

# POLICY REPORT

## U.S. Policy Towards the Disputes in the South China Sea Since 1995



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March 2014

# **Policy Report**

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## Executive summary

U.S. policy toward the disputes in the South China Sea has four features. First, the United States has altered its policy in response to changes in the level of tensions in the dispute. Second, U.S. policy toward the South China Sea has been premised on the principle of maintaining neutrality regarding the conflicting claims to sovereignty. Third, as its involvement in managing tensions has increased, the United States has emphasised the process and principles by which claims should be pursued more than the final outcome or resolution of the underlying disputes, especially conflict management through the conclusion of a binding code of conduct between ASEAN and China. Fourth, U.S. policy in the South China Sea has sought to shape China's behaviour in the South China Sea by highlighting the costs of coercion and the pursuit of claims that are inconsistent with customary international law. Looking forward, the involvement of the United States in seeking to manage tensions in the South China Sea is likely to continue so long as the territorial and maritime jurisdictional disputes remain unresolved and states take declaratory steps and operational actions to assert and defend their claims.

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## Introduction

One defining feature of the international relations of East Asia over the past five years has been the steady increase in tensions in the disputes over territorial sovereignty and maritime jurisdiction in the South China Sea. Although the United States does not claim sovereignty over any of the land features being contested, it has increased its attention to and involvement in efforts to manage these disputes. This policy brief will review the evolution of U.S. policy towards the conflicts in the South China Sea and assess the implications of greater U.S. involvement for U.S.-China relations in the coming decade.

U.S. policy towards the disputes in the South China Sea has four features. First, the United States has altered the content of its declaratory policy in response to changes in the level of tensions in the dispute. In other words, the United States has increased its level of involvement following the increase in tensions among the claimants. During periods of stability in the dispute, the United States has not altered its policy or increased its involvement.

Second, U.S. policy towards the South China Sea has been premised on the principle of maintaining neutrality regarding the conflicting claims to sovereignty. This means that the United States does not take sides and support one state's claim to sovereignty against the other claimants. Taking sides would be costly for the United States, as the United States does not want to increase its direct involvement in China's sovereignty disputes nor make the South China Sea a central issue in the U.S.-China relationship. Nevertheless, a tension exists between the principle of maintaining neutrality and greater involvement in efforts to manage tensions in the dispute, especially when one country is identified as being the primary source of increased tensions.

Third, as its involvement in managing tensions has increased, the United States has emphasised the process and principles by which claims should be pursued more than the final outcome or resolution of the underlying disputes, especially conflict management through the conclusion of a binding code of conduct between ASEAN and China. The focus on process and principles aims to thread the needle of maintaining neutrality over sovereignty while increasing involvement to reduce instability. The general approach is to articulate principles that should be followed by all claimants and to use those principles as the basis for U.S. policy.

Fourth, U.S. policy in the South China Sea has sought to shape China's behaviour in the region by highlighting the costs of coercion and the pursuit of claims that are inconsistent with international law. Costs for Beijing included a tarnished image as a state that acts in violation of international law (especially UNCLOS), poor relations with other claimants, and an improved position of the United States in the region as a partner for other claimants in these disputes. Nevertheless, by adhering to the neutrality principle, the United States has sought to increase its involvement without defending the claims of other claimants.

Looking forward, the involvement of the United States in seeking to manage tensions in the South China Sea is likely to continue so long as the territorial and maritime demarcation disputes remain unresolved and states take declaratory and operational actions to assert and defend their claims. Nevertheless, if tensions are reduced even without the settlement of the underlying disputes, then the involvement of the United States would likely decline. To the degree that tensions in the South China Sea are associated with Chinese behaviour, then the South China Sea will continue to be an issue in U.S.-China relations. Nevertheless, by balancing involvement regarding dispute management with neutrality over questions of sovereignty, the United States has sought to limit the role of the South China Sea in the U.S.-China relationship.

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### **U.S. interests in the South China Sea**

The United States has two principal interests in the South China Sea: access and stability. First, the United States has a powerful interest in maintaining unhindered access to the waters of the region. From Washington's perspective, all countries enjoy high seas freedoms, including freedom of navigation, beyond any coastal state's 12nm territorial seas over which the coastal state enjoys sovereign rights. Both commercial and military vessels enjoy such high-seas freedoms as contained in articles 56 and 87 of the United Nations Convention on the Law of the Sea (UNCLOS). Towards this end, the United States has conducted multiple "operational assertions" of such freedoms in Malaysian, Vietnamese and Chinese waters annually since 2007.<sup>1</sup> Although the details of these operations are not publicly available, they have presumably occurred in the South China Sea among other areas.

Unhindered access to the waters of the South China Sea is important for two reasons. First, it underpins the economic dynamism of the region, which is based on extensive intra-regional and international trade. More than 5 trillion dollars' worth of trade passes through these waters each year, including more than 1 trillion with the United States.<sup>2</sup> Second, unhindered access sustains

America's ability to project military power, not just in East Asia but also around the world, as many U.S. naval vessels from the West Coast and Japan pass through the South China Sea en route to the Indian Ocean and Persian Gulf. Third, upholding the principle of freedom of navigation in the South China Sea is part of a desire to uphold this principle globally.

For the United States, unhindered access to the South China Sea faces several threats. The first is China's interpretation of the rights of coastal states in the Exclusive Economic Zone. Since the EP-3 incident in 2001, China has mobilised a variety of legal arguments designed to limit military activities in this zone, especially U.S. surveillance and reconnaissance activities.<sup>3</sup> Although China has focused its opposition to U.S. operations in areas close to China's coast, China may seek to impose similar restrictions throughout the entire South China Sea. Even if China embraced UNCLOS-compliant claims that did not seek to restrict military activities consistent with the convention, ambiguity surrounding the historic rights that China might claim in these waters based on the nine-dashed line sustains such concerns. A second threat is the modernisation of the PLA Navy (PLAN), which, over time, could be used to exclude U.S. naval vessels from these waters. Nevertheless, given the expanse of the

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<sup>1</sup> "Freedom of Navigation Operational Assertions," Department of Defense, <http://policy.defense.gov/USDPOfficesASDforGlobalStrategicAffairs/CounteringWeaponsofMassDestruction/FON.aspx>

<sup>2</sup> Bonnie S. Glaser, *Armed Clash in the South China Sea*, (New York: Council on Foreign Relations, 2012), p. 4.

<sup>3</sup> Ren Xiaofeng and Cheng Xizhong, "A Chinese Perspective," *Marine Policy*, Vol. 29, No. 2 (2005), pp. 139-146.

South China Sea, the PLAN's South Sea Fleet will not have such capabilities for some time, perhaps decades. At present, the South Sea Fleet has roughly eight destroyers (five of which are modern) and nineteen frigates (four or eight of which are modern). The South China Sea comprises more than 3 million square kilometres, an area in which it would be challenging for any navy to exercise sea control, especially given the number of littoral states.

Second, the United States has a powerful interest in the maintenance of regional peace and stability in Southeast Asia. Like open and unhindered access, regional stability also sustains both East Asian and American prosperity, as conflict or intense security competition would divert scarce resources away from development, reduce trade by threatening the security of sea-lanes, and reduce cross-border investment, both in the region and across the Pacific.

Regional stability faces several threats in the South China Sea. The first is the potential for armed conflict among the various claimants in the disputes over the territorial sovereignty of land features such as islands and coral heads and over maritime rights such as an Exclusive Economic Zone. China and Vietnam have clashed twice, first in 1974 over the Crescent Group in the Paracel Islands (contested only by China and Vietnam) and in 1988 over the control of Johnson Reef.<sup>4</sup> As zero-sum conflicts, territorial disputes are prone to the pernicious effects of the security dilemma and can quickly spiral out of control. A second threat to stability would be the increasingly frequent use of coercive measures short of armed conflict to advance a state's claims. China's threats to American oil companies in the region in 2007 and 2008 provide one example of such coercive behaviour that can increase instability.<sup>5</sup> A third threat would be on-going naval modernisation in the region. In addition to the re-capitalisation and modernisation of China's South Sea Fleet, Vietnam is also investing heavily in naval and air capabilities to be used in the South China Sea, such as Kilo-class submarines purchased from Russia, that will enhance Hanoi's own area denial capability. Spirals of instability

in disputes over sovereignty and maritime rights could evolve into a capabilities race and increased security competition that increases the overall likelihood of a clash. A third source of instability, indirectly related to the South China Sea, would be the potential for a spiral around efforts by China and the United States over threatening and maintaining access, respectively. In response to new Chinese "anti-access/area denial" capabilities, including an anti-ship ballistic missile, the United States military has developed a new operational concept known as AirSea Battle intended to ensure U.S. access to these waters in wartime. Peacetime efforts to develop such capabilities could result in an "access" arms race and increased instability.<sup>6</sup>

In addition to access and stability, the United States has other interests related to the disputes in the South China Sea. These include maintaining its commitments to allies in the region while at the same time not becoming entrapped by allies in specific disputes. Another interest is maintaining a stable and cooperative relationship with China, of which maritime disputes in East Asia are only one part. A final interest is maintaining its position of neutrality regarding the sovereignty of land features under dispute.

### **U.S. policy towards the South China Sea disputes**

Since the end of the Cold War, U.S. policy towards the disputes in the South China Sea has been largely reactive. The United States has altered the content of its policy in response to events in the South China Sea that threaten U.S. interests. Declaratory U.S. policy may be usefully divided based on several distinct turning points.

#### ***1995: China's occupation of mischief reef***

The U.S. first took a public position on the disputes in the South China Sea following China's occupation of Mischief Reef in late 1994. In response to growing concerns about stability in the region, the United States in May 1995 issued

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<sup>4</sup> On China's past behavior in the South China Sea, see M. Taylor Fravel, *Strong Borders, Secure Nation: Cooperation and Conflict in China's Territorial Disputes* (Princeton: Princeton University Press, 2008).

<sup>5</sup> M. Taylor Fravel, "China's Strategy in the South China Sea," *Contemporary Southeast Asia*, Vol. 33, No. 3 (2011), pp. 302-303.

<sup>6</sup> For other recent articulations of U.S. interests in the South China Sea, see Jeffery A. Bader, "The U.S. and China's Nine-Dash Line: Ending the Ambiguity," Brookings February 6, 2014; Daniel R. Russel, "Maritime Disputes in East Asia," Testimony Before the House Committee on Foreign Affairs Subcommittee on Asia and the Pacific, Washington, DC. February 5, 2014

a policy statement through the State Department spokesman.<sup>7</sup> U.S. policy as articulated in this statement contained five elements:

- (1) Peaceful resolution of disputes: “The United States strongly opposes the use or threat of force to resolve competing claims and urges all claimants to exercise restraint and to avoid de-stabilizing actions.”
- (2) Peace and stability: “The United States has an abiding interest in the maintenance of peace and stability in the South China Sea.”
- (3) Freedom of navigation: “Maintaining freedom of navigation is a fundamental interest of the United States. Unhindered navigation by all ships and aircraft in the South China Sea is essential for the peace and prosperity of the entire Asia Pacific region, including the United States.”
- (4) Neutrality over the question of sovereignty: “The United States takes no position on the legal merits of the competing claims to sovereignty over the various island, reefs, atolls, and cays in the South China Sea.”
- (5) Respect of maritime norms, especially UNCLOS: “The United States would, however, view with serious concern any maritime claim or restriction on maritime activity in the South China Sea that was not consistent with international law, including the 1982 United Nations Convention on the Law of the Sea.”

Following the occupation of Mischief Reef, tensions in the dispute began to subside even though they did not disappear completely. In the late 1990s, China and ASEAN began negotiations on a code of conduct for the disputes in the South China Sea. In 2002, the two sides reached an agreement on a declaration of a code of conduct, which included a commitment to concluding a binding code of conduct at a later date.

### **2010: Response to growing tensions from all claimants**

In 2010, the United States decided to expand and clarify its policy towards the South China Sea in response to the escalation of tensions among the claimants after 2007. During this period from 2007 to mid-2010, all claimants, especially China, more actively asserted their claims and, at times, took actions to uphold or defend those claims that only further increased tensions. Such actions included China’s threats to foreign oil companies investing in Vietnamese offshore exploration blocks (including several American companies) between 2006 and 2008, the 2009 submission of claims and counter-claims for extended continental shelf rights to a UN body, China’s detention of hundreds of Vietnamese fishermen operating in the waters near the Paracel Islands in 2008 and 2009, China’s efforts to obstruct the operations of the USNS Impeccable roughly 75 nautical miles from Hainan Island in March 2009, China’s inclusion of a map with the “nine-dashed line” in a note verbale to the UN in May 2009, China’s imposition of seasonal fishing bans in the northern portion of the South China Sea, an increase in the number of patrols by Chinese maritime law enforcement agencies in contested waters, an increase in the frequency and scope Chinese naval exercises in the South China Sea, symbolic visits by Malaysian and Vietnamese leaders to the Spratly Islands in 2009 and 2010, the passage in the Philippines of an archipelagic baseline law with claims to many of the Spratlys in February 2009, and a stand-off between Vietnamese and Chinese law enforcement vessels in April 2010.<sup>8</sup>

By 2009, the United States had started to pay more attention to the South China Sea. The proximate causes were two-fold. First, Chinese threats to U.S. oil companies operating off the coast of Vietnam in 2008 marked the first time that China had directly challenged U.S. commercial interests and U.S. companies in particular in the South China Sea. Second, China’s harassment of the USNS Impeccable and other U.S. naval survey vessels renewed questions about China’s approach to freedom

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<sup>7</sup> Daily Press Briefing, U.S. Department of State, May 10, 1995, [http://dosfan.lib.uic.edu/ERC/briefing/daily\\_briefings/1995/9505/950510db.html](http://dosfan.lib.uic.edu/ERC/briefing/daily_briefings/1995/9505/950510db.html)

<sup>8</sup> For a complete list of developments during this period, see Michael D. Swaine and M. Taylor Fravel, “China’s Assertive Behavior – Part Two: The Maritime Periphery,” *China Leadership Monitor*, No. 35 (Summer 2011), pp. 16-17.

of navigation on the high seas. The new level of U.S. attention was reflected in Congressional testimony by Scott Marciel in July 2009.<sup>9</sup> By 2010, the Obama administration decided that a new statement of U.S. policy towards the South China Sea was required. According to Jeff Bader, then President Obama's senior adviser on Asia policy, the escalation of tensions described above led U.S. officials to decide "that a new, more comprehensive articulation of U.S. policy was called for."<sup>10</sup>

The venue chosen for the articulation of this new policy was the July 2010 annual meeting of the ASEAN Regional Forum. During the closed-door session, the United States and twelve other countries expressed concern about the tensions in the South China Sea. Secretary of State Hillary Clinton also delivered a public statement of the U.S. position, the highest-level U.S. official ever to do so.<sup>11</sup> In her statement, Clinton affirmed core elements of the 1995 policy, including "a national interest in freedom of navigation," opposition to "the use or threat of force by any claimant," and "not taking sides" in the competing territorial claims.

Clinton also introduced new elements to U.S. policy that were not part of the 1995 statement, including:

- (1) Resolving disputes without coercion
- (2) Support for a "collaborative diplomatic process by all claimants," including a willingness to "facilitate initiatives and confidence building measures consistent with the [2002 Declaration on a Code of Conduct]"
- (3) Support for drafting of a full code of conduct
- (4) The position that "legitimate claims to maritime space in the South China Sea should be derived solely from legitimate claims to land features."

Overall, the new statement of U.S. policy emphasised broadly accepted international principles that should be applied in these disputes. China was not mentioned by name. Nevertheless, several elements of the Clinton statement were directed against China more than any other claimant. First, the language regarding "legitimate claims" suggested that the United States opposed any claim by China to maritime rights based on the nine-dashed line on Chinese maps (in addition to possible historic claims by Vietnam). Such claims would be inconsistent with UNCLOS, which is based on the principle that the land dominates the sea. Second, the emphasis on a "collaborative process" that implied multilateral talks stood in contrast to China's preference for dealing with each claimant bilaterally. Although the United States did not take a position on the underlying sovereignty claims, it did take a position on the legitimacy of claims to maritime jurisdiction that states in the region could pursue and the process by which the dispute should be either managed or resolved. Thus, it did not abandon neutrality or become a party in the dispute, but it did increase its involvement in an effort to manage tensions.

In this period, the one aspect that has perhaps garnered the most attention was the notion that the United States might become directly involved in the disputes in the South China Sea. There were several reasons for this view. Although the United States had expressed growing concerns in 2009 (Marciel's Congressional testimony) and in May 2012 (Secretary of Defense Gates at Shangri-La), the United States at the July 2010 meeting of the ASEAN Regional Forum had coordinated with other states (both claimants and non-claimants) to express concern about the increase in tensions in which China played a role. In all, twelve states expressed concern about either maritime security or the South China Sea, producing a harsh and likely pre-planned speech by Foreign Minister Yang Jiechi.<sup>12</sup> In addition, the New York Times appeared to mischaracterise

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<sup>9</sup> Scot Marciel, "Maritime Issues and Sovereignty Disputes in East Asia," Statement Before the Subcommittee on East Asian and Pacific Affairs Senate Foreign Relations Committee, Washington, DC July 15, 2009, <http://www.state.gov/p/eap/rls/rm/2009/07/126076.htm>

<sup>10</sup> Jeffrey A. Bader, *Obama and China's Rise: An Insider's Account of America's Asia Strategy* (Washington, DC: Brookings).

<sup>11</sup> "Remarks at Press Availability," July 23, 2010, <http://www.state.gov/secretary/rm/2010/07/145095.htm>

<sup>12</sup> "Foreign Minister Yang Jiechi Refutes Fallacies On the South China Sea Issue," Ministry of Foreign Affairs, China, 26 July 2010

Clinton's statements as suggesting that the United States would play a direct role in the dispute, writing that Clinton stated that the United States "would be willing to facilitate multilateral talks on the issue."<sup>13</sup> What Clinton said, however, was that the United States supported the 2002 code of conduct declaration, encouraged "the parties to reach agreement on a full code of conduct" and would be "prepared to facilitate initiatives and confidence building measures consistent with the declaration." Although Clinton did not state that the U.S. would become a party to the dispute, the new policy statement certainly implied this was possible and this perception was not corrected.

With the new statement of policy in 2010, the United States indicated that it planned to walk a fine line between maintaining neutrality regarding the issues under dispute (territorial sovereignty and maritime jurisdiction) while also becoming more involved in the dispute in some way. Of course, the United States was not the only great power to become more involved. During this period, states like Japan and India also began to express their concern about tensions in the region. Nevertheless, given that China was viewed as the principal cause of tensions, and because of concerns about growing Chinese capabilities, the involvement of the United States would potentially have the effect of limiting Chinese freedom of manoeuvre in how it asserted its claims.

Until the summer of 2012, U.S. policy towards the disputes did not change significantly with one exception. The exception was that discussions of the "facilitation" of dialogue or talks disappeared from the talking points of U.S. officials. Nevertheless, the United States continued to underscore its interest in freedom of navigation, the peaceful settlement of disputes, the absence of coercion and the like. The United States also continued to underscore the importance of dialogue among the claimants and declared strong support for the code of conduct process in the South China Sea.

## **2012: Scarborough shoal and Sansha city**

U.S. policy changed slightly in 2012. The proximate cause was the stand-off between China and the Philippines over Scarborough Shoal, which then subsequently resulted in ASEAN failing to issue a joint statement for the first time in its forty-five year history. In early April 2012, a standoff over control of the shoal began after the Philippine navy attempted to arrest Chinese fishermen who were operating in the shoal's lagoon. At the end of May 2012, the United States brokered an agreement for a withdrawal of forces, but China reneged on the deal in early June and returned to the shoal once Philippine vessels had departed. When the Philippines sought to include a reference to Scarborough in an ASEAN joint statement following a ministerial meeting in July 2012, China placed pressure on Cambodia to reject the Philippine request, which resulted in a decision by Cambodia as ASEAN chair not to issue a joint statement at all.<sup>14</sup>

In the spring and summer of 2012, tensions in the South China Sea increased for other reasons that were also linked with Chinese behaviour. In June 2012, China announced that it was upgrading the administrative status of the islands in the South China Sea by creating a prefectural level city, Sansha City, based on Woody Island in the Paracels. As part of this administrative change, the PLA mostly symbolically established a new garrison on the island.<sup>15</sup> In June 2012, Vietnam issued a national maritime law that included its claims to sovereignty over the Paracel and Spratly Islands while also conducting for the first time air patrols over the Spratly Islands with advanced Su-27 fighters.<sup>16</sup>

In response to these events, especially China's actions, the United States clarified its policy. In early August 2012, the United States issued another policy statement on the South China Sea.<sup>17</sup> This one was delivered by the State Department spokesperson, not the Secretary of State. The statement reiterated the U.S. interest in peace and stability and noted the

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<sup>13</sup> Mark Landler, "Offering to Aid Talks, U.S. Challenges China on Disputed Islands," *New York Times*, July 23, 2010

<sup>14</sup> Guy De Launey, "Has Chinese power driven Asean nations apart?," *BBC News*, July 19, 2012; author interviews.

<sup>15</sup> Dennis J. Blasko and M. Taylor Fravel, "Much Ado About The Sansha Garrison," *The Diplomat*, August 23, 2012

<sup>16</sup> "Vietnam to conduct regular air patrols over archipelago," *Thannien News*, June 20, 2012

<sup>17</sup> "South China Sea," U.S. Department of State, August 3, 2012, <http://www.state.gov/r/pa/prs/ps/2012/08/196022.htm>

increase in tensions. In particular, unlike past statements, this one identified China explicitly, including its activities around Scarborough and the establishment of Sansha City. As a result, the U.S. appeared to be turning towards much more active involvement in the dispute and potentially taking sides. The statement then repeated other elements of U.S. policy, including encouragement of a code of conduct, the clarification of claims, and the peaceful resolution of disputes. Nevertheless, after the August 2012 statement, the U.S. did not continue to refer to China and returned to the previous emphasis on general principles that should be applied to all disputants.

#### **2014: China's "Incremental Efforts" to assert control**

In early February 2014, the United States issued its most detailed statement of policy towards the South China Sea. The venue was congressional testimony of Daniel Russel, the Assistant Secretary of State for East Asia and the Pacific, during a series of hearings on the U.S. policy of "re-balancing" towards the Asia Pacific. As a result, this statement of policy was not just a direct in response to events, but also a function of the hearings being convened by the House Foreign Affairs Committee. Sources of increased tensions included Chinese pressure on the Philippine-held feature Second Thomas Shoal, which was surrounded by Chinese law enforcement vessels in the summer of 2013, along with much more pressing concerns that China might establish an Air Defense Identification Zone (ADIZ) in the South China Sea following the establishment of the East China Sea ADIZ in November 2013. Even more recently, the updating of fishing regulations in Hainan province that could be applied to the South China Sea in December 2013 and the widely publicised oath-taking ceremony aboard several Chinese naval ships at James Shoal close to Malaysia in January 2014 underscored continued concerns about China's behaviour and claims in the South China Sea. As a result, the testimony reflected a judgment that China's behaviour over the past several years reflected an "incremental effort by China to assert

control over the area contained in the so-called 'nine-dashed line.'<sup>18</sup>

Regarding U.S. policy towards the South China Sea, Russel's testimony is noteworthy for two reasons. First, like the August 2012 statement, it singled out China by name as taking actions that increased tensions in the region. China was the only claimant specifically mentioned as contributing to instability. Second, in the testimony, Russel discussed in more detail the U.S. position that according to customary international law "all maritime claims must be derived from land features and otherwise comport with the international law of the sea."<sup>19</sup> In particular, Russel stated explicitly what was clearly implied in Clinton's 2010 statement, namely, that China's nine-dashed line was inconsistent with international law and not a legitimate basis for maritime claims in the South China Sea. As Russel outlined, "any use of the 'nine-dashed line' by China to claim maritime rights not based on claimed land features would be inconsistent with international law."<sup>20</sup> Third, Russel affirmed U.S. support for the Philippine decision to pursue arbitration with China at the International Tribunal of the Law of the Sea and described it as an example of solving disputes in a peaceful, non-coercive way.

#### **U.S. relations with littoral states in the South China Sea**

As U.S. declaratory policy towards the South China Sea has evolved, the United States has also strengthened diplomatic, economic and military ties with several littoral states, especially Vietnam and the Philippines. Although some of this activity was started before 2010, the pace increased afterwards, with both Vietnam and the Philippines among others. This cooperation includes defence and security related dialogues as well as port visits and exercises.

#### **Vietnam**

The deepening of U.S.-Vietnamese relations pre-dates the latest round of tensions in South

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<sup>18</sup> Russel, "Maritime Disputes in East Asia."

<sup>19</sup> Russel, "Maritime Disputes in East Asia."

<sup>20</sup> Russel, "Maritime Disputes in East Asia."

China Sea. Overall, they reflect the development of relations following normalisation in 1995. Nevertheless, the pace of activities, especially in the political-military realm, has increased along with tensions in the South China Sea. Since 2008, the two countries have held an annual political, security, and defence dialogue at the assistant secretary of state level. In the course of this dialogue, the United States began in 2010 to discuss the formation of a strategic partnership. In July 2013, during Vietnamese President Sang's visit to the United States, the two countries announced the formation of a "comprehensive partnership" as a framework for developing the bilateral relationship.<sup>21</sup> Areas of cooperation included political and diplomatic relations, trade and economic ties, science and technology, education and training, environment and health, war legacy issues, defence and security, protection and promotion of human rights, and culture, sports, and tourism.

The military relationship began to deepen in 2010. In 2010, the United States and Vietnam began to hold annual defence policy dialogues, which reflected a deepening of military-military relations. Along with the defence dialogue, the two countries initiated a series of what the Pentagon terms "naval engagement activities" or a series of low-level exchanges and exercises. The inaugural event, held in August 2010, was noteworthy because a group of Vietnamese political and military leaders boarded the aircraft carrier USS George Washington to observe its operations in the South China Sea. Similar naval exchanges have occurred on what now appears to be an annual basis in July 2011, April 2012, and April 2013. Also in 2010, the United States Navy began using Cam Ranh Bay to service and repair auxiliary logistics ships from the USNS.<sup>22</sup> Since then, at least seven ships have been serviced in Vietnam. Finally, in September 2011, the United States and Vietnam concluded Memorandum of Understanding on Advancing Bilateral Defense Cooperation that codified the activities and exchanges underway.<sup>23</sup>

## ***The Philippines***

Unlike Vietnam, the United States has maintained a sustained military relationship with the Philippines even after United States forces left the country following the closure of Subic Bay. In particular, on usually an annual basis since 1991, the United States and the Philippines have held joint exercises under the name of "Balikatan." In addition, because of concerns about terrorism after September 11<sup>th</sup>, the United States and Philippines increased cooperation in the area of counter-insurgency. Nevertheless, following the increase in tensions in the South China Sea in the late 2000s, the United States and the Philippines have increased their overall level of diplomatic cooperation as well as cooperation in the maritime domain.

Looking back, 2011 appears to have been the turning point in U.S.-Philippine relations. In January 2011, the United States and the Philippines held for the first time a "bilateral strategic dialogue" involving senior officials from the State Department. According to Assistant Secretary of State Kurt Campbell, one purpose of the talks was to discuss how to "increase the Philippines maritime capacity" to patrol its waters.<sup>24</sup> In May 2011, the United States agreed to sell a Hamilton-class Coast Guard cutter, which became the flagship of the fledging Philippine navy, the BRP Gregorio del Pilar. In November 2011, to commemorate the sixtieth anniversary of the alliance, the United States and Philippines issued the "Manila Declaration" that reaffirmed the treaty as the basis of the bilateral relationship. The declaration itself referred to cooperation in the area of maritime security, including shared interests in freedom of navigation, the peaceful resolution of disputes and the pursuit of "collaborative, multilateral and diplomatic processes." During the signing of the declaration, in reference to the boxing champion Manny Pacquino, Secretary of State Clinton stated that "let me say the United States will always be in the corner of the Philippines. We

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<sup>21</sup>Joint Statement by President Barack Obama of the United States of America and President Truong Tan Sang of the Socialist Republic of Vietnam," The White House, July 25, 2013, <http://www.whitehouse.gov/the-press-office/2013/07/25/joint-statement-president-barack-obama-united-states-america-and-preside>

<sup>22</sup> Nguoi Lao Dong, "U.S. Navy ship enters Cam Ranh Bay for repair," VietnamNet, May 2, 2013, <http://english.vietnamnet.vn/fms/society/72996/u-s--navy-ship-enters-cam-ranh-bay-for-repair.html>

<sup>23</sup> Carl Thayer, "Vietnam Gradually Warms Up to US Military," *The Diplomat*, November 6, 2013

<sup>24</sup> "US pledges help for Philippine navy," AFP, January 27, 2011

will always stand and fight with you to achieve the future we seek.”<sup>25</sup> Finally, in January 2012, a second Bilateral Strategic Dialogue was held followed in April 2012 for the first time with “2+2” ministerial talks with top diplomats and defence officials. The ministerial talks emphasised cooperation to help the Philippines build “a minimum credible defence posture” along with developing maritime domain awareness. Since then, talks have been held regarding increasing the U.S. military presence in the country on a rotational basis, but no final agreement has been reached. Finally, in December 2013, the United States announced a three-year US\$40 million program to help the Philippines enhance its maritime domain awareness.<sup>26</sup>

### Looking forward

Over the past four years, U.S. policy towards the South China Sea has evolved in response to the increase of tensions in these disputes and in particular to China’s actions. Although the U.S. does not take a position on the underlying claims to sovereignty, it has increased its involvement in the dispute with an emphasis on the peaceful management of claims and ultimately the peaceful resolution of disputes. Because China has the greatest maritime capabilities of all the claimants, claims all of the land features in the South China Sea (along with Vietnam and Taiwan), and maintains ambiguity regarding the meaning and legal status of the of the “nine-dashed line,” U.S. policy has responded to Chinese actions more than those of any other claimant.

As a result, maritime security in the South China Sea has become an issue in U.S.-China relations. By balancing greater attention to dispute management with neutrality over sovereignty, the U.S. has sought to prevent the South China Sea from becoming a dominant or central element of U.S.-China relations. So far, U.S. policy has succeeded. Maritime security and the South China Sea have been discussed frequently at annual meetings such as the ASEAN Regional Forum and the East Asian Summit while China and ASEAN have begun to take steps towards reaching a binding code of conduct. However, if the South China Sea were to become a

more central issue in the bilateral U.S.-China relationship, it would most likely signal greater competition between the two states in regional security.

Looking forward, the South China Sea is poised to remain an issue in the U.S.-China relationship for the medium-term, if not longer. The underlying disputes over sovereignty are unlikely to be resolved anytime soon. No claimant appears willing to moderate its claims towards seeking a final settlement and even the scope of maritime jurisdiction claims remains unclear in the case of Vietnam as well as China and Taiwan. Thus, the disputes in the South China Sea are poised to remain a feature of regional security for some time to come. The best that can be achieved would likely be an agreement to maintain the status quo of control over the land features and perhaps measures to reduce the salience of maritime jurisdiction, such as provision agreements to limit fishing in contested waters, in addition to a code of conduct. But continued efforts by China and other claimants to assert their claims are likely to produce increased periods of tension, which in turn will create demand for continued U.S. involvement in efforts to manage these tensions.

The role that the South China Sea will play in the U.S.-China relationship is difficult to predict, as it depends fundamentally on how the disputes themselves evolves over time. Nevertheless, maintaining the balance between neutrality over sovereignty and involvement efforts to manage instability in the disputes will be a critical task. If the U.S. appears to be siding with other claimants against China, not just on questions of process but also substance, then the South China Sea disputes will play a much greater role in the U.S.-China relationship and become an additional element of competition. From China’s perspective, such U.S. partiality would feed the perception that the U.S. was becoming increasingly involved in questions of Chinese sovereignty, not just over Taiwan but also in the East China Sea through U.S. obligations under its defence treaty with Japan. To maintain this balance, as Jeff Bader has argued, the United States needs to maintain the importance of following international norms regarding what kind of claims are pursued and how they are pursued.

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<sup>25</sup>“Clinton, Philippine Foreign Secretary Joint Press Availability,” Department of State, 16 November 2011,

<sup>26</sup>“U.S. commits \$40 mil. to boost Philippines’ maritime security,” Kyodo, December 17, 2013

## Author's Biography

**M. Taylor Fravel** is an Associate Professor of Political Science and member of the Security Studies Program at the Massachusetts Institute of Technology. Taylor studies international relations, with a focus on international security, China, and East Asia. He is the author of *Strong Borders, Secure Nation: Cooperation and Conflict in China's Territorial Disputes* (Princeton University Press, 2008). He is currently completing a book-length study of major change in China's military doctrine since 1949, entitled *Active Defense: Explaining the Evolution of China's Military Strategy* (under contract with Princeton University Press). His other publications have appeared in *International Security*, *Foreign Affairs*, *Security Studies*, *International Studies Review*, *The China Quarterly*, *The Washington Quarterly*, *Journal of Strategic Studies*, *Armed Forces & Society*, *Current History*, *Asian Survey*, *Asian Security*, *China Leadership Monitor*, and *Contemporary Southeast Asia*. His research has been supported by various organisations, including the National Science Foundation, the United States Institute of Peace, and the Smith Richardson Foundation.

Taylor is a graduate of Middlebury College and Stanford University, where he received his PhD. He has been a Postdoctoral Fellow at the Olin Institute for Strategic Studies at Harvard University, a Predoctoral Fellow at the Center for International Security and Cooperation at Stanford University, a Fellow with the Princeton-Harvard China and the World Program, and a Visiting Scholar at the American Academy of Arts and Sciences. He also has graduate degrees from the London School of Economics and Oxford University, where he was a Rhodes Scholar. In March 2010, he was named Research Associate with the National Asia Research Program launched by the National Bureau of Asian Research and the Woodrow Wilson International Center. In May 2011, he was selected as a fellow with Public Intellectuals Program at the National Committee on U.S.-Relations.

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