

New Model of Major Power Relations: China-U.S. Global Cooperation and Regional Contention

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Introduction

China's rise and how the United States manages China's rise are the two most important strategic developments that will shape global order and regional security in Southeast Asia in the next decade and beyond. China, under the leadership of Xi Jinping, has promoted the concept of a 'new model of major country relations' as the central construct for conducting bilateral relations with the United States.¹ The Obama Administration initially sought to engage China to work out an effective way to manage their bilateral relations and identify areas of cooperation.

Although there are areas where Chinese and U.S. national interests overlap it soon became apparent there were several issues where their interests diverged. As of March 2016 it is evident that China and the United States are increasingly cooperating on a number of global issues as their policies on climate change and non-proliferation on the Korean peninsula demonstrate. One of the major – if not most important – issues where China and the United States have divergent interests concerns maritime security in the South China Sea.

In 2011 President Barack Obama adopted the policy of rebalancing towards the Asia-Pacific. China viewed this policy as a new form of containment and responded by stepping up its assertiveness in the South China Sea. In 2014-15 Beijing took the unprecedented step of constructing artificial islands and further militarizing territorial disputes in the South China Sea. There are now serious risks that in 2016 China and the United States will be drawn into a series of confrontations at sea or in the air over the South China Sea raising regional tensions to new levels.

This paper presents a broad overview of China-United States relations in four parts. Part 1 reviews the evolution of Xi Jinping's 'new model of major country relations', growing cooperation on global issues, and increasing divergent views on how to define and operationalize the 'new model'. Part 2 presents an analysis of China-U.S. contention with a specific focus on the South China Sea. Part 3 discusses the role of the Association of Southeast Asian Nations (ASEAN) and its relations with China and the United States. Part 4 presents the conclusions.

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¹新型大国关系(*xin xing da guo quan xi*); China uses the term 'country' rather than 'power' in its English language translations. This term is also translated as 'new type of great power relation's.

Part 1 New Model of Major Power Relations²

China's 'New Model'

In 2009 Presidents Hu Jintao and Barack Obama agreed to pursue the joint objective of 'build[ing] a positive, cooperative, and comprehensive US-China relationship for the 21st century'.³ China's State Councilor Dai Bingguo is credited with originating the concept of a new model of major country relations when he mentioned it during his intervention at the 2nd United States-China Strategic and Economic Dialogue (S&ED) in Beijing in 2010. A Chinese scholar has noted that '[i]n 2011, China began to talk about a New Model of Major Country Relationship, and has since attached much importance to this concept'.⁴

In February 2012, the then Vice President Xi Jinping visited the United States. In remarks to the Department of State Xi noted that China and the United States shared few cultural or ideological similarities and 'there is no precedent for us to follow and no ready experience for us to refer' on how to manage relations between the 'world's largest developing country' and the 'largest developed country'.⁵ In a speech to the U.S.-China Business Council Xi called for China and the United States to work towards a 'new type of relationship between major countries in the 21st century'.⁶ Xi included the following key components of his 'new model': increasing mutual understanding and strategic trust, respect core interests and major concerns, deepening mutually beneficial cooperation, enhancing cooperation and coordination in international affairs and global issues.⁷ Xi listed three core interests- Taiwan, Tibet and China's development path.

² This section draws heavily on Fan Jishe, 'A New Model of Major Country Relations: Avoiding the Inevitable', 25-27; Bonnie Glaser and Jake Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 28-30; Neelam D. Sabharwal and Hemant K. Singh, 'China Concept for a New Type of Great Power Relations: An Indian Perspective', 31-33; and Seiichiro Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 24-36 in Council for Security Cooperation in Asia and the Pacific, *Regional Security Outlook 2016* (Canberra: Paragon Printers Australasia, 2016). See also: Kerry Brown, 'Foreign Policy Making under Xi Jinping: The Case of the South China Sea', *Journal of Political Risk*, 4(2), February 2016, <http://www.jpolrisk.com/foreign-policy-making-under-xi-jinping-the-case-of-the-south-china-sea/> and Robert D. Blackwill and Kurt M. Campbell, *Xi Jinping on the Global Stage*, International Institutions and Global Governance Program, Council Special Report No. 74 (New York: Council on Foreign Relations, February 2016), <http://www.cfr.org/china/xi-jinping-global-stage/p37569>.

³ Xinhua, 'White House: U.S., China to build positive, cooperative, comprehensive ties for 21st century', 1 April 2019; http://news.xinhuanet.com/english/2009-04/01content_11115738.htm.

⁴ Fan, 'A New Model of Major Country Relations: Avoiding the Inevitable', 25.

⁵ Quoted in Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 28.

⁶ Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 28 and Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 34.

⁷ Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 34.

Obama Administration officials were thinking along parallel lines. In March 2012 the then Secretary of State Hillary Clinton outlined in a speech how the U.S. would manage China's rise. Clinton stated that the United States would 'work with a rising power to foster its rise... while also sustaining and securing American leadership'.⁸ In May 2012, at the 4th S&ED, the opening session addressed the 'new model in major power relations'. President Hu Jintao mentioned 'writ[ing] a new answer' to that 'age-old' problem of power transition when a rising power challenges the status quo power.⁹

The most important development in articulating the concept of a 'new model for major country relations' came at the June 2013 Sunnylands summit between President Obama and China's new president, Xi Jinping. Obama spoke of the necessity to 'forge a new model of cooperation between countries based on mutual interest and mutual respect'. President Xi responded by including three principles to support the 'new model of major power relations': no confrontation or conflict, mutual respect and win-win cooperation.¹⁰

Significantly, Xi introduced a new concept, 'the new type of military-to-military relations'. These remarks were picked up and mentioned approvingly by the then Secretary of Defense Chuck Hagel and were highlighted in the Pentagon's annual *China Power Report* (2014) to Congress. U.S. National Security Advisor Tom Donilon even went so far as to say that the U.S. and China reached 'consensus' to work towards a new model of military-to-military relations.¹¹

In September 2013, Foreign Minister Wang Yi, in an address to the Brookings Institution, elaborated on the three principles advanced previously by President Xi. On the first principle, 'no conflict or confrontation', Wang noted that China and the U.S. shared many interests in common and were increasingly interconnected; war would benefit no side and it was a necessity to avoid confrontation or conflict. On the second principle, 'mutual respect', Wang argued that each side should respect the other's political system, core interests and concerns in order to live in harmony. Finally, with respect to the third principle, 'win-win cooperation', Wang identified five issues on which China and the

⁸ Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 34 and Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 29.

⁹ Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 28-29 and Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 35.

¹⁰ Sabharwal and Singh, 'China Concept for a New Type of Great Power Relations: An Indian Perspective', 32; Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 29 and Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 35.

¹¹ Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 35 and Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 29.

United States could cooperate: counter-terrorism, non-proliferation, climate change, peace in the Middle East and economic development in Africa.¹²

Wang concluded by listing five areas that needed to be addressed: enhancing strategic trust, promoting practical cooperation, enhancing people-to-people and cultural exchange, strengthening cooperation on international and regional hotspots and global issues, and prioritizing cooperation on Asia-Pacific affairs.¹³

By 2015 it was clear that China and the United States found a number of global issues on which they can cooperate. These issues include anti-piracy in the Horn of Africa, global climate change, countering international terrorism, non-proliferation in Iran and North Korea, consultations on Afghanistan, peace in the Middle East (Israel-Palestine and Syria), cyber security and pandemics (Ebola virus).¹⁴ In February 2016, China and the United States combined to draft the toughest United Nations Security Council resolution on North Korea.¹⁵

Diverging Interpretations

Since September 2014, according to Glaser and Douglas, 'there has been a significant rollback in US official discourse' on China's 'new model of major power relations' as a result of 'irreconcilable differences of interpretation' over key terms and issues.¹⁶ According to a Japanese scholar, the differing attitudes between China and the United States on the 'new type of major country relations' were starkly apparent at the Beijing summit in November 2014, with Chinese media reporting that Obama had agreed to jointly establish such a relationship while the White House could show that Obama had never mentioned the term.¹⁷

¹² Fan, 'A New Model of Major Country Relations: Avoiding the Inevitable', 26 and Sabharwal and Singh, 'China Concept for a New Type of Great Power Relations: An Indian Perspective', 32.

¹³ Fan, 'A New Model of Major Country Relations: Avoiding the Inevitable', 26.

¹⁴ In January 2016, Secretary Kerry, speaking in Beijing before his meeting with Foreign Minister Wang Yi, mentioned the following areas of U.S.-China cooperation: Iran nuclear agreement, counterterrorism, climate change, Afghanistan and Ebola. See: Department of State, East Asia and the Pacific, 'Remarks With Chinese Foreign Minister Wang Yi Before Their Meeting', Ministry of Foreign Affairs, Beijing, 27 January 2016.

¹⁵ Scott Murdoch, 'US, China near deal on N Korea sanctions', *The Australian*, 25 February 2016; 'UN draft to vet all N Korea cargo', *The Weekend Australian*, 27-28 February 2016; Reuters, 'UN to vote on new N Korea sanctions', *The Australian*, 2 March 2016; Louis Charbonneau and Michelle Nichols, 'New sanctions imposed on North Korea', *The Australian Financial Review*, 4 March 2016; Scott Murdoch, 'Kim missiles defy UN sanctions', *The Australian*, 4 March 2016; Agence France Presse, 'Kim puts nuke arsenal on standby', *The Weekend Australian*, 5-6 March 2016; and Hyung-Jin Kim, 'North Korea's nuclear threat', *The Australian Financial Review*, 5-6 March 2016.

¹⁶ Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 29 and Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 35.

¹⁷ Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 36.

At least five bundles of issues may be identified that illustrate U.S. reservations:

First, almost as soon as China and the United States began to discuss how to manage their relations, U.S. allies expressed concern over the prospect of power sharing between Beijing and Washington at their expense captured in the term G2 (Group of 2). The Obama Administration preferred to give emphasis to 'a new model of relations' by dropping the term 'major power/major country'. In other words, the Chinese formulation was perceived excluding other powers from the 'new model'.

Second, and related to the first issue, the Obama Administration became increasingly frustrated by 'Chinese constant efforts to persuade the US to publicly reaffirm support for the NTGPR [New Type of Great Power Relations] label'. Further, according to Glaser and Douglas:

US patience has been stretched to the breaking point by Chinese state media repeatedly spinning America's acceptance of the framework in ways it does not support. Frustration builds every time Beijing says Washington has already agreed to what the United States sees as an aspiration that requires hard work on both sides to achieve.... US officials privately complain about the Chinese misrepresenting Washington's position to ASEAN countries, suggesting the United States is privileging Chinese interests at their expense.¹⁸

Third, the United States objected to China's unilateral actions in defining the new power relations framework to include an expanding list of core interests and the exclusion of the United States and its alliance system from the Asia-Pacific. As noted by Glaser and Douglas, China expanded its three initial core interests – Taiwan, Tibet and China's development path – to include sovereignty and territorial integrity (Xinjiang, the South China Sea and the Senkaku/Diaoyu islands).¹⁹ Statements by Chinese officials that the Pacific Ocean was big enough for both countries,²⁰ and Xi Jinping's May 2014 advocacy of 'Asia for the Asians' security concept were widely viewed by the Obama Administration as aimed at undermining the U.S. alliance system and excluding the U.S. from the western Pacific.²¹

Fourth, strategic trust between Washington and Beijing was severely undermined by allegations of Chinese state involvement in increasing cyber-espionage directed not only against the U.S. defence-security community but also the U.S. business community and its commercial secrets and intellectual property.

¹⁸ Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 30.

¹⁹ Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 35 notes that China officially defined its core interests in 2011: 'national sovereignty, national security, territorial integrity, national unity, stability of its political system and sustainable development'.

²⁰ Takagi, 'What's in a Name?: The China-US Interaction over the "New Type of Major Country Relationship"', 36.

²¹ Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 29.

Fifth, China's aggressive program of building artificial islands in the South China Sea and militarizing the infrastructure on them has emerged as the major point of contention between Beijing and Washington. The United States views China's actions as a threat to freedom of navigation and over-flight. Admiral Harry Harris, the Commander of the U.S. Pacific Command, has stated bluntly that China was seeking hegemony over East Asia.²²

As noted above, since September 2014 Obama Administration officials have avoided using the term 'new type of great power relations' or its equivalent in private discussion with their Chinese counterparts and in public. Glaser and Douglas provide four illustrations to document their argument. National Security Adviser Susan Rice conspicuously avoided mentioning the NTGPR during talks in Beijing. President Obama avoided the term when outlining his own view on relations with China at the Asian Pacific Economic Cooperation (APEC) Summit in November; he called for expanding cooperation and narrowing differences where possible. Defense Secretary Ashton Carter dropped all references to 'a new military-to-military model'. Finally, the term 'new type of great power relations' did not feature prominently at the June 2015 S&ED.²³

Part 2 China-U.S. Regional Contention

A major shift in U.S. declaratory policy on the South China Sea took place at the 17th meeting of the ASEAN Regional Forum (ARF) in Hanoi in July 2010. Secretary of State Hillary Clinton moved beyond the standard formulation of U.S. policy on the South China Sea adopted by the Bill Clinton Administration in the 1990s to declare that '[t]he United States, like every other nation, has a *national interest* in freedom of navigation, open access to Asia's maritime commons, and respect for international law in the South China Sea [emphasis added]'.²⁴ Clinton's earlier remarks to the closed-door meeting of the ARF drew a 'sharp rebuke' from her Chinese counterpart. According to Singapore's Foreign Minister George Yeo, 'There was quite an interesting and sharp exchange between the Americans and the Chinese. At some points, the atmosphere was just a little tense'.²⁵

²² Quoted in Guy Taylor, 'Pentagon bracing for rising Red tide as China pursues power grab in East Asia', *The Washington Times*, 23 February 2016. <http://www.washingtontimes.com/news/2016/feb/23/china-bent-on-hegemony-in-east-asia-navy-adm-harry/?page=all>.

²³ Glaser and Douglas, 'The Ascent and Demise of "New Type of Great Power Relations" Between the US and China', 29.

²⁴ Hillary Rodman Clinton, Secretary of State, Remarks at Press Availability, National Convention Center, Hanoi, 23 July 2010. The standard U.S. formulation was that the United States took no sides on sovereignty disputes in the South China Sea but expected these disputes to be resolved peacefully in accord with international law. See the account in Jeffrey A. Bader, *Obama and China's Rise: An Insider's Account of America's Asia Strategy* (Washington, D.C.: Brookings Institution Press, 2012), 104-106. Bader was senior director for Asian Affairs on the National Security Council.

²⁵ Quoted in Sarah Stewart, 'Asia wary as China asserts territorial ambitions', *Agence France-Presse*, 23 September 2010.

Although China and the United States continued to spar over maritime security in the South China Sea in the following years, no one development sparked such a heated exchange as China's transformation of seven rocks and low tide elevations into artificial islands in 2014-15. China's actions led Admiral Harry Harris, Commander of the U.S. Pacific Command, to declare in March 2015 that China was 'creating a great wall of sand'.²⁶ Two months later Secretary of Defense Ashton Carter addressed the Shangri-La Dialogue in Singapore where he outlined U.S. concerns over China's so-called 'land reclamation'.²⁷ Carter stated:

The United States is deeply concerned about the pace and scope of land reclamation in the South China Sea, the prospect of further militarization, as well as the potential for these activities to increase the risk of miscalculation or conflict among claimant states.²⁸

Secretary Carter's use of the term 'militarization' set off an escalating heated exchange of words between China and the United States that continues to the present. Both sides accused the other of militarizing the South China Sea.

On 24 July 2015, Admiral Harris reported that China was building ports deep enough to berth warships and a runway on Fiery Cross Reef 915 meters longer than needed by a 747 but long enough for a B-52 bomber. In addition, Harris noted that China was constructing reverted aircraft hangars for tactical fighter aircraft. 'I believe those facilities are clearly military in nature', he said, and would serve as forward operating posts by China's military in combat against regional states. Also, China's artificial islands 'extends a surveillance network that could be in place with radars, electronic warfare capabilities and the like', he concluded.²⁹

Six days later China's Ministry of National Defence responded. 'The Chinese side expresses its serious concern over U.S. activities to militarize the South China Sea region', said Yang Yujun, a Defence Ministry spokesperson.³⁰ Yang pointed to U.S. naval patrols and joint military drills that raised regional tensions. His remarks were a reference to the 20 May flight of a P8-A Poseidon aircraft near Fiery Cross, Subi and

²⁶ Associated Press, 'US Admiral: China "Creating a Great Wall of Sand"' in Sea', Voice of America, 31 March 2015. <http://www.voanews.com/content/us-adminral-china-creating-a-great-wall-of-sand-in-sea/2700920.html>.

²⁷ 'Land reclamation' is not an accurate term, China is not recovering land that has been eroded by wind and sea. See Carl Thayer, 'No, China is Not Reclaiming Land in the South China Sea', *The Diplomat*, 7 June 2015. <http://thediplomat.com/2015/06/no-china-is-not-reclaiming-land-in-the-south-china-sea/>.

²⁸ Dr. Ashton Carter, United States Secretary of Defense, 'The United States and Challenges to Asia-Pacific Security', IISS-Shangri-La Dialogue First Plenary Session, 14th Asia Security Summit, Singapore, 30 May 2015 <https://www.iiss.org/en/events/shangri%20la%20dialogue/archive/shangri-la-dialogue-2015-862b/plenary1-976e/carter-7fa0>.

²⁹ Quotations in this paragraph are taken from Kevin Baron, 'China's New Islands Are Clearly Military, U.S. Pacific Chief Says', *Defense One*, 24 July 2015. <http://www.defenseone.com/threats/2015/07/chinas-new-islands-are-clearly-military/118591/>.

³⁰ 'China Accuses US of Militarizing South China Sea', Voice of America News, July 30, 2015.

Mischief reefs and the 18 July flight of another Poseidon carrying Admiral Scott Swift, Commander of the U.S. Pacific Fleet.³¹

The next round of charges and counter-charges were exchanged in August on the sidelines of the ASEAN Regional Forum in Kuala Lumpur at a private meeting between Secretary of State John Kerry and Foreign Minister Wang Yi. According to a senior U.S. official, Secretary Kerry raised concerns about 'China's large-scale reclamation, construction, and militarization of features'.³²

According to media reports, Wang Yi accused the U.S. of militarizing the South China Sea by staging joint patrols and military drills with its regional allies and stepping up its use of military bases in the Philippines. Wang was quoted as stating; the U.S. and the Philippines should 'count how many runways there are in the South China Sea and who built them first'.³³ When asked about Kerry's call for all claimants 'to halt problematic actions', Wang retorted, 'China has stopped, China has stopped. You want to see who is building? Take a plane and see who is still building'.³⁴

A major development took place during the course of President Xi Jinping's official visit to Washington, D. C. on 25 September 2015. At a joint press conference with President Barack Obama, Xi stated, 'Relevant construction activities that China is undertaking in the Nansha [Spratly] islands do not target or impact any country and China does not intend to pursue militarization'.³⁵

In October 2015, the U.S. initiated a freedom of navigation operational patrols (FONOP) by sending the guided missile destroyer, the *USS Lassen* (DDG-82), within twelve nautical miles of Chinese-occupied Subi Reef. This set off an action-reaction cycle between the two countries. The U.S.-China verbal confrontation spilled over to the third meeting of the ASEAN Defence Ministers' Meeting-Plus (ADMM-Plus) held on 4 November 2015 (see discussion below).

The November end-of-year ASEAN and related summits provided another venue for the U.S. and China to exchange barbs over who was militarizing the South China Sea. On 5

³¹ Jim Sciutto, 'Behind the scenes: A secret Navy flight over China's military buildup', 26 May 2015. <http://edition.cnn.com/2015/05/26/politics/south-china-sea-navy-surveillance-plane-jim-sciutto/>.

³² Lindsay Murdoch, 'Beijing says building has stopped in South China Sea, but tensions remain at ASEAN', *The Sydney Morning Herald*, 6 August 2015. <http://www.smh.com.au/world/beijing-says-building-has-stopped-in-south-china-sea-but-tensions-remain-at-asean-20150805-gisjq.html>.

³³ Lindsay Murdoch, 'South China Sea island-building tensions rise at ASEAN talks', *The Sydney Morning Herald*, 5 August 2015. <http://www.smh.com.au/world/south-china-sea-islandbuilding-tensions-rise-at-asean-talks-20150804-girriu.html>.

³⁴ Matthew Lee and Eileen Ng, 'US, China bicker over territorial claims in South China Sea', Associated Press, *The Courier*, 5 August 2015. <http://www.northjersey.com/news/u-s-china-bicker-over-territorial-claims-in-south-china-sea-1.1386751>.

³⁵ Jeremy Page, Carol E. Lee and Gordon Lubold, 'China's President Pledges No Militarization in Disputed Islands', *The Wall Street Journal*, 25 September 2015. <http://www.wsj.com/articles/china-completes-runway-on-artificial-island-in-south-china-sea-1443184818>.

November, after the conclusion of the 3rd ADMM-Plus, Secretary Carter flew out to the USS *Theodore Roosevelt* (CVN-71) operating in the southern waters of the South China Sea. He was accompanied by Malaysia's Defence Minister Hishammuddin Hussein. Carter told the press, 'We urge all claimants to permanently halt land reclamation, stop the construction of new facilities and cease further militarization of disputed features'.³⁶

Hua Chunyu, spokesperson for the Ministry of Foreign Affairs, retorted, 'What we are against is the attempt to militarize the South China Sea and even to challenge and threaten other countries' sovereignty and security interests under the name of freedom of navigation'.³⁷ Hua was referring to the recent freedom of navigation operational patrol by the *USS Lassen*.³⁸

On 18 November President Obama and President Benigno Aquino met in Manila on the sidelines of the APEC Summit. President Obama told a joint press conference immediately after, 'We agreed on the need for bold steps to lower tensions including pledging to halt further reclamation, new construction and militarization of disputed areas in the South China Sea'.³⁹ Three days later Admiral Harris weighed in once again. Speaking to a foreign policy forum in Canada, he called China's construction of artificial islands 'provocative'. He stated that China had started 'building runways and support facilities to support possible militarization of an area vital to the global economy'. Harris also revealed that Chinese military units were now warning ships and planes legally operating in the South China Sea that they are not permitted to enter China's claimed security zone.⁴⁰

China once again dismissed out of hand U.S. calls to halt construction on its artificial island. Government officials argued that China was only catching up and doing what other claimants had already done. On 22 November, Vice Foreign Minister Liu Zhenmin stated that 'to build necessary defence facilities on islands far away from our mainland is required by the need both of national defense and of safeguarding our islands and reefs. They should not be mistaken for actions to militarize the South China Sea'.⁴¹ Liu then observed that 'major countries' outside the region 'are exercising their so-called

³⁶ Quoted in Simon Thompson, 'Asean summit: Ends up without statement amid South China Sea row', *Recorder Press*, 19 November 2015. <http://recorderpress.com/2015/11/19/asean-summit-ends-up-without-statement>.

³⁷ Quoted in Li Ruohan, 'FM slams Carter carrier visit in South China Sea', *Global Times*, 6 November 2015. <http://www.globaltimes.cn/content/951154.shtml>.

³⁸ Li Ruohan, 'FM slams Carter carrier visit in South China Sea'.

³⁹ Deutsche Press Agentur. 'Obama: 'Militarization' of South China Sea Must Stop', 18 November 2015. <http://www.khaosodenglish.com/detail.php?newsid=1447843603>.

⁴⁰ Bill Geertz, 'War of words over South China Sea militarization heats up', *Asia Times*, 30 November 2015. <http://atimes.com/2015/11/war-of-words-over-south-china-sea-militarization-heats-up/>.

⁴¹ Xinhua, 'China's construction on South China Sea islands should not be mistaken for militarization: Vice FM', *Xinhuanet.com*, 22 November 2015. http://news.xinhuanet.com/english/2015-11/22/c_134842603.htm.

freedom of navigation by sending airplanes and warships while strengthening military cooperation with countries in the region. Isn't that a trend of militarization? We should stay on high alert against it. Don't make troubles on purpose'.⁴²

But China also gave mixed messages about its so-called land reclamation. On 5 August 2015 Foreign Minister Wang Yi stated that land reclamation had 'already stopped'. In September, as noted above, President Xi pledged that 'China does not intend to pursue militarization' in the Spratly islands. Yet on 22 November Vice Minister Liu stated that 'some construction projects will be completed within years'.

Two days later Hong Li, a Foreign Ministry spokesperson, stated that China completed 'land reclamation' in June but 'some civilian facilities' were being built including two lighthouses'. He then asserted:

We will also build necessary defense facilities on some islands and reefs. The relevant construction will be moderate, which has nothing to do with militarization, targets no countries, and [does] not obstruct various countries' enjoyment of freedom of navigation and overflight in the South China Sea in accordance with international law'.⁴³

Tensions were raised in December 2015 when two U.S. Air Force B-52 bombers flew over the South China Sea near China's artificial islands. U.S. officials claimed the B-52 over flight was 'unintentional' and not a freedom of navigation patrol. An editorial in a hawkish Chinese newspaper asserted that the bomber flight was 'aggressive' and 'severely threatened the security of the islands'.⁴⁴ The editorial argued that if China did not respond to such flights it would be giving implicit approval to 'hostile actions'. U.S. over flights would 'propel China to accelerate militarizing' its artificial islands. The editorial then noted that the premise for China's policy of using the artificial islands for peaceful purposes was that 'no external military force threatens their security. The US military is undermining this premise'. The *Global Times* concluded that China had no other option but to build up its military capability and deploying fighter jets to challenge U.S. over flights in future.

It soon became clear that the *Global Times*' editorial reflected official Chinese policy. On 20 January 2016 China's Navy Chief Wu Shengli told his U.S. counterpart, Admiral John Richardson, in a teleconference that '(o)ur necessary defensive step of building on islands and reefs in the Nansha (Spratly) Islands is not militarization... We will certainly not seek the militarization of the islands and reefs, but we won't not set up defenses. How many defenses completely depends on the level of threat we face'.⁴⁵

⁴² Xinhua, 'China's construction on South China Sea islands should not be mistaken for militarization'.

⁴³ Geertz. 'War of words over South China Sea militarization heats up'.

⁴⁴ Editorial, 'US actions prompt islands militarization', *Global Times*, 21 December 2015. <http://www.globaltimes.cn/content/959609.shtml>.

⁴⁵ Reuters, "China Says South China Sea Militarization Depends on Threat," *Jakarta Globe*, February 4, 2016. <http://media.thejakartaglobe.com/international/china-says-south-china-sea-militarization-depends-threat/>.

Satellite imagery taken in late 2015/early 2016 confirmed that China was continuing to expand the size and build new infrastructure on several of its features in the Paracels, including Tree (2 December 2015), North (9 January), and Duncan (17 January 2016) islands in the Paracels.⁴⁶ Duncan Island was expanded by fifty percent and will house a helicopter base with twelve landing pads. According to Victor Robert Lee:

[t]his new helicopter base... could signal a step-up in China's ASW [anti-submarine warfare] capabilities across the South China Sea. A network of helicopter bases and refueling stops scattered across the South China Sea, using no more than the bases China is already known to be building, would make almost any coordinate in the sea reachable by a helicopter like the Z-18F within two hours... By hopscotching between bases, the helicopter fleet would be unconstrained by fuel range or limited number of ship-borne landing berths, creating a continuous and contiguous web of surveillance and response capability. Such a web would have utility beyond anti-submarine warfare, and would probably reshape surface ships and aerial combat strategies in the region.⁴⁷

In early 2016 satellite imagery of Chinese-occupied Cuarteron (24 January), Hughes (7 February) Johnson South (9 February) and Gaven (12 February) reefs also revealed that China was continuing to build infrastructure including lighthouses, quays, helipads, towers, gun emplacements, new long-range radar and fuel storage bunkers. Cuarteron Reef was expanded to 211,500 square metres. According to one analysis, the 'placement of a high frequency radar in Cuarteron Reef would significantly bolster China's ability to monitor surface and air traffics coming north from the Malacca Straits and other strategically important channels' and extend China's anti-access capabilities further south in the South China Sea.⁴⁸

In late January 2016 the USS *Curtis Wilbur* (DDG-54) conducted a second FONOP in the South China Sea. This time the operation was carried out near Triton Island in the Paracels. Secretary Kerry and Foreign Minister Wang met in Beijing on 27 January 2016 to discuss North Korea's nuclear test and ballistic missile launch and the South China Sea. According to media reports, Kerry and Wang discussed how the United States and China could ease tensions in the South China Sea. Kerry called on China to halt 'land reclamation' and building airstrips. 'I stressed the importance of finding common ground among the claimants and avoiding destabilizing cycle of mistrust or escalation', Kerry stated. Wang rejected suggestions that China was not interested in a peaceful resolution of maritime disputes in the South China Sea. 'China has given a commitment of not engaging in so-called militarization, and we will honor that commitment. We cannot accept the allegation that China's words are not being matched by action'.⁴⁹

⁴⁶ Victor Robert Lee, 'Satellite Images: China Manufactures Land at New Sites in the Paracel Islands', *The Diplomat*, 13 February 2016.

⁴⁷ Lee, 'Satellite Images: China Manufactures Land at New Sites in the Paracel Islands'.

⁴⁸ Asia Maritime Transparency Initiative, Center for Strategic and International Studies, *Another Piece of the Puzzle: China Builds New Radar Facilities in the Spratly Islands*, February 2015. <http://amti.csis.org/another-piece-of-the-puzzle/>.

⁴⁹ Quoted in Jane Onyanga-Omara, 'Kerry, Wang discuss N. Korea, South China Sea', *USA Today*, 27 January 2016 and Matthew Lee and Christopher Bodeen, 'US, China Spar Over North Korea, South China Sea', Associated Press reprinted by *ABC News*, 27 January 2016.

In what appeared to be a tit-for-tat response for the FONOP by the *USS Curtis Wilbur*, China deployed two batteries of the HQ-9 surface-to-air missiles and a radar system on Woody Island in the Paracels two weeks later, according to satellite imagery taken on 14 February.⁵⁰ China's action reignited the war of words between the United States and China. Secretary of State John Kerry told reporters, '(t)here is every evidence, every day that there has been an increase of militarization of one kind or another It's of serious concern... I am confident that over the next days we will have further very serious conversation on this'.⁵¹ In response, China's Foreign Ministry spokesperson Hong Lei invoked China's right to self-defence and 'international duties and obligations' to justify the deployment of the HQ-9 system. Hong asserted, '(w)e will deploy necessary national defence facilities on the islands. It's an exercise of self-preservation and defence, a right granted to international law to sovereign states'.⁵² Hong Lei was good at his word; China deployed J-7 and J-11 jet fighters to Woody Island on 23 February 2016.⁵³

According to security analysts Michael Green Bonnie Glaser and Zack Cooper, the deployment of the HQ-9 missiles was a 'notable tactical development, but a far more significant strategic signal... because it shows the extension of China's anti-access umbrella south from the mainland into the South China Sea'.⁵⁴ Green, Glaser and Cooper:

Nevertheless, the placement of SAMS at Woody Island is a noteworthy strategic development for two reasons. First, it shows that Chinese leaders are militarizing the South China Sea features despite efforts to convince Beijing to do otherwise. Second, recent history suggests that Chinese developments on disputed features in the Spratly Islands often mimic those on Woody Island, indicating that similar steps may be ahead in the more strategically important Spratlys...

⁵⁰ Zhang Yunbi, 'US warships incursion "aims to renew tension"', *China Daily USA*, 1 February 2016. http://usa.chinadaily.com.cn/epaper/2016-02/01/content_23340753.htm and Lucas Tomlinson and Yonat Friling, 'Exclusive: China sends surface-to-air missiles to contested island in provocative move', Fox News, 17 February 2016. <http://www.foxnews.com/world/2016/02/16/exclusive-china-sends-surface-to-air-missiles-to-contested-island-in-provocative-move.html>; Richard Macauley, 'Talking about our new missiles is making the South China Sea unsafe, Beijing says', *QZ.com*, 18 February 2016. <http://qz.com/619191/talking-about-our-new-missiles-is-making-the-south-china-sea-unsafe-beijing-says/>; and Editorial, 'HQ-9 missile prompted by US threat', *Global Times*, 19 February 2016, <http://www.globaltimes.cn/content/969330.shtml>.

⁵¹ Quoted in Simon Denyer, 'U.S. to have "very serious conversation" with China over suspected South China Sea missile deployment', *The Washington Post*, 17 February 2016. https://www.washingtonpost.com/world/china-deploys-missiles-in-south-china-sea-as-obama-meets-rivals/2016/02/17/83363326-3e1b-4461-b97f-13406f6d104c_story.html.

⁵² Scott Murdoch, 'China rejects island missile claims', *The Australian*, 18 February 2016. <http://www.theaustralian.com.au/news/world/china-rejects-claim-of-anti-aircraft-missiles-in-south-china-sea/news-story/7b8c14a6873b306b0411712fa0cb75f0>.

⁵³ Barbara Starr and Ray Sanchez, 'U.S. says China deploys fighter jets to disputed South China Sea island', CNN, 24 February 2016.

⁵⁴ Michael Green, Bonnie Glaser and Zack Cooper, 'Seeing the Forest Through the SAMs on Woody Island', Asia Maritime Transparency Initiative, Center for Strategic and International Studies, 18 February 2016. <http://amti.csis.org/seeing-the-forest-through-the-sams-on-woody-island/>.

Chinese actions suggest that its leaders are intent on providing the islands with both an anti-access umbrella and a power projection capability... Such efforts would also help China enforce a South China Sea Air Defense Identification Zone in the months or years ahead.⁵⁵

Most recently, on 1 March, Secretary Carter, speaking to the Commonwealth Club in San Francisco warned China that its actions would have consequences:

That's why the United States joins virtually every nation in the region in being deeply concerned about the artificial island construction and militarization in the South China Sea, including steps, especially by China, as it has taken most recently, by placing anti-access systems and military aircraft on a disputed island.

These activities have the potential to increase the risk of miscalculation and conflict among claimant states. President Xi stated in Washington a few months ago that China would not do this. China must not pursue militarization in the South China Sea. Specific actions will have specific consequences.⁵⁶

Two days after Carter's speech, the U.S. 7th Fleet announced that a Carrier Strike Group composed of the aircraft carrier *USS John C. Stennis* (CVN 74) and Carrier Air Wing (CVW 9); the cruiser *USS Mobile Bay* (CG-53); two destroyers, the *USS Chung-Hoon* (DDG-93) and *USS Stockdale* (DDG 106); and the supply ship *USNS Rainier* had entered the South China Sea on 3 March after passing through the Luzon Strait between Taiwan and the Philippines. At the same time the cruiser *USS Antietam* (CG-54) was conducting a separate routine patrol in the South China Sea. The *USS Blue Ridge* (LCC-19), the command ship of the 7th Fleet, was reported sailing to Manila.⁵⁷ The U.S. Carrier Strike Group immediately attracted the attention of the People's Liberation Army Navy that dispatched a number of ships to observe U.S. operations.⁵⁸

⁵⁵ Green, Glaser and Cooper, 'Seeing the Forest Through the SAMs on Woody Island'.

⁵⁶ Secretary of Defense Ash Carter, 'Remarks by Secretary Carter at the Commonwealth Club, San Francisco, California', U.S. Department of Defense, Press Operations, News Transcripts, 1 March 2016. <http://www.defense.gov/News/News-Transcripts/Transcript-View/Article/683775/remarks-by-secretary-carter-at-the-commonwealth-club-san-francisco-california>.

⁵⁷ Susan Damman, 'USS Stockdale conducts South China Sea Patrol', Commander, U.S. 7th Fleet, Defense Video & Imagery Distribution System, 6 March 2016, <http://www.c7f.navy.mil/Media/News/Display/Article/686736/uss-stockdale-conducts-south-china-sea-patrol>; David Larter, 'The U.S. just sent a carrier strike group to confront China', *Navy Times*, 3 March 2016, <http://www.navytimes.com/story/military/2016/03/03/stennis-strike-group-deployed-to-south-china-sea/81270736/>; and Dan Lamothe, 'Navy aircraft carrier group moves into contested South China Sea', *The Washington Post*, 3 March 2016, <https://www.washingtonpost.com/news/checkpoint/wp/2016/03/03/navy-aircraft-carrier-group-moves-into-contested-south-china-sea-pentagon-says/>.

⁵⁸ James Wilkinson, 'Tension mounts in South China Sea as US aircraft carrier strike group patrols disputed waters, testing Beijing's nerve', *Daily Mail*, 6 March 2016, <http://www.dailymail.co.uk/news/article-3478053/Tension-mounts-South-China-Sea-aircraft-carrier-strike-group-patrols-disputed-waters-testing-Beijing-s-nerve.html>.

Part 3 ASEAN Between China and the United States

Ever since ASEAN's adoption of the Declaration on Zone of Peace, Freedom and Neutrality in 1971,⁵⁹ ASEAN has promoted its centrality in regional affairs by protecting Southeast Asia's autonomy from the unwanted intrusion of major power rivalry. ASEAN has attempted to keep its relations with China and the United States on an even keel even if the sequence of relations has differed. The United States an ASEAN dialogue partner in 1997, China followed in 1991. China was ASEAN's first dialogue partner to sign the ASEAN Treaty of Amity and Cooperation in 2003; the U.S. acceded in July 2009.

ASEAN and China adopted an agreement on Strategic Partnership for Peace and Prosperity in October 2003. ASEAN and the United States adopted a joint statement on an Enhanced Partnership on 2005. The following year ASEAN and China issued a joint statement on an Enhanced Strategic Partnership. It was only in 2015 that ASEAN and the U.S. raised their relations to a Strategic Partnership. The United States appointed its first resident ambassador to ASEAN in 2010, China followed suit in 2012.

In January 2015 the ASEAN-China Free Trade Agreement took effect and China soon became ASEAN's largest trading partner. Both sides are working to expand this agreement. President Obama has promoted the Trans-Pacific Partnership that now includes four ASEAN members – Brunei, Malaysia, Singapore and Vietnam. ASEAN is currently promoting the Regional Comprehensive Economic Partnership among with China and other members APEC.

Both China and the United States are heavily engaged with ASEAN across the three pillars constituting the ASEAN Community – political-security, economic and socio-cultural.

The South China Sea increasingly has become an issue that challenges ASEAN centrality and Southeast Asian autonomy. ASEAN issued its first statement on the South China Sea in 1992 as a result of tensions between China and Vietnam over oil exploration in the South China Sea. ASEAN issued its second statement on the South China Sea in 1995 in response to China's seizure and occupation of Mischief Reef from the Philippines. ASEAN and China have been discussing the South China Sea issue for over two decades, particularly after agreement was reached between China and ASEAN members on a Declaration on Conduct of Parties in the South China Sea in November 2002.

Since 2002, ASEAN and China reached agreement on the Terms of Reference of the ASEAN-China Joint Working Group (JWG) on the Implementation of the DOC and in 2011 adopted the Guidelines to Implement the DOC. But it was only in September 2013 at the 9th ASEAN-China JWG meeting in Suzhou that China agreed to begin consultations with ASEAN on a Code of Conduct in the South China Sea (COC). China's Foreign Ministry reported:

⁵⁹ The text of the declaration may be found at http://treaty.kemlu.go.id/uploads-pub/5079_ASEAN-1971-0005.pdf.

The parties agreed to follow the 'step by step and to reach consensus through consultation' approach and start from identifying the consensus to gradually expand consensus and narrow differences. The parties agreed to continue to steadily push forward the COC process during the full and effective implementation of DOC. The meeting decided to authorize the Joint Working Group to conduct concrete consultations on the COC and agreed to take steps to establish a celebrity [eminent] expert group.⁶⁰

In late July 2015, the 9th ASEAN-China Senior Officials Meeting 'agreed to proceed to the next stage of consultations and negotiate the framework, structure, elements as well as to address crucial, difficult and complicated issues relating to the proposed COC'. Most recently, at the 18th ASEAN-China Summit both sides 'welcomed the outcomes of the 15th ASEAN-China JWG on DOC and the 10th ASEAN-China SOM on DOC held in Chengdu, China on 19-20 October 2015 and agreed to maintain the momentum of regular official consultations and work towards the early conclusion of a COC on the basis of consensus.' At this time China and ASEAN had reached agreement on two lists of commonalities for the COC.

China views the United States as an outside power that should not be directly involved in South China Sea issues. China pursues a policy of deliberately trying to drive a wedge between ASEAN and the U.S. through its 'dual-track policy'.

China's Foreign Minister Wang Yi proposed the dual track approach to resolve disputes in the South China Sea following the ASEAN Plus 1 Foreign Ministers Meeting in August 2014.⁶¹ On 11 August 2015, Wang explained this concept as follows:

Through friendly consultations, China and ASEAN countries have developed a full set of mechanisms to properly handle the South China Sea issue. First, the issue shall be resolved through a dual-track approach, which means specific disputes should be addressed peacefully by parties directly concerned through consultation and negotiation. This is stipulated in Article 4 of the DOC, and it is also a joint commitment by China and the 10 ASEAN countries. The dual-track approach also means that peace and stability in the South China Sea shall be jointly upheld by China and ASEAN countries. I would like everyone to know that China and ASEAN are fully capable of maintaining peace in this body of water. Second, the parties shall implement the DOC in good faith and work toward a Code of Conduct (COC) through consultation. Now, smooth progress has been made in implementing the DOC, and COC consultation is also moving forward. In less than two years since the beginning of the consultation, we have already adopted two lists of commonalities, started consultation on 'crucial and complex issues', and agreed to establish two hotline platforms which will be up and running soon. Third, China has taken the initiative to propose the formulation of 'preventive measures on managing perils at sea'. On this new platform, various parties may put forward proposals and ideas for discussion. If consensus is reached, action may follow.⁶²

⁶⁰ Ministry of Foreign Affairs of the People's Republic of China, "The Sixth Senior Officials Meeting and the Ninth Joint Working Group Meeting on the Implementation of the "Declaration on Conduct of Parties in the South China Sea" Are Held in Suzhou," September 15, 2013; http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1079289.shtml.

⁶¹ Ministry of Foreign Affairs of the People's Republic of China, 'Wang Yi: Handle the South China Sea issue through the "dual-track" approach', 9 August 2014, http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1181523.shtml.

⁶² Embassy of the People's Republic of China in the Czech Republic, 'Wang Yi on the South China Sea Issue at the ASEAN Regional Forum', 11 August 2015. <http://www.chinaembassy.cz/cze/xwdt/t1292028.htm>.

An illustration of China's exclusionary approach with regard to the United States surfaced at the third meeting of the ASEAN Defence Ministers' Meeting-Plus (ADMM-Plus) held on 4 November 2015. China succeeded in blocking any reference to the South China Sea in the draft joint statement. The United States took the position that it would not support a joint statement that omitted any reference to the South China Sea; as a result no joint statement was issued.⁶³

The most recent exposition of ASEAN-China agreement on the South China Sea was reflected in the joint statement issued after the 18th ASEAN-China Summit held on 21 November 2015. This statement declared:

13. We underscored the importance of maintaining peace, security and stability as well as upholding freedom of navigation in and over-flight above the South China Sea.

14. We reaffirmed our commitment to ensure the full and effective implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC) in its entirety: to build, maintain and enhance mutual trust and confidence; to exercise self-restraint in the conduct of activities; to not resort to threat or use of force; and for the sovereign states directly concerned to resolve their differences and disputes through peaceful means, including through friendly consultations and negotiations, in accordance with international law including United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982).

15. We welcomed the outcomes of the 15th ASEAN-China JWG on DOC and the 10th ASEAN-China SOM held in Chengdu, China on 19-20 October 2015 and agreed to maintain the momentum of regular official consultations and work towards the early conclusion of a COC on the basis of consensus.⁶⁴

The ASEAN-China joint statement may be compared to the joint statement following the 3rd ASEAN-United States Summit held on the same day. The operative paragraph read:

We also reaffirm the importance of maintaining peace and stability, ensuring maritime security and safety, and freedom of navigation including in and over-flight above the South China Sea. We reaffirm the collective commitments contained in the Declaration of the Conduct of Parties in the South China Sea (DOC) to ensure the resolution of disputes by peaceful means in accordance with universally recognised principles of international law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and the relevant regulations, standards and recommended practices of the International Maritime Organisation (IMO) and the International Civil Aviation Organisation (ICAO), without resorting to the threat or use of force and while exercising self-restraint in the conduct of activities. We support ASEAN-China on-going efforts to fully and effectively implement the DOC in its entirety, and to work toward the expeditious conclusion of an effective Code of Conduct (COC).⁶⁵

ASEAN brokered a consensus on the wording of the South China Sea issue after discussions at the 10th East Asia Summit that included both China and the United States. The Chairman's statement declared:

⁶³ Quoted in Simon Thompson, 'Asean summit: Ends up without statement amid South China Sea row', *Recorder Press*, 19 November 2015. <http://recorderpress.com/2015/11/19/asean-summit-ends-up-without-statement>.

⁶⁴ Chairman's Statement of The 18th ASEAN-CHINA Summit Kuala Lumpur, 21 November 2015, <http://www.asean.org/chairmans-statement-of-the-18th-asean-china-summit-kuala-lumpur/>.

⁶⁵ Joint Statement on the ASEAN-U.S. Strategic Partnership, Kuala Lumpur, Malaysia, 21 November 2015, http://www.asean.org/storage/2015/12/ASEAN-US-Joint-Statement_Adopted.pdf.

17. We reaffirmed the importance of maintaining peace, stability, security and upholding freedom of navigation in and over-flight above the South China Sea.

18. We took note of the serious concerns expressed by some Leaders over recent and on- going developments in the area, which have resulted in the erosion of trust and confidence amongst parties, and may undermine peace, security and stability in the region.

19. We welcomed assurances given by China as expressed by President Xi Jinping during his visit to the United States of America recently that China does not intend to pursue militarisation in the South China Sea.

20. We underscored the commitment of ASEAN Member States and China to ensure the full and effective implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC) in its entirety: to build, maintain and enhance mutual trust and confidence; to exercise self-restraint in the conduct of activities; not to resort to the threat or use of force; and for the states concerned to resolve their differences and disputes through peaceful means, in accordance with international law including the 1982 United Nations Convention on the Law of the Sea (UNCLOS 1982).

21. We noted the outcomes of the 10th ASEAN-China Senior Officials Meeting (SOM) on DOC and the 15th ASEAN-China Joint Working Group (JWG) in Chengdu, China on 19 - 20 October 2015. We are encouraged by the recent agreement of ASEAN Member States and China to proceed to the next stage of consultations towards the establishment of the Code of Conduct in the South China Sea (COC) and looked forward to the expeditious establishment of an effective COC.⁶⁶

While China is pursuing its dual track approach, the United States has tried to shore up ASEAN's position on the South China Sea. The United States and China held their first Special Summit at Sunnylands Summit from 15-16 February 2016. Although media reporting speculated that President Obama was trying to enlist ASEAN's support in opposing China's militarization of the South China Sea, the final wording of their joint statement indicated that ASEAN had maintain its even keel. The joint statement declared that ASEAN and the United States:

7. Shared commitment to peaceful resolution of disputes, including full respect for legal and diplomatic processes, without resorting to the threat or use of force in accordance with universally recognised principles of international law and the 1982 United Nations Convention of the Law of the Sea (UNCLOS);

8. Shared commitment to maintain peace, security and stability in the region, ensuring maritime security and safety, including the rights of freedom of navigation and overflight and other lawful uses of the seas, and unimpeded lawful maritime commerce as described in the 1982 UN Convention on the Law of the Sea (UNCLOS) as well as non-militarisation and self-restraint in the conduct of activities;

9. Shared commitment to promote cooperation to address common challenges in the maritime domain...⁶⁷

Through out 2015 'some' ASEAN foreign ministers and their leaders became increasingly concerned about China's construction of artificial islands in the South China Sea. These concerns were included in all ASEAN statements following the ministerial meetings of

⁶⁶ Chairman's Statement of the 10th East Asia Summit, 'Our People, Our Community, Our Vision', Kuala Lumpur, 22 November 2015, <http://www.asean.org/storage/2015/12/Chairmans-Statement-of-the-10th-East-Asia-Summit-Final-25-Nov.pdf>.

⁶⁷ Joint Statement of the ASEAN-U.S. Special Leaders' Summit: Sunnylands Declaration, <http://www.asean.org/joint-statement-of-the-asean-u-s-special-leaders-summit-sunnylands-declaration/>.

their Foreign Ministers and leaders' summit. These concerns were reflected in the Chairman's statement following the first ASEAN Ministerial Meeting Retreat held under the chairmanship of Laos on 27 February 2016. The Chairman's statement read:

12. On the South China Sea, the Ministers remained seriously concerned over recent and ongoing developments and took note of the concerns expressed by some Ministers on the land reclamations and escalation of activities in the area, which have eroded trust and confidence, increased tensions and may undermine peace, security and stability in the region.

13. The Ministers reaffirmed the importance of maintaining peace, security, stability, and freedom of navigation in and over-flight above the South China Sea.

14. The Ministers further reaffirmed the need to enhance mutual trust and confidence, exercise self-restraint in the conduct of activities and avoid actions that may further complicate the situation, and pursue peaceful resolution of disputes in accordance with international law.

15. The Ministers reaffirmed their shared commitment to maintaining and promoting peace, security and stability in the region, as well as to the peaceful resolution of disputes, including full respect for legal and diplomatic processes, without resorting to the threat or use of force, in accordance with the universally recognised principles of international law, including the 1982 United Nations Convention on the Law of the Sea. The Ministers emphasized the importance of non-militarisation and self-restraint in the conduct of activities.

16. The Ministers underscored the importance of the full and effective implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC) in its entirety, and while noting the momentum and new phase of consultation, urged the expeditious establishment of the code of conduct (COC). They highlighted the need to intensify efforts to achieve further progress in the implementation of the DOC and substantive development of the COC.⁶⁸

Part 4 Conclusion

The South China Sea has emerged as the cockpit of Sino-American strategic rivalry and present trends indicate that this rivalry will intensify this year. Senior foreign diplomats who have visited China recently sense a new urgency in China's efforts to complete its master plan to assert sovereignty and sovereign jurisdiction over the South China Sea.

There are four current drivers that fuel China's urgency: (1) the impending decision of the U.N. Arbitral Tribunal whose decision is expected in the first half of 2016; (2) the 19 May national elections in the Philippines; (3) new U.S. assertiveness in opposing China's militarization of the South China Sea and (4) the November U.S. presidential elections.

China is seeking to complete as much of the basic infrastructure on its artificial islands as possible before the Arbitral Tribunal announces its decision and to be in the best position to counter U.S. freedom of navigation operational patrols and over flights. When China's three airfields, docks and jetties, and radar and electronic intelligence systems become operational China will be able to respond quickly to U.S. freedom of navigation patrols and over flights through enhanced maritime domain awareness.

⁶⁸ Press Statement by the Chairman of the ASEAN Foreign Ministers' Retreat, Vientiane, 27 February 2016 Press Statement, http://www.asean.org/storage/2016/02/Press-Statement-by-the-Chairman-of-the-ASEAN-Foreign-Ministers27-Retreat_ENG_FINAL-as-of-27.pdf

Diplomats report that Beijing views the elections in the Philippines and the United States as opportunities to push new leaders to adopt more accommodative policies towards China.

Under the United Nations Convention on the Law of the Sea (UNCLOS) the Arbitral Tribunal's decisions must be carried out immediately and are not subject to appeal. UNCLOS, however, does not contain any provisions on how its decisions are to be enforced. If the Arbitral Tribunal finds in favor of the Philippines on any or all of its claims, China will reject these findings out of hand. The United States is likely to become more assertive in demonstrating to China the 'consequences' of its actions. The U.S. also will likely try to mobilize the international community, including ASEAN members, to pressure China to comply.

The United States is already attempting to forge a multilateral coalition to oppose China. The United States would like to upgrade its two trilateral arrangements into one quadrilateral coalition including Japan, India and Australia. Whether or not this grand coalition takes shape, it is likely that the United States will encourage its allies Japan and Australia and its strategic partner, India, to become more assertive in conducting naval patrols in the South China Sea.

ASEAN will be placed in a bind because it has long supported the peaceful settlement of disputes and the role of international law, including UNCLOS. ASEAN is likely to be caught in the crossfire between China and the United States as maritime tensions rise. ASEAN will find it increasingly difficult to maintain the status quo. ASEAN should continue to engage with China on implementing in full the DOC and quickly conclude a Code of Conduct in the South China Sea. Informed observers believe that the earliest a COC can be concluded in 2017. In the meantime, ASEAN should give priority to two issues – defining militarization, and encouraging transparency.

Both the United States and China have accused the other of militarizing the South China Sea without defining what this term means. ASEAN should engage the ASEAN ISIS network to give priority to defining what is meant by militarization. Militarization, for example, could be viewed as a spectrum of activities ranging from stationing uniformed armed forces personnel on islands and features to making preparations for the use of armed force in a conflict. ASEAN would then be in a position to call for restraint by China and the United States and a moratorium on the introduction of certain types of weapons and systems that are offensive in nature (jet fighters, bombers, warships, amphibious assault forces, etc.).

ASEAN should also urge all claimant states to be transparent about the status and armament of their armed forces on features in the South China Sea. In particular, ASEAN should hold all claimant states to the highest standards of transparency with respect to three areas:

1. clarifying their claims to features and maritime zones in the South China Sea;
2. bringing their maritime zones into conformity with international law including UNCLOS; and

3. providing a detailed account of the chronology of when features in the South China Sea were occupied and report on the extent and purpose of all infrastructure developments, including so-called 'land reclamation,' undertaken since the DOC was adopted in November 2002.

ASEAN should review these accounts and assess whether they violate the letter and spirit of the DOC regarding 'self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability' in the South China Sea.

There are seven major strategic implications arising from increased China-United States contention in the South China Sea.

First, the DOC's injunction for signatories, including China, to 'exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability' has been overtaken by events. China's artificial islands will serve as forward operating posts to advance China's claim to 'indisputable sovereignty over the South China Sea.

Second, China's refusal to accept the authority of the U.N. Arbitral Tribunal has and will undermine UNCLOS, widely regarded as the constitution for the world's oceans, as a legal basis for good order in the South China Sea,

Third, as China's completes construction of the infrastructure on its artificial islands to provide public goods (improvements of the living conditions of personnel stationed on the artificial islands, medical facilities, marine search and rescue, disaster prevention and mitigation, meteorological observation, and navigational aids) China will also construct 'some necessary military facilities' to defend its interests. An increased Chinese military presence will result in further Chinese actions to exclude intrusions into the maritime area surrounding its artificial islands.

Fourth, China is laying the foundation to establish and enforce an Air Identification Zone (ADIZ) over the South China Sea. A nascent ADIZ already exists. Chinese Navy personnel, both on Fiery Cross Reef and on PLAN warships, constantly challenge over flights by foreign military aircraft including from the Philippines, Australia and the United States.

Fifth, China's unilateral drive to secure control over the South China Sea and the U.S. policy of military rebalancing already have generated a security dilemma. Each perceives the actions of the other as inherently threatening. As the China-U.S. security dilemma intensifies, it will raise the probability of incidents leading to serious tactical miscalculations and even conflict.

Sixth, ASEAN's professed goal of remaining central to the region's security architecture and guardian of Southeast Asia's regional autonomy will come under severe challenge as a result of these developments. ASEAN may well remain a putative community in coming years but ASEAN unity could be fractured as states individually decide to accommodate to China's rise or balance against China.

Seventh, if and when China decides to undertake actions at the higher end of the militarization scale – deploying tactical military aircraft, missiles, amphibious forces,

warships and submarines – this will alter the naval balance of power over time. One of the most strategically worrying developments would be the development of facilities on Fiery Cross Reef to support the basing of conventional and nuclear submarines. As noted by a recent report by the Center for Strategic and International Studies:

By 2030, the Chinese likely will have multiple aircraft carrier strike groups (CSGs), facilitating the overawing of lesser powers, enhanced regional prestige, and the demonstration effect of near-constant presence. For rival claimants in the South China Sea, this is a game changer. There will almost always be a Chinese CSG floating in contested waters, or within a half-day's steaming time. Whether they have seized territory or negotiated a resource-sharing scheme with some or all of the other claimants, the South China Sea will be virtually a Chinese lake, as the Caribbean or the Gulf of Mexico is for the United States today. China's military capability and capacity will shape how the region behaves toward them without a need for menacing Chinese behavior. The PLAN will have the ability to make U.S. naval operations in the South China Sea or the First Island Chain a risky proposition in a contingency, other than U.S. submarines.⁶⁹

⁶⁹ Michael Green Kathleen Hicks Mark Cancian, team leaders, *Asia-Pacific Rebalance 2025: Capabilities, Presence, and Partnerships: An Independent Review of U.S. Defense Strategy in the Asia-Pacific* (Washington, D.C.: Center for Strategic and International Studies, January 2016), 19.