

Strategy and Maritime Power in a Contested Environment:

National, Military, Maritime Strategy and the South China Sea

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A US Navy crewman on board a P-8A Poseidon surveillance aircraft flying near a Chinese man-made island in the Spratly Islands in a disputed area of the South China Sea. Photo: Reuters, May 22, 2015

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Introduction

According to the overview of this year's Current Strategy Forum:

Recent trends suggest that the international political landscape is rapidly becoming more contested and dangerous. Moreover, that landscape is considerably different than that of the past. The contested space of today includes not only the geopolitical, but has also expanded to new domains, such as the minds of a new generation, in the streets of heavily populated cities, and the infrastructure that supports a population... The implications; the United States' ability to operate in these "spaces" to advance its agenda is being challenged at all levels and in new ways.¹

The Current Strategy Forum overview also notes that the contested space of today is not only geopolitical but also includes new domains. This presentation focuses on the South China Sea as a contested space in which the new domains include China's use of legal warfare, information warfare and non-military instruments such as maritime law enforcement vessels (Coast Guard), fishing fleets that operate as state militia, and commercial oil exploration platforms to assert it claims to "indisputable sovereignty."

The South China Sea will get more contested in the military domain as China develops its naval base on Hainan island and completes construction of forward operating bases on artificially constructed "islands" in the South China Sea.

Why is the South China Sea so important? The world's major commercial shipping routes – or sea lines of communication (SLOC) – pass through the South China Sea. These SLOCs carry vital trade and energy to China, Japan, Taiwan and South Korea. The South China Sea is also the major transit route for the deployment of U.S. naval ships and military aircraft between the Pacific and Indian Oceans. The SLOCs pass through the maritime heart of Southeast Asia, a region central to the Association of Southeast Asian Nations (ASEAN). Finally, the SLOCs that pass through the South China Sea are vital for Australia that is a Northeast Asia trade dependent nation.

The South China Sea is also a region of contestation. Six countries have claims to features in the South China Sea. Taiwan, China and Vietnam all claim sovereignty and sovereign jurisdiction over the Paracel and Spratly islands. China has declared it has "indisputable sovereignty" over all the features and "adjacent waters" encompassed in

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¹ Current Strategy Forum 2015; <https://www.usnwc.edu/Events/CSF/Current-Strategy-Forum-2015.aspx>.

its ambit “nine-dash line” map that includes from sixty to eighty percent of the South China Sea.

The Philippines and Malaysia claim sovereignty over specific features, while Brunei claims sovereign jurisdiction over the waters in its Exclusive Economic Zone (EEZ). China’s nine-dash line cuts through the EEZs of all littoral states.

Indonesia, which is not a claimant state, is being drawn into these disputes through the encroachment by Chinese fishing fleets in its EEZ and their protection by Chinese maritime law enforcement vessels.

The Philippines is the only country that is a treaty ally of the United States.

China has aggressively asserted its claims over the South China Sea in an asymmetric manner that uses maritime law enforcement agencies as well as fishing fleets/state militia to assert sovereign jurisdiction. People’s Liberation Army Navy (PLAN) warships maintain an “over-the-horizon” presence to come to the assistance of China’s Coast Guard vessels if necessary. According to the U.S. Office of Naval Intelligence, China’s maritime law enforcement fleet is the largest in number (205) and the heaviest by weight (95 large/110 small).² This compares to Japan (78/53), Vietnam (55/5), Indonesia (8/3), the Philippines (4/0) and Malaysia (2/2).

The South China Sea is a contested maritime domain. There have been a number of high-profile incidents involving clashes between Chinese military and paramilitary vessels and U.S. military ships and aircraft: EP-3 incident (April 2001), *USNS Impeccable* (March 2009), *USS Cowpens* (December 2013) and most recently the P8 Poseidon incident (March 2015).

China is developing its navy to provide protection for its vital SLOCs that pass through the South China Sea. China’s is also executing a counter-intervention strategy or what the U.S. Department of Defense terms “anti-access, area denial” (A2AD). China seeks to develop military capabilities to challenge and put at risk U.S. naval deployments within the so-called first island chain, a line running from southern Japan, east of Taiwan, along the western coast of the Philippines, looping along the western coast of East Malaysia and north along Vietnam’s southeast coast line.

To support naval deployments, China has built a major naval base near Yulin on Hainan island. This base supports the deployment of nuclear attack (SSN) and nuclear ballistic missile (SSBN) submarines. In February 2008, for example, satellite imagery identified the presence of one Type 094 Jin-class SSBN.³ In coming years China is expected to deploy an increasing number of SSBNs. Once they commence patrols in the western

² U.S. Office of Naval Intelligence, *The PLA Navy: New Capabilities and Missions for the 21st Century*, p. 45; http://www.oni.navy.mil/Intelligence_Community/china.html. Large ships are 1,000 tons or more, small ships fall in the range of 500-1,000 tons

³ Hans M. Kristensen, “New Chinese SSBN Deploys to Hainan Island,” Federation of American Scientists, April 24, 2008. <http://fas.org/blogs/security/2008/04/new-chinese-ssbn-deploys-to-hainan-island-naval-base/>.

Pacific they will be able to strike anywhere on continental United States. The naval base near Yulin presently has infrastructure that supports naval combatants; in the future the infrastructure will support aircraft carriers and amphibious assault groups. In 2016 a new space launch center at Wenchang on Hainan island will commence operations. It will launch heavy space launch vehicles to deploy surveillance satellites in low earth orbit.⁴

Further south, in 2014, China commenced dredging sand from the South China Sea seabed and scraping coral reefs to construct artificial islands on seven features. Construction activities picked up pace this year on Fiery Cross, Mischief, Johnson South, Gaven, McKennan and Cuarteron reefs. As a result China has enlarged these tiny features to a land area of 2,000 acres (or 3 square miles, or 8 square kilometers or 809 hectares).

China's construction activities have been erroneously described as "land reclamation."⁵ China is not improving islands – naturally formed land features under international law – by reclaiming eroded land. All of the features on which China is carrying out construction are the subject of a legal claim by the Philippines to an Arbitral Tribunal set up under the United Nations Convention on the Law of the Sea.⁶ The Philippines argues that these features are either low tide elevations (submerged at high tide) or rocks that are part of its continental shelf. In other words these features are not islands in the legal meaning of the term and therefore China cannot claim sovereignty over them.

Artificial islands cannot generate maritime zones such as a twelve nautical mile territorial sea or a 200 nautical mile EEZ. Artificial islands built in the EEZ of a littoral state come under that state's sovereign jurisdiction.

By March 2015, China reportedly completed construction activities on four features, including Fiery Cross and Johnson South reefs and is continuing construction on Mischief and Subi reefs.⁷ China has constructed a 3,110-meter runway on Fiery Cross Reef that is capable of handling all types of military aircraft in China's inventory; in 1994 China installed early warning radar there. By some estimates, in the future China will be able to station up to thirty combat aircraft and a squadron of combat ships at Fiery Cross

⁴ James A. Lyons and Richard Fisher, "Checking China's military build-up in the South China Sea," *The Washington Times*, June 14, 2015.

⁵ Carlyle A. Thayer, "No, China is Not Reclaiming Land in the South China Sea," *The Diplomat*, June 7, 2015. <http://thediplomat.com/2015/06/no-china-is-not-reclaiming-land-in-the-south-china-sea/>.

⁶ Republic of the Philippines, Notification and Statement of Claim, January 22, 2013. <http://www.dfa.gov.ph/index.php/newsroom/unclos>.

⁷ Office of the Secretary of Defense, Annual Report to Congress, *Military and Security Developments Involving the People's Republic of China 2015*, April 7, 2015, pp. 4-5 and 72 and Asia Maritime Transparency Initiative, "Diplomacy Changes, Construction Continues: New Images of Mischief and Subi Reefs," <http://amti.csis.org/diplomacy-changes-construction-continues-new-images-of-mischief-and-subi-reefs/>.

Reef.⁸

Philippines sources report that China is likely to construct airstrips on Mischief and Subi reefs.

On March 19, 2015, Senators John McCain (R-Ariz.) and Jack Reed (D-R.I.), the Chairmen and Ranking Member of the Senate Armed Services Committee, and Senators Bob Corker (R-Tenn.), and Bob Menendez (D-N.J.), the Chairmen and Ranking Member Senate Foreign Relations Committee, sent a letter to Secretary of Defense Ash Carter and Secretary of State John Kerry. This letter stated:

Moreover, because these land reclamation activities could improve China's sustainment of its fishing boats, State Oceanic Administration ships, People's Liberation Army Navy (PLAN) ships, PLA Air Force (PLAAF) fighters, and other logistics and defense material from these completed islands, it could embolden China to declare an Air Defense Identification Zone (ADIZ) in all or part of the South China Sea.⁹

On June 16, China's Foreign Ministry issued a press release that stated, "In line with the plan already in place, China will soon finish land reclamation on several reefs and islands in the Nansha [Spratly] islands... After land reclamation is complete, the next stage will be construction to fulfill various functions." Lu Kang, a spokesperson for China's Foreign Ministry, stated, "as planned, the land reclamation project on China's construction on some stationed islands and reefs in the Nansha [Spratly] will be completed in coming days."

In other words, China is continuing to pursue its long-standing policy of pushing its claims forward until they encounter stiff international opposition, and then pausing to consolidate its gains before pushing again. It is likely that China's temporary moratorium is designed to clear the political air in advance of the ministerial-level 17th Strategic and Economic Dialogue with the United States in Washington from June 22-24. China's temporary halt also comes immediately prior to the commencement of Arbitral Tribunal proceedings to hear the Philippines' Claim in July, and President Xi Jinping's summit meeting with President Barack Obama in September.

Comprehensive Strategy to Address China's Creation of Artificial Islands in the South China Sea

The March 19th joint letter by Senators McCain and Corker stated, *inter alia*:

We are writing in regard to Chinese strategy in the Indo-Pacific maritime domains, and the alarming scope and pace of the land reclamation now being conducted by the People's Republic of China (PRC) in the Spratly island chain of the South China

⁸ Lyons and Fisher, "Checking China's military build-up in the South China Sea."

⁹ "Senators McCain, Reed, Corker, and Menendez Send Letter on Chinese Maritime Strategy," United States Senate Committee on Armed Services, <http://www.armed-services.senate.gov/press-releases/senators-mccain-reed-corker-and-menendez-send-letter-on-chinese-maritime-strategy>.

Sea... Without a comprehensive strategy for addressing the PRC's broader policy and conduct to assert its sovereignty claims in the South China Sea and East China Sea, including land-reclamation and construction activities, long-standing interests of the United States, as well as our allies and partners, stand at considerable risk.

... Unilateral efforts to change the status quo through force, intimidation, or coercion threaten the peace and stability that have benefited all the nations of the Indo-Pacific region. China's land-reclamation and construction activities on multiple islands across the Spratly chain, and the potential command and control, surveillance, and military capabilities it could bring to bear from these new land features, are a direct challenge not only to the interests of the United States and the region, but to the entire international community.

...Reclamation by any state to enhance their sovereignty rights in the South China Sea complicates these disputes and runs contrary to calls from the United States and Association of Southeast Asian Nations for parties to exercise self-restraint. However, while other states have built on existing landmasses, China is changing the size, structure and physical attributes of land features themselves. This is a qualitative change that appears designed to alter the status quo in the South China Sea.

... At a minimum, the construction activities violate the commitments that China made as part of the 2002 Declaration on the Conduct of Parties in the South China Sea with ASEAN, in which all parties agreed to "exercise self-restraint in the conduct of activities that would complicate or escalate disputes." If China attempts to militarize the artificial islands it has constructed or otherwise use the creation of these islands to attempt to strengthen its legal standing, such a provocation would likely hold serious consequences for the peace and stability of the region...

... We also acknowledge that the costs of seeking to shape China's behavior in the maritime commons may affect other elements of our bilateral relationship. But if China continues to pursue a coercive and escalatory approach to the resolution of maritime disputes, the cost to regional security and prosperity, as well as to American interests, will only grow. For the international community to continue benefiting from the rules-based international order that has brought stability and prosperity to the Indo-Pacific region for the last seven decades, the United States must work together with like-minded partners and allies to develop and employ a strategy that aims to shape China's coercive peacetime behavior.

There is no doubt that the United States must continue to sustain a military balance in the region that secures our long-standing political and economic interests, upholds our treaty commitments, and safeguards freedom of navigation and commerce. At the same time, China's deliberate effort to employ non-military methods of coercion to alter the status quo, both in the South China Sea and East China Sea, demands a comprehensive response from the United States and our partners. While administration officials have highlighted various speeches and initiatives as evidence of a broader strategy, *we believe that a formal policy and clearly articulated strategy*

to address these forms of Chinese coercion are essential [emphasis added].¹⁰

With respect to a new strategy to address China's actions, it should be noted that Senator McCain has written into the National Defense Authorization Act 2015 a requirement to report on maritime security strategy with reference to the East China and South China Seas.

What should be the aims and objectives of a new U.S. comprehensive strategy to address China's creation of artificial islands in the South China Sea?

The United States should develop a comprehensive whole-of-government strategy in response to Chinese unilateralism and construction of artificial islands in the South China Sea. The objective of this strategy is to convince China that there is more to be gained by adhering to international law, including the United Nations Convention on the Law of the Sea (UNCLOS), and the peaceful settlement of its maritime disputes in the South China Sea, than by intimidation, illegal actions, and coercion. A comprehensive U.S. strategy should also be aimed at preventing China from militarizing the artificial islands that it has created in the South China Sea.

Under this new comprehensive strategy China should be urged to clarify its territorial claims under international law and where disputes exist (a) enter into direct negotiations with the countries concerned to resolve these disputes by peaceful means and (b) pending the settlement of disputes "enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation."¹¹

With respect to the South China Sea as a semi-enclosed sea, China should cooperate with other littoral states:

In the exercise of their rights and in the performance of their duties under [UNCLOS]. To this end they shall endeavour, directly or through an appropriate regional organization:

- (a) to coordinate the management, conservation, exploration and exploitation of the living resources of the sea;
- (b) to coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment;
- (c) to coordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;
- (d) to invite, as appropriate, other interested States or international organizations to cooperate with them in furtherance of the provisions of this

¹⁰ "Senators McCain, Reed, Corker, and Menendez Send Letter on Chinese Maritime Strategy."

¹¹ UNCLOS, Articles 74(3) and 83(3).

article.¹²

In addition, China should be put under political and diplomatic pressure to strictly adhere to Paragraph 5 of the 2002 Declaration on Conduct of Parties in the South China Sea (DOC):

The Parties undertake to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner.¹³

The letter by Senators McCain and Corker included six issues that they felt needed to be included in a new U.S. comprehensive strategy. These six issues are discussed in turn below.

1. Specific actions the United States can take to slow down or stop China's reclamation activities in the South China Sea.

The United States should develop an indirect strategy to counter Chinese activities using primarily - but not exclusively – non-military assets.¹⁴ Under this strategy the United States should avoid directly confronting People's Liberation Army Navy (PLAN) warships with its own naval forces. Nor should the U.S. Navy directly confront Chinese paramilitary law enforcement agency ships and fishing craft because this would appear to be a heavy handed over reaction. China would make a propaganda meal out of any such confrontations and skittish Southeast Asian states would be scared off from supporting U.S. actions in the South China Sea.

The United States should clarify what it means by freedom on navigation and over flight. Specifically the United States should make clear that it is freedom of navigation and over flight by military ships and aircraft that is at stake not commercial shipping. The U.S. should also note that any Chinese challenge to military freedom of navigation and over flight that led to conflict would have a major negative impact on insurance rates and commercial transit through the South China Sea to the detriment of China's interests.

The United States and its treaty allies should conduct persistent naval and air patrols to assert freedom of navigation, over flight and innocent passage in the waters and

¹² UNCLOS Part X, Article 123.

¹³ For the text of the DOC consult: <http://www.asean.org/asean/external-relations/china/item/declaration-on-the-conduct-of-parties-in-the-south-china-sea>.

¹⁴ This and the following sections draw on Carlyle A. Thayer, *Indirect Cost Imposition Strategies in the South China Sea: U.S. Leadership and ASEAN Centrality*, Maritime Strategy Series, Washington, D.C.: Center for New American Security, April 2015. 1-13. <http://www.cnas.org/sites/default/files/publications-pdf/CNAS%20Maritime%20Thayer.pdf>. This report was completed in February.

airspace near and above the artificial islands currently being built by China to prevent acquiescence to China's excessive claims by regional states and the United States.¹⁵

As James Kraska has noted, the United States Navy has been continually challenging China's territorial claims in three areas:

- (1) U.S. forces continually challenge China's nine-dash line claim to the features and waters within the nine dashes.
- (2) U.S. forces challenge China's illegal attempts to restrict military activities within its 200 nautical mile Exclusive Economic Zone whether measured from China's mainland or islands.
- (3) U.S. forces challenge China's right to claim a 12 nautical mile territorial sea from submerged features.¹⁶

The United States should implement Kraska's recommendation that U.S. forces should conduct innocent passage through the twelve nautical mile territorial sea and national airspace from small rocks illegally claimed by China. So far the United States has refrained from doing so.

China is expected to continue mounting annual aggressive naval displays in the South China Sea from May to August.¹⁷ This provides an opportunity for the U.S. Navy, Japan Maritime Self-Defense Force, Australia and like-minded states to organize a series of naval exercises in the South China Sea prior to the arrival of PLAN forces each year. These exercises should be given wide publicity to enhance transparency.

These exercises provide the means for the United States to give practical expression to its declaratory policy of opposing intimidation and coercion to settle territorial disputes. The U.S. should conduct naval exercises in waters that transverse China's nine-dash line. Regional military observers from the Philippines, Vietnam and other regional states should be invited to observe these exercises on U.S. naval vessels. This strategy does not require the United States to directly confront China but to provide reassurance to regional states.

Foreign observers could also be included on aerial reconnaissance flights. The objective would be to maintain a continuous naval and air presence to deter China from using intimidation and coercion against the Philippines, Vietnam and other regional states by

¹⁵ For contrary and cautionary views, respectively, see: Sourabh Gupta, "The rights and wrongs of US overflights in the South China Sea," *East Asia Forum*, May 26, 2015 and Sam Bateman, "The risks of US freedom of navigation operations in the South China Sea," *East Asia Forum*, June 1, 2015.

¹⁶ James Kraska, "Commentary: Defend Freedom of Navigation," *Defense News*, June 8, 2015. <http://www.defensenews.com/story/defense/commentary/2015/06/08/defend-freedom-navigation-china-pacific-islands-ships-intercept-sovereignty/28685409/>.

¹⁷ For an analysis of past Chinese naval exercises in the South China Sea see: Christopher H. Sharman, *China Moves Out: Stepping Stones Toward a New Maritime Strategy*, INSS China Strategic Perspectives No. 9, Center for the Study of Chinese Military Affairs, Institute for National Strategic Studies, National Defense University, April 2015.

raising the risk of directly confronting the U.S. or a U.S. treaty ally. The scope and intensity of these exercises could be altered in response to the tempo of Chinese naval activities.

The United States could undertake more novel means to convince China that the costs of brazening it out outweigh cooperation. For example, in 1999 the Philippines beached a former U.S. LST, the *BRP Sierra Madre* with a complement of roughly eight Marines on Second Thomas Shoal to assert Philippines' sovereignty. The Philippines did so in response to China's occupation of Mischief Reef in 1995 and the fear that China would occupy other uninhabited reefs. The *BRP Sierra Madre* is still commissioned in the Philippine Navy.

China responded by dispatching a PLAN frigate, two Coast Guard vessels and sixty fishing boats to invest Second Thomas Shoal. These ships and boats continually harass Filipino boats and fishing craft in the area. China currently maintains a permanent presence of Coast Guard vessels to demonstrate its "indisputable sovereignty." Twice in recent years China has attempted to interdict Philippine efforts to resupply its Marines.

In order to demonstrate that China's actions incur costs, the U.S. and the Philippines could reach agreement for U.S. Marines to join their Filipino counterparts in a small-scale exercise (maritime reconnaissance) based on the *BRP Sierra Madre*. The U.S. could then join the Philippines in resupply efforts by sea and helicopter. U.S. Navy ships and aircraft could maintain a discrete presence to deter China.

Since the *BRP Sierra Madre* is still commissioned in the Philippine Navy any Chinese use of force against it would trigger consultations under the Mutual Defense Treaty between the U.S. and the Philippines to consider appropriate action.

It is unlikely that any one cost imposition strategy will dissuade China from its present course of action. It is more likely that multiple overlapping cost imposition strategies implemented, as part of a whole-of-government approach, will be more effective.

2. Possible benefits of releasing intelligence more regularly about China's destabilizing behavior.

China has pursued information warfare as part of its strategy of asserting control over the South China Sea. This needs to be countered. The recent flight of a U.S. Navy Poseidon 8 reconnaissance aircraft with a CNN reporter is a good example of how this can be accomplished. But one flight is not enough.

Earlier this year the Asia Maritime Transparency Initiative (AMTI) was launched by the Center for Strategic and International Studies (CSIS) in Washington, D.C.¹⁸ The AMTI regularly publishes commercial satellite imagery of Chinese (and Vietnamese) construction activities in the South China Sea. The AMTI's efforts need to be supplemented by more professional and timely analysis.

¹⁸ <http://amti.csis.org>.

The United States should take the lead in a campaign to counter China's "information warfare" by publicizing in a timely manner details of Chinese unilateral destabilizing activities in the South China Sea. The United States should put information in the public domain so the media, scholars, security specialists, other analysts, and elected officials may use it. The model for this approach could be drawn from the publication on *Soviet Military Power* during the Cold War that explicitly exposed, *inter alia*, Soviet naval operations from Cam Ranh Bay in Vietnam.

This year, for example, United States officials claimed that China placed motorized artillery on one of its artificial islands that has since been concealed or removed. It would have been more effective if the Department of Defense had released imagery of these weapons along with the date and identified the feature on which these weapons were placed as well as the range of motorized artillery.

U.S. officials also claimed that Vietnam occupied forty-eight features in the South China Sea. When Secretary of Defense Ash Carter visited Hanoi this June he called on Vietnam to permanently halt all land reclamation activities on these features. His Vietnamese counterpart, Minister of National Defense General Phung Quang Thanh, argued that "land reclamation" was being undertaken to prevent soil erosion. General Thanh also argued that Vietnam stationed military personnel on nine "floating islands" and twelve "submerged islands" or a total of 21 features.¹⁹ The United States should have published a list of all 48 features that it claimed Vietnam was occupying. Also, the U.S. should have provided specific details about the extent and purpose of Vietnam's "land reclamation."

In addition, there are a number of Chinese actions that are not well known publicly that should be. For example, China reportedly has employed electronic jamming to interfere with the lawful operations of an Indonesian maritime law enforcement vessels that had apprehended Chinese fishermen caught poaching in Indonesia's EEZ.²⁰

China repeatedly has ordered Philippine military aircraft flying over the South China Sea (as well as a U.S. Navy Poseidon 8) to leave a "military security area" or a "military alert zone." China has reportedly removed Malaysian territorial markers from Luconia and Erica reefs and replaced them with Chinese markers.

The Defense Department should be required to include a detailed section on Chinese activities the South China Sea (such as those mentioned above) in its Annual Report to Congress, *Military and Security Developments Involving the People's Republic of China*. The current report does contain a brief section. This section should be expanded and

¹⁹ "Floating islands" refers to features that are above the water or which can be built from submerged islands by adding steel structures, soil, rocks and concrete. "Submerged islands" are reefs that are underwater.

²⁰ Scott Bentley, "Mapping the nine-dash line: recent incidents involving Indonesia in the South China Sea," *The Strategist* (Australian Strategic Policy Institute) October 29, 2013. <http://www.aspistrategist.org.au/mapping-the-nine-dash-line-recent-incidents-involving-indonesia-in-the-south-china-sea/>.

included in future annual reports to Congress. The Pentagon should issue other more timely reports.

The Commander of the U.S. Pacific Command (PACOM) should be required to report in detail on Chinese activities in the South China Sea in his annual posture statement to the respective Armed Service Committees of the House and Senate. PACOM should also release information about Chinese activities on a regular basis.

The Department of State should produce more frequent and timely reports in its *Limits in the Seas* series challenging China's unilateral interpretation of international law. A specific issue focusing on the legal implications of China's construction of artificial islands would be useful.

The Departments of Defense and State should provide additional funds, resources and other assistance to American-based think tanks (including the China Maritime Studies Institute at the Naval War College, Newport) to research and report on current Chinese activities in the South China Sea and how these are likely to impact adversely on U.S. interests and regional security. Funding should be made available to support specialized conferences and workshops to which Southeast Asian scholars and officials are invited to attend.

U.S. officials who attend ASEAN-related security meetings, such as the ASEAN Regional Forum, Expanded ASEAN Maritime Forum, ASEAN Defence Ministers' Meeting Plus, and the Shangri-La Dialogue should use these occasions to provide detailed background briefings on Chinese activities in the South China Sea. U.S. scholars who regularly attend Track 1.5 and Track 2 regional workshops and conferences should be offered briefings by Defense officials on a voluntary basis.

The purpose of this information campaign is to challenge directly China's "information warfare" and propaganda efforts. Another aim of this information campaign would be to maintain unrelenting public pressure on China to be more transparent about its activities and to bring its actions into accord with regional norms and international law.

3. What forms of security cooperation with China would be inappropriate to continue if land reclamation activities proceed and what forms of engagement might provide incentives for China to alter its behavior.

The United States and China have in place a variety of high-level and military-to-military dialogues such as the Strategic and Economic Dialogue (S&ED), Strategic Security Dialogue (SSD), Defense Consultative Talks, Military Maritime Consultative Agreement and Defense Policy Coordination Talks.²¹ U.S. officials should continually engage with China in these venues to promote a rules-based approach to the resolution of maritime disputes in the South China Sea. For example, in November 2014, China and the United

²¹ Carlyle A. Thayer, "Enhancing Transparency? U.S.-China Military-to-Military Contacts and Strategic Dialogues," Paper to International Conference on The U.S. and China in Regional Security: Implications for Asia and Europe, co-sponsored by Stiftung Wissenschaft und Politik and Konrad Adenauer Stiftung, Berlin, Federal Republic of Germany, June 18-19, 2012.

States reached a Memorandum of Understanding on the Rules of Behavior for the Safety of Air and Maritime Encounters.²² They are now negotiating an annex on air-to-air encounters. This process should not be jeopardized by cancelling engagement activities at this time.²³

Admiral Harry Harris, Commander U.S. Pacific Command, recently suggested that China's invitation to attend the annual Rim of the Pacific Exercises (RIMPAC) could be withheld if China did not end its reclamation activities.²⁴ Because China has announced that it will "soon complete" its construction activities it is not necessary at the present time to suspend ongoing engagement activities. However, if China proceeds to militarize its artificial islands in the South China Sea the U.S. should respond by a calibrated cutting back of defense cooperation activities with China, such as suspending the standing invitation to attend RIMPAC exercises.

4. The region's Maritime Domain Awareness needs.

The United States is already providing assistance such as coastal radar to several South China Sea littoral states to improve their capacity for maritime domain awareness. These efforts should be continued.

So far the United States has committed U.S. \$18 million to Vietnam for the provision of U.S.-manufactured Metal Shark patrol boats. In addition, Senator McCain has proposed an amendment to the 2015 U.S. Defense Authorization Act to provide \$425 million over five years to five countries - Indonesia, Malaysia, the Philippines, Thailand and Vietnam. This funding is allocated as follows: \$50 million for FY 2016; \$75 million for FY 2017, and \$100 million for FY 2018, 2019 and 2020. Secretary Carter, in anticipation of Congressional approval, announced the Southeast Asian Maritime Security Initiative at the Shangri-La Dialogue in Singapore in late May.²⁵

These funds are to be used to provide equipment, supplies, training, small-scale military construction and training to ministry, agency and headquarters level organizations. While this is an initial first step, it is rather modest. Increased funding should be provided to really make a difference.

The U.S. also has removed restrictions on the sale of lethal weapons to Vietnam on a case-by-case basis but limited this to maritime security with a focus on the Vietnam

²² http://www.defense.gov/pubs/141112_MemorandumOfUnderstandingRegardingRules.pdf.

²³ China and the United States are poised to sign an agreement setting up an arty-to army dialogue mechanism; this too should not be jeopardized at this stage.

²⁴ Yoichi Kato, "Commander of U.S. Pacific Command: 'U.S. reserves right to withdraw RIMPAC invitation to China'," *The Asahi Shimbun*, June 13, 2015.

²⁵ Ashton Carter, "The United States and Challenges of Asia-Pacific Security," 14th Asia Security Summit, The IISS Shangri-La Dialogue, First Plenary Session, Singapore, May 30, 2015. <https://www.iiss.org/en/events/shangri%20la%20dialogue/archive/shangri-la-dialogue-2015-862b/plenary1-976e/carter-7fa0>.

Coast Guard in particular. The remaining restrictions could be lifted later in the year to mark the celebrations of the twentieth anniversary of the normalization of diplomatic relations between the United States and Vietnam.

Vietnam recently joined the Proliferation Security Initiative. This provides an opportunity for the United States to assist Vietnam further develop its capacity for maritime domain awareness. The U.S. should encourage Vietnam to purchase the P-3 Orion naval reconnaissance aircraft and, in response to any further deterioration in the security environment in the South China Sea, authorize the sale of anti-ship and anti-submarine missiles.

In addition, Japan is currently providing patrol boats and other material assistance to the Philippines and Vietnam to improve their capacities for maritime security. Australia has also donated two heavy landing craft to the Philippines. The U.S. states should coordinate with Japan and Australia under the umbrella of the Trilateral Strategic Dialogue to enhance their maritime domain awareness assistance to regional states.

Also, there is scope for encouraging enhanced multilateral coordination and cooperation among ASEAN states in building-up their capacity for maritime domain awareness.

5. How to help regional partners enhance their own capacity.

The U.S. already has on the books several programs designed to enhance the capacity of regional security partners (e.g. Cooperation Afloat and Readiness and Training or CARAT). These should be funded and continued. For example, the United States and Vietnam already have an agreement for cooperation between their Coast Guards, but this entails training on land in the form of short courses. U.S.-Vietnam cooperation now needs to move offshore in the form of joint training exercises that gradually expand their scope from search and rescue to anti-piracy drills and maritime surveillance patrols.

The purpose of this naval interaction is to build up trust to reach the stage where both sides can agree to exchange observers on each other's ships and patrol aircraft. Initially this exchange could take place during planned training exercises; over time it could lead to the cross posting of Coast Guard officers for longer deployments. Joint patrols should be carried out either in the EEZ's of littoral states or on the high seas that are within China's nine-dash line.

This model could be expanded to include similar activities between the U.S. and Philippine Coast Guards, the Japanese and Philippine Coast Guards, and the Philippines and Vietnamese Coast Guards. Over time these bilateral arrangements could be expanded to trilateral or even multilateral exercises. China would be confronted with the uncertainty of directly challenging vessels containing maritime officials from the United States and/or its treaty allies. This could involve, for example, the deployment of U.S. and Japanese Coast Guard personnel on Coast Guard vessels operated by the Philippines and Vietnam. It could also involve a mix of Filipino and Vietnamese maritime enforcement personnel cross-posted to their respective Coast Guards.

The U.S. Coast Guard has limited resources to expand greatly its external support to assist Southeast Asian countries in maritime capacity building. This slack needs to be taken up by the U.S. Navy.

Senator McCain's proposed Southeast Asia Maritime Surveillance Initiative provides funding for the provision of equipment, supplies, training, small-scale military construction and training to ministry, agency and headquarters-level organizations for regional military forces. The initiative provides rather modest funding especially when it will be distributed to five countries over a five-year period. This is a welcome initiative, but it should be viewed as an initial first step.

The United States should implement a comprehensive strategy involving joint and combined cooperation between civilian maritime agencies of likeminded external powers and the Philippines and Vietnam. This strategy should be carried out on three levels: among like-minded ASEAN dialogue partners (Australia, Japan, South Korea, New Zealand, and India); multilaterally with regional allies and security partners; and bilaterally.

U.S. Navy maritime surveillance aircraft based in the Philippines under the recent Enhanced Defense Cooperation Agreement have operated flights with Philippine military observers. This should become standard practice. U.S. Navy maritime surveillance aircraft could be deployed over the South China Sea and land in Vietnam on a temporary basis before returning to their home base in the Philippines. U.S. maritime patrol aircraft also could conduct joint maritime surveillance missions with their Filipino and Vietnamese counterparts. U.S. military personnel could fly on Philippines and Vietnamese reconnaissance planes as observers and vice versa.

6. Additional diplomatic engagement with ASEAN countries or others in the international community to support unimpeded access to the Indo-Pacific maritime commons.

The United States should continue to provide diplomatic and political support to ASEAN in its attempts to get China to implement the 2002 Declaration on Conduct of Parties in the South China Sea (DOC). The DOC outlines five areas of cooperation that parallel the areas of cooperation under UNCLOS listed above. The U.S. should also continue its diplomatic and political support for ASEAN in its efforts to expeditiously conclude a legally binding Code of Conduct in the South China Sea (COC) with China. The COC is designed to regulate state behavior in the South China Sea pending the resolution of sovereignty and maritime jurisdictional disputes.

The United States also should continue to support ASEAN-centric regional security architecture such as the ASEAN Regional Forum, Expanded ASEAN Maritime Forum, ASEAN Defence Ministers' Meeting Plus and the East Asia Summit. In addition, the United States should seek to institutionalize the U.S.-ASEAN Defence Ministers' Meeting by holding regular meetings.

The U.S. should work with like-minded ASEAN dialogue partners to shore up the role of the East Asia Summit so it can address regional security issues.

The United States should continue to support its two trilateral security dialogues (U.S.-Japan-Australia and U.S.-Japan-India), to coordinate maritime security policy towards the South China Sea. The U.S. should promote the expansion and merger of these two trilateral dialogues into one quadrilateral framework to better coordinate maritime security cooperation with ASEAN as well as individual Southeast Asian states.

Wild Cards

There are at least eight wild cards that could act to positively or negatively influence a new U.S. comprehensive strategy to address China's construction activities in the South China Sea:

1. The recent defeat in Congress of Trade Promotion Authority for President Obama could spell the end of his efforts to secure a Trans-Pacific Partnership agreement before his term in office expires. Singapore's Foreign Minister Shanmugan responded to this development by ominously warning that "U.S. credibility in Asia will suffer, and allies will again wonder whether Obama's assurance that the United States will remain an essential Pacific power and guarantor of security in the region will be fulfilled." Shanmugan concluded, "You [the United States] are either in or you are out."
2. The U.S. Philippine Enhanced Defense Cooperation Agreement (EDCA) is now being challenged in the Philippines's Supreme Court. If the EDCA is ruled unconstitutional this will undercut the rotational presence of U.S. forces in the Philippines.
3. In July 2015, the U.N. Arbitral Tribunal will commence hearing the claim brought by the Philippines. It must first consider two issues: (a) whether it has legal competence to hear the claim and (b) whether the Philippines has made a legal case to be answered. Any decision in the negative would end proceedings.
4. Taiwan is scheduled to hold presidential elections in January 2016. If the Opposition gains power this could result in rising tensions with China that would overshadow the regional security environment.
5. Vietnam will hold its twelfth national party congress in early 2016. This will lead to a leadership turnover at the highest level. It is too early to speculate on who the new leaders will be and what foreign and defense policy changes might accompany leadership change. The U.S. is poised to receive the Secretary General of the Vietnam Communist Party, Nguyen Phu Trong, in July. Prime Minister Nguyen Tan Dung may make a private visit to Washington as part of his attendance at the UN General Assembly meeting. Both meetings could have an influence in shaping future bilateral relations,
6. In May 2016 President Benigno Aquino's term in office will end. It is unclear who will become the new president and whether Aquino's pro-U.S. security policies will be continued with the same vigor. It is possible that the new president may be inclined to reduce tensions with China by a less assertive policy on the West Philippine Sea dispute.

7. In November 2016 the U.S. will elect a new president. It is unclear who the main candidates will be and whether whoever is elected will continue to support the rebalance to Asia given the pull of security issues in the Middle East and Europe (and the possible failure to secure a TPP).
8. Sometime in the first half of 2016 the UN Arbitral Tribunal is scheduled to reach a determination on the Philippines' claim (assuming that the Arbitral Tribunal takes up the case). Under UNCLOS its decisions must be enforced immediately and are not subject to appeal. Win, lose or draw the determination of the Arbitral Tribunal will alter the legal landscape with respect to disputes in the South China Sea.