

## **America's Security Role in the South China Sea**

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**House Committee on Foreign Affairs**  
**Subcommittee on Asia and the Pacific**  
**2172 Rayburn House Office Building**  
**July 23, 2015**

Chairman Salmon, Ranking Member Sherman, and other distinguished Members of the Subcommittee on Asia and the Pacific, I am honored to have this opportunity to testify on America's security role in the South China Sea.

In the past several years, we have entered a period of intensified competition in the South China Sea. Maritime tensions in Asia are growing and will persist, and yet relations are likely to remain bounded below the threshold of military conflict. All sides are positioning to gain the upper hand and to minimize less advantageous positions. While we can still expect tactical maneuvering before and after summit meetings, strategic dialogues, and regional conferences, we should not expect tensions to fully subside. Despite calls for grand bargains and strategic accommodation, I believe that well into the next U.S. administration we will be navigating in the messy middle ground between war and peace. Although such volatility may be uncomfortable, achieving a firmer footing with China will likewise be difficult if not elusive. That is because the primary competition has a great deal to do with a reemerging China's capacity and desire for expanding its influence over its neighbors and adjacent waters, en route to securing a position as *a* if not *the* major global power in the 21<sup>st</sup> century.

The Asia-Pacific or Indo-Pacific region will offer some of the greatest opportunities and challenges for U.S. foreign policy in the decades ahead. In addressing what we need to do with respect to maritime territorial disputes in the South China Sea, the United States needs to place all of our foreign policy activities within a comprehensive framework designed to bring about future decades of stability, prosperity, and freedom.

Without attempting to write a regional strategy that would articulate important national interests and clear objectives, let me comment briefly on the rationale behind the U.S. policy of a long-term reorientation of our comprehensive power to the Indo-Pacific region. The driving force behind America's gradual rebalance to the Indo-Pacific is rooted in secular trends. For the first time since the 18<sup>th</sup> century, Asia is becoming the locus of the global economy and world politics. According to the National Intelligence Council, by 2030 Asia is projected to overtake both North America and Europe in terms of global power as measured by GDP, population, defense spending, and investment in technology. China has been the largest engine, but a more inclusive analysis shows that most of Asia has grown, is growing, and will keep growing.

The South China Sea is not just or even mostly about rocks, reefs, and resources. While some have likened China and the South China Sea to America and the Caribbean, such an analogy quickly loses its explanatory power because of the stark differences between the two bodies of water and changes in the global economy. Unlike the Caribbean in the mid-19<sup>th</sup> century, the South China Sea is at the nexus of the global economy. All maritime powers depend on it because through its waters sail half of the world's commercial shipping by tonnage (valued at more than \$5.3 trillion). Furthermore, Southeast Asian nations comprise nearly two-thirds of a billion people with a GDP pushing \$4 trillion in purchasing power parity; and there are great expectations for those economies in the decades ahead. Finally, we live in—or should at least strive to live in—a world governed by rules, not spheres of influence, such as those that may have been more in vogue in the 19<sup>th</sup> century. Thus, it is rules and order that remain at the heart of America's interests in Asia and the South China Sea.

Colleagues and at the Center for a New American Security (CNAS) began tracking China's recent pattern of assertiveness in 2009.<sup>1</sup>

Since then, China has transitioned from a hide-and-bide approach to greater activism in and beyond the South China Sea. While China has become marginally more transparent, in important areas it is as opaque as ever. As with China's expansive nine-dash-line claim to the South China Sea, there appear to be important areas of policy that China simply does not wish to clarify.

China's largely opportunistic push into the South China Sea is backed by an impressive array of military and non-military actions designed to exert greater control over its neighborhood. China is enhancing its strategic position through its incremental salami slicing tactics, which accrete to major changes to the status quo while warding off escalation. Its hasty island-building project is not just intended to change facts on the ground before international legal proceedings can run their course, but also to gain an upper hand over the region and intimidate neighbors into aligning with China. Consistent with China's non-kinetic "three warfares" (informational, legal, and psychological) doctrine, this positioning is a mixture of the physical and mental.

China continues to set the pace in regional defense spending with continuous, near-double-digit increases that now outpace the growth of the Chinese economy. Investments in ballistic and cruise missiles, for instance, are eroding America's previous advantage in precision strike systems. As a result, America's ability and perceived willingness to risk projecting power forward in defense of allies and partners is likely to be increasingly called into question unless the United States finds effective responses. China is also busy building many more cost-effective capabilities, military and non-military alike, to deny and ultimately control sea and air space, as well as cyber and outer space, in and around the South China Sea, East China Sea, and Taiwan Strait.

We, too, must step up the level of our activity to counter potential regional instability. At stake is whether the future order is built on fair and inclusive principles akin to those that have empowered China's and Asia's remarkable stability and prosperity. It is my

judgment that the United States, working with allies and partners, can continue to realize its vision of an inclusive, stable, and rules-based order. Permit me to enumerate 10 essential elements of a U.S. foreign policy to deal with the South China Sea. They are intended to foster cooperation backed by clarity of purpose, fairness, and multidimensional strength.

First, the United States should regularly underscore our enduring principles for the South China Sea. As with our approach to unimpeded access throughout the global commons, the United States strives to strengthen the rule of law and uphold the peaceful settlement of disputes. Our officials should persist in spelling out America's positive vision for an inclusive, rules-based regional order. Customary international law and the United Nations Convention on the Law of the Sea should be fully respected, including the freedom of navigation through exclusive economic zones and the right of innocent passage in territorial seas. Furthermore, there should be no force or coercion to settle disputes, such as those that exist over the Spratly and Paracel Islands and Scarborough Reef. While the United States should remain neutral on sovereignty disputes, it has a responsibility to ensure that disputes should be resolved or managed without using force, threats of force, or coercion. Principles rooted in the rule of law and peaceful resolution of disputes should ideally be embedded within a comprehensive and coherent regional strategy.

Secondly, the United States should reinvest in our own long-term economic power, something that can be achieved in large part by intensifying our trade and development ties in the Asia-Pacific. Completing the Trans-Pacific Partnership can demonstrate America's ability to complete complex free-trade agreements and regional architectures. We need to be prepared to bring more economies, from the Philippines to the Republic of Korea, into TPP, the first major multilateral trade agreement with a heavy focus on the new economy based on information technology and services. The United States can use TPP to gain critical leverage vis-à-vis BRICS nations regarding future rules for trade.

We also need more energy, imagination, and resources to assemble a serious multilateral development initiative of our own. We can wait and see about how complementary China's Asian Infrastructure and Investment Bank (AIIB) and "One Belt, One Road" initiatives will be to existing Bretton Woods institutions and other development initiatives. Meanwhile, we can do far better on development than the patchwork quilt of the Lower Mekong Initiative. Congress should request from the current and future administration a development strategy that includes proposals for new initiatives. I have in mind a major international public-private partnership in support of human development in Asia. Rather than try to match China's push for physical infrastructure, I would focus on the new knowledge economy, human capital and education, science and technology, and energy—all areas of comparative advantage for the United States.

Thirdly, the United States needs to deepen and broaden its diplomatic and practical support for the Association of Southeast Asian Nations (ASEAN). ASEAN centrality has already been a key tenet of the U.S. approach to regional multilateral architecture. But the United States should do more to achieve ASEAN unity and bolster ASEAN-centered

institutions on at least four levels: with ASEAN as a whole, with ASEAN claimant states, with individual ASEAN member states, and with maritime allies and partners in and outside of ASEAN (including Australia, India, Japan, and the Republic of Korea). On the initial level, the United States should continue to seek to preserve ASEAN consensus over the norms related to the rule of law and peaceful resolution of disputes. Key partners such as Singapore and Indonesia can be instrumental, but so, too, can our longstanding ally Thailand, which is the ASEAN coordinator for outreach to China.

Working to achieve ASEAN unity over basic principles is useful, but the United States can find more effective diplomatic traction by forging a stronger caucus among claimant states. Hence, fourthly, the United States should help the ASEAN claimants (not just the Philippines and Vietnam, but also Malaysia and Brunei) to come to a common understanding and work towards a common goal that is fair to all countries. They can reduce differences, set forth common expectations for conduct, and forge cooperative approaches to diplomacy and security. These do not necessarily entail the resolution of the sovereignty and all jurisdictional disputes, which is in any case not possible without the participation of China, but they could conceivably reflect principles that hew to the rule of law and peaceful resolution of disputes. China has tried to inhibit the formation of a regional consensus by slowing down processes such as the Code of Conduct negotiations between it and ASEAN. A viable consensus among the ASEAN maritime caucus could break this logjam. At the same time, the United States should help ASEAN claimant states to work towards that common goal by giving support in areas such as diplomacy, facilitation, legal expertise, and, as I will amplify below, operational capability.

A fifth recommended action is to build a maritime coalition of the willing to ensure that South China Sea issues remain on the top tier of regional diplomacy. The United States should leverage ASEAN's convening power to bring together a wider coalition of maritime powers. Key members would include Japan, Australia and India, all of whom understand that the South China Sea is a vital part of the global economy and not just one big country's pond. We can underscore rules and expectations, as well as think through in advance a common response to perceived provocations such as a possible declaration of an Air Defense Identification Zone (ADIZ) in the South China Sea. Thus, from ASEAN Regional Forum ministers' meetings to more inclusive diplomatic institutions such as the East Asia Summit process and the ASEAN Defense Ministers' Meeting Plus, the United States should insist on elevating the South China Sea issue to the highest priority to discourage China from taking assertive and counterproductive actions in the South China Sea.

Sixth, the United States should maintain a constant presence in the South China Sea. Singapore has enabled a steady if quiet presence, most recently by hosting up to four littoral combat ships. Additional disbursement of capabilities and the creation of additional access agreements, including for extended rotational tours, such as those envisaged in the Philippines and already announced in Australia, can reinforce our commitment to stability and engagement. Completing a buildup on Guam and the Marianas, though outside the South China Sea, can provide a tremendous opportunity for

region-wide exercising and training of maritime, air, and coast guard forces. I believe these steps are consistent with the intent of the military dimension of the U.S. rebalance to Asia.

Seventh, the United States should support an overlapping regional transparency regime that serves multiple objectives. A transparency regime refers to not only physical infrastructure for gathering information but also the institutions to process it and the political channels to share it, both within and between governments. At the broadest level, by supporting greater transparency of developments in the South China Sea, we can help the region arm itself with facts to deal with everything from search and rescue or humanitarian assistance and disaster relief, to the fortification of artificial islands or provocative deployments of vessels. Leveraging our relations with allies such as the Philippines and other like-minded states, the United States can build on this general information-sharing regime to create a higher fidelity common operating picture for early warning and contingency response. The technical capacity to build such a regime already exists, but U.S. leadership will be needed to build the supporting political framework. Let's put the spotlight on destabilizing actions so that we can reinforce the diplomacy at high-level regional and global gatherings.

The South China Sea region is one area that needs more Congressional fact-finding delegations. Visits through the region should include China, where listening to different points of view might be helpful in sparking a wider discussion and gradually building shared understanding.

Eighth, in addition to building maritime domain awareness, we should also be building national and multinational defensive and deterrent capacity for supporting assured access throughout the South China Sea. The broader maritime coalition alluded to above could undertake periodic, perhaps even quarterly, air and sea patrols in the South China Sea to review developments up close as well as to provide a capacity to respond to all hazards, ranging from the non-traditional to more traditional security risks. The aim of such capacity is defensive, offering smaller countries reassurance and hopefully deterring acts of aggression and unilateral changes to the status quo through force.

Ninth, the United States should seek to clarify types of behavior that would be objectionable and against which the United States would work with others to impose costs. Harkening back to the basic principles and the desire to strengthen U.S. presence and regional engagement, the United States should make clear that it opposes and will continue to oppose certain specific types of activities throughout the South China Sea. The precise details should be thoroughly vetted by a beefed-up cadre of government experts on international maritime law. But for illustrative purposes, let me suggest the following types of actions we should consider opposing: (a) blockading any feature occupied by another claimant, such as Second Thomas Shoal occupied by the Philippines; (b) seizing or encroaching on any feature occupied by another claimant, such as China's seizure of the western half of the Paracels from South Vietnam in 1974 and of Johnson South Reef from Vietnam in 1988; (c) the encroachment on the territorial sea of any island occupied by another claimant; (d) the seizure of any unoccupied feature by

denying access to other claimants, such as China's current exclusion of Philippine nationals from Scarborough Reef; (e) the creation of artificial islands and the enlargement of either natural or artificial islands; (f) sovereignty claims over features that are not islands, i.e., those that are not naturally above high tide, or over low-tide-elevations that are more than 12 nautical miles from islands, such as Mischief Reef and Subi Reef; (g) baseline claims that are not UNCLOS compliant; (h) claims to territorial sea or EEZ from baselines that are not UNCLOS compliant, such as those based on low-tide elevations or artificial islands that are more than 12 nautical miles from islands; (i) claims to maritime space that is excessive according to international law on maritime delimitation, such as China's claims to the maritime space inside the nine-dash line; (j) claims to maritime space that are not derived from land or insular territories, such as China's claims to historic rights over the area inside the nine-dash line; (k) spurious military alert zones, such as that established over the deep-sea oil platform HD-981 or in the case of U.S. Navy P-8 Poseidon overflights; and (l) the establishment of ADIZs over the disputed features and their waters.

Tenth, we should enumerate a menu of potential cost-imposition policy options that transcend reputational and legal costs and make clear that bad behavior will incur a price. Congress should require the continuous development of such an options menu in a classified annex of future interagency regional strategies. Multinational sea and air patrols could emulate recent U.S. P-8 overflights to make an emphatic point about what is permitted under UNCLOS. Similarly, if a country wants to build an artificial island for military purposes in disputed waters and then suggest it might be used for civilian purposes such as humanitarian assistance, then during the next regional disaster we might test that proposition by landing a civilian aircraft on one of the newest runways. If China tries to prevent the resupply of the grounded Philippine naval vessel BRP Sierra Madre at Ayungin Shoal, then the United States might not only offer to resupply it, but could also consider deploying a few Marines on rotation as part of the crew's training detachment. These and many other moves are the kind of muscular punctuation points designed not to ignite conflict but rather to clarify acceptable and unacceptable behavior and reinforce the kind of rule set the region should and can live by.

Let me sum up my argument. Growing tensions in the South China Sea are threatening to arrest one of the most significant developments in modern history: namely, the rise of Asia and the largely U.S.-created order on which stability and prosperity rest. China's assertive reemergence is challenging regional stability. Its rapid military modernization, frequent resort to tailored coercion, and artificial-island-*cum*-military-base-building program in the South China Sea directly undermine both the post-World War II order and American credibility. China's use of all instruments of power and incremental salami slicing tactics are out-maneuvering the competition. China is gradually *de-balancing* the region; in the absence of any substantial cost for bad behavior, China is simply being emboldened to carry on with its opportunistic and aggressive probing for regional influence. Without an effective counterweight to keep China honest, safeguard freedom of navigation and access to the global commons for all, and uphold the rule of law, China will achieve a slow-motion hegemony throughout the South China Sea. This testimony has provided some of the practical and comprehensive policy steps that the United States

might act upon to protect the interests of the United States, as well as its allies in partners, for decades to come.

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<sup>1</sup> See Patrick M. Cronin and Alexander Sullivan, *Preserving the Rules: Countering Coercion in Maritime Asia* (Washington, D.C.: CNAS, March 2015); Ely Ratner et al., *More Willing & Able: Charting China's International Activism* (Washington, D.C.: CNAS, May 2015); Patrick M. Cronin et al., *Tailored Coercion: Competition and Risk in Maritime Asia* (Washington, D.C.: CNAS, March 2014); and Patrick M. Cronin, editor, *Cooperation from Strength: The United States, China and the South China Sea* (Washington, D.C.: CNAS, January 2012). All are available and can be viewed or downloaded at [www.cnas.org](http://www.cnas.org).