

A U.S. South China Sea Perspective: Just Over the Horizon

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Abstract

In 2011 Secretary of State Hillary Clinton declared that the twenty-first century will be “America’s Pacific century.”¹ This pivot of U.S. foreign policy to concentrate on the Asia-Pacific region offers many opportunities, but the greatest challenge, and most likely flashpoint for military conflict in the region, is decades-long sovereignty disputes over South China Sea islands.

Six nations — China, Malaysia, Brunei, Philippines, Vietnam and Taiwan — have claimed sovereignty over several islands, reefs, and in many cases, large rocks, so as to gain oil and fishing rights. These claims threaten freedom of navigation and stability in the South China Sea, which has become critical to the world economy due to the enormous volume of trade and petroleum that passes through its waters.

China’s claim of sovereignty encompasses over 80% of the South China Sea, along with its growing political, economic and military strength, have prompted the other disputants to develop closer diplomatic and military ties with the United States. To protect American interests and balance China’s growing military capability, the U.S. Navy is increasing its presence in the region and may establish new naval bases in Singapore, the Philippines, and even Vietnam.

Before increasing U.S. naval presence in the South China Sea, the U.S. Navy should first endeavor to improve military-to-military relations with China. The U.S. Navy could facilitate the inclusion of the Chinese military to participate in the hundreds of exercises conducted in the Pacific every year, building trust rather than acting on mistrust. The United States and China could also pursue various common goals in the region that could transform strategic threats into strategic cooperation. The current course of assertive U.S. policy and increased military presence must be reevaluated or it could create instability in the region and block the path to resolving the South China Sea’s sovereignty disputes.

Introduction

After more than a decade dominated by counterinsurgency operations in the desert and mountains of the Middle East, the United States is turning to the Pacific Ocean to meet its next strategic challenge. The United State's "pivot" towards the Pacific was introduced by the Obama administration in a series of announcements toward the end of 2011. Speaking to the Australian Parliament in November 2011, President Barack Obama stated "as President, I have, therefore, made a deliberate and strategic decision — as a Pacific nation, the United States will play a larger and long-term role in shaping this region and its future, by upholding core principles and in close partnership with our allies and friends."² The United States' dominant concern is China's ever-increasing economic and military power, which threatens to destabilize the global geopolitical system, of which the U.S. is dominant. The list of issues that concern the United States surrounding China is broad — unfair trade practices, human rights violations, currency manipulation, its controversial Tibet policy — but the greatest challenge for international diplomacy, and the most likely flashpoint for military conflict, is maritime boundary disputes between China, Malaysia, Brunei, Philippines, Vietnam and Taiwan in the South China Sea.

The U.S. Navy has a long history with China and its neighbors in the South China Sea. The Asiatic Fleet sailed throughout the region, including more than 700 miles up the Yangtze River, for the first forty years of the twentieth century until the beginning of World War II. Gunboats, destroyers, cruisers, and even submarines patrolled the South China Sea to protect U.S. Far East trade, American interests, and American citizens, and to maintain diplomatic relations with the Chinese Empire. As modern strategic aims are debated in political and military circles, today's mission for the U.S. Navy is remarkably similar to the Asiatic Fleet's, which

began more than a century ago; however, the landscape and regional players have dramatically changed.

U.S. sea power will continue to ensure the safety and openness of the Pacific Ocean's sea lines of communication, but the presence of U.S. warships today will additionally help provide a check on China's growing military power. In addition to Russia and the United States, China is the only other nation worldwide that is simultaneously building aircraft carriers, strategic ballistic missile submarines, stealth fighters, nuclear attack submarines and navigation satellites. With renewed U.S. foreign policy interest in the Pacific region, and the South China Sea in particular, U.S. naval presence will likely increase as will overseas bases. While the South China Sea has been embroiled in clashes over fishing rights and diplomatic posturing over sovereignty issues, the region has enjoyed a peaceful existence for the past thirty years. Assertive U.S. policy and increased military presence will likely create instability in the region.

The South China Sea's Growing Importance

The importance of the South China Sea, which borders eight nations — China, Vietnam, Taiwan, Malaysia, Brunei, Indonesia, and the Philippines — has grown as the trade that passes through the area has become integral to the global economy. The merchant vessels sailing the waters form a 'super waterway' that connects the busiest shipping ports in the world — Shanghai, Singapore, Hong Kong, Guangzhou — to all corners of the globe. Almost half, in terms of tonnage, of all commercial goods pass through the South China Sea, including over US\$1.2 trillion in U.S. trade each year.³ One of the main arteries that feeds the South China Sea trade is the Malacca Strait, which flows between the Malay Peninsula and the Indonesian island of Sumatra. Of all the world's chokepoints, only the Strait of Hormuz has more oil tankers

passing through it than the Malacca Strait. The petroleum passing through the strait, the lifeblood of all nations, is the major source of oil for Japan, South Korea, and the growing economies of Singapore, Indonesia, Malaysia, and the Philippines.

What is often overlooked in South China Sea diplomatic discussions is the living resource in the South China Sea: fish. The South China Sea provides the habitat and spawning grounds for the world's most valuable fisheries of shrimp and tuna, among others.⁴ Over 500 million people live within a hundred miles off the shores of the South China Sea and the importance of the fishing industry that feeds and employs this population cannot be overstated.⁵ In fact, the political tensions in the South China Sea are more often about fishing rights than military maneuvers or oil drilling operations, however, the latter are more likely to spark international skirmishes and possibly war.

However, at the heart of South China Sea maritime boundary disputes are not today's economic activities like fishing, but the promise of tomorrow's resources. Estimates of oil reserves vary. The Chinese government estimates that the South China Sea sits upon nearly 200 billion barrels of oil and 266 trillion cubic feet of natural gas.⁶ The U.S. Geological Survey's conservative projections estimate far less: 4.8 billion barrels of oil and 64 trillion cubic feet of natural gas. Keep in mind that the smaller, conservative estimate is still equivalent to Alaska's discovered oil reserves, and more than the discovered gas reserves under the Gulf of Mexico.⁷ Survey data is scarce due to the Chinese government's efforts to prevent governments and corporations from conducting survey operations in the South China Sea. Even without solid evidence, several oil corporations (e.g., ExxonMobil, Shell, and Chevron) have expressed an interest in making major investments in oil exploration efforts.⁸

The South China Sea, on the western edge of the Pacific Ocean, is vast, over 1.4 million square miles (3.6 million sq. km) but the two major island groups (Spratly and Parcel) that cover less than six square miles (15.5 sq. km) are the center of many disputes.

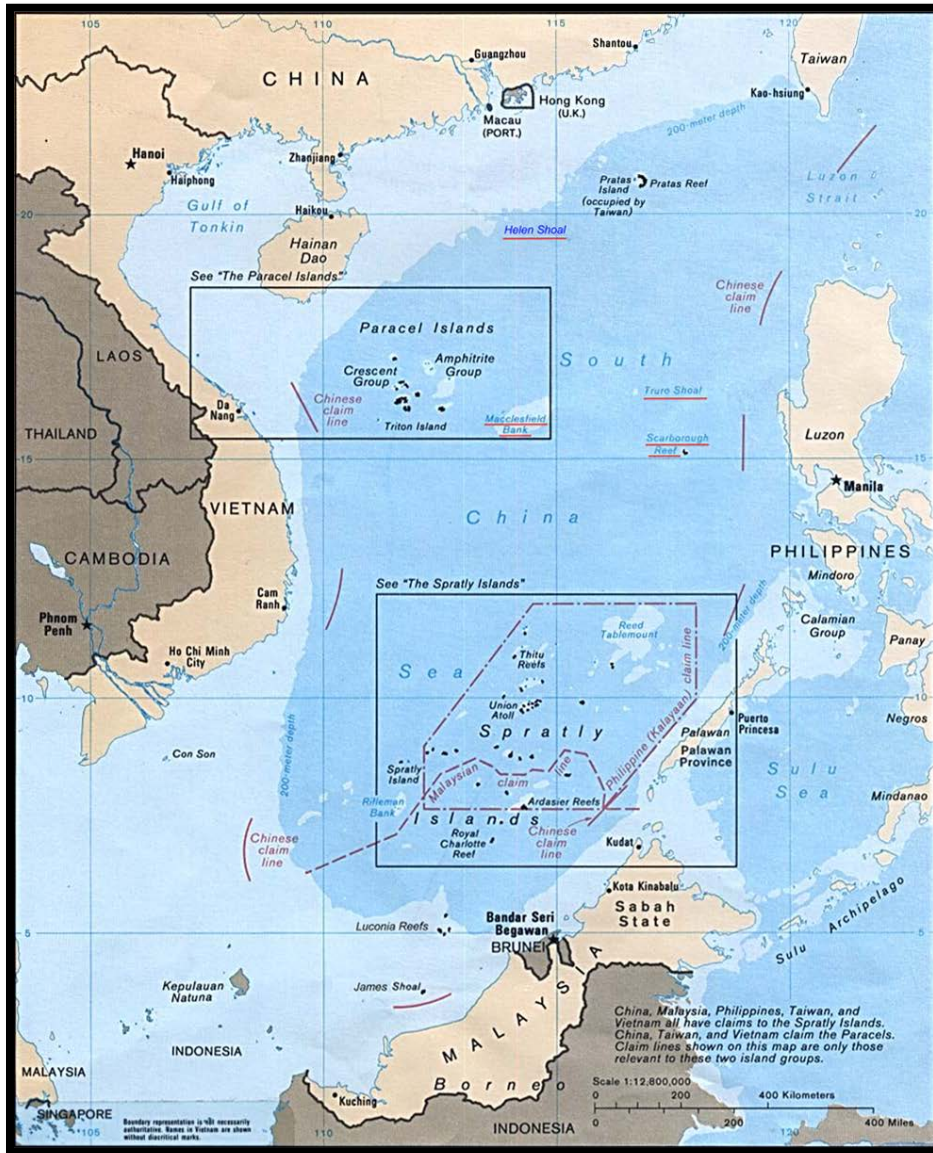


Fig. 1 Map of the South China Sea, with Paracel and Spratly Islands highlighted (University of Texas at Austin Perry-Castaneda Library Map Collection).

Yet, China, Brunei, Malaysia, the Philippines, Vietnam, and Taiwan have been positioning themselves to claim control over the islands, reefs, and in many cases, some protruding rocks, so as to claim sovereignty, which gives them underground excavation and fishing rights. This has resulted in disputed maritime claims that have existed in the South China Sea for almost a generation. However, the current global recession and a growing demand for oil and natural gas have caused some players to become more aggressive. According to the Southeast Asia Program at the Center for Strategic and International Studies, twenty-three confrontations have occurred in the region over the last three years.⁹

Islands of Contention: The Spratly and Paracels

Before discussing the legal framework behind the disputed maritime claims, it is important to understand the terrain of the South China Sea. The tensions are centered in the Spratly Islands, which encompass about forty-five islands and hundreds of reefs, islets, atolls, and cays. Of the forty-five islands, only nine are considered major and the total combined land mass is only 1.9 square miles (4.9 sq. km). The highest point in the Spratly Islands is 13 feet (4 meters) above sea level; many of its features disappear temporarily under the rising tide. None of these islands can support human life — the only indigenous inhabitants are seagulls and the Blue-footed Booby, which includes ten species of long-winged seabirds.

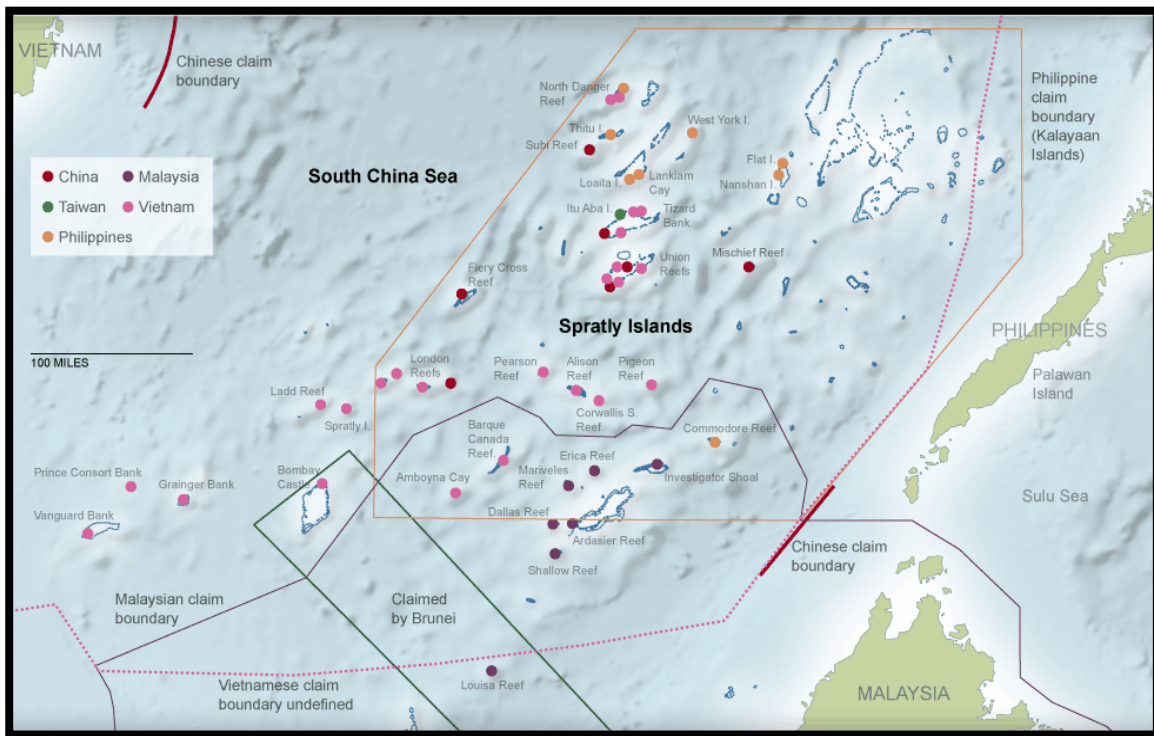


Fig. 2 The Spratly Islands (U.S. Department of State, Office of the Geographer).

In this extremely remote region of the Spratly Islands, China, Malaysia, the Philippines, Vietnam, and Taiwan all have established outposts. Some have used dredging equipment to enlarge small islands or erect platforms on stilts over shallow waters; others have constructed buildings, docks, and airstrips for year-round access and in hopes of establishing a home base, administrative control and sovereignty. In order to establish a history of administrative control, some reefs contain only a marker or monument that is regularly patrolled by military or coast guard personnel. Several outposts are armed with machine guns and artillery, and house military garrisons. The only value the land holds is its ability to establish an international boundary and the rights to the natural resources within its borders.

The United Nations Law of the Seas

Maritime border disputes are governed by the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS concluded in 1982 after decades of negotiating and additional amendments came into force in 1994. With the exception of Taiwan, all the countries involved in the South China Sea disputes have signed and ratified the convention. The convention defines the rights and responsibilities of nations in their use of the world's oceans, establishing guidelines for business, the environment, and the management of marine natural resources. Two important convention definitions reflect the high stakes in the South China Sea disputes. First, territorial waters are measured from the coastline to 12 nautical miles (22 km) out to sea in which the sovereign country can establish laws and regulations for that space. Second, the Exclusive Economic Zone (EEZ) extends from the coastline to 200 nautical miles (370.4 km) out to sea, the area in which a sovereign nation owns the natural resources in and under the sea.¹⁰ The state can regulate and control the extraction of hydrocarbons, fish, minerals, any natural resource. A rock is entitled to a 12 nautical mile (22 km) territorial waters but an island is entitled to both 12 nautical mile (22 km) territorial waters and a 200 nautical mile (370.4 km) EEZ. Under Article 121 of UNCLOS, the difference between a rock and an island is that an island is capable of sustaining human habitation or economic life.¹¹ While legal debates on what constitutes sovereignty and the differences between a rock and an island fill volumes, the basic premise is simple: successfully claiming sovereignty over an island results in the control over the natural resources of an area over 125,000 square miles (323,748.5 sq. km).

China's Claims of Dominance

While the goal of establishing sovereignty for their claims is the same for all countries involved in South China Sea disputes, the basis of claims varies widely. Some are based on historical records of the region or the language of UNCLOS; however, the scope of China's claim is the most ambitious of all claims. On May 7, 2009, China submitted to the United Nations a map with a dashed line that encircled over 80% of the South China Sea.¹² The map was created in 1947 by the Kuomintang government of mainland China's former Republic of China. Protests were immediately lodged by Vietnam and Malaysia as it was widely assumed that the line was meant to signify China's sovereign claim over virtually 80% of the South China Sea.



Fig. 3 China's "Nine-Dash" Line Map of South China Sea Claims (Ocean Development & International Law, 34:287-295, 2003).

However, China's submission of the map did not include an explanation, nor have they provided one to date. The dashed lines could signify a claim of sovereignty to just the islands or the entire South China Sea. While the strategy behind China's ambiguous submission continues to be debated, few lawyers and scholars outside of China have supported the claim (or any interpretation thereof) on legal or historical grounds.

Over the past two decades China has amassed great economic and military strength and simultaneously has laid claim to much of the South China Sea. Its neighbors to the south have made their own maritime claims and have attempted to bolster their political and military capability. Many of the tiny outposts in the Spratly Islands have been militarized and now challenge China's growing presence in the region. Disputes over fishing resources are growing in scale and frequency. Meanwhile, a great degree of the global economy moves throughout the region on cargo carriers and oil tankers. It is feared that disputes over fishing or oil drilling rights could spark a full-scale military engagement between these Asian nations.

Parties in the South China Sea Dispute

A great deal has been written recently on the "peaceful rise" of China and aggressive enforcement of its fishing regulations and protection of natural resources in the South China Sea. Too often the description fails to detail the actions and positions of the other players in the dispute. No proposed solution to determining sovereignty over the South China Sea can be carefully examined without calculating the stakes and potential reactions from all sides. More importantly, U.S. policy and actions designed to ensure security for the region and a peaceful resolution to the maritime border disputes in the South China Sea cannot be designed without assessing how each side could be impacted. A brief description follows of the positions and

claims of Malaysia, Brunei, the Philippines, Vietnam, Taiwan, and China in the South China Sea maritime border disputes. Following this is an overview of the United States' foreign policy and proposed military actions in the South China Sea region. This will provide the foundation for the critique and proposed actions of the United States that will enable it to positively influence a peaceful settlement to the maritime border disputes and enhance the regional security of its allies.

Malaysia

Malaysia occupies five islets or rocks in the southeast of the Spratly Islands and bases its claim of these possessions on proximity and continental shelf rights based on geography.¹³ The largest of which is Swallow Reef with a land area of .1 square miles (.26 sq. km) on which the Malaysian Navy has operated an offshore security post since 1983. The island has been enlarged over the past three decades and improved with an airstrip and a dive resort. The Malaysian government has maintained that its maritime border dispute in the South China Sea can be solved peacefully and to the advantage of all parties involved. Malaysia's greatest political strength lies in its membership of several multinational coalitions such as Association of Southeast Asian Nations (ASEAN), a geopolitical organization formed in 1967 to strengthen relations and promote peace and economic cooperation among its ten member states, including Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei, Myanmar, Cambodia, Laos, and Vietnam. It also belongs to the multinational coalition, Asia-Pacific Economic Cooperation (APEC), formed in 1989 to promote open trade and economic cooperation in the Asia-Pacific region and has twenty-one countries bordering the Pacific Ocean as members.

The Prime Minister of Malaysia, Najib Razak, was defense minister in two administrations before becoming head of government like his father and uncle before him. Malaysia's diplomatic desires for peace in the region have not prevented it from acquiring a modern military. Malaysia has a large air force and navy compared to its regional neighbors; it has instituted a modernization program while strengthening its alliance with the U.S. military. The Royal Malaysian Air Force contains a mix of planes from the East and the West including the Boeing F/A-18 Hornet (U.S.), Mikoyan MiG-29 (Russian) and the Sukhoi Su-30 Flanker (Russian). The Royal Malaysian Navy is slowly growing, with recent additions of the Kedah class offshore patrol vessel and two Scorpene class submarines built jointly by France and Spain. Malaysia's armed forces could inflict a hard sting but they lack sufficient numbers for a prolonged military engagement. As with its political alliances Malaysian leaders believe that strength comes in numbers, as its military has developed several partnerships.

Malaysia also belongs to the Five Power Defense Arrangements, which includes the United Kingdom, Australia, New Zealand, and Singapore. This series of bilateral agreements was signed in 1971 and joint exercises are held each year. In August 2008, Malaysian and Vietnamese defense forces signed a Memorandum of Understanding to strengthen defense cooperation. For the last seventeen years the United States and Malaysia have been conducting Cooperation Afloat Readiness and Training (CARAT) exercises designed to increase capability and interoperability between the two forces.

However, Malaysia has taken steps to strengthen its claims in the Spratly Islands at the expense of its neighbors. In May 2009, Malaysia and Vietnam made a joint submission to the United Nation's Commission on Limits of the Continental Shelf, claiming seabed resources in the southern South China Sea. The joint claim disregarded the overlapping claims of Brunei,

China and the Philippines. The submission to the United Nations is also a result of the bilateral relation Malaysia has fostered with Vietnam. In 1992, both countries signed a Memorandum of Understanding that agreed to joint exploration and exploitation of petroleum in the seabed of their overlapping claims.¹⁴ This allowed commercial activity to begin without having to wait an undetermined amount of time to resolve sovereignty disputes.

Malaysia, which has achieved great economic strides for the last twenty years, quickly recovered from the Asian financial crisis in the late 1990s and has been shifting its economic model away from raw materials (e.g., rubber, tin, palm oil) to industrial production (e.g., semiconductors, solar panels, information technology products). However, petroleum and gas have accounted for a major portion of its annual GDP. Petronas, Malaysia's only Fortune 500 company, is wholly owned by the government and its annual dividends fund over 40% of Malaysia's government budget.¹⁵ While record oil prices have been increasing profits, Malaysian oil reserves have been dropping and to increase production it must find new fields to develop. Petronas has entered into partnerships in 34 countries to gain access to new reserves worldwide. However, in 2009 Petronas announced that it would scale back production in foreign locations and focus on development and extraction closer to home. Its current plans include ramping up deep-water production in the South China Sea with help from Royal Dutch Shell. Soon, the oil fields in the contested maritime areas off of Malaysia's northern shore could become a central focus of Malaysia and its oil-seeking partners.

Brunei

Brunei, a country smaller than the state of Delaware, covering just 2,226 square miles (5,765.3 sq. km), has a population just over 400,000. This constitutional Sultanate is located on

the north coast of the island of Borneo and is surrounded by Malaysia. The country is very wealthy due to its extensive onshore and offshore oil and natural gas fields. Brunei's claim in the South China Sea follows the legal definitions set in the UNCLOS. The claim defines the EEZ using a straight line projection perpendicular from its borders and extends 200 nautical miles (370.4 km) to the northwest.¹⁶ The area includes the Louisa Reef, which is also claimed by Malaysia, which built an obelisk monument there to physically mark its claim. Brunei has the distinction of being the only party in the South China Sea dispute that has not built any structures or stationed military forces in the Spratly Islands as a means to claim sovereignty.

Oil dominates the Brunei economy, accounting for 90% of its GDP and over 50% of all exports.¹⁷ Production has been cut though in recent years in order to extend the life of its oil reserves. Brunei was the first nation in Southeast Asia to utilize offshore drilling in 1958 in an effort to expand oil production and discover new reserves. This small nation has begun planning to expand deep-water offshore drilling to compensate for anticipated lower production levels due to its diminishing reserves. Oil production is deeply woven into Brunei's national identity; the government built a national monument at the first oil field that was discovered by Brunei Shell Petroleum in 1929. The onshore field is still in production and the monument celebrates the billionth barrel of oil produced by the field in July 1991.¹⁸

Brunei has a small military force with an annual budget of less than US\$300 million; it regularly conducts exercises with Malaysia, Singapore, and the Philippines. The Royal Brunei Navy consists mainly of offshore patrol vessels and corvettes. The Royal Brunei Air Force boasts modern helicopters with a few fixed-wing aircraft. Perhaps the most experienced and effective force in Brunei is the British Military Garrison, established in 1959, which represents the last British military base in the Far East. The garrison houses over 900 British soldiers and is

home to the Jungle Warfare Training School for the British Army. Brunei also conducts CARAT exercises each year with U.S. naval forces as part of its modernization and training program. In 2011 the U.S. Navy deployed a maritime patrol aircraft squadron and two destroyers to enhance Brunei's force readiness in Maritime Domain Awareness and Search and Rescue.

Brunei's government has made few official statements regarding its South China Sea maritime disputes. Since Brunei has not been as vocal as its neighbors in defending its claims, it would be reasonable to assume that it would not take on any leadership capacity in attempting to force China into negotiations. Brunei is scheduled to chair ASEAN in 2013.

Brunei's small size may provide the best opportunity for starting the process to settle maritime border disputes in the South China Sea. Brunei's claim is the smallest of all parties and may be China's best chance of reaching a compromise in bilateral negotiations. Jia Qinglin, chairman of the National Committee of the Chinese People's Political Consultative Conference, China's top political advisory body, visited Brunei in late April 2012 and urged the Sultan of Brunei, Hassanal Bolkiah, to promote cooperation on South China Sea disputes, saying China has always maintained that they should be solved through peaceful negotiations by countries directly involved.¹⁹

The Philippines

The Philippines has a long history with the Spratly Islands and within the last year has replaced Vietnam as the main provocateur of China in this dispute. The Philippines occupies nine rocks or small islands in the South China Sea, but it claims sovereignty over sixty based on discovery, proximity, and occupation.²⁰ Philippines President Benigno Aquino III has been very active in building stronger diplomatic ties with its Asian neighbors, specifically Vietnam, and in

regaining the relationship with the U.S. military that existed during his mother's presidency (Corazon Aquino 1986-1992).

In 1970 the Philippines occupied five islands in the Spratlys, claiming the western portion of the island group.²¹ In February 1995, China occupied Mischief Reef, which is less than 150 miles (241.4 km) from the Philippine island of Palawan. China claimed that the simple structures they built were shelters for fisherman. Ignoring the Philippines' protests for violating its sovereignty, China improved the structures over time to include a three-story concrete fort for military personnel. Over the last fifteen years incidents of mutual harassment have occurred over sovereignty of the islands and fishing rights as China and the Philippines have detained each other's fishermen, have fired warning shots, and rammed each other's ships.

This harassment began to threaten the Philippines' economic development when Chinese patrol boats forced a survey ship, chartered by the British-based Forum Energy Company seeking locations to drill wells in the Sampaguita gas field near Reed Bank, to stop operations.²² The operations in the spring of 2011 were part of a service contract awarded by the Philippine government in an area less than 150 miles (241.4 km) from Palawan and well within the Philippine EEZ. The Aquino government responded by providing a military escort for the survey ship enabling it to continue operations. The vessels returned to Reed Bank to find that the Chinese had departed and the surveys were completed without further incident. Despite the military tensions in the area, Forum Energy has announced a US\$75 million drilling program as part of its service contract with the Philippines based on the estimated 20 trillion cubic feet of natural gas that surveys have shown lie beneath Reed Bank.

The Philippines has greatly improved its diplomatic relations with ASEAN countries. However, China has noticed its efforts to increase security cooperation with United States.

Modern U.S.-Philippines relations are founded on the 1952 Mutual Defense Treaty for economic, diplomatic, and military cooperation. A low point in U.S.-Philippines relations came in 1992 when the U.S. military closed the massive Subic Bay Naval Base and Clark Air Force Base in the Philippines after the Philippines Senate did not approve a treaty that would have renewed the base leases for another ten years. However, the U.S.-Philippine relationship was strengthened when Secretary of State Hillary Clinton spoke onboard the USS Fitzgerald moored in Manila Bay to celebrate the 60th anniversary of the Mutual Defense Treaty on 16 November 2011. As the highest ranking cabinet secretary of President Obama's administration, her speech on the deck of a U.S. warship on the coast of the South China Sea quickly resonated throughout the region:

[T]oday we meet in a new era where we face new challenges but also where we confront new opportunities. So we must ensure that this alliance remains strong, capable of delivering results for the people of the Philippines, the United States, and our neighbors throughout the Asia Pacific. We are now updating our alliance and all of our alliances in the region with three guidelines in mind. First, we are working to ensure that the core objectives of our alliances have the political support of our people. Second, we want our alliances to be nimble, adaptive, flexible so they can continue to deliver results in this new world. And third, we are making sure that our collective defense capabilities and communications infrastructure are operationally and materially capable of deterring provocation from the full spectrum of state and non-state actors.

To that end, the United States is working ... to support the Philippines, particularly in the maritime domain as you move to improve your territorial defense and interdiction capabilities.²³

President Aquino's desire for closer relations with the U.S. is based on its inability to counter an increasingly aggressive China. When the United States closed its bases on the Philippines in 1992 it turned over assets worth more than US\$1.3 billion including an airport and ship repair facility.²⁴ However, the Philippine Navy has been neglected for almost two decades. General Ricardo David, Chief of Staff of the Philippine Armed Forces at the time, stated in a

visit to the U.S. Pacific Command in Hawaii, that the Philippine “capability in the South China Sea is almost negligible ... in the first place, we have nothing to shoot with.”²⁵ Vice Admiral Alexander Pama, head of the Philippine Navy, said in March 2011, that of the fifty-three ships under his command, only twenty-five were operational and that their average age was thirty-six years old.²⁶ President Aquino admitted in his first State of the Nation address in July 2010 that the Philippine Navy had only thirty-two ships to patrol the archipelago's 36,000 nautical miles of coastline, and that most were of World War II vintage.²⁷

In May 2011 the United States transferred the former Coast Guard High Endurance Cutter Hamilton to the Philippines; the forty-four year-old cutter was renamed the BRP Gregorio del Pilar and became the Philippine Navy's flagship, replacing the aging flagship BRP Rajah Humabon, a destroyer escort originally commissioned by the U.S. Navy in 1943. In less than a year, the BRP Gregorio del Pilar faced its first international incident as the Philippine and Chinese navies had a standoff in the South China Sea. On April 8, 2012, a Philippine surveillance plane spotted eight Chinese fishing vessels anchored in a lagoon at Scarborough Reef, a formation of rocks approximately 120 miles (193.1 km) west of Subic Bay. Interpreting this as illegal fishing in Philippine waters, the Philippine Navy deployed its flagship and after armed soldiers boarded the Chinese vessels they found large amounts of illegally collected coral, giant clams and live sharks, a violation of the Philippine Fisheries Code. The boarding party reported back to the ship and soon after, two Chinese maritime surveillance ships arrived and stopped between the BRP Humabon and the Chinese fishing vessels. Their intent was to prevent any arrests or detentions of Chinese fishermen. The standoff commenced when each vessel demanded the other to leave its country's waters. The Philippine Navy confiscated what they had deemed an illegal catch and the Chinese fishing boats eventually left a week later.²⁸

Tensions are not expected to cool anytime soon. This summer (2012), the Philippine Department of Energy (DOE) is holding its fourth annual Philippine Energy Contracting Round, a competitive bidding process for corporations to acquire rights to blocks of new exploration acreage. Many of the areas are in the South China Sea; of the fifteen blocks up for contracts, China has protested three, claiming the blocks are within their sovereign territory. The round could raise as much as US\$7.5 billion for the Philippine government.

Access to new oil and gas reserves is not only an economic issue, but a quality of life issue for Filipinos. The Philippine DOE announced in May 2012 that the Malampaya gas field is expected to last only twelve more years. The gas from the Malampaya field is piped directly to three power plants that provide almost half of the Philippines' energy. Development of the Sampaguita gas field is the Philippines' only viable current plan to meet its energy demands beginning in 2024.²⁹

The Philippines can claim some diplomatic success in preventing military conflict in the South China Sea. Vice Admiral Alexander Pama announced at a forum for the Foreign Correspondents Association of the Philippines that the Philippine and Vietnamese navies have agreed to let their sailors play football and basketball on two islands occupied by the Philippines and the Vietnamese in the Spratly islands to ease tension and build trust.³⁰ The sports are part of an agreement signed by both countries in October 2011; this agreement also set up a hotline between the two nations' coast guards and maritime police to "strengthen their capability to monitor maritime incidents such as piracy and incursions into their territorial waters."³¹

President Aquino visited Washington, D.C., in June 2012 in an attempt to gain assurance from the Obama administration that the United States would commit military forces (based on the 1952 Mutual Defense Treaty) in the event of a China-Philippines fight over disputed South

China Sea Islands. The United States made no public commitment, but the two sides discussed how to enhance the U.S. military presence in the Philippines and the United States agreed to give the Philippines a second retired U.S. Coast Guard Cutter. Japan also announced that it would supply the Philippine Navy with ten new patrol vessels.³²

Vietnam

Unlike the South China Sea nations described above, Vietnam is involved in the South China Sea maritime border dispute on two fronts. Vietnam claims all of the Paracel and Spratly Islands although it occupies only nineteen islets and rocks in the Spratlys.³³ Until the recent conflicts over fishing and petroleum surveys in the Philippines, South China Sea news was dominated by occasional incidents between Vietnam and China. These clashes seemed to be a continuation of the military conflict that occurred in the 1970s and 80s. The clashes began in 1973 when South Vietnam sent forces to Pattle Island, the largest of the Paracels, and maintained a small garrison at a weather observation station. In January 1974, after the United States had withdrawn most military support from South Vietnam, China sent a small naval force to the Paracels. After a brief naval battle between eight small vessels from the Vietnamese and Chinese Navy, China's forces prevailed and have maintained complete control over the Paracel Islands to this day. China has developed the Paracels and expanded their settlements to demonstrate administrative control of the area. Woody Island, the largest in the Paracels, features a small town that includes a hospital, airport, post office, department stores, and even two museums. The 7,700 feet (2,347 meters) runway (twice the length of the island itself) allows for regular air travel that feeds a tourist trade.

The same narrative seemed to play again in the Spratlys in 1988 when Vietnam attempted to plant a flag on Johnson South Reef (where only a few rocks are visible at high tide) in response to the Chinese building observation stations in the area. China reacted with force, and the skirmish between six small vessels ended with the deaths of over seventy Vietnamese soldiers and sailors. Parts of the incident were filmed and grainy footage can be viewed on YouTube.³⁴ The video shows Vietnamese soldiers standing on Johnson South Reef (waist deep in water) and being mowed down by heavy machine gun fire from one of the Chinese vessels. Throughout the intervening years, incidents involving fishing and coast guard vessels have continued, maintaining, if not escalating the tensions between Vietnam and China. Like the Philippines, China's interaction with Vietnam in the South China Sea took on a new dimension when it threatened Vietnam's economic development.

In 2004, Vietnam began to announce joint ventures with foreign oil companies and public bidding on oil exploration in the South China Sea. The Chinese Foreign Ministry consequently released statements that expressed concern over Vietnam's attempts to violate its sovereignty. China even warned international petroleum companies to "cease to do anything that would impair China's sovereign rights and maritime rights and interests."³⁵ In 2008, Chinese diplomats met with ExxonMobil executives in response to a signed agreement with the Vietnamese state-owned company PetroVietnam. The Chinese diplomats explained that the project was a breach of Chinese sovereignty and that if ExxonMobil continued to work with Vietnam, its future business on the Chinese mainland could be threatened.³⁶ British Petroleum also ceased exploration off the coast of Vietnam. The company stated it sold those assets to help pay for the Gulf of Mexico spill, but some analysts believe it was at least partly due to threats from the Chinese government.³⁷ At the end of May 2011 Vietnam accused Chinese fishing vessels of deliberately

cutting the submerged cables of an oil survey ship operating eighty miles (128.7 km) off the coast of Vietnam.³⁸

PetroVietnam dominates all aspects of Vietnam's oil and gas industry. Utilizing the state-owned enterprise model proven by its neighbors, such as Malaysia's Petronas, PetroVietnam has become the most successful state-owned enterprise in Vietnam. It is the largest taxpayer and has annual revenues of more than US\$9 billion.³⁹ Vietnam has enjoyed one of the fastest growing economies in the world with an annual GDP above 7%. Crude oil is its largest export; production must increase if Vietnam is to maintain its growth rate.

After their primary supplier of military equipment and training, the Soviet Union, collapsed in 1991, the Vietnam military was atrophying for much of the 1990s. Decades of focus on land threats had left Vietnam's naval forces very small and incapable of effectively patrolling its extensive coastline and island outposts. From 1998 to 2007 the Vietnamese doubled their military expenditures to US\$3 billion with a modernization program consisting of large military equipment acquisitions from Russia, France, Canada, Spain and the Netherlands. However, a major change in geopolitical politics in the region could occur as a result of Vietnam's purchase of six Kilo class Russian submarines, with the first delivery scheduled for 2013, with one additional submarine scheduled to arrive per year through 2017.⁴⁰ At that point, Vietnam is expected to have the second largest submarine fleet in South China Sea, with China in the lead. However, Vietnam realizes it cannot match Chinese military power and has consequently improved military cooperation with India, France, the Philippines, and the United States.

In 1995, diplomatic relations between the United States and Vietnam were formally normalized following the long estrangement due to the Vietnam War, but it was not until the end of 2003 that that the U.S. Navy made its first post-Vietnam War port visit. The first CARAT

exercise took place in 2007, and in 2010, U.S. naval ship visits included highly visible aircraft carriers. The USS George Washington hosted high-ranking Vietnamese military and government officials off the coast of Vietnam just weeks after China launched its first carrier. The importance of U.S.-Vietnam military relations is based on its proximity to China as much as it is based on capability. The tip of the spear for China's South Sea Fleet is Hainan Island, which has hosted massive military construction projects as ship and submarine facilities have been expanded to match the growing importance placed on the South China Sea by China. Hainan Island and the Paracels are less than 175 miles (281.6 km) from Vietnam's coast. Vietnam's engagement with the United States is not without risk; China's People's Liberation Army generals were quoted as warning Vietnam that they would 'regret' evolving its military relationship with the United States.⁴¹

In the 1990s Vietnam began to reach out diplomatically to its regional neighbors as it worked to free itself from its long dependency on the former Soviet Union. After becoming a full member of ASEAN in 1995, Vietnam held the Chairmanship of ASEAN in 2010. Outside of ASEAN, Vietnam has developed political, economic, and military relations with Japan, South Korea, India, Australia, and the United States. Its warming relationship with the United States was highlighted at the 17th Meeting of the ASEAN Regional Forum in Hanoi when Secretary of State Clinton stated,

The United States supports a collaborative diplomatic process by all claimants for resolving the various territorial disputes without coercion. We oppose the use or threat of force by any claimant. ...The United States is prepared to facilitate initiatives and confidence-building measures consistent with the declaration. Because it is in the interest of all claimants and the broader international community for unimpeded commerce to proceed under lawful conditions.⁴²

While seeking diplomatic support from other nations, Vietnam has continued to engage China unilaterally with recent success. In October 2011, China and Vietnam signed an agreement outlining principles for resolving maritime issues. The six-point agreement was signed in Beijing and stated that China and Vietnam “should remain committed to friendly consultations in order to properly handle maritime issues and make the South China Sea a sea of peace, friendship and cooperation.”⁴³

Taiwan

Taiwan’s interests are often ignored when South China Sea claims are discussed because Taiwan (the Republic of China) does not belong to the United Nations or ASEAN. Yet Taiwan has occupied the largest island in the Spratly group, Itu Aba, since it landed troops there in 1956. The island is the sole source of fresh water in the Spratly Islands, hosts an airport, Taiwanese Coast Guard station and a hospital in an area less than 1 mile long (1.6 km) and only 1,300 feet (396 meters) wide. Taiwan has made the identical claim as China has on its nine-dashed line map, claiming sovereignty over all of the Paracel and Spratly Islands. This is due to the source of the map, the Kuomintang government that ruled China in 1947 and now rules Taiwan.

Taiwan has released few official statements in the last five years on its South China Sea claim as it has had to negotiate a careful balance on its expansive claim. To aggressively support the claim could lend credibility to China’s historical claim and upset its ASEAN neighbors. If Taiwan were to modify its claim (i.e., limit its claim to Itu Aba Island), it could appear that Taiwan is accommodating its regional neighbors, which could result in a harsh rebuke by China and reverse years of improving cross-strait relations. Compounding Taiwan’s problem of

diplomatic isolation is the physical distance its military forces would have to travel to defend Itu Aba in the Spratlys.

Taiwan's military has benefited from decades of U.S. arms sales and support, and consequently has amassed more combat power than any other ASEAN member. Its defense budget is more than US\$8 billion annually, larger than any ASEAN country. However, this force is for the defense of Taiwan itself and the shifting of forces over 900 miles (1,448 km) to the southwest to protect Itu Aba in the Spratlys would constitute a major calculated risk as China's forces lie less than 100 miles (161 km) across the Taiwan Strait. Furthermore, Taiwan's ambiguous international status complicates its ability to take military action.

Before China had amassed significant economic and military power, Taiwan had attempted to lead the South China Sea dispute to a peaceful conclusion. In 1995 President Lee Teng-hui urged twelve nations to revoke their claims and invest in the multinational South China Sea Development Company with the profits used for infrastructure development in ASEAN countries. The idea did not find many supporters and was never pursued. However, Taiwan's Ministry of Foreign Affairs recently released a statement "that Taiwan advocates developing the resources of the [South China Sea] in conjunction with other countries based on the principles of shelving disputes and promoting peace and reciprocity."⁴⁴

China has been courting Taiwan for the last three years to work together to uphold China's sovereignty in the South China Sea.⁴⁵ China does not have any allies in the region to support its sovereignty claims and may feel it needs a coalition to refute the diplomatic activities and claims of Malaysia, Vietnam and the Philippines. Yet, Taiwan has determined that its strong relationships with the United States, Japan and ASEAN are too valuable to be risked by taking China's side in the dispute.

ASEAN

Before discussing China and the United States' involvement in the Paracel and Spratly island disputes, the important role of ASEAN in the South China Sea maritime border disputes should be examined. Beginning in 1992, ASEAN's Declaration on the South China Sea, which urged constraint and a peaceful resolution of sovereignty and jurisdictional issues, was signed by Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand. After successfully engaging China, ASEAN issued the Joint Statement of the Meeting of Heads of State/Government of the Member States of ASEAN and the President of the People's Republic of China in Kuala Lumpur on 16 December 1997, which states that "the parties concerned agreed to resolve their disputes in the South China Sea through friendly consultations and negotiations in accordance with universally recognized international law, including the 1982 UN Convention on the Law of the Sea."⁴⁶ Toward the end of the statement ASEAN member states reaffirmed their commitment to the "one China" policy. Five years later, in 2002, the Declaration on the Conduct of Parties in the South China Sea was signed by China and ASEAN nations, including the newly admitted members of Cambodia, Laos, Myanmar, and Vietnam. The Declaration called for

respect for and commitment to the freedom of navigation in and overflight above the South China Sea as provided for by the universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea ... [to assist parties] resolve their territorial and jurisdictional disputes by peaceful means ... and to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability.⁴⁷

The declaration also stated several confidence-building measures that would be taken at a future date. It would take another nine years for ASEAN to take the next significant diplomatic step towards a peaceful resolution.

The first half of 2011 was marked by several incidents in the South China Sea that heightened tensions and highlighted the fact that no real progress towards resolving border disputes had been made. In July of 2011 a breakthrough occurred when China and ASEAN adopted “Guidelines for the Implementation of the Declaration on Conduct of Parties” (DOC). The guidelines aim at ensuring concrete implementation of the DOC and encouraging resolution of disputes through cooperation and negotiation.⁴⁸ Diplomatic efforts seemed to advance when ASEAN and Chinese senior officials met in Beijing in January 2012 and agreed to set up four expert committees on maritime scientific research, environmental protection, search and rescue, and transnational crime. The next step planned is the “Regional Code of Conduct” for the South China Sea, as called for in the DOC. This code of conduct will define limits of action by each nation in order to avoid confrontations such as those that occurred at Scarborough Reef between the Philippines and China in April 2012.

ASEAN is often criticized because diplomatic progress proceeds at a snail’s pace. The main cause for this is based ASEAN’s fourteen principles in its charter that call for consensus through unanimous decision-making. Principles that illustrate this point include:

- 1) Respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States;
- 2) The right of every State to lead its national existence free from external interference, subversion or coercion;
- 3) Reliance on peaceful settlement of disputes;
- 4) Non-interference in the internal affairs of ASEAN Member States;
- 5) Respect for the right of every Member State to lead its national existence free from external interference, subversion and coercion;
- 6) Abstention from participation in any policy or activity, including the use of its territory, pursued by and ASEAN Member State or non-ASEAN State or any non-State actor, which threatens the sovereignty, territorial integrity or political and economic stability of ASEAN Member States.⁴⁹

Operating within these principles can constrain progress. However, ASEAN has made tremendous progress in several areas, most notably in establishing free trade agreements that have benefited the economies of every member state. Regardless of the criticism for its slow progress, over the last two decades ASEAN has prevented multiple incidents from escalating.

Another handicap of ASEAN is its rotating chairmanship (of all member states), which changes annually. With Cambodia holding the chair for 2012 and its increasingly close relationship with China, Cambodia may have little motivation to place unprecedented diplomatic pressure on China to resolve the South China Sea issue this year.

Additionally, only four of the ten ASEAN countries are involved in a South China Sea dispute with China. The other six nations pursue their own individual policies with China with their unique economic interests at the forefront. This lack of common interest has prohibited ASEAN from developing a consensus on how to approach China on its territorial claims. China continues to demand bilateral negotiation with each claimant, but ASEAN's diplomatic efforts could be more powerful if all ten nations could negotiate with one voice.

China

Descriptions of modern history in the South China Sea disputes typically start with China's military action against Vietnam in the Paracel Islands in 1974 and proceed to the Johnson Reef skirmish with Vietnam in the Spratly Islands in 1988. The history then generally moves to fishing clashes and physical and diplomatic harassment over attempts to explore for or tap petroleum and gas reservoirs. During this time China has evolved from a somewhat militarily weak developing country to an economic powerhouse with the strongest military force in the region.

China maintains complete control of the Paracel Islands and occupies nine rocks within the Spratlys. China claims undisputable sovereignty over both island groups based on historical records that date back 2,000 years. The map that China submitted to the United Nations in 2009 did not clarify this claim, it only created more questions. The nine dashes on the map cover more than 80% of the South China Sea and no Chinese official has been willing to provide specifics to its meaning. The debate continues as to whether the Chinese sees the dash lines as delineating its territorial waters or an EEZ. Regardless, the ambiguous nature of the claim has benefited China in negotiations. Speaking in generalities does not provide any specific facts for rival claimants to refute during negotiations. However, China's simple aim may be to delay negotiations with ASEAN to allow China's instruments of influence and control to grow stronger.

China's diplomatic relations have dramatically improved with ASEAN members since the time of China's virtual isolationism beginning at the start of Mao Tse-tung's reign in 1949. In the past decade China has established and maintained frequent high-level contact with ASEAN countries and Chinese leaders have attended a number of important regional multilateral conferences. In an effort to establish greater ties with ASEAN members, China proposed a Free Trade Area (FTA) in November 2000 that included ASEAN's ten member nations and China. This shocked most observers because China offered the trade proposal on their own initiative. ASEAN accepted the FTA proposal, which reduced tariffs on almost 90% of goods to zero. When the ASEAN-China FTA went into full effect in 2010, it represented the largest FTA in terms of population (almost two billion people among the eleven countries) and it is regarded as the major reason why ASEAN countries have experienced impressive economic growth and increased trade in the last decade.

Economics and diplomacy merged again in April 2012 when Chinese President Hu Jintao visited Cambodia, the 2012 ASEAN Chair, and signed ten bilateral agreements concerning agriculture and infrastructure projects and doubling bilateral trade from US\$2.5 to US\$5 billion. This undoubtedly shaped the agenda of the 2012 ASEAN Summit that occurred days later in Cambodia. Or the trade deal could have been the result of Cambodian Prime Minister Hun Sen's statement earlier in the year that "Cambodia would adopt a 'neutral' stance on the South China Sea."⁵⁰

Each year China imposes a fishing ban from mid-May through August 1st in most areas of the South China Sea above the 12th parallel. Initiated in 1999, this ban aims to protect the fish during the egg-laying season and promote sustainable development of the fishing industry in the South China Sea. Vietnam and the Philippines have disputed the ban based on their assertions that portions of the ban extended into their EEZ. This ban is enforced by patrols conducted by the South China Fishery Administration Bureau under the Ministry of Agriculture; one of several maritime law enforcement agencies China utilizes to regulate industry in its waters. Other agencies that patrol the South China Sea include the China Maritime Surveillance (CMS), which patrols China's EEZ; the Fisheries Law Enforcement Command, tasked to prevent illegal fishing activities; the Maritime Safety Administration, which has several missions, from certifying seafarers to maintaining aids to navigation; and China's Coast Guard, controlled by the Chinese People's Armed Police Force, operating a vast armada of patrol craft and cutters unmatched by any ASEAN member. Some of these vessels are lightly armed, but the greatest diplomatic move may be the instrument of influence that has not been used overtly in the last two decades, the Chinese military.

Like the United States, throughout most of China's history, the Chinese regarded the sea as a natural defense against invading forces. That was until the mid-nineteenth century when the sea route provided entry for six invasions from 1842 to 1900.⁵¹ As China prioritized economic development at the end of the twentieth century, national defense was not given much attention, particularly the Chinese Navy. Today, China's economic growth depends largely on foreign trade and supply of energy from overseas. Many Chinese government officials contend that China must develop a strong navy to protect its maritime traffic. Major world powers, particularly the United States, have been concerned with the combination of a Chinese political hegemony and a maritime ascendancy and the effect it would have on the South China Sea. Chinese leaders have given little explanation as to its aims of developing a large, technologically advanced military force. As a senior Beijing official told a group of overseas visitors in 1971, "Aircraft carriers are tools of imperialism, and they're like sitting ducks waiting to be shot. ... China will never build an aircraft carrier."⁵² It took another forty years until China, the only permanent member of the United Nations Security Council that did not operate an aircraft carrier, reversed this view on modern sea power.

An enormous amount of media attention was given to the launching of China's first aircraft carrier in August 2011. The carrier was only 70% completed when China purchased it from the Ukraine in 1998 and spent another decade refurbishing it. The same reaction occurred in April 2012 when pictures of China's twin-engine Chengdu J-20 stealth aircraft appeared on several Chinese Internet sites. The photos only showed the aircraft performing high-speed taxiing tests on the runway and the aircraft is not expected to be put into service until 2019. It is important to realize that these events do not represent any current combat power but are indicators of future capabilities; many estimate that China is two decades away from matching

U.S. military power.⁵³ These predictions are based on China maintaining or increasing its pace and scope of military investment, which has made its neighbors and those in the global community nervous for the last decade.

In 2009 the Chinese Navy made an historic deployment to the Gulf of Aden and the waters off the Somali coast to conduct escort operations in response to pirate attacks against Chinese merchant vessels. The three Chinese warships represented only the third Chinese deployment into the Indian Ocean in more than six centuries.⁵⁴ Rear Admiral Du Jingchen, commander of the naval escort taskforce, stated “as a responsible major power, China is playing an increasingly important role in maintaining international and regional security. To maintain the shipping safety at the maritime international passage with other countries is another important contribution to the world peace and development.”⁵⁵ Chinese diplomacy through its naval forces is slowly growing as the Chinese navy has sent ships or taskforces to conduct port visits to nearly 40 countries.⁵⁶ In late 2010, China deployed a hospital ship (the U.S. Navy is the only other navy with operational hospital ships) for a three month voyage to several African countries. The Chinese government stated that it was “showing its humanitarian side to a continent that has become increasingly important to its trade and industry.”⁵⁷

Not unlike the other countries involved in the South China Sea dispute, China views a strong military as vital to its economic health. China may claim over 80% of the South China Sea, but has only conducted oil and gas operations in the northern sector, near its own border and an area that is only disputed by Taiwan’s South China Sea claim. Meanwhile, multinational oil corporations in partnerships with Malaysia, Vietnam, the Philippines, and Brunei are operating hundreds of oil wells in the remaining areas of the South China Sea. China sees these activities as a theft of their natural resources. Song Enlai, chairman of China National Offshore Oil

Corporation's board of supervisors, stated that the losses in the South China Sea to other countries' drilling amount to "20 million metric tons of oil annually, about 40% of the country's total offshore production."⁵⁸ For a country that is becoming increasingly dependent on foreign oil to fuel its economic engine, this competition for resources so close to home cannot be ignored.

China launched its first indigenously produced semi-submersible, deep-water oil drilling rig in 2012 and it has already started drilling along the southeast shores of Hong Kong. This massive platform cost almost US\$1 billion and three years to construct. The 45-story tall strategic asset frees China from its dependency on foreign contractors to drill and recover oil in deep water. This deep-water capability allows China to explore in South China Sea areas that the Philippines and Vietnam cannot reach. This advantage was noted by Lin Boqiang, director of the Center for Energy Economics Research at Xiamen University, who stated that it is "always a first-come, first-served game when vying for non-renewable resources in disputed sea areas, as the resources are not infinite."⁵⁹

The United States Interests in the Region

The United States has had an extensive history with Asian nations over the past century, and every action in the South China Sea is viewed through this historic lens. The opening of Japan (1853), the Boxer Rebellion (1899-1901), the Philippine-American War (1899–1902), the Asiatic Fleet (1902–1942), The Flying Tigers (1941–1942), World War II (1939-1945), Sino-American Mutual Defense Treaty (1955), the Korean War (1950–1953), and the Vietnam War (1950–1975) are just a few historical events that shape U.S.'s role in and perception of Asia's geopolitics.

Under the Asia-Pacific umbrella since the end of World War II, the United States has expanded its alliances and signed defense treaties with Australia, Japan, South Korea, Thailand, New Zealand, and the Philippines. U.S. military relationships have been strengthened with many ASEAN members including Brunei, Cambodia, Indonesia, Laos, Malaysia, Vietnam, and Singapore. Recent negotiations have enabled the United States to base warships in Singapore and the same is expected to occur in the Philippines. While standing on the deck of USNS Richard E. Byrd moored in Cam Rahn Bay, Vietnam, U.S. Secretary of Defense Leon Panetta announced a desire for greater access for U.S. naval ships.⁶⁰ U.S. diplomatic relationships have expanded trade and cultural exchanges in parallel efforts, but with the U.S. Pacific Command's vast resources — far more than any other U.S. agency in the area — a visit from the U.S. Navy is the most visible symbol of U.S. diplomatic success.

With regard to China, diplomatic relations have significantly improved over the last twenty years, but various military incidents indicate shortcomings in Sino-U.S. relations. The U.S. EP-3 reconnaissance aircraft's collision with a Chinese Shenyang J-8 fighter aircraft followed by a crash landing on Hainan Island in April 2001, cancelation of a planned port visit in Hong Kong by the aircraft carrier USS Kitty Hawk and two minesweepers by the PRC Ministry of Foreign Affairs in November 2007, the harassment of U.S. Navy ocean surveillance ships USNS Victorious and USNS Impeccable by multiple Chinese vessels and aircraft in March 2009, and the "inadvertent encounter" (collision) of a Chinese submarine with the towed sonar array of the USS John McCain off the Philippine coast in June 2009 are a few examples of incidents that have sparked U.S. concern in the South China Sea.⁶¹

Throughout the last five U.S. administrations, the U.S. State Department has very carefully chosen neutral language to avoid being entangled in South China Sea border disputes.

Almost every speech by senior U.S. officials concerning the South China Sea have included the disclaimer: “the United States does not take sides in territorial disputes and encourages disputing parties to resolve such issues without coercion.”⁶² However, this effort to appear impartial is difficult to maintain against the backdrop of the United States’ massive engagement to draw every country that borders the South China Sea — except China — into its political-military sphere.

The Pentagon’s most recent East Asia strategy report issued by Secretary of Defense William Cohen in November 1998 stated

that U.S.-PRC dialogue is critical to ensure understanding of each other’s regional security interests, reduce misperceptions, increase understanding of PRC security concerns, and build confidence to avoid military accidents and miscalculations.⁶³

Unfortunately, the last fourteen years have been marred by military incidents and economic tensions that have prevented meaningful engagement and cooperation. Most recently, China broke off its U.S. military relations in January 2010 after the United States announced a US\$6 billion arms package for Taiwan. This break in military-to-military relations would last until 2011.

Secretary of State Hillary Clinton stressed the need for cooperation in the region in a November 2011 speech at the East-West Center in Honolulu:

[A]nd just as the United States played a central role in shaping that architecture across the Atlantic — to ensure that it worked, for us and for everyone else — we are now doing the same across the Pacific. The twenty-first century will be America’s Pacific century, a period of unprecedented outreach and partnership in this dynamic, complex, and consequential region.⁶⁴

With the largest global reach and resources, the U.S. Navy can represent the face of this outreach and partnership in the Pacific. However, in the case of China, the U.S. Navy has fallen short in

an effort to engage its emerging naval power. The U.S. Navy's Pacific fleet conducts more than 700 port calls in the region each year for crew liberty, periodic maintenance, and theater engagement.⁶⁵ The U.S. flag flying on a naval vessel is a powerful symbol, and a tool for building international relationships that the United States has used successfully throughout the past century. Yet, between 1993 and 2011, the U.S. Navy made only fourteen port calls in China, compared to the roughly 13,000 port calls to other countries in the region over this same time span.⁶⁶ This comparatively low number reflects the political difficulty of obtaining permission for such military visits. However, it also represents a reluctance or inability on the United State's part in building a relationship with China particularly in light of the many successes that the United States has achieved with other Southeast Asian countries.

In addition to port visits, the U.S. Navy's Pacific Command conducts over 125 exercises with allies and partners in the Pacific each year.⁶⁷ The exercises are described as "essential part of the overall engagement program, and are imperative to building friendships and maintaining interoperability."⁶⁸ As with port visits, very few of these exercises involve the Chinese. In several cases, the Chinese involvement is limited to military officers acting as observers or simply attending a conference.

Matching the U.S. weakness in military-to-military relations with China, the United States' diplomatic efforts to "facilitate initiatives" in the South China Sea dispute are hampered, in part, due to its refusal to ratify the United Nations Convention on the Law of the Sea (UNCLOS). Some U.S. senators have opposed the treaty based on the provisions that would weaken the United States' sovereignty over oil and gas in the American continental shelf. The Senate Foreign Relations Committee held hearings in May 2012 where the U.S. Secretary of State, U.S. Secretary of Defense and the Chairman of the Joint Chiefs of Staff all supported the

treaty's ratification. Senator John Kerry, Chairman of the Senate Foreign Relations Committee, announced he would not hold a vote on ratification until after the U.S. Presidential Election in November 2012.⁶⁹

Will the Disputes Ever End?

The deadlocked situation of South China Sea dispute will not likely change considerably in the foreseeable future. China will likely continue its strategy of denouncing multilateral efforts and demanding bilateral negotiations with each of the claimants. Yet, no claimant has the ability to amass sufficient political, military, and/or economic power to confidently spar with China alone. Malaysia, Brunei, Vietnam, and the Philippines will likely continue to utilize ASEAN as it is the only viable forum that has achieved progress in this dispute. However, ASEAN will have to form a consensus on the South China Sea and that will require strong leadership. Cambodia has demonstrated the power China can wield with economic influence over the ASEAN Chair. Future ASEAN Chairs (Brunei-2013, Myanmar-2014 and Laos-2015) could be susceptible to the same persuasions. Additionally, Myanmar and Laos have no maritime claims and will be unlikely to take strong leadership to engage China on the South China disputes.

China will begin a political transition this fall at the National Party Congress in October 2012 that will select the next leaders of the Chinese Communist Party. The transition will continue through March 2013 when the National People's Congress will elect the next government. The presumptive General Secretary and President Xi Jinping and a new Central Politburo Standing Committee are expected to maintain China's current geopolitical and economic policies, goals, and priorities that are driving its economic success and political ascent on the world stage. Chinese leaders value stability as much as sovereignty. Stability, the steady

hand on the tiller of state, translates into maintaining Chinese foreign policy as the new government settles into power. There will be no expectations for great actions in the first hundred days of Xi Jinping's administration as is the case in American politics.

Finally, Taiwan's ambiguous status as a nation or ASEAN partner/member will likely have to be determined before any multilateral talks can be successful. Taiwan's fifty-plus years of continuous occupation of the largest island in the Spratlys cannot simply be ignored. Taiwan could back China's South China Sea claim in return for joint development of some areas, but this would risk the support and economic cooperation with the ASEAN members. Aggressive pursuit of Taiwan's claim in a multilateral environment could seriously impact cross-strait relations with China.

Moving toward resolution of the South China Sea dispute is not an easy task due to the many players involved and their varying interests. However, movement can be made if the disputants consider their common goals — economic advancement and security in the region. For the United States there is no 'low-hanging fruit' to harvest to promote progress and lead others to a solution. This will take considerable effort from all of the disputants and time to resolve. It may take years, decades, even generations before the South China Sea disputants can jump the hurdles facing them today. This can be a difficult reality for U.S. officials whose horizons are limited to four or eight years.

How Rational Is Our Fear?

In the meantime, to ease tensions and move toward a diplomatic solution in the South China Sea, the disputants, along with the United States, can reevaluate the perceived threat of China and its expanding military. The U.S. concern over China's ever-expanding military is

understandable and justified. The accelerated pace and scale of its buildup does not seem necessary for a country that has not been at war for over thirty years. Additionally, the Chinese leadership has offered little explanation or transparency in its effort to build a stronger military. In the past when the United States knew little of its opponent, it tended to project its own motivations, fears, and strategy onto them. The Chinese military is not nearly as powerful as the U.S. military and is certainly not comparable to that of the former Soviet Union. Modern history demonstrates that China has never held imperialist ambitions. Since reform began in 1979, China never tried to export its system of government and has refused to acquire foreign military bases. Much like ASEAN, China holds the principles of sovereignty and state-to-state non-interference in other nations' internal affairs with such high regard that it has promoted these principles on the international stage. Even under tremendous pressure from numerous United Nations members, China would not support action against Libya or Syria in its recent United Nations Security Council votes.

China has maintained peaceful relations with the fourteen countries it shares land borders with for over thirty years. This peaceful environment helped China's rise. It allowed a majority of China's resources to be poured into economic development versus defense infrastructure, and encouraged foreign investment and trade. China's continued ascendancy will depend in part on Chinese leaders' ability to maintain this peaceful environment and effectively address the emerging domestic issues (e.g., the demands of the rising middle class, entitlements, and its aging population). With its growing sphere of influence comes a need, and some may say, a responsibility, to maintain a peaceful environment within the South China Sea as well. China realizes that needless aggressive military action against its Southeast Asian neighbors will likely draw world powers into the South China Sea dispute.

Michael Auslin, Director of Japanese Studies at the American Enterprise Institute, astutely described U.S.-Sino relations:

China and the United States do not pose existential threats to each other, do not contend over territory, and do not have irreconcilable ideological ambitions. China seeks to restore its national honor, build its economy, and exercise a regional and global influence that is normal for a large and culturally capacious country.⁷⁰

While the number of similarities far outweighs the differences in U.S. and Chinese goals for the Pacific, including the South China Sea, the United States often describes China as that of a future adversary or near-peer competitor rather than a potential partner in the geopolitical and economic spheres. The U.S. and China's strategic aims in the Pacific can be complimentary and benefit the countries of Southeast Asia, but this will require a solid relationship between the nations' militaries. Admiral Samuel Locklear III, Commander of the U.S. Pacific Command, highlighted the danger in a lack of communication when stating, "The last thing you want to have is miscalculation between large militaries."⁷¹

Step One: Communication

The first step that the United States must take is to improve its military-to-military relations with China. For every U.S. official claiming that the Chinese military buildup threatens peace and stability in the region, there is a Chinese official stating that the United States sensationalizes Chinese military capabilities. Chinese officials consistently claim that they desire peace and prosperity for the region. Unfortunately, U.S. military relations with China have been inconsistent for the last few decades; much time often elapses with little or no engagement. The usual tactic of the Chinese government is to cancel military talks or exchanges with the United States in the wake of an international incident or to publicly disagree with U.S. policy. The result

has been limited or no diplomatic and/or military contact during high-tension episodes, when clear communication could help diffuse misconceptions, mistrust, and anger.

Admiral Samuel Locklear III stated in an interview in May 2012 that he hopes to strengthen military-to-military relations with China through better communication: “China is an emerging power with many significant decisions to make and the United States would like to play a role in helping influence those decisions in a way that promotes a secure global environment. One way to build trust and confidence between those militaries is through military-to-military operations.”⁷² The U.S. Navy should take the lead to engage the Chinese military in meaningful participation in as many exercises as possible throughout the Pacific. Not only would this improve the U.S.-China relationship but also strengthen China’s military-to-military relations with ASEAN members. China has demonstrated it is prepared for such measures through conducting its first joint naval exercise with Russia in April 2012.⁷³ China sent two submarines and sixteen warships for the six days of exercises in the Yellow Sea. The Russo-Chinese exercises coincided with U.S.-Philippine joint war games near the South China Sea, which also involved Australia, Japan and South Korea.

Engaging China requires more than simply arranging for high-level exchanges, occasional port visits and exercises. Military-to-military relations are the most effective when they incorporate the full spectrum of rank. Opportunities should be extended for Chinese midshipman to attend the U.S. Naval Academy and for Chinese junior officers to attend the U.S. Naval War College and Naval Postgraduate School. Today, many U.S. Naval Academy and Naval Reserve Officer Training Corps midshipmen have an opportunity to study in China as part of their academic curriculum. Why not continue this exposure by negotiating for U.S. naval officers to attend China’s professional military schools and vice versa? The U.S. Military

Academy at West Point already has established an exchange program with the University of Science and Technology of the Chinese People's Liberation Army in Nanjing, Jiangsu province.⁷⁴ The possibilities of promoting engagement are almost limitless as is their potential for creating peaceful relationships.

However, if such plans are made, some critics will claim that military-to-military contact will introduce security risks and give China advantages for a potential war. Nonetheless, security risks can be effectively managed, and a failure to partner with the Chinese military could arguably be a road to war unto itself. Engagement within the context of international relations does not have to be difficult nor complex. Finding common ground, and building upon it, identifying areas of information and expertise exchanges, engaging in problem solving exercises, and setting goals to build upon these relationships are simple first steps as well. Remember, the United States and China began this historic relationship with a friendly game of ping-pong!

Step Two: More Is Not Necessarily Better

U.S. Secretary of Defense Leon Panetta announced at the Shangri-La Dialogue Defense Conference in June 2012, the plan to shift 60% of U.S. naval forces to the Pacific region to meet the demands of the new U.S. Pacific strategy. Without any changes to our current military-to-military relationship with China, the incidents that have sparked tensions between China and the United States in the past decade will likely continue. As more U.S. Navy ships move into the Pacific region and deployments into the South China Sea grow, increased interaction with the Chinese navy is a certainty. Yet no relational foundation has been created that will allow local commanders from both nations to communicate, a necessity to prevent accidents and misunderstandings from spiraling out of control.

During the protracted Cold War, tensions between the U.S. and Soviet navies resulted in skirmishes where ships held standoffs and engaged in provocative exercises, submarines sideswiped each other or collided, shots were fired, mock attacks were held, and in a few cases, sailors were killed — situations that could have escalated into all-out war. Fortunately the worst that occurred amounted to just “international incidents”. However, in 1972 the United States and Soviet Union signed the U.S.-Soviet Incidents at Sea Agreement that provided steps for each navy to follow so that their respective operations would not interfere with the other and prevent scenarios that could quickly escalate.⁷⁵ Provisions such as requiring surveillance ships to maintain safe distances, informing vessels when submarines exercise near them, and requiring aircraft commanders to use caution when approaching other aircraft, helped prevent the Cold War turning hot. The same provisions may have prevented the EP-3 collision, the harassment of ocean surveillance ships and the “inadvertent encounter” of a Chinese submarine colliding with the towed sonar array of the U.S. destroyer as described earlier. The United States attempted to sign a formal Incident at Sea agreement with China in 2009 but China refused.⁷⁶ Vietnam succeeded in reaching a similar agreement with China last year. Before increasing U.S. presence in the South China Sea, the United States must convince the Chinese of the strategic need for an Incident at Sea agreement or else history will continue to repeat itself. Increased U.S. naval presence in the South China Sea will not likely resolve the South China Sea disputes and could complicate the diplomatic situation further for ASEAN. Hosting U.S. naval vessels will only complicate the political bargaining position of a country when conducting bilateral negotiations with China or, by extension, in multilateral discussions between ASEAN and China.

The U.S. goals that have been set for the South China Sea include: maintaining freedom of navigation, ensuring the free flow of trade vessels and peacefully resolving the maritime

border disputes. The fact that these goals are being maintained at this time is due not solely due to the presence of U.S. military power. The economic engine that has brought China and the ASEAN countries incredible economic growth will not likely be sacrificed by any claimant in order to strengthen a country's claim. Each country deeply understands how military action could hamper exports, frighten markets and jeopardize foreign investment in the region. China does not want to invite further foreign interference into the negotiation process as might Australia, Japan, South Korea, or even India if China resorted to military force against one of their smaller Asian neighbors.

The decision as to whether the United States should shift more naval assets to U.S. bases in the Pacific (i.e., Hawaii, Guam, Japan) reflects the new security challenges that the United States faces. However, placing U.S. warships in new bases such as Singapore and the Philippines may be the tipping point where military advantage becomes a diplomatic disadvantage. When a Philippine-based U.S. warship is in the vicinity of the next Scarborough Reef type incident, will it provide support to the Philippine Navy and disregard the U.S.'s neutral stance in territorial disputes? Or will it retreat from the area and risk upsetting our Philippine allies and signal to China that the United States will retreat at the first sign of hostilities?

Unlike the U.S. State Department or even the Department of Defense, the U.S. Navy does not need to "pivot" to the Pacific. Historians often refer to the Pacific Ocean as "America's Lake" because of the overwhelming U.S. naval presence spread across half the globe. The U.S. Navy has been conducting CARAT exercises with six of ten ASEAN members annually since 1995. With hundreds of port calls and exercises in the area, the U.S. Pacific Fleet is demonstrating its presence and capabilities. With the historical precedent already established by

U.S. warships operating freely in the South China Sea, stationing more ships in the area has limited advantages.

Chinese Foreign Minister Yang Jiechi stated in July 2010 that China sees the South China Sea as a stable and peaceful region: “Trade has been growing rapidly in this region and China has become the number one trading partner of many countries in the region. In my bilateral discussions with both ASEAN colleagues and others, they all say that there is no threat to regional peace and stability.”⁷⁷ This statement supports China’s presumed desire not to internationalize or intensify the dispute, and also the relatively peaceful nature that has existed in the South China Sea for the last two decades.

The Philippines, Vietnam, and China have taken steps to ensure that their military forces have remained clear of the clashes over fishing and petroleum and gas exploration. The players have been limited to law enforcement and coast guard type agencies. Although the difference between the naval and coast guard forces in these countries may be nothing more than the color of paint on the ship, it is an important distinction. During the latest incident at Scarborough Reef, one of the first actions the Philippines took was to back off the ex-cutter BRP Gregorio del Pilar from the area to prevent an escalation of military force.

Basing U.S. warships in the South China Sea could further reduce the United States’ credibility with China. Although the United States has publicly stated that it will not take sides in territorial disputes in the South China Sea, our extensive engagement with the other five claimants in the South China Sea dispute suggests otherwise. Rear Admiral Yang Yi stated in his August 2010 editorial in the *People’s Liberation Army Daily* that the United States “wants China to play a role in regional security issues. ...[Yet], it is engaging in an increasingly tight encirclement of China and is constantly challenging China’s core interests.”⁷⁸ Perception can

become reality and the United States' extensive engagement of every country on the shores of the South China Sea, except for China, has served to support the ASEAN nations' fears that China poses a significant military threat.

U.S. Admiral Locklear III recently provided historical context on the U.S. presence in Southeast Asia in an interview with *Armed Forces Press Service*, when he noted that “for six decades, the U.S. military presence in the Asia-Pacific has provided the security infrastructure that basically underpins the prosperity in the region. This will continue.”⁷⁹ Our allies and partners in Southeast Asia would likely agree with Admiral Locklear, but the United States cannot view the South China Sea as a zero-sum game. The decision not to add a warship to the area will not prompt China to add a warship. Naval strategist and historian Alfred Thayer Mahan (1840–1914), who helped shape the U.S. Navy of the twentieth century, foresaw the need of defensive naval bases across the Pacific to enable the United States to defend and advance its interests. Today, modern communications and surveillance technology has removed the need for extensive overseas bases; the modern U.S. Navy has unprecedented reach and endurance as nuclear aircraft carriers and submarines patrol every ocean. While elements of Mahan's philosophy remain in our naval strategy, the logistical and economic benefits of more bases in the South China Sea do not outweigh their diplomatic disadvantages.

Conclusion

After U.S. Secretary of Defense Leon Panetta finished his speech at the Shangri-La Dialogue in June 2012, his first question came from a representative of China's People's Liberation Army. “Sir, could you enlighten me a little more how the U.S. plans to develop military-to-military relations with China?”⁸⁰ Secretary Panetta listed some steps the U.S.

military was planning to take, but what was more important was who was not in the audience to hear the answer. The Chinese did not send its Defense Minister or head of its military to the conference.

Each South China Sea claimant is expanding its military capability in the South China Sea but if the United States based more high-tech warships in Singapore or the Philippines it would only compound the dangers of escalating a military buildup in the region. Deploying ships from our established bases in San Diego, Honolulu, Guam, and Japan will allow the United States to engage all nations in Southeast Asia with a degree of independence from their domestic politics and regional conflicts. If U.S. warships are based in local harbors of the South China Sea, U.S. independence could be dangerously reduced and raise doubt about its stated impartial stance on maritime border disputes.

The economies of ASEAN states and China have been become closely linked, which is advantageous as these states have become somewhat interdependent and cooperative. Thus U.S. naval buildup and a possible military conflict in the South China Sea could negatively impact the current relatively stable relations in the region. The U.S. Navy should indeed continue its prominent role in the region to help protect commerce and maintain a balance of power to assist ASEAN nations achieve progress at the negotiation table. This process will likely take a long time, years, possibly decades, but time is required for military-to-military relations to improve with China. If the United States intensifies its communications with the Chinese military it will help build a stronger relationship that can serve to provide stability, cooperation and prosperity to the region. However, the United States must not be too heavy-handed and move more warships into the area. In this precarious balance of power, less is more.

The United States has no territorial or natural resource claims in the South China Sea and cannot serve as an impartial arbitrator in negotiations with the claimants. U.S. regional interests of security and economic development in the South China Sea align with those of our allies and partners in the South China Sea. This relegates the United States to a supporting role, sitting behind the negotiations, offering support to ensure a fair and peaceful resolution can be met among the six countries involved. As talks continue, the U.S. Navy will regularly visit the ports of all nations in Southeast Asia. These foreign ports should not be considered the homes of U.S. warships, but simply sanctuaries that provide friendship, security and safety from the storms. The symbol of America's strength, U.S. naval ships, will be the most effective patrolling the South China Sea, often invisible, just over the horizon, as a partner in the region's security infrastructure.

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