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Before the

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Subcommittee on Asia and the Pacific**

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Maritime Disputes in East Asia

Chairman Chabot, Members of the Subcommittee, thank you for the opportunity to testify today on these important issues.

Before I begin, I would also like to take this opportunity to thank you, Chairman Chabot, for your leadership on this issue and for your work to enhance our engagement with the Asia-Pacific region. This Subcommittee has contributed to the rich bipartisan tradition of engaging the Asia-Pacific and advancing U.S. interests there.

The Members of this Subcommittee know well the importance of the Asia-Pacific region to American interests. The broader region boasts over half the world's population, half of the world's GDP, and nearly half of the world's trade, and is home to some of the fastest growing economies in the world. More and more American citizens are now living, working, and studying in this part of the world and people-to-people and family ties between Americans and the peoples of the Asia-Pacific have witnessed tremendous growth. Growing numbers of American companies are investing in and exporting their products and services to rapidly expanding East Asian markets. Asia-Pacific businesses are increasing their profiles in the United States and creating jobs for American workers. And, as the region's economies continue to grow and their interests expand, it becomes increasingly important that the governments and institutions there contribute to upholding and strengthening international law and standards – ranging from human rights to environmental protection to responsible policies on climate change,

maritime security, and trade and investment. The effects of what happens in the Asia-Pacific Region will be felt across the globe and have direct implications for America's interests.

It is precisely with this in mind that this administration has for the past five years made sustained engagement in the Asia-Pacific a strategic priority. This is precisely why Secretary Kerry is about to make his fifth visit to Asia in ten months and why he has devoted so much time and effort to meeting, calling and consulting with his Asian counterparts.

We have a strong stake in the continuing economic growth of this region, and we are working to ensure that Americans can fully participate in that growth and share in that prosperity. We are negotiating high-standard trade and investment agreements that will unlock the dynamism of Pacific Rim economies for mutual benefit. We are bolstering regional cooperation on transnational issues through ASEAN and its related institutions. And we are helping countries manage complex environmental issues resulting from rapid development. The common thread running through our strategic rebalancing is a determination to ensure that the Asia-Pacific remains an open, inclusive, and prosperous region guided by widely accepted rules and standards and a respect for international law.

Since the end of the Second World War, a maritime regime based on international law that promotes freedom of navigation and lawful uses of the sea has facilitated Asia's impressive economic growth. The United States, through our our alliances, our security partnerships and our overall military presence and posture, has been instrumental in sustaining that maritime regime and providing the security that has enabled the countries in the region to prosper. As a maritime nation with global trading networks, the United States has a national interest in freedom of the seas and in unimpeded lawful commerce. From President Thomas Jefferson's actions against the Barbary pirates to President Reagan's decision that the United States will abide by the Law of the Sea Convention's provisions on navigation and other traditional uses of the ocean, American foreign policy has long defended the freedom of the seas. And as we consistently state, we have a national interest in the maintenance of peace and stability; respect for international law; unimpeded lawful commerce; and freedom of navigation and overflight in the East China and South China Seas.

For all these reasons, the tensions arising from maritime and territorial disputes in the Asia-Pacific are of deep concern to us and to our allies. Both the South China and East China Seas are vital thoroughfares for global commerce and energy. Well

over half the world's merchant tonnage flows through the South China Sea, and over 15 million barrels of oil per day transited the Strait of Malacca last year, with most of it continuing onward through the East China Sea to three of the world's largest economies – Japan, the Republic of Korea, and China. A simple miscalculation or incident could touch off an escalatory cycle. Confrontations between fishermen and even law enforcement patrols are not unusual in these waters. But the frequency and assertiveness of some countries' patrols are increasing. In addition, the imposition of competing regulations by different countries over disputed territory and associated maritime areas and airspace is raising tensions and increasing the risk of confrontation. We witnessed a tragic incident in May of last year, when a Philippine Coast Guard patrol shot and killed a fisherman from Taiwan. Both sides, to their credit, took steps to prevent an escalation of tensions. But the risk of confrontation could have very serious adverse consequences for all of our economic and security interests.

Accordingly, we have consistently emphasized in our diplomacy in the region as well as in our public messaging the importance of exercising restraint, maintaining open channels of dialogue, lowering rhetoric, behaving safely and responsibly in the sky and at sea, and peacefully resolving territorial and maritime disputes in accordance with international law. We are working to help put in place diplomatic and other structures to lower tensions and manage these disputes peacefully. We have sought to prevent provocative or unilateral actions that disrupt the status quo or jeopardize peace and security. When such actions have occurred, we have spoken out clearly and, where appropriate, taken action. In an effort to build consensus and capabilities in support of these principles, the administration has invested considerably in the development of regional institutions and bodies such as the ASEAN Regional Forum, the ASEAN Defense Ministers Meeting Plus, the East Asia Summit, and the Expanded ASEAN Maritime Forum. These forums, as they continue to develop, play an important role in reinforcing international law and practice and building practical cooperation among member states.

In the South China Sea, we continue to support efforts by ASEAN and China to develop an effective Code of Conduct. Agreement on a Code of Conduct is long overdue and the negotiating process should be accelerated. This is something that China and ASEAN committed to back in 2002 when they adopted their Declaration on the Conduct of Parties in the South China Sea. An effective Code of Conduct would promote a rules-based framework for managing and regulating the behavior of the relevant countries in the South China Sea. A key part of that framework, which we and many others believe should be adopted quickly, is inclusion of mechanisms such as hotlines and emergency procedures for

preventing incidents in sensitive areas and managing them when they do occur in ways that prevent disputes from escalating.

And in the East China Sea, we remain concerned about the serious downturn in China-Japan relations. We support Japan's call for diplomacy and crisis management procedures in order to avoid a miscalculation or a dangerous incident. It is important to lower tensions, turn down the rhetoric, and exercise caution and restraint in this sensitive area. China and Japan are the world's second and third largest economies and have a shared interest in a stable environment to facilitate economic growth. Neither these two important countries nor the global economy can afford an unintended clash that neither side seeks or wants. It is imperative that Japan and China use diplomatic means to manage this issue peacefully and set aside matters that can't be resolved at this time.

China's announcement of an Air Defense Identification Zone (ADIZ) over the East China Sea in November was a provocative act and a serious step in the wrong direction. The Senkakus are under the administration of Japan and unilateral attempts to change the status quo raise tensions and do nothing under international law to strengthen territorial claims. The United States neither recognizes nor accepts China's declared East China Sea ADIZ and has no intention of changing how we conduct operations in the region. China should not attempt to implement the ADIZ and should refrain from taking similar actions elsewhere in the region.

Mr. Chairman, we have a deep and long-standing stake in the maintenance of prosperity and stability in the Asia-Pacific and an equally deep and abiding long-term interest in the continuance of freedom of the seas based on the rule of law – one that guarantees, among other things, freedom of navigation and overflight and other internationally lawful uses of the sea related to those freedoms. International law makes clear the legal basis on which states can legitimately assert their rights in the maritime domain or exploit marine resources. By promoting order in the seas, international law is instrumental in safeguarding the rights and freedoms of all countries regardless of size or military strength.

I think it is imperative that we be clear about what we mean when the United States says that we take no position on competing claims to sovereignty over disputed land features in the East China and South China Seas. First of all, we do take a strong position with regard to behavior in connection with any claims: we firmly oppose the use of intimidation, coercion or force to assert a territorial claim. Second, we do take a strong position that maritime claims must accord with customary international law. This means that all maritime claims must be derived

from land features and otherwise comport with the international law of the sea. So while we are not siding with one claimant against another, we certainly believe that claims in the South China Sea that are not derived from land features are fundamentally flawed. In support of these principles and in keeping with the longstanding U.S. Freedom of Navigation Program, the United States continues to oppose claims that impinge on the rights, freedoms, and lawful uses of the sea that belong to all nations.

As I just noted, we care deeply about the way countries behave in asserting their claims or managing their disputes. We seek to ensure that territorial and maritime disputes are dealt with peacefully, diplomatically and in accordance with international law. Of course this means making sure that shots aren't fired; but more broadly it means ensuring that these disputes are managed without intimidation, coercion, or force. We have repeatedly made clear that freedom of navigation is reflected in international law, not something to be granted by big states to others. President Obama and Secretary Kerry have made these points forcefully and clearly in their interactions with regional leaders, and I – along with my colleagues in the State Department, Defense Department, the National Security Council and other agencies – have done likewise.

We are also candid with all the claimants when we have concerns regarding their claims or the ways that they pursue them. Deputy Secretary Burns and I were in Beijing earlier this month to hold regular consultations with the Chinese government on Asia-Pacific issues, and we held extensive discussions regarding our concerns. These include continued restrictions on access to Scarborough Reef; pressure on the long-standing Philippine presence at the Second Thomas Shoal; putting hydrocarbon blocks up for bid in an area close to another country's mainland and far away even from the islands that China is claiming; announcing administrative and even military districts in contested areas in the South China Sea; an unprecedented spike in risky activity by China's maritime agencies near the Senkaku Islands; the sudden, uncoordinated and unilateral imposition of regulations over contested airspace in the case of the East China Sea Air Defense Identification Zone; and the recent updating of fishing regulations covering disputed areas in the South China Sea. These actions have raised tensions in the region and concerns about China's objectives in both the South China and the East China Seas.

There is a growing concern that this pattern of behavior in the South China Sea reflects an incremental effort by China to assert control over the area contained in the so-called "nine-dash line," despite the objections of its neighbors and despite

the lack of any explanation or apparent basis under international law regarding the scope of the claim itself. China's lack of clarity with regard to its South China Sea claims has created uncertainty, insecurity and instability in the region. It limits the prospect for achieving a mutually agreeable resolution or equitable joint development arrangements among the claimants. I want to reinforce the point that under international law, maritime claims in the South China Sea must be derived from land features. Any use of the "nine dash line" by China to claim maritime rights not based on claimed land features would be inconsistent with international law. The international community would welcome China to clarify or adjust its nine-dash line claim to bring it in accordance with the international law of the sea.

We support serious and sustained diplomacy between the claimants to address overlapping claims in a peaceful, non-coercive way. This can and should include bilateral as well as multilateral diplomatic dialogue among the claimants. But at the same time we fully support the right of claimants to exercise rights they may have to avail themselves of peaceful dispute settlement mechanisms. The Philippines chose to exercise such a right last year with the filing of an arbitration case under the Law of the Sea Convention.

Both legal and diplomatic processes will take time to play out. The effort to reach agreement on a China-ASEAN Code of Conduct has been painfully slow. However, there are important steps that the relevant parties can take in the short term to lower tensions and avoid escalation. One line of effort, as I mentioned earlier, is to put in place practical mechanisms to prevent incidents or manage them when they occur. Another common-sense measure would be for the claimants to agree not to undertake new unilateral attempts to change the status quo, defined as of the date of the signing of the 2002 Declaration of Conduct, that would include agreement not to assert administrative measures or controls in disputed areas. And as I have indicated, all claimants – not only China – should clarify their claims in terms of international law, including the law of the sea.

In the meantime, a strong diplomatic and military presence by the United States, including by strengthening and modernizing our alliances and continuing to build robust strategic partnerships, remains essential to maintain regional stability. This includes our efforts to promote best practices and good cooperation on all aspects of maritime security and bolster maritime domain awareness and our capacity building programs in Southeast Asia. The Administration has also consistently made clear our desire to build a strong and cooperative relationship with China to advance peace and prosperity in the Asia-Pacific, just as we consistently have encouraged all countries in the region to pursue positive relations with China. And

this includes working with all countries in the region to strengthen regional institutions like ASEAN and the East Asia Summit as venues where countries can engage in clear dialogue with all involved about principles, values and interests at stake, while developing cooperative activities – like the Expanded ASEAN Seafarers Training initiative we recently launched – to build trust and mechanisms to reduce the chances of incidents.

To conclude, this is an issue of immense importance to the United States, the Asia-Pacific, and the world. And I want to reaffirm here today that the United States will continue to play a central role in underwriting security and stability in the Asia-Pacific.

Mr. Chairman, I thank you for this opportunity to appear before you today to discuss this important issue. I look forward to answering any questions you may have.