican.
9. Preamble, Charter of the United Nations, www.un.org/en/documents/charter/preamble.shtml.
10. *Ibid.*
11. Xue Guifang and Xiong Xuyuan, "A Legal Analysis of the Establishment of Air Defense Identification Zones," *Journal of Ocean University of China* (June 2007): 36 (trans. China Maritime Studies Institute).
12. Seth Cropsey, "Anchors Away, American Seapower in Dry Dock," *Foreign Affairs* (January-February 2011).
13. Ezra F. Vogel, *Deng Xiaoping and the Transformation of China* (Cambridge, MA: Harvard University Press, 2011): 188-190.
14. See, for example, the *Minquiers and Ecrehos Case* (France/United Kingdom), Judgment of November 17, 1953, *International Court of Justice Reports 1953* 47, www.icj-cij.org.
15. Letter from the Permanent Mission of the People's Republic of China to the Secretary General of the United Nations, April 14, 2011, www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2011_re_phl_e.pdf.
16. See, for example, the dialogue between Raul (Pete) Pedrozo and Zhang Haiwen in "Agora: Military Activities in the EEZ," *Chinese Journal of International Law* 9 no.1 (March 2010): 9-47.
17. Peter A. Dutton, "Caelum Liberam: Air Defense Identification Zones Outside Sovereign Airspace," *American Journal of International Law* 103 (October 2009): 1. For a discussion of other incidents, such as China's harassment in March 2009 of the USNS *Victorious*, see Richard C. Bush, *The Perils of Proximity: China-Japan Security Relations* (Washington: The Brookings Institution, 2010): 63.
18. Mark Mazzetti and Thom Shanker, "Russian Submarines Patrolling Off East Coast of U.S.," *The New York Times*, August 4, 2009.
19. Depository Notification of the Government of the Kingdom of Thailand's Ratification of the United Nations Convention on the Law of the Sea (May 15, 2011) Reference Number C.N.291.2011.TREATIES-4, treaties.un.org.
20. On the issue of "peaceful purposes," see the writings of Zhang Haiwen, a Chinese official from the State Oceanic Administration, in "Agora: Military Activities in the EEZ," *Chinese Journal of International Law* 9 no. 1 (March 2010). See also Ji Guoxing, "The Legality of the *Impeccable* Incident," *China Security* 5 no.2 (Spring 2009): 16.
21. See, for example, "Piracy Spike in the South China Sea," *BBC News* (September 21, 2009), news.bbc.co.uk/2/hi/asia-pacific/8267057.stm.
22. The text of the law is available online at the Arellano Law Foundation's Database of Philippines Law, www.lawphil.net/statutes/repacts/ra2009/ra_9522_2009.html.
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CHAPTER V:
THE ROLE OF NATURAL RESOURCES
IN THE SOUTH CHINA SEA

By Will Rogers

J A N U A R Y 2 0 1 2

Cooperation from Strength
The United States, China and the South China Sea



THE ROLE OF NATURAL RESOURCES IN THE SOUTH CHINA SEA

By Will Rogers

Natural resource trends, both in Asia and worldwide, complicate relations among the states in the South China Sea. The current public dialogue focuses heavily on whether these resource trends will contribute to conflict. However, the situation is more complex than this characterization suggests. A wide range of energy, economic, resource and demographic trends will affect how regional states behave: the rising global demand for energy, growing middle classes in Southeast Asia, transitions from agrarian to industrial or service economies, the movement of oil development further offshore as technology develops and the growing scarcity of onshore natural resources. If leaders in the region fail to understand how these trends interact and affect states' behavior, they may be more likely to misinterpret the actions of their neighbors and the risk of instability may increase. They will also overlook opportunities to cooperate and promote security that would benefit all the countries in the region.

Whereas the other chapters in this volume assume that resources are primarily a source of competition among the countries in the South China Sea, this chapter examines more broadly how natural resources influence national behavior in the region. The chapter provides a broad overview of the political and economic consequences that states must address when dealing with their particular resource challenges. Next, it examines the most important resource and environmental trends in the region – energy, fisheries, minerals and climate change. It then explains how trends affecting land resources, such as overland energy pipelines, shape the way countries treat maritime resources. Finally, the chapter concludes by exploring how the United States and others can help promote regional stability through policies that shape broader resource trends.

The Range of Domestic Resource Concerns

Natural resources and environmental trends affect the countries surrounding the South China Sea in different ways. All countries must manage energy

trends, mining, forestation, fishery production, fresh water supplies and use of arable land. Each country, however, faces unique political and economic tradeoffs in managing these resources.

For China, natural resources and environmental issues are fundamental to its grand strategy. The Chinese Communist Party considers economic growth to be the cornerstone of its political legitimacy, and rapid growth requires intensive consumption of energy, minerals, water and other resources. At the same time, China's leaders remain aware that environmental degradation from poorly managed resource consumption can cause social instability and detract from growth in the gross domestic product (GDP).¹

For China's neighbors around the South China Sea, resources and environmental management may be less strategically important, but they still pose great challenges. Indonesia, for example, must balance competing resource demands with a lack of open land, rising sea levels and a growing population. Indonesia's leaders have advocated export-led growth based on producing surpluses of food, biofuels and minerals to sell abroad. The country also has pledged to preserve remaining rainforest and to expand reforestation efforts, for which international donors have pledged more than \$3 billion. With a finite amount of land available for development – and a range of domestic dynamics that reduce the central government's control² – the question of how to invest in development is already posing serious political challenges. For example, the Indonesian government is debating whether to use specific areas of arable land for domestic food production, growth of crops to use as biofuels for international buyers, or reforestation, each of which involves making tradeoffs between domestic and international interests.³ Global demand also affects these choices. The European Union has restricted imports of foreign palm oil produced through environmentally unsustainable practices over the past several years, which has caused

diplomatic tensions with exporters like Indonesia and Malaysia. Both states have considered filing complaints with the World Trade Organization in order to promote their exports of palm oil.⁴

Vietnam faces environmental challenges that directly affect its continued economic growth. The country is on track to meet its Millennium Development Goals as part of the 2000 United Nations Millennium Declaration; these goals include eradicating extreme poverty, combating pandemic diseases and ensuring environmental sustainability. For example, Vietnam has managed to reduce poverty from 58.1 percent in 1993 to 16 percent in 2006 – a remarkable feat.⁵ Since 2005, its real (inflation-adjusted) GDP has grown by between 5.3 percent and 8.5 percent annually.⁶ This development is improving the lives of Vietnamese people, but it has also increased strains on Vietnam's freshwater supply and worsened pollution. Vietnam's Mekong Delta region is particularly vulnerable to a range of effects associated with climate change, including saline intrusion and erosion. Although Vietnam's agricultural sector is shrinking in terms of its contribution to GDP, it continues to generate export income and support rural economic development by driving the expansion of airports, major roadways and other infrastructure. Yet environmental damage and the effects of climate change seriously threaten the country's development efforts, including plans for agricultural exports; experts caution that agricultural productivity is vulnerable to even very slight changes in climate patterns and soil salinity.

Each of these countries – as well as the Philippines, Malaysia, Singapore and the countries around the periphery of the South China Sea – experiences unique challenges with regard to natural resources and environmental trends. These domestic challenges affect their international behavior and can either exacerbate competition or provide avenues for cooperation. Three resources, in particular, will influence the behavior of South

China Sea states and are important to understanding the prospects for competition and cooperation: energy, fish and minerals.

Energy

For most states in the region, access to the South China Sea is seen as critical to acquiring the energy they need to thrive, especially given the area's potential to be a "new Persian Gulf."⁷ Even though reserve-to-production estimates for natural gas and other fuels are changing dramatically as technology and price changes allow states to exploit existing reserves for longer than initially estimated, many regional countries are still growing increasingly concerned about meeting their long-term energy needs. For example, China's oil reserve-to-production ratio – which indicates how long domestic petroleum supplies will last at current production rates – stands at just 9.9 years, according to BP, and South China Sea production could more than double China's reserves.⁸ Regional states may also seek to increase production in the South China Sea because remaining global reserves are increasingly concentrated in countries that could become politically unstable, such as Iran, Venezuela and Saudi Arabia.

However, estimates of the South China Sea's energy resources vary widely. One recent U.S. estimate suggests that the sea holds about 15.6 billion barrels of petroleum, of which about 1.6 billion barrels are recoverable. In contrast, Chinese surveyors have estimated those resources to be between 105 billion barrels and 213 billion barrels, of which between 10.5 billion barrels and 21.3 billion barrels are recoverable, in addition to high volumes of natural gas.⁹ Despite such discrepancies, many states – including China, Vietnam and the Philippines – are moving forward with plans to exploit these resources. Peripheral states are also interested. India, for example, announced in September 2011 that its state-owned Oil and Natural Gas Company Videsh would partner with Vietnam to explore for oil and natural gas in disputed waters that Vietnam

claims as its own.¹⁰ China, meanwhile, continues to issue warnings against outside states becoming embroiled in the region's territorial disputes. This has increased tensions, with all regional states fearing that access to these resources is a zero-sum proposition and that they must exploit the resources before others tap into them first.

Moreover, open access to the sea lines of communication that pass through the South China Sea and connect the region's states with energy resources from the Middle East is as important as the hydrocarbon resources beneath the seabed. For example, 60,000 vessels transit the Strait of Malacca each year, including tankers holding more than 13 billion barrels of petroleum, or more than 40 percent of globally produced oil.¹¹ China perceives itself to be particularly vulnerable to energy disruptions in the South China Sea because 80 percent of its energy resources transit the Strait of Malacca.¹² This partially explains why China claims most of the South China Sea: It wants a monopoly over the ability to secure those sea lines of communication from potential disruptions.

Competition for fossil fuel resources in the South China Sea will depend not only on countries' claims to offshore deposits but also on the technological capacity to access such deposits. The speed of technological developments, especially for tapping energy and other resources (such as minerals) further and further offshore, will, in turn, determine how quickly these countries can exploit oil reserves.

Cost is also a factor. Although China and others may have sufficient technology to produce deep-water petroleum and gas in most of the South China Sea,¹³ offshore oil and gas production often costs more than many conventional sources of production, especially compared with production in countries such as Iraq and Iran that have abundant conventional reserves. International and national energy companies operating in the

region understand these economic costs and benefits quite well; however, the fact that the cost of extracting oil from conventional reserves in the Middle East or North America is *not* the same as the cost of extracting it from deepwater wells in the South China Sea must be understood by all of the involved policymakers and experts.

The benefits of exploiting seabed resources in the South China Sea may decline if or when alternative fuels reach price parity with conventional fossil fuel resources.¹⁴ The U.S. Navy's investment in algae biofuel, for example, has already lowered the cost per gallon of such fuel within the United States, moving the price point closer to that of petroleum. Earlier this year, the Navy announced a request for 450,000 gallons of algae-based biofuel, the largest single purchase to date.¹⁵ Such purchase guarantees enable alternative energy companies to scale up production, which helps bring unit costs down. In addition, new regulations – including the European Union's airline carbon emissions cap and the Obama administration's executive order requiring federal agencies to reduce greenhouse gas emissions – will likely increase the demand for alternative-energy fuels.¹⁶ As global biofuel production continues to grow, increased supply could offset demand for oil produced through expensive methods – including offshore and deepwater oil extraction from the South China Sea.

Developments in other parts of the energy sector will also influence how states evaluate the costs and benefits of energy resources in the South China Sea. Notably, fears of future scarcity – or simply of major price spikes resulting from rising petroleum costs – are beginning to push emerging economies to diversify their energy sectors far more quickly than would be likely if fossil fuels were seen as a sustainable source of low-cost energy. Many countries in the region and elsewhere are diversifying their transportation sectors with electric vehicles and other technologies in order to reduce their reliance on petroleum. China, for example,

aims to produce one million electric vehicles per year within the next five years, which would be a remarkable increase given that it sold a total of 13.8 million passenger vehicles in 2010. China is also launching an electric vehicle hub in Shanghai and plans to increase clean energy and reduce greenhouse gas emissions, both of which will likely require greater energy diversity.¹⁷ Such diversification could help reduce the strategic importance of petroleum for China and other countries over time as electric vehicles make up a larger percentage of their vehicle fleets. This would then reduce the political pressures on the region's leaders to develop petroleum resources located in disputed areas, thereby reducing the potential for conflict.

Changes in energy production beyond the transportation sector will likewise influence energy development in the region. Many states surrounding the South China Sea increasingly generate power from renewable sources in order to offset power generated from plants that use natural gas, coal and other fossil fuels. These efforts are likely to continue as countries diversify their energy portfolios and seek to reduce their carbon emissions. For example, nuclear power generation is increasing throughout the region, even in the aftermath of Japan's Fukushima-Daiichi disaster. China and Taiwan currently operate nuclear power stations and plan to develop many more, while Indonesia, Malaysia, Thailand and Vietnam have all planned or proposed to build nuclear power reactors.¹⁸ According to the International Atomic Energy Agency, Vietnam is expected to have at least 1,000 Megawatts (MW) of nuclear power capacity by 2020, 4,000 MW by 2025 and 10,000 MW by 2030.¹⁹ Indonesia and Thailand have similar plans to develop 1,000-MW capacities by 2020. Meanwhile, solar technology is also likely to grow, despite fears that recent hurdles could signal a decline for the solar power industry.²⁰ Indeed, in major U.S. states such as California, public utilities are preparing to purchase renewable energy

contracts to help small-scale solar companies.²¹ China and other countries are also making huge investments in their domestic solar industries. Overall, the clean energy sector is likely to grow, especially because it may generate jobs as the global economy recovers from the worst economic crisis since the Great Depression.²²

As global biofuel production continues to grow, increased supply could offset demand for oil produced through expensive methods – including offshore and deepwater oil extraction from the South China Sea.

Finally, the political costs of competing for energy resources in the South China Sea are extensive and will affect states' behavior in the region. China's increasingly assertive behavior in the South China Sea risks compromising the image of a peacefully rising power that the country wishes to project. As Ian Storey argues in this volume, China is unlikely to use overt force because of the potential political backlash from the United States and from Southeast Asian neighbors.²³ For smaller countries in the region, the political costs include potentially alienating major trade partners like China. The Philippines, for example, faces a delicate balancing act. In 2010, China doubled its foreign investments in the Philippines and increased bilateral trade by 35 percent.²⁴ Yet the Philippines continues to move closer to the United States because of concerns over China's competing claims to the Spratly Islands. The United States recently announced that it would give the Philippines a second Coast Guard

cutter, drawing Chinese criticism.²⁵ Additionally, domestic opposition to ceding profits from offshore resources to international companies and their shareholders will affect how leaders decide which states can exploit those offshore resources. In the near term, these potential political costs are likely to mitigate the prospect of overt conflict given the extensive ties among the countries in the region. Nevertheless, policymakers inside and outside the region should never underestimate the possibility for minor disputes to escalate beyond their control.

Fisheries

The countries of the South China Sea are increasingly competing for fish stocks. Because these fish stocks are worth billions of dollars in annual income, the desire to access fisheries is leading to greater economic coercion in contested areas. China, for example, does not allow fishing in the northern part of the South China Sea during the spawning season, which lasts from May to August, in order to protect fish resources from being overexploited. China has routinely held Vietnamese fishing trawlers suspected of violating its fishing ban, demanding that the owners pay steep fines for the release of their crews and boats. According to the Vietnam Ministry of Natural Resources and Environment, China detained several Vietnamese fishermen and their vessel in 2009 and required a \$31,500 fine to be paid for their complete release.²⁶ Such incidents have increased diplomatic tensions.²⁷

Elsewhere in the region, Japan has detained Chinese fishing trawlers for allegedly violating Japanese territorial waters near the contested Senkaku/Diaoyu Islands. During a particularly notable incident in September 2010, a Chinese fishing trawler suspected of illegal fishing rammed a Japanese coast guard vessel. The event ignited an intense diplomatic row between Tokyo and Beijing that caused the two countries to temporarily suspend diplomatic ties. Although this incident occurred in the neighboring East China Sea, it shows how competition over fisheries can increase geopolitical tensions.

As is the case with energy resources, broad regional and global trends affect the competition for access to fisheries in the South China Sea. In particular, overfishing, changing ocean temperatures and changing breeding and migration patterns all affect regional behavior.

The global decline of fisheries is challenging the availability of food and the livelihoods of people all over the world.²⁸ Indeed, demand for fish resources is likely to continue unabated as populations in developing countries continue to grow. Global fish production would need to grow nearly 25 percent by 2030 in order to maintain today's per capita consumption rates.²⁹

Fisheries in the South China Sea are particularly important. The South China Sea is one of the most biologically diverse marine areas in the world, and some estimates indicate that it is home to nearly 10 percent of the fisheries used for human consumption.³⁰ Furthermore, these fisheries provide critical food supplies throughout the region: Fish protein as a percentage of the public's diet is about 22.3 percent in Asia, compared with about 16.1 percent worldwide. However, the United Nations Food and Agriculture Organization cautions that most fish stocks in the western South China Sea are exploited or overexploited – that is, production of fish resources has peaked or is on the decline – and several stocks have already been depleted.³¹ China and other major fish exporters have instituted conservation laws – like the fishing ban described above – to protect fisheries during spawning seasons; some of these bans encompass waters where neighboring states have overlapping claims.

Minerals

Minerals and metals – essential to nearly all modern technologies – are important for the rapidly developing countries near the South China Sea. Most of these mineral resources probably reside in various countries' Exclusive Economic Zones,

beyond contested areas. Nevertheless, minerals are gaining a strategic international role because of growing global demand, and the broader quest for resources is moving from land to sea.

Mineral production in this region is linked historically to local political uprisings and social unrest, with national and even international consequences. Mining has fueled unrest and separatist tendencies because many profitable mineral resources have been located on land claimed by ethnic and religious groups that felt marginalized by colonial forces. Territorial disputes persist in the Philippines, for example, as domestic and international companies seek to increase mineral and energy resource development on disputed territory. Malaysia is currently experiencing a wave of protest and unrest over the prospect of restarting the mining and processing of rare earth minerals. In early 2011, protests over fears of radioactive contamination lasted for months, based in part on the fact that the public blamed a rare earth minerals mine that closed in 1992 for public health problems. Eventually, the International Atomic Energy Agency created a team to help the Malaysian government determine whether its new mines would sufficiently contain potential radiation leaks.³²

As a result of political challenges to mineral resources on land, states and international companies are becoming increasingly interested in extracting seabed mineral resources from the South China Sea. China is already taking the lead in manned deep-sea exploration and other technologies needed to profitably extract minerals. In 2010, a Chinese submersible planted a flag on the floor of the South China Sea. China is actively seeking to set a world record for the depth of a manned submersible by 2012; in June 2011, its submersible *Jiaolong*, which was specifically designed to go deeper than any other craft in the world, made a successful dive.³³

For the states in the region, controlling mineral resources in the South China Sea also conveys greater bargaining power as countries pursue broader strategic interests in the South China Sea and beyond. To date, the starkest example of using strategic minerals to gain diplomatic leverage occurred in 2010, when China imposed a rare earth exports embargo against Japan. In September 2010, the Japanese coast guard interdicted a Chinese fishing trawler for allegedly fishing in waters off contested islands in the East China Sea. When Japan refused to release the Chinese fishing captain, Beijing suspended diplomatic relations with Tokyo. Although Chinese officials have denied authorizing an embargo, Chinese customs agents halted the export of rare earth metals to Japan.³⁴ As a result, other countries in the region will likely try to develop seabed mineral resources in order to minimize their vulnerability to China and increase their own bargaining power.

The Challenge of Climate Change

Climate change will compound the ongoing resource struggles in the South China Sea region. Security experts caution that climate change could act as an “accelerant of instability” by exacerbating environmental trends in ways that may overwhelm civil-society institutions,³⁵ and this may affect countries’ decisions involving a broad range of resources – including energy, fisheries and minerals.

For instance, droughts in China offer a stark example of how broader climate trends may undermine the nation’s ability to diversify energy resources and invigorate its efforts to seek fossil fuels in the South China Sea. Although China generated approximately 16 percent of its electricity from hydroelectric dams in 2009 and plans to nearly double its hydroelectric capacity by 2020,³⁶ China’s hydroelectric power is projected to decline by 30 to 40 percent in the last quarter of 2011 because of a prolonged drought in parts of the country.³⁷ However, this recent decline is not a unique event;

in recent years, drought has reduced hydroelectric output even as China has been expanding its hydroelectric capacity.³⁸ Scientific models suggest that climate change is likely to exacerbate drought in East and Southeast Asia by affecting precipitation trends.³⁹ Thus, these conditions are likely to get worse, undermining China’s ability to generate renewable electricity from hydroelectric power and potentially reinforcing its demand for fossil fuels, including resources in the South China Sea.

Although data remains limited, current evidence suggests that climate change will also affect fish migration in ways that could exacerbate competition in the South China Sea. According to a recent U.N. study, warming ocean waters will drive fish species poleward (north, in the South China Sea).⁴⁰ As warm-water species move north, cold-water fish species are likely to decline. Such changes in migration are likely to increase fishing in contested areas of the South China Sea, which may increase the number of confrontations involving fishing trawlers and worsen tensions between China and its South China Sea neighbors.

Efforts to curb the greenhouse gas emissions that cause climate change will likely increase investments in the clean energy industry, which, in turn, will increase the strategic importance of minerals and metals in the South China Sea. Indeed, green technologies – including solar voltaic cells, wind turbines and high-efficiency batteries for electric vehicles – rely on strategic materials that are vulnerable to supply disruptions.⁴¹ In particular, China’s dominance of the global rare earths market is leading other countries to diversify their suppliers of these resources to ensure that their clean energy technologies are not vulnerable to Chinese supply disruptions. As argued previously, this may exacerbate diplomatic tensions by encouraging countries to extract more minerals from the South China Sea to protect their alternative energy supplies and to control access to these minerals in order to gain greater diplomatic leverage.

In addition, climate change is likely to affect a wide range of other issues, from food production to the availability of fresh water, in ways that could affect regional stability. For example, severe flooding caused by rising sea levels is already affecting the agricultural and aquaculture communities in the region's littoral states. In Vietnam, such flooding and the accompanying salt water intrusion are already harming crucial agricultural and aquaculture production. Vietnamese agriculture relies on a certain amount of flooding each year – between one-half to three meters of flood waters – to support water-intensive rice production and coastal fish and shrimp harvesting.⁴² However, recent studies have found that flooding of more than four meters has become more frequent and severe over the past several decades, crippling coastal aquaculture projects and destroying rice crops.⁴³ For Vietnam, therefore, environmental and climatic trends are already affecting internal development and stability.

The Dynamic Interaction Between Land and Maritime Resources

Trends affecting natural resources on land are often analyzed separately from trends affecting natural resources at sea. Yet as the discussion of mineral resources shows, developments on land shape interests in maritime resources and vice versa. Several specific natural resource and environmental issues show that land and maritime challenges are inextricably linked in the South China Sea.

For example, China is actively pursuing energy resources in the South China Sea because it is concerned about potential disruptions to its overland energy pipeline infrastructure, on which it has become increasingly reliant. According to the U.S. Department of Defense's 2011 report on China's military and security developments, this reliance was intended to reduce China's dependence on vulnerable energy resources that transit maritime choke points, especially the Strait of Malacca.⁴⁴ Yet these overland pipelines have themselves become a potential vulnerability. Stretching from Central

Asia and across western China, the vast oil and natural gas pipeline infrastructure is susceptible to disruptions from political, ethnic and religious insurgencies. Indeed, China must grapple with domestic instability in its western provinces – such as with Uighur separatists – as well as unrest in potential transit states, such as Pakistan and Burma (also known as Myanmar).⁴⁵ The vulnerabilities of these pipelines make China even more interested in preserving sea lines of communication and accessing potential seabed energy resources in the South China Sea.

The ways in which states manage upland river resources (which are considered land resources rather than maritime resources) also demonstrate the connections between land- and sea-based resources. In perhaps the starkest case, tensions between China and its neighbors downstream along the Mekong River are growing. China currently operates four hydroelectric dams along the river and plans to build four more in order to double its hydroelectric capacity by 2020.⁴⁶ The projected ecological impact could prove devastating to downstream neighbors such as Thailand and Vietnam, whose economic and societal well-being rely on the river's rich biodiversity. According to the Mekong River Commission, upstream damming is likely to harm "a large number of species and a number of globally endangered species, likely leading to their extinction."⁴⁷ Moreover, changes in river flow can negatively affect coastal areas by allowing greater seawater intrusion thereby influencing agricultural production and other activities in littoral areas. Because China has rarely consulted with other countries about past development efforts along the river, its Southeast Asian neighbors are very concerned that China will continue to pursue its own interests with little regard for regional concerns. As tensions regarding these land resources increase, concerns are likely to increase about China's development of maritime resources in the South China Sea.

Trends affecting natural resources on land are often analyzed separately from trends affecting natural resources at sea. Yet developments on land shape interests in maritime resources and vice versa.

The dramatic environmental and climatic trends taking shape in Southeast Asia also show the clear links between land and maritime resources. The effects of climate change, for example, pose particular challenges for the Mekong Delta, which supports half of Vietnam's rice production, 60 percent of its fish and shrimp harvesting and 80 percent of its fruit crops.⁴⁸ To address this challenge, Vietnam is trying to save the coastal mangrove forests that offer natural protection from coastal storm surges – something that will become increasingly important as sea levels rise. The mangrove forests also contain the right balance between fresh and salt water to provide excellent harvesting grounds for fish and shrimp species.⁴⁹ However, because Vietnamese aquaculture activities have themselves contributed to the destruction of these forests, as new forest conservation regulations take effect, aquaculture activities are likely to decline. Given that Vietnam's population is expected to increase by nearly 25 percent by 2050,⁵⁰ its growing food requirements – coupled with declining aquaculture in mangrove forests – will likely boost demand for fish resources from the South China Sea, thereby exacerbating regional tensions. Put simply, environmental trends on land can easily increase pressure on maritime fisheries

that are already strained – and are already serving as a source of competition.⁵¹

Furthermore, decisions about producing resources in one domain can exacerbate security challenges in another domain. For example, the growing demand for civilian nuclear energy could lead to broader proliferation concerns as a result of the dual-use nature of nuclear technology and materials. Every country directly bordering the South China Sea that does not yet possess nuclear power plants – Vietnam, Malaysia, Indonesia, the Philippines and Singapore – is considering investing in nuclear technology, and their decisions about reactor design and about whether to process fuel domestically may increase proliferation concerns throughout the region.

Efforts to prevent nuclear materials from crossing land borders may increase proliferation activities along regional maritime routes. For example, in June 2011, a U.S. Navy destroyer interdicted a Belize-flagged ship originating from North Korea that was suspected of smuggling missile components to Burma and forced the vessel to turn around.⁵² Given North Korea's past nuclear proliferation – and the Burmese government's long-time interest in gaining a research reactor – that interdiction suggests that Burma was attempting to acquire enrichment technology, and potentially nuclear weapons, via the sea.⁵³ As many regional states make plans to expand civilian nuclear energy production, concerns about maritime proliferation in the South China Sea will continue to grow.

Promoting Regional Stability

Natural resource trends will continue to complicate relations among states in the South China Sea region. Demand for conventional and alternative energy resources, for example, is likely to become more important in the near term as the global economy recovers, driving energy prices higher as industrial production grows. Demand for South China Sea fish resources is likely to increase as

population growth and migration toward urban coastal communities continues in Southeast Asia. Meanwhile, as the global demand for clean energy and other high-end technologies that require specialized metals and minerals increases, so too will the strategic importance of those resources that lie beneath the seabed of the South China Sea.

However, conflict is not inevitable. States compete for access to natural resources all over the world without escalation to political or military conflict.⁵⁴

States in the region could promote stability, and enhance their own security, through cooperation. Increasing demand for energy resources, for example, can encourage states to cooperatively pursue the joint development of alternative fuels, possibly by lowering tariffs on green energy technologies that enable domestic clean energy companies to access international markets and expand their commercial reach. With shared concerns regarding the declining fish stocks in the South China Sea, countries could work together to bolster international fisheries programs that promote conservation and sustainable development. States could also promote the transfer of climate adaptation technologies, such as climate-resistant seed varieties for agricultural production, or more robust infrastructure materials that can withstand more intense and frequent storms and protect vulnerable coastal installations, commerce and industry. Such efforts would promote stability by helping vulnerable states address the effects of rising sea levels and other consequences of climate change.

Unfortunately, many states in the South China Sea do not see their resource struggles within a broader global context. It is hard for states to pursue cooperative initiatives when they face such significant political and economic stakes. Domestic political pressure further complicates international efforts to cooperate around resource challenges in the South China Sea. News headlines through late

2011, for example, pointed to increasingly nationalistic rhetoric in states such as Vietnam and the Philippines as China increased its activities in contested territorial waters.⁵⁵

The U.S. government can help countries in the region to better understand the challenges that result from the complex interactions among natural resources and environmental trends and to enact policies that will foster stability. Given the complexity of resource challenges that affect the region, the United States should encourage policies that promote engagement related to a broad range of environmental trends, from energy to agriculture, from fisheries to climate change. For example, the United States can promote civilian science and technology exchanges and military-to-military cooperation that would develop and test second-generation biofuels (those that do not use food-based feed stocks like sugar and corn). This would help decrease the demand for petroleum while also reducing the pressure on countries in the region to use agricultural land to produce energy, which can exacerbate competition over food resources like fish. The United States can also encourage its national labs and others in academia to help researchers in the South China Sea region develop better climate estimates that will enable states to plan for and become more resilient to the effects of climate change; this should help dampen any resulting political and social disruptions. Such efforts can help promote peaceful competition over resources in the South China Sea and promote regional stability.

ENDNOTES

1. A recent report by the World Bank found that pollution-induced mortality negatively affected growth in China's GDP: "According to conservative estimates, the economic burden of premature mortality and morbidity associated with air pollution was 157.3 billion yuan in 2003, or 1.16 percent of GDP. This assumes that premature deaths are valued using the present value of per capita GDP over the remainder of the individual's lifetime. If a premature death is valued using a value of a statistical life of 1 million yuan, reflecting people's willingness to pay to avoid mortality risks, the damages associated with air pollution are 3.8 percent of GDP." World Bank, "Cost of Pollution in China: Economic Estimates of Physical Damages" (2007), xiii.
2. For further discussion, see Abraham Denmark, *Crafting a Strategic Vision: A New Era of U.S.-Indonesia Relations* (Washington: Center for a New American Security, 2010), 17-20.
3. For example, given the economic value of biofuels like palm oil, which netted Indonesia \$12.4 billion in 2009, policymakers are wary of the political tradeoffs involved in reducing domestic palm oil production, which provides revenue for domestic programs, in order to meet commitments to international donors to protect remaining forests. Claire Leow and Yoga Rusmana, "Indonesia to Develop Value-Added Palm Oil Industry, Rajasa Says," Bloomberg, December 1, 2009, <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=a15d6QXkUfwl&refer=commodities>.
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CHAPTER VI:
ROUGH WATERS FOR COALITION BUILDING

By James R. Holmes

J A N U A R Y 2 0 1 2

Cooperation from Strength
The United States, China and the South China Sea



ROUGH WATERS FOR COALITION BUILDING

By James R. Holmes

All countries that conduct seaborne trade and commerce share an interest in ensuring freedom of navigation in the South China Sea. Approximately a third of the world's commercial shipping passes along this nautical thoroughfare, transporting natural resources and finished goods to buyers throughout the Asia-Pacific region. Commercial shippers would incur higher fuel and maintenance costs if forced to detour around this important maritime intersection.

Despite these common interests, however, the United States faces great obstacles in building an international maritime coalition in the region. The challenge before the United States is to unite seafaring states against threats that cannot be fully overcome.¹ Unlike past threats posed by Japan, Germany and the Soviet Union, coalition members do not face what theorist Sun Tzu called “death ground,” in which vital interests or even survival is endangered. Moreover, the United States must build such a coalition in difficult economic circumstances, with ever-tighter finances. This situation has consequences. The leadership position in alliances and coalitions is largely a function of who contributes the most manpower and assets. Within the World War II Grand Alliance, for instance, influence gravitated from Great Britain to the United States as American industry started manufacturing war materials in vast quantities.² The reverse is true today. Washington is trying to marshal and lead coalitions at precisely the time when its capacity to do so is dwindling.

Cooperation at sea is now the mantra of U.S. policy toward the world's navigable waters. As the sea services – the U.S. Navy, Marine Corps and Coast Guard – realize that stagnant or declining budgets, soaring shipbuilding costs and dwindling force structures are fettering their options,³ they must solicit help from local partners to scour the sea lanes of blights such as terrorism, piracy, weapons proliferation and other forms of illicit trafficking. The U.S. fleet, which remains the most powerful in the world, is becoming

too small and too limited in reach to guard the entire maritime commons – the “connective tissue of the international system,” as described in one official statement – against threats to important waterways.⁴ The South China Sea, which lies at the juncture between the two oceans and allows U.S. forces to move readily between them, should become a central focus of international maritime cooperation.

Keeping these sinews in good health ranks among the foremost goals of U.S. maritime assistance efforts. The 2007 strategy issued by the U.S. Navy, Marine Corps and Coast Guard is tellingly titled *A Cooperative Strategy for 21st Century Seapower* (CS-21) and remains in effect today. This sea-power strategy elevates custodianship of the system of seagoing trade and commerce, over which the United States has presided since 1945, to the level of a “core” mission of the sea services for the first time. CS-21 designates the Western Pacific and the combined Indian Ocean/Persian Gulf region as the central theaters for U.S. maritime power, including both constabulary and military functions. The preamble to CS-21 vows that the United States will “join with other like-minded nations to protect and sustain the global, interconnected system through which we prosper.”⁵

This U.S. objective faces strong opposition from China, whose political, economic and military power continues to grow. Beijing views U.S. involvement in nearby waters as a pretext to contain China’s rightful aspirations. China’s capacity to discourage U.S. actions that it perceives as inimical to its interests is growing along with its diplomatic clout. Economic interdependence between the two Pacific powers allows Beijing to link U.S. actions in the South China Sea to good economic ties. In effect, China can hold transpacific economic ties hostage to “good” American behavior in Southeast Asia. As a result, successive U.S. administrations have been reluctant to defy China’s will on matters it deems crucial to its national interests.

Nevertheless, the United States cannot abandon its interests in the South China Sea. Although Chinese opposition may prevent the United States from building a strong regional coalition to address maritime security issues, the United States should still conduct maritime assistance activities bilaterally, perhaps even with ad hoc groups of interested states. Such activities would help promote U.S. interests and would also lay the groundwork for deeper maritime cooperation in the event that the regional security environment changes significantly.

U.S. Maritime Strategy

Upholding navigational freedoms is not solely a business for navies. “Maritime” connotes far more than “naval.” King’s College London professor Geoffrey Till explains this well, entwining peacetime “good-order-at-sea” missions with more traditional combat functions. He thereby broadens and diversifies the concept of sea power. Navies play their part in Till’s vision but so do nonmilitary services like coast guards, foreign ministries, law-enforcement bodies, intelligence services and customs and border-protection services. Even private firms like those operating container terminals have roles.⁶ In this spirit, CS-21 states, “Never before have the maritime forces of the United States—the Navy, Marine Corps and Coast Guard—come together to create a unified maritime strategy.”⁷ To be sure, the current strategy’s 1980s predecessor was a purely naval strategy aimed at sinking the Soviet Navy during a general war.⁸

The 2005 *National Strategy for Maritime Security* (NSMS), which also remains in effect today, acknowledges the imperative to broaden the nation’s strategic gaze beyond strictly naval pursuits. The Departments of Defense and Homeland Security issued the strategy jointly, reaffirming that maritime security involves more than naval power. The U.S. Coast Guard is now an agency of the Department of Homeland Security, as are bodies such as U.S. Customs and Border Protection that also help safeguard the seas. The NSMS thus takes

a broader view of the challenge than does CS-21. The NSMS declares:

Maritime security is best achieved by blending public and private maritime security activities on a global scale into an integrated effort that addresses all maritime threats. The new National Strategy for Maritime Security aligns all Federal government maritime security programs and initiatives into a comprehensive and cohesive national effort involving appropriate Federal, State, local, and private sector entities.⁹

The document sets forth three principles to govern U.S. security efforts at sea: preserving freedom of the seas, ensuring an uninterrupted flow of shipping, and facilitating ready movement of goods and people across U.S. frontiers while screening out dangerous people and materials. From these principles, the authors derive four strategic objectives, of which two are especially relevant for this study: preventing seaborne terrorist attacks and “criminal or hostile acts” and “safeguard[ing] the ocean and its resources.”¹⁰ This perspective conforms to Till’s vision of good order at sea.

Neither the NSMS nor CP-21 acknowledges any geographic bounds. Vital U.S. interests could conceivably be at stake in any navigable waterway on the surface of the earth. Like sea-power theorist Alfred Thayer Mahan, the intellectual forefather of the modern U.S. Navy, the NSMS depicts the oceans and seas as a single indivisible expanse:¹¹

Salt water covers more than two-thirds of the Earth’s surface. These waters are a *single, great ocean*, an immense maritime domain that affects life everywhere. Although its four principal geographical divisions—Atlantic, Arctic, Indian, and Pacific—have different names, this *continuous body of water* is the Earth’s greatest defining geographic feature.¹²

Accordingly, with regard to seaborne terrorism, the NSMS decrees that forces be “trained, equipped,

and prepared to detect, deter, interdict, and defeat terrorists *throughout the maritime domain*.”¹³ This is a directive of bracing geographic scope. The document, however, frankly acknowledges that no state possesses the wherewithal to police the entire commons alone. The commons is too big, demands are too numerous and assets are too few. The strategy also pledges to “[e]nhance international cooperation to ensure lawful and timely enforcement actions against maritime threats.”¹⁴

Narrow seas pose special concerns. The NSMS observes that about “one third of the world’s trade and half its oil traverse the Straits of Malacca and Singapore.”¹⁵ It is noteworthy that this portal between the South China Sea and the Indian Ocean is the only geographic feature specifically mentioned in the document. Such arteries could be closed through accidents or through deliberate actions, such as military blockades, piracy or terrorist attacks. To defeat threats to shipping in vital seaways, the document instructs the U.S. State Department to coordinate initiatives that “build upon existing efforts, such as the Container Security Initiative, the Proliferation Security Initiative, the Customs-Trade Partnership Against Terrorism” and relevant treaties and accords.¹⁶

How will U.S. government agencies accomplish this objective? The NSMS declares that the United States will “work closely with other governments and international and regional organizations to enhance the maritime security capabilities” of important states – for example, by conducting “maritime and port security assistance, training, and consultation” and supplying “economic assistance to developing nations for maritime security to enhance security and prosperity.”¹⁷ The underlying logic is that upgrading prospective partners’ material and human capabilities equips them to control their maritime surroundings, exercising full sovereignty. Governments boasting skilled, well-equipped maritime services can police their territorial seas, where they enjoy the same

jurisdiction they do over land territory. In addition, by keeping order on the high seas adjoining their sovereign waters, they prevent problems from arising – problems that might demand U.S. action. Thus, capacity building relieves the burden on U.S. agencies.

In short, America helps itself by helping others to help themselves. Taken together, the two strategy documents discussed above issue a mandate of impressive sweep, directing all U.S. government agencies with maritime-related duties to construct interlocking partnerships, coalitions and alliances. If successful, such consortiums would possess sufficient assets to police all of the global commons.

Current Maritime Cooperation in the South China Sea

The United States conducts a variety of assistance programs in the South China Sea, deploying the full range of policy instruments by which states shape events at sea. Washington also provides tailored bilateral support to regional governments. The Philippines, for instance, has benefitted from U.S. counterterrorist assistance since the 9/11 attacks, including significant military and intelligence assistance. Starting in 2002, for example, Washington committed some 1,300 troops and \$93 million in military aid to help the Philippines combat terrorist groups such as Abu Sayyaf.¹⁸ Health, education and economic assistance programs were also conducted on the island of Mindanao.¹⁹

However, U.S. assistance manifests itself most tangibly and visibly in direct transfers of maritime hardware to regional governments. In May 2011, for instance, the U.S. Coast Guard transferred a retired *Hamilton* class high-endurance cutter to the Philippines. Rechristened the BRP *Gregorio del Pilar*, the 378-foot *Hamilton* will become the flagship of the Philippine Navy, supplanting a World War II-era U.S. destroyer escort that now fulfills that function. Manila has requested

three more decommissioned *Hamiltons*, largely to patrol Philippine-claimed waters in the South China Sea. And during a trip to the Philippines in November 2011, Secretary of State Hillary Rodham Clinton said that the United States would give the Philippines a second cutter some time in 2010.²⁰

These acquisitions are noteworthy for four reasons. First, the *Hamilton* is an elderly vessel. It joined the U.S. Coast Guard fleet in 1967 and is already approaching the end of its design service life.²¹ Second, a lightly armed Coast Guard cutter is now the pride of the Philippine Navy. Yet cutters lack high-tech armaments such as anti-ship or surface-to-air missiles. This testifies to Philippine weakness at sea relative to fellow Southeast Asian states, particularly China. Third, Washington is transferring cutters rather than a retired U.S. Navy surface combatant better equipped to contest Chinese claims in the South China Sea. This decision reflects U.S. leaders' reluctance to antagonize Beijing in its maritime backyard. Fourth, the transfers show that sparse resources deny Manila, like many regional governments, the luxury of strictly dividing naval and law-enforcement functions or competing on equal terms with larger neighbors like China. In part, this is a function of limited defense budgets. The Philippine government elected in 2010 has pledged to almost double the defense budget, bringing it to \$2.4 billion. The government also intends to augment procurement spending by \$931 million, spread across fiscal years 2011–2016.²² For comparison's sake, the cost of a single U.S. Navy *Arleigh Burke* class destroyer slated for procurement in fiscal year 2012 will exceed \$2 billion.²³

As a result, the Philippine Navy is “outclassed by other navies in the region.”²⁴ This shortfall in capacity leaves Manila at a marked disadvantage in maritime interactions with stronger neighbors, particularly when Philippine mariners encounter the various nonmilitary vessels that China uses to uphold its territorial claims (discussed below). The mismatch will only widen as China's navy grows,

U.S. assistance manifests itself most tangibly and visibly in direct transfers of maritime hardware to regional governments.

providing a military backstop for its law-enforcement efforts. Former Singapore Prime Minister Lee Kwan Yew affirms that “behind these small patrol craft will be a blue-water navy.”²⁵

Similar mismatches in capability will likely typify interactions between many current or future U.S. partners and China. Vietnam, for instance, is improving its seagoing capacity, in part to protect its South China Sea claims. It has ordered six *Kilo*-class diesel-electric attack submarines from Russia, for instance, while purchasing Airbus maritime patrol aircraft from Spain.²⁶ Still, it is not clear whether Hanoi will devote major resources to upgrading its navy unless China undertakes a sustained, overbearing campaign to enforce its claims at Vietnamese expense.²⁷ Consequently, Hanoi probably will not purchase high-end U.S. vessels or other assets. The United States might offer Vietnam lesser items, such as deactivated Coast Guard vessels or aircraft, but it is doubtful that U.S. leaders would affront Beijing by transferring items capable of countering Chinese claims.

Keeping maritime cooperation separate from realpolitik competition, then, could prove trying for the United States in Southeast Asia. Probably the most systematic U.S. military outreach initiatives toward South China Sea states are the annual Southeast Asian Cooperation Afloat Training (SEACAT) exercises and the Cooperation Afloat Readiness and Training (CARAT) program. Now in its ninth year, SEACAT provides six Southeast

Asian states with a week’s worth of training in specialized tactics, techniques and procedures for maritime interdiction.²⁸ Inaugurated by U.S. Pacific Command in 1995, the yearly CARAT exercises bring together units from the U.S. Navy, Marine Corps, Coast Guard and Military Sealift Command on a predominantly bilateral basis with their counterparts from the Philippines, Singapore, Malaysia, Thailand, Brunei and Indonesia. Cambodia and Vietnam are recent additions to the roster of partners.²⁹ CARAT empowers these countries to act on their own while, at the same time, bolstering “interoperability” – the ability to operate together smoothly – between regional and U.S. forces on matters of common interest.

CARAT involves a sizable, standing commitment of U.S. resources to improve Southeast Asian forces’ skills and material capacity. For example, the 2009 U.S.-Malaysian CARAT exercises included drills about surface and air-defense gunnery, undersea warfare, casualty evacuation, diving and salvage, logistics management, jungle training and amphibious landing exercises. The dock landing ship USS *Harpers Ferry* (LSD 49), the guided-missile destroyers USS *Chafee* (DDG 90) and USS *Chung-Hoon* (DDG 93) and the rescue-salvage ship USNS *Safeguard* (T-ARS 50) made up Task Group 73.5, the core of the U.S. contingent off Malaysia. Operating in support were P-3C Orion maritime patrol aircraft, F/A-18 Hornet fighter/attack planes, SH-60 Seahawk helicopters, Navy Seabees, a Coast Guard Maritime Safety and Security Team, a Navy mobile security squadron and elements of the 1st Battalion, 24th Marine Regiment. “Global stability is tied to cooperative maritime partnerships,” declared VADM John M. Bird, commander of the U.S. Seventh Fleet, following this exercise. He also stated that the United States and its regional partners “have demonstrated the ability to work together and develop unified responses” to good-order-at-sea problems and that “exercises like CARAT are key to keeping our skills sharp.”³⁰

Apart from military-to-military ventures like CARAT, a variety of other multinational efforts, many involving both military and nonmilitary policy instruments, serve to build Southeast Asian governments' capacity to police their territory, seas and skies and to work with others to police the commons. The U.S.-led Proliferation Security Initiative (PSI) is active in Southeast Asia. Participants in this nonbinding arrangement pledge to work together to interdict suspect weapons-related cargoes in transit between buyers and sellers. They do so largely by vowing to police their own territory, airspace and territorial seas for weapons trafficking. In so doing, participant nations help to throttle the spread of nuclear, biological, radiological and chemical arms and associated delivery systems.³¹ SEACAT maneuvers hone the relevant skills.

More than 100 countries participate in the PSI, including Cambodia, the Philippines, Singapore, Australia, Japan and South Korea. However, important South China Sea states such as China, Indonesia, Malaysia and Thailand do not participate. Broader-based support would close operational gaps in the initiative while helping the United States and other PSI participants create a norm opposing weapons proliferation.

Another multinational arrangement, the Container Security Initiative (CSI), stations U.S. Customs and Border Protection agents in "megaports" whose governments consent to the arrangement. These agents use high-tech detectors to prescreen shipping containers bound for ports in the United States. Checking these containers of weapons or weapons-related material before they arrive in U.S. ports expedites the flow of cargo while tightening security within the maritime transport system.³² The CSI's mutually beneficial, yet purely apolitical, character has attracted broad participation. It operates at 58 seaports worldwide, including ports in Singapore, Malaysia, Thailand and even China, a habitual skeptic of U.S.-led initiatives.³³ The initiative does not affect shipping while at sea. Although

Chinese leaders commonly complain that another state will use the PSI as an excuse to interfere with Chinese-flagged vessels on the high seas, this is not an issue with the CSI – hence the stark difference in Chinese attitudes toward the two initiatives.

The Challenges of Maritime Coalition Building

The fact that key South China Sea states do not participate in the PSI suggests the difficulty that the United States faces in building regional maritime-security coalitions. Alliances and coalitions seldom fall into place of their own accord, however compelling the case for them may appear in abstract terms. Stephen Walt posits three major factors that bind states together in a common cause: mutual threats, cultural or ideological affinities and deliberate recruitment strategies deployed by leading states.³⁴ He argues that foreign armed forces present the gravest threats to national security. Lesser powers will tend to balance against stronger powers by banding together – aggregating their own power to offset a strong, potentially domineering state.³⁵ Alliances perform best against a discrete, overpowering threat for a finite interval.³⁶

Maritime-security threats are neither discrete nor overpowering. States view the problems of piracy, terrorism, trafficking in illicit goods and seaborne terrorism differently because they do not endanger every state's offshore waters to the same degree at the same time. States usually take threats that are nearby or that directly affect their national interests more seriously than threats that are indirect or farther away. If traditional alliances form to confront threats to survival, maritime-security coalitions coalesce to battle seemingly abstract, remote, open-ended challenges. It is easier for political leaders to rouse and sustain elite and popular sentiment for countering identifiable threats like enemy navies than for conducting non-sequential campaigns against pirates, proliferators and traffickers in illicit goods.³⁷ The link between such lawlessness and national security appears tenuous, particularly for citizens who pay little

attention to the sea in their everyday lives. Yet even though challenges to sea-lane security may be of lesser magnitude, they never disappear. Crime may abate in cities, but it never fully ceases to let the police department disband. Likewise, states that join forces to uphold free navigation undertake a mission that never ends.

As a general rule, then, both distance and the vagueness of maritime-security challenges attenuate threat perceptions and, thus, affect a state's readiness to expend lives and national treasure on combating such hazards. According to Carl von Clausewitz, the political stakes determine how many resources a government is prepared to expend to defeat a particular threat and how long such expenditures can continue.³⁸ Divergent worldviews and strategic calculations beget complex decisionmaking. They can also undermine coalition harmony, degrading unity of effort and combined strategic effectiveness.

A Wickedly Complex Challenge

Yet Washington has little choice but to undertake this endeavor. Economic malaise and soaring weapons procurement costs are driving the size of the U.S. fleet downward. The fleet might reach a "tipping point," beyond which it could no longer guarantee free navigation without help.³⁹ Accordingly, the 2005 and 2007 strategy documents launched the U.S. sea services into a historic enterprise. For the past half-millennium, a single dominant sea power – first Portugal, then Holland, then Great Britain and finally the United States – has provided maritime security.⁴⁰ It now appears that the U.S. sea services, the guarantor of free navigation since 1945, may fall below the numbers and capability necessary to maintain order, and no single successor lies in waiting. Individual European fleets are shrinking rapidly, and no combined European Union fleet has taken shape. The Indian Navy and China's People's Liberation Army Navy, the maritime arms of two rising sea powers, remain works in progress.

Neither Brussels nor New Delhi nor even Beijing appears willing or able to oversee the commons beyond its regional environs. Washington is therefore attempting to build a U.S.-led coalition or coalitions to superintend good order at sea. Under such arrangements, the American sea services would work with foreign sea services to police the global maritime commons. The United States could share the burden of maritime security by rallying partners to supply this international public good and thereby ease the costs to the U.S. military. However, multinational trusteeship of the commons would be a new phenomenon, and it is therefore important to identify the factors that could bind together, degrade or drive apart the seagoing partnerships envisioned in CS-21 and the NSMS.

How will Walt's alliance-building logic play out in a maritime setting? Geoffrey Till defines the sea and its uses, devising a simple, yet powerful, model of four "historic attributes of the sea" – resources, transportation, information and dominion – that helps practitioners analyze issues of maritime cooperation. Each attribute represents a basic function of the sea. First, the sea and seabed are a reservoir of natural resources, such as fish, oil, gas and minerals. Second, the oceans make up a common highway beyond any coastal state's jurisdiction.⁴¹ Seagoing nations can transport commercial goods and military forces along this oceanic highway, reaching any other seaport across the globe. Third, the sea offers a medium for cultural interchange. And fourth, it is an arena where sovereign states may struggle for dominion, or control of important expanses or rimlands.⁴²

Till posits that each attribute can be either cooperative or competitive in character. Military power is more important in competitive functions, in which one nation might try to get its way by force. Competitive interactions may work against efforts to construct broad or universal coalitions, simply because some of the prospective partners may be at odds with one another. Broad-based coalitions, then,

are least likely to form when governments attach high value to national interests that are hard to reconcile. Large or universal coalitions are more prone to form for cooperative missions, which benefit everyone without significantly harming the partners' other interests. Such missions could involve facing down mutual threats or advancing positive interests that the partners hold in common.

The dual nature of naval power, however, makes it difficult to distinguish between competitive and cooperative missions. Warships have multiple purposes. Unlike a tank, fighter jet or artillery piece, a ship can render humanitarian or disaster assistance, apprehend weapons proliferators, promote goodwill in foreign seaports or carry out many other noncombat missions. Such missions lie at the heart of the NSMS and are coequal with warfighting missions in CS-21. Obviously, naval vessels can also wage war. Warships dispatched on collaborative missions could revert to their combat function at a moment's notice if so directed – conceivably even turning their guns on erstwhile partners. Strategist Edward Luttwak observes that a fleet's warfighting capabilities “can be activated at any time, while the formulation of the intent to use them can be both silent and immediate.” Even “[r]outine fleet movements which [are] not intended to pose a threat may be seen by others as threatening (since the threat is *latent* in the forces themselves).”⁴³ This is less true of coast guards, and even less so of nonmilitary agencies active at sea. The choice of instrument matters.

Almost by definition, dominion is the most competitive of Till's four attributes. If one power or a narrow coalition commands vital expanses, it can exclude others, restricting their ability to use the sea lanes or exploit natural resources. The prospect of losing control of important waters doubtless alarms the states that claim jurisdiction over all or part of the South China Sea. Contests for dominion could spoil more-collaborative missions.

“How would you feel if I cut off your arms and legs?” retorted People's Liberation Army Navy commander Wu Shengli at a forum in Singapore, when asked why Chinese commentary on regional affairs is so strident. “That's how China feels about the South China Sea.”

Till's first attribute of the sea, resources, appears to be less competitive than dominion. The U.N. Convention on the Law of the Sea apportions an exclusive economic zone (EEZ) – an offshore belt of waters and seabed – to each coastal state for its sole use. The convention also establishes a cooperative regime for jointly extracting resources from the seabed in international waters, should such efforts become profitable and technologically feasible.⁴⁴ Nevertheless, quarrels over resources could thwart coalition building when territorial boundaries remain unresolved – such as in the recent disputes in the South China Sea, where multiple claimants assert title to the islands and adjacent EEZs.⁴⁵ Feuding over where to demarcate EEZs constitutes another potential spoiler for good order at sea and could fuel struggles for dominion.

Cooperative endeavors, then, will likely be limited to transportation, both because it is the least contentious endeavor and because common interests are most obvious and compelling.⁴⁶ Transportation appears very amenable to multinational action. However, governments cannot

easily compartmentalize their maritime activities, partitioning off competitive undertakings from amicable cooperation elsewhere. This is a particularly difficult challenge in the South China Sea, where threats to maritime security are amorphous and open-ended, any coalitions must straddle cultural and social boundaries, and incentives for standing cooperation are in short supply. U.S. officials should pay close attention to the dynamics between competitive and cooperative maritime functions, in order to identify and address problems as they emerge.

As useful as Till's paradigm of sea power is, then, it understates the likely challenges in the South China Sea. Scholar Sam Bateman seems to agree. Bateman depicts good order at sea – Till's transportation function – as the easiest challenge to conquer in the Asia-Pacific region. He dubs it a "tame" problem. While conceding that maritime-security cooperation can be elusive, he insists that threats to free navigation "can be clearly defined and solutions identified and worked through."⁴⁷ Such problems are solvable because all involved governments discern an interest in doing so.

Yet at the same time, Bateman describes the Asia-Pacific as "awash with wicked problems," such as "conflicting maritime claims and managing the risks of greater naval activity in the region."⁴⁸ He defines wicked problems as "pressing and highly complex issues for policy formulation that involve many causal factors and high levels of disagreement about the nature of a problem and the best way to handle it."⁴⁹ Such problems defy ready solutions, says Bateman, not merely because they intersect with many issues but also because they engage "fundamental differences" between contenders with "deeply held convictions about the correctness of their own position." Agreement "invariably" demands that disputants "change their mindsets and behavior."⁵⁰

Such wicked problems will inevitably become entangled with routine security functions in the

enclosed, crowded, resource-rich waters of the South China Sea. Free navigation cannot be easily separated from the thicket of issues obstructing maritime cooperation in the region.

The China Factor

Official Chinese policy asserts "indisputable sovereignty" over the South China Sea islands, as well as some 80 percent of regional waters.⁵¹ A starker statement of Beijing's goal of dominion is hard to imagine. "How would you feel if I cut off your arms and legs?" retorted People's Liberation Army Navy commander Wu Shengli at a forum in Singapore, when asked why Chinese commentary on regional affairs is so strident. "That's how China feels about the South China Sea."⁵²

Such reactions attest to the passions stoked by this "blue national soil."⁵³ China sees its maritime periphery in much the same way it sees land territory: as territory to be possessed and governed – hence Chinese leaders' vehemence toward the "near seas" adjoining its coasts.⁵⁴ China seems unlikely to change its position, given such strong public statements. Chinese leaders appear willing to postpone final settlement of maritime territorial conflicts, but it is hard to imagine that they could – let alone would – yield the sovereignty they have repeatedly pronounced indisputable.

During the summer of 2011, commentators showered praise on China and the members of the Association of Southeast Asian Nations for agreeing on principles for implementing the 2002 "Declaration of Conduct." The new pact supposedly alleviated tensions by reaffirming the principle that disputes should be resolved without resort to force. However, unless Chinese leaders have resigned themselves to sacrificing a "core national interest" – an interest for which, by definition, they are prepared to fight – this apparent rapprochement will likely prove to be a temporary, tactical retreat on the part of a Beijing that realizes it has badly overplayed its hand vis-à-vis its Asian neighbors.⁵⁵ In mid-2010, for instance,

Chinese Foreign Minister Yang Jiechi bluntly told his Singapore counterpart, “China is a big country and other countries are small countries, and that’s just a fact.”⁵⁶ Such words prompted small Southeast Asian states to start building up their defenses while renewing ties with the United States, their first choice to counterbalance Chinese ambitions.

Given this complex geopolitical context, U.S. officials must resist thinking of their initiatives in purely functional terms, as though they constitute an international public good to which no right-thinking government could possibly object.⁵⁷ They should also refrain from distinguishing sharply between military and nonmilitary efforts. Nonmilitary instruments can advance geopolitical interests in concert with diplomacy, just as the use or skillful nonuse of military power can.⁵⁸ Indeed, such an approach comports with Asian strategic traditions.⁵⁹ U.S. policymakers should thus anticipate Chinese skepticism toward collaborative efforts that Americans find innocuous or mutually beneficial. Projecting one’s own assumptions and worldviews onto others is a common tendency.⁶⁰ U.S. officials must avoid assuming that Beijing views the strategic environment in the same way that Americans do. At the same time, U.S. officials should think ahead, lest Chinese officials project *their* assumptions onto U.S. endeavors in the South China Sea basin.

Chinese officials, for example, use the five nonmilitary “dragons” (nonmilitary maritime enforcement services) to exercise jurisdiction in waters claimed by Beijing. Unlike navies, which contest or defend sea areas, maritime enforcement services conduct routine law enforcement in territorial waters and EEZs. By matter-of-factly enforcing Chinese laws, these bodies – the China Maritime Police, the Maritime Safety Administration, the Fisheries Law Enforcement Command, the General Administration of Customs and the State Oceanographic Administration – reinforce China’s claim to indisputable sovereignty within the much-discussed nine-dashed line that delineates

Beijing’s territorial claims.⁶¹ Tommy Koh, president of the third U.N. Conference on the Law of the Sea, explains that the nine-dashed line is inscribed on a map that China provided to the United Nations in 2009 and shows China’s interpretation of the outer limits of its continental shelf. The U-shaped line encloses most of the South China Sea.⁶²

By dispatching enforcement vessels rather than naval vessels to the waters within the nine-dashed line, China signals to regional governments and the United States that it considers policing those waters to be a normal exercise of its sovereign rights.⁶³ If Chinese leaders indeed regard nonmilitary maritime enforcement services as a means of advancing geopolitical interests, they are apt to impute similar motives to the United States. To the extent that they project their assumptions onto U.S. policymakers, Chinese leaders would be likely to view U.S. efforts to bolster Southeast Asian maritime agencies as a surreptitious effort to help neighboring states push back against rightful Chinese territorial claims. Transferring U.S. Coast Guard cutters to the Philippine Navy may appear uncontroversial to Washington, but to Beijing, it looks like the United States is siding with and equipping a rival force.

Chinese reactions to various U.S. coalition-building initiatives demonstrate such concerns. Chinese commentary on the CARAT exercises has been rather suspicious despite Beijing’s low opinion of Southeast Asian militaries and of the U.S. capacity to act effectively in the South China Sea during a time of economic malaise and budgetary stringency. Fudan University professor Zhang Jiadong, for instance, told Phoenix TV that recent U.S.-Philippine CARAT maneuvers in the Sulu Sea represent a prelude to a “strategic union” between the two states.⁶⁴ *Global Times*, an affiliate of the official *People’s Daily*, depicted the exercise as Washington’s way of growing “more assertive in wading into the South China Sea issue.”⁶⁵ To be sure, Manila has sought U.S. support for its

maritime claims, invoking the decades-old mutual defense pact between the two states.⁶⁶ Clearly, extricating maritime security cooperation from geopolitical competition is a tricky business in Southeast Asia.

To the extent that U.S. efforts to enhance regional militaries are successful, China is likely to thwart them more actively. For example, when the U.S. Pacific Command sought to organize patrols in the Malacca Strait and its approaches in 2004 as part of the Regional Maritime Security Initiative, China evidently prevailed on regional governments behind the scenes to rebuff U.S. leadership of the initiative. If so, the pressure worked. A regional arrangement now polices these waters against lawlessness, but it does so without U.S. help.⁶⁷ If the United States were to have too influential a position in the region, especially in close proximity to the Strait, it could again provoke Chinese opposition. If the CARAT or SEACAT exercises were to evolve from bilateral into fully multinational arrangements, Beijing would likely view them as a counterbalancing coalition in the making, which would then trigger reflexive fears that the United States was reprising its Cold War containment strategy at China's expense.⁶⁸

Diverging Chinese attitudes toward the CSI and the PSI, two U.S.-led initiatives that seemingly furnish public goods for all seafaring states, shed additional light on how Beijing evaluates U.S. efforts in Southeast Asian waters. China shows few worries about the CSI, having admitted U.S. Customs and Border Protection teams to its megaports in Shanghai, Shenzhen and Hong Kong.⁶⁹ The PSI, by contrast, finds little favor in Beijing, which has blocked several attempts to enact a U.N. Security Council resolution formally endorsing the initiative's efforts.⁷⁰ The key difference between the two is clear: Whereas China could cancel its participation in the CSI unilaterally, it has little say in PSI operations, even off Asian coasts.⁷¹ Chinese officials probably fear acquiescing to U.S.-led

initiatives off their shores and thus appearing to ratify U.S. maritime supremacy in Asia. U.S. policymakers may not agree with these views but must understand them to avoid unintentionally triggering tensions or conflicts.

Policy Implications

Different regional actors have very different interests in the South China Sea. The United States has both economic and security interests in ensuring freedom of the seas. A globalized economy depends on unimpeded transportation of natural resources and other goods, but the United States considers seagoing trade and commerce to be at risk in the region. Free passage through the region is also necessary for strategic maneuvering between the Western Pacific and the Indian Ocean, the central theaters designated in the 2007 *Cooperative Strategy for 21st Century Seapower*. U.S. strategic effectiveness requires preserving the capacity to impose local sea control while keeping any hostile power from gaining dominion over important waterways.

Southeast Asian states, by contrast, have sovereignty claims at stake, and they worry about Chinese bullying. Sovereignty is about control of territory – about dominion, in Geoffrey Till's terms. The prospect of struggle for control of islands and maritime expanses figures prominently in regional states' policies and shapes leaders' perspectives on U.S. initiatives. These governments covet the natural resources in contested seas and seabeds, and as industrious trading nations, they too depend on unfettered transport of resources and finished goods. This mélange of interests helps explain why Southeast Asian governments often seem inconsistent. They seek good economic ties with China while fretting over Chinese geopolitical ambitions. They have strong incentives to balance an at-times imperious China. Yet they must live with China forever, whereas faraway America's staying power in the theater is uncertain.

For its part, Beijing perceives a vital interest in keeping regional states from counterbalancing it – which is why it prefers to negotiate with Southeast Asian nations bilaterally rather than multilaterally. It appears that Chinese leaders at last realize that Southeast Asian governments attach enormous value to their interests and will resist if China overreaches.⁷² Until its naval and military capabilities become stronger, Beijing will lack the means to impose its own views.⁷³ Yet by casting itself as the rightful sovereign over contested waters, keeping regional governments from banding together and pressing ahead with its military and naval buildup, Beijing can hope to win grudging acceptance of its regional supremacy over time. It can also hope to exclude extraregional powers like the United States and India from Southeast Asian affairs⁷⁴ – much as a rising United States induced European powers to accept the Monroe Doctrine a century ago, withdrawing their navies from the Western Hemisphere in deference to U.S. preponderance.

When contemplating assistance to South China Sea countries, U.S. planners should realize that there are few truly apolitical initiatives. A purely unobjectionable endeavor like the CSI occupies a lonely place in U.S. regional policy. It poses no conceivable threat to Chinese interests because Beijing wields a veto over CSI activities in Chinese seaports. Building partner capacity, by contrast, directly threatens Chinese interests because building capacity in one area enhances capabilities that can serve other objectives as well. Measures that upgrade Southeast Asian navies, coast guards and other maritime agencies to help them police their territorial seas could also help them consolidate sovereignty over disputed expanses. Tools furnished by the United States for one purpose could be used for another, namely to oppose and perhaps frustrate Chinese policy.

Washington must press ahead with assistance programs in the South China Sea, but it must do so while acknowledging that the headwinds are

stiff. The United States is unlikely to develop a broad maritime-security coalition, given Chinese opposition and the wicked problems afflicting the region. In addition, Southeast Asian governments are unlikely to join a coalition that excludes China, for fear of antagonizing their increasingly powerful neighbor. So long as Beijing exercises restraint, both at sea and in its policy pronouncements, it can probably forestall any serious coalition.

In recognition of these constraints, Washington should work with regional governments bilaterally, or perhaps with the occasional ad hoc group of partners, to uphold maritime security. This approach is less than ideal but will allow the United States to advance its interests without provoking a serious backlash from China. A piecemeal approach is less than satisfying and falls short of the ambitious vision codified in CS-21 and the NSMS. However, it does conform to political reality and will still help the United States achieve some of its regional objectives.

Above all, U.S. officials must remain watchful, monitoring and continually reevaluating trends in Southeast Asia and adapting U.S. maritime strategy accordingly. Should China start using naval vessels to enforce its maritime claims, as Lee Kwan Yew predicts, that shift would signal a turn to more competitive interactions in regional waters. If so, the time may have come for U.S. leaders to reconsider their low-key approach to coalition building, military exercises and arms transfers. The costs of a more forceful policy toward the South China Sea could be steep, but they may be worth paying to preserve maritime security in this crucial theater.

ENDNOTES

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