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TASK FORCE REPORT



Maritime Security in the Asia-Pacific:
A Navigational Map for the New U.S. Administration

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Maritime Security in the Asia-Pacific: A Navigational Map for the New U.S. Administration

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Executive Summary

Maritime security in the Asia-Pacific entails “traditional” security concerns such as naval power, and “non-traditional” security issues such as piracy, climate change and fisheries depletion. This task force evaluates policy options for a comprehensive maritime strategy for U.S. leadership.

Issues

U.S. leadership plays a central role in upholding a rules-based maritime order in the Asia Pacific. While U.S. alliances still anchor U.S. presence in the region, global organizations like ASEAN provide a framework for increased U.S. engagement. Furthermore, U.S. partnership with India and Vietnam present opportunities for deeper cooperation. China, Russia and the Korean Peninsula pose strategic challenges.

In terms of military security, naval modernization has been central to the regional security dilemma. Destabilizing incidents involving naval forces, civilian patrols and non-state actors heighten tensions amid uncertainty about strategic intentions. In addition, North Korea’s actions and the U.S.-ROK THAAD response add a worrisome security dimension to a region that already has several nuclear powers.

Within a larger context, U.S. economic prosperity is tied to that of Asian states. Nearly 30% of U.S. total trade is with the Asia-Pacific region. To take this into consideration, threats to safe shipping routes, environmental degradation and resource scarcity dampen the commercial dynamism of the region. China’s economic leadership through its own initiatives, against a backdrop of potential U.S. economic retreat, risks Chinese economic dominance in the Asia-Pacific.

Policy Recommendations

- Ratify UNCLOS to enhance U.S. legitimacy in maintaining a rules-based maritime order.
- Promote the creation of a multilateral trade agreement that preserves the TPP’s goal of free and fair trade, while underscoring U.S. strategic engagement in the Asia-Pacific.
- Cooperate with regional actors on non-traditional security issues such as maritime crime and the sustainable management of the marine environment.
- Help regional allies and partners develop military readiness to assume more regional security responsibility.
- Continue U.S. FONOPs, encourage regional states to conduct their FONOPs, and consider multilateral FONOPs.
- Expand and improve maritime communications protocols.
- Conduct joint military exercises with regional partners in order to improve cooperation.
- Seek cooperation with China on non-contentious initiatives to foster mutual trust.

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We are especially grateful to each of our guest speakers who took time to provide us critical perspectives and wisdom when answering our questions:

Richard Ellings, President of The National Bureau of Asian Research, provided us with invaluable insight on the implications of a contentious maritime domain on the overall global security framework. In offering a range of perspectives to guide the conceptualization of our research, we had the rare opportunity to engage with him in discussion about some of the most pressing security challenges the international community faces today.

Lieutenant Colonel Owen Ray, U.S. Army War College Fellow at the University of Washington and former Army Aide to 44th President of the United States, spoke with us about the U.S. Rebalance to the Asia-Pacific, highlighting the prevailing U.S. national interests in the region. He, too, offered us with expert insight on opportunities for U.S. engagement in the region.

In the Henry Jackson School of International Studies, we would like to thank Wolfram Latsch, Director of Academic Services and Lauren Dobrovolny, Task Force Program Coordinator for collaboratively facilitating this uniquely rewarding program.

Above all, we would like to thank Admiral Jonathan W. Greenert, 30th Chief of Naval Operations (ret.) and John M. Shalikashvili Chair in National Security Studies at The National Bureau of Asian Research for his time and attention in evaluating this task force report. We are honored to have the opportunity to present our work to him, and to learn from his extensive expertise in this field.

We appreciate all of you; thank you for challenging us to think critically about the actual implications of policy decisions and providing us the opportunity to engage with our perceptions, ideas, and experiences.

Abbreviations

ASCM	Anti-Ship Cruise Missiles
A2/AD	Anti-Access Aerial-Denial
ADIZ	Air Defense Identification Zone
APEC	Asia-Pacific Economic Cooperation
APP	Asia Pacific Partnership for Clean Energy and Climate.
ASW	Anti-submarine warfare
AIIB	Asian Infrastructure Investment Bank
ADB	Asian Development Bank
ASEAN	Association of Southeast Asian Nations
APEC	Asia Pacific Economic Cooperation
ARF	ASEAN Regional Forum
ANZUS	Australia, New Zealand, United States (defense treaty)
ADMM	ASEAN Defense Minister's Meeting Plus
CCG	Chinese Coast Guard
CUES	Code for Unplanned Encounters at Sea
CSI	Container Security Initiative
CARAT	Cooperation Afloat Readiness and Training
COP21	21st Conference of the Parties
DoD	United States Department of Defense the Defense
DPRK	Democratic People's Republic of Korea
DTTI	Trade and Technology Initiative
EAS	East Asia Summit
ECS	East China Sea
EEZ	Exclusive Economic Zone
EAST	Expanded ASEAN Seafarer Training
EIA	U.S. Energy Information Administration
FON	Freedom of Navigation
FONOPs	Freedom of Navigation Operations
FTAAP	Free Trade Area of Asia-Pacific
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GCF	Global Climate Fund
IAEA	International Atomic Energy Agency
IUU	Illegal, Unregulated and Unreported
ICBM	Intercontinental Ballistic Missile
IISS	International Institute for Strategic Studies
ISR	Intelligence, Surveillance, Reconnaissance
IEA	International Energy Agency

IP	Intellectual Property
IMF	International Monetary Fund
JOAC	Joint Operational Access Concept
JCG	Japanese Coast Guard
LOC	Kashmir Line of Control
LTE	Low-tide Elevation
NATO	North Atlantic Treaty Organization
MDA	Maritime Domain Awareness
MSR	Maritime Silk Road
MMCA	Military Maritime Consultative Agreement
MOU	Memorandum of Understanding
NNPT	Nuclear Nonproliferation Treaty
OTH-B	Over the Horizon Backscatter
OTH-SW	Over the Horizon Surface Wave
OBOR	One Belt One Road
PCA	Permanent Court of Arbitration
PLAN	People's Liberation Army Navy
ROK	Republic of Korea
RUDs	Reservations, Understandings, Declarations
PRC	People's Republic of China
CFLEC	China's Ministry of Fishing Law Enforcement Command
RIMPAC	Rim of the Pacific
ReCAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia
RMSI	Regional Maritime Security Initiative
RCEP	Regional Comprehensive Economic Partnership
THAAD	Thermal High Altitude Area Defense
TVPA	Trafficking Victims Protection Act
TPP	Trans-Pacific Partnership
QDDR	Quadrennial Diplomacy and Development Review
SEATO	Southeast Asia Treaty Organization
SLOC	Sea lines of communication
S&ED	Strategic and Economic Dialogue
SOE	State-Owned Enterprises
US	United States
UN	United Nations
UNCLOS	United Nations Convention on Sea of Laws
UNFCCC	United Nations Framework United Nations Framework
WMD	Weapons of Mass Destruction
WTO	The World Trade Organization

CHAPTER 1

INTRODUCTION

Dewi Ali

Since ancient maritime history, the ocean has been an important facilitator of trade, transnational diplomacy and natural resource distribution. Sea-based communications and trade are a fundamental part of a robust contemporary international economy. The ocean's vast resources such as fish directly affect human welfare. But more than just a conduit for the global economy and diplomacy, the ocean has shaped the political, socio-economic and even cultural character of nations. As a result of complex interactions between states throughout history, the maritime domain continues to be a contested area for naval modernization, territorial claims and economic leadership.

Alfred Thayer Mahan's insights on the role of sea power in national defense provide an important theoretical framework for understanding the goals of a country's naval posture: he famously argued that great powers harnessed naval forces in order to defend maritime commercial interests.¹ On the one hand, state actors continue to shape the power structure in the maritime domain through their deployment of naval forces to defend commercial interests at sea. Yet on the other hand, non-traditional forces such as pirates, radical groups and criminal organizations have become formidable forces in shifting the overall maritime security environment. While the threats posed by non-government actors are not new, modern technology and improved capacity for large-scale violence give non-traditional forces greater agency to destabilize maritime security. New non-traditional security factors such as climate change and

¹ Mahan, Alfred Thayer, *The Influence of Sea Power Upon History, 1660-1783*, 1890.

overfishing also now affect overall security in the Asia-Pacific because of their impact on human security. Ultimately, the alarming risk of conflict escalation and environmental destruction calls for a comprehensive strategy for ocean governance.

Ocean governance, or an approach to ocean management that incorporates the efforts of non-state actors such as stakeholders and non-governmental organizations, has recently gained prominence in contemporary discussions regarding the law of the sea.² Oceans management, distinct from the concept of an “ocean government” that creates and enforces policies through a centralized formal authority, is technically absent from international maritime law.³ The preamble to the 1982 United Nations Convention on the Law of the Sea (UNCLOS) states, however, that issues concerning the ocean “are interrelated and need to be considered as a whole.” The significance of this nuance is two-fold: Firstly, it opens up a pathway for third-party dispute resolution as a means to manage contentious disputes. Secondly, it offers a legal foundation for the United States to navigate the shift from national jurisdiction of the sea to integrated ocean governance at a global scale.

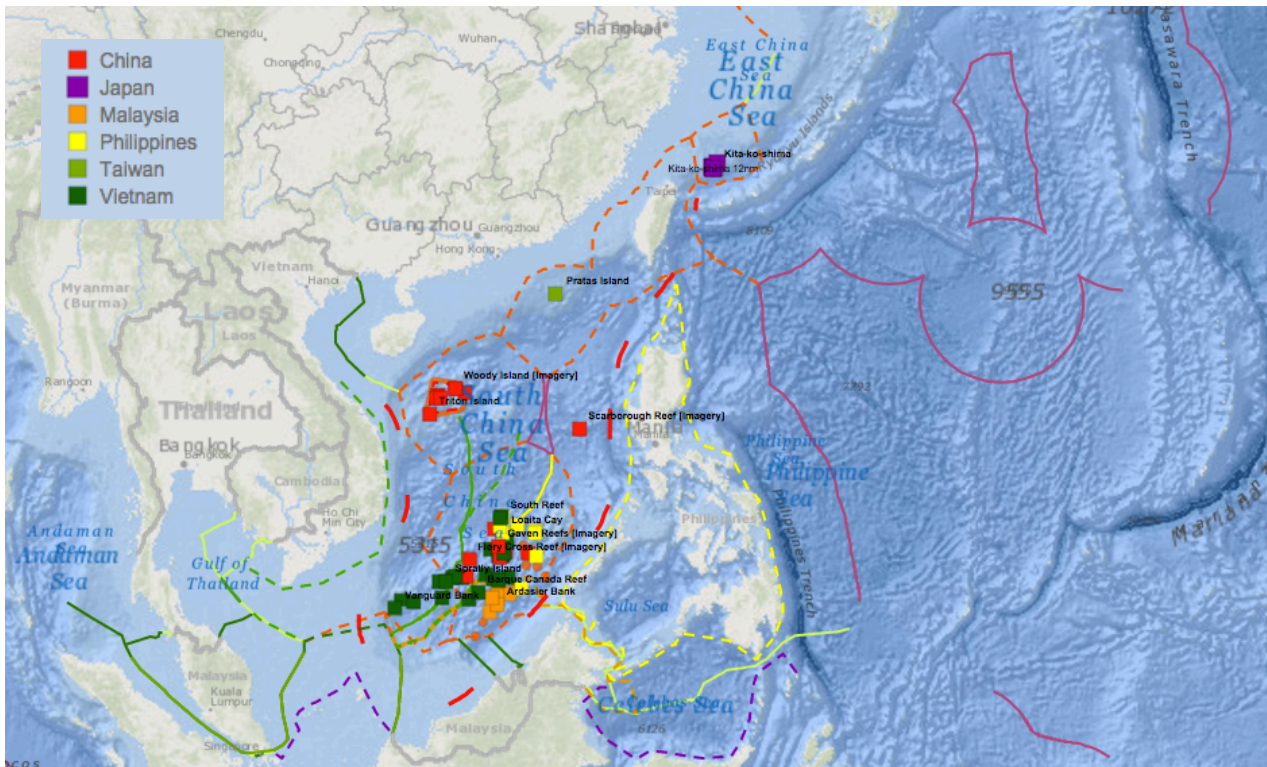
UNCLOS, the foundation for an ever-expanding network of treaties, partnerships and frameworks, has become important beyond the original clauses of the Convention regarding the determination of coastal state sovereignty and jurisdiction. The 1982 Convention in particular provided a legal framework for the settlement of longstanding disputes about the breadth of territorial sea. This development has notably shifted the tone of dealing with territorial sovereignty in a new direction. It has opened up discussions about how the Convention should apply to deep sea beds, archipelagic states, marine environmental protection and dispute

² Dunoff, Jeffrey L. and Pollack, Mark A., “Interdisciplinary Perspectives on International Law and International Relations: The State of the Art,” 2013 Cambridge: Cambridge University Press.

³ Beck, Robert J. et al., eds., “International Rules: Approaches from International Law and International Relations”, Oxford: Oxford University Press, 1996.

settlements. The Law of the Sea, however provisional in setting a legal framework for cooperative ocean governance, faces prevailing challenges in determining how it may apply to disputes today.

Figure 1.1: Maritime Boundary Claims and Occupied Features in the Asia-Pacific⁴



This task force report addresses the complex maritime security concerns in the Asia-Pacific (see Figure 1.1). Part I grapples with the question of power and international law as they apply to the U.S. maritime strategy and to regional states. Bruno Fiorentini's study of U.S. leadership in shaping the post-war international order addresses the contribution of multilateral cooperation and engagement to preserving global peace. Beginning with mid-century upheaval from decolonization and the rapid emergence of new states, particularly in Southeast Asia, and culminating today in a naval arms race, increased maritime crime and environmental threats, the

⁴ NBR, *Maritime Awareness Project*, The National Bureau of Asian Research, www.maritimeawarenessproject.org.

need for a strong and thoughtful U.S. foreign policy toward the region remains essential. While Fiorentini analyzes U.S. presence in the region, Haley Plamondon's chapter on UNCLOS contextualizes the challenge of the application of international law in the Asia-Pacific. In doing so, she posits that international law is a necessary for a rules-based order to preserve a peaceful maritime domain, to complement the complex diplomacy between major powers.

Part II addresses U.S. diplomatic interactions with the nations in the Asia-Pacific. China's rise in the region further complicates the regional stability of the Asia-Pacific for reasons beyond the contentious nature of unfettered military modernization. Helen Lui's analysis of U.S.–China relations underscores the need for cooperation between these two powers for maritime security. The United States has been a vocal advocate for conflict resolution strategies that seek to overcome differences with China. Lui's chapters highlights that the points of contention between the United States and China have implications beyond their respective national security interests, and suggests means that may serve as a foundation for greater cooperation. Stephen Cuplin's chapter expands on the opportunity for cooperation in the region, positing that the maritime domain is a space for multilateral cooperation but that maritime security is predicated on U.S. participation in the security and economic architecture of the region. Among regional partners, forums such as the East Asia Summit (EAS) and the Asia-Pacific Economic Cooperation (APEC) have piloted frameworks to enhance regional capacity to manage resources. APEC and EAS have taken the first steps in giving prominence to third-party dispute resolution. Promising as these developments are, continued U.S. engagement is fundamental in sustaining these efforts.

Part III discusses the traditional security concerns of states with regard to military and economic interests. As Min Seung Kim addresses in his chapter, the naval arms race among

regional states, encounters at sea and developments in North Korea pose challenges to the balance of power in the region. Ruomi Li's chapter further examines the nuance between competition and cooperation, expanding on the importance of addressing strategic differences. U.S. freedom of navigation operations (FONOPs) in the South China Sea test Chinese claims that are excessive under customary international law, adding that differences between the United States and China over freedom of navigation need to be managed through better communication, such as extending the current Code for Unplanned Encounters at Sea (CUES) to cover coast guard forces. The discovery of valuable resources—notably hydrocarbon—as inputs for economic growth has further incentivized naval modernization in the region. Yinong Su's chapter draws attention to China as a leading economic power in the Asia-Pacific as the country develops strategies to diversify its economy. Su characterizes the Asia-Pacific as a space for strategic competition over the resources it offers, and the need for U.S. economic engagement to counter undue economic influence from any one power. Economic engagement provides a platform for global actors to manage the impact of contentious disputes. China has been an important player in high-profile economic projects such as the One Belt One Road Initiative. The synergy of China's economic engagement with ASEAN as an emerging economic powerhouse has significant implications on the future of prevailing U.S. interests in the region. The OBOR, for instance, poses both challenges and opportunities for U.S. regional interests. The projected benefits of this initiative on the regional economic infrastructure are significant, yet the impact of a U.S. retreat risks compromising the strategic goals of the original U.S. pivot to Asia.

Part IV delves into the regional dynamics, including the maritime territorial disputes in the Asia-Pacific. Jessica Park discusses the South China Sea in her chapter, and the implications of the ruling of the Permanent Court of Arbitration on China's claims in the South China Sea,

arguably the most important maritime territorial dispute in the region. Megan Condon's chapter then analyzes the implications of the other important longstanding maritime disputes in the region. U.S. retreat from these ongoing disputes may prove to be further destabilizing than it would be beneficial, especially given the fact that the Asia Pacific region accounts for a total of 28% of U.S. trade.

The region's impact on today's global economy is difficult to understate—possessing the world's busiest commercial routes, such as the Strait of Malacca, the growing threat of maritime crime like piracy and terrorism could have devastating effects on the region's economy. Furthermore, as competitive demands for energy and natural resources increase, these non-traditional threats to maritime security further disturb the overall security infrastructure of the Asia-Pacific. Mismanagement of the marine environment and natural resources could negatively affect the regional economy. Tyler Lincoln's chapter frames these developments in the overall context of security stability, further highlighting the destabilizing impact of non-traditional stressors on existing traditional security concerns. The importance of sustainable management of natural resources like hydrocarbon and fisheries to robust commercial activity is expanded on in further detail in Nanpeng Zhu's chapter. Under the duress of maritime crimes, safe passage through major trade routes in the Asia-Pacific has become a significant security risk in the region. Yingshi Liu's chapter underscores that unmitigated maritime crimes put the region's security and economy at risk of further destabilization. A report by the Department of Defense highlights an alarming 65% of maritime crime occurring in the Asia-Pacific region. These maritime crimes, including piracy and human trafficking, pose a blatant threat to the development of an open and effective regional security architecture.

The Department of Defense had highlighted many of these goals in the Asia-Pacific Maritime Security Strategy.⁵ It articulates a plan set forth by the Department of Defense for safeguarding the interests of the United States in the region. In addition to highlighting the stakes of preserving freedom of navigation in the Asia-Pacific region, the strategy is equally attentive to the shifting climate of security stability in the region. The strategy recognizes need to enhance deterrence capabilities to counter coercion through a broad interpretation of authority in the region. On these grounds, the strategy aims to foster greater transparency to reduce risks of miscalculation. To this end, it identifies adherence to international law as an important mitigation tool in addressing contentious multilateral territorial disputes, naval modernization and non-traditional threats to the region's security architecture.

While the plan contextualizes both the diplomatic and military capacities of the United States to maintain a rules-based order in the region that is free from coercion, the maritime security environment in the region has seen rapid shifts in diplomatic and security developments in the past year. Positive developments such as the defense agreement signed between Japan and the Philippines in 2016 as well as multilateral developments such as the ruling by the Permanent Court of Arbitration are important markers of increased cooperation in a positive direction towards ensuring peaceful resolutions. At the same time, the uncertainty surrounding a new U.S. administration alludes to the limits of U.S. capabilities in its current capacity, questions about U.S. leadership in the Asia-Pacific, as well as the consequent need for greater policy cohesiveness moving forward.

It is on the foundation of these efforts that this Task Force offers a holistic analysis of the issues at hand. The report engages in a rigorous analysis of complex economic and political

⁵ Department of Defense, *The Asia-Pacific Maritime Security Strategy: Achieving U.S. National Security Objectives in a Changing Environment*, August 2015, 35pp.

developments in the Asia-Pacific region. It then highlights a series of opportunities for continued U.S. engagement in the region, both domestically and as a regional partner. In providing a set of recommendations aimed to achieve the goals defined in the overall U.S. security strategy, it underscores the importance of continued U.S. engagement as a leader in stabilizing maritime security in the Asia-Pacific.

PART I
BACKGROUND

CHAPTER 2

U.S. Maritime Strategy in the Asia-Pacific

Bruno Fiorentini

2.1 Introduction

Security concerns in the Asia-Pacific have become increasingly complex, and the United States faces multiple challenges to the balance of power in the region. Regional maritime security is a top priority for the United States, since both the East and South China Seas remain two of the world's most contested and conflict-prone regions. This chapter argues that a stronger U.S. naval presence is needed to both combat rising security threats and demonstrate U.S. commitment to allies in the region. The United States should also increase military dialogue with China to ensure stability and peace. Understanding of the breadth of the region's conflicts necessitates an understanding of the historical context behind U.S. foreign policy and maritime strategy in the Asia-Pacific. This chapter will open with a background on the creation of the current world order and the establishment of the current U.S. alliance structure in Asia. It will then examine the recent U.S. "pivot to Asia" strategy, before concluding with an evaluation of the current threats and concerns to the United States in the Asia-Pacific.

2.2 Background on the Creation of the Current World Order

Following the Second World War, the Western powers sought to create an international system that integrated countries and lowered barriers between them. This vision was President Woodrow Wilson's intention when he proposed the League of Nations, and however unsuccessful his ideas appeared at the time, they were the basis of the new liberal international

order created post-1945.¹ The Western powers recognized that to avoid a third world war, countries needed to seek cooperation over economic and security concerns. The subsequent creation of the international liberal order gave rise to global institutions, through which the United States supported global public goods such as freedom of navigation and free trade.² Later, the Truman Administration built upon these developments, shifting from non-interventionism prior to the Second World War towards strong support for U.S. alliances (though this idea arguably began with President Franklin D. Roosevelt, it was the Truman Doctrine that laid the foundations of the alliance system still in place today). The Truman Administration pursued the creation of open-ended alliances, aid-packages and the stationing of U.S. troops in foreign countries. Shortly thereafter, the United States oversaw the creation of the North Atlantic Treaty Organization (NATO) in 1949 and the Southeast Asia Treaty Organization (SEATO) in 1954, defended the Republic of Korea (ROK or South Korea) against the military actions of the Democratic People's Republic of Korea (DPRK or North Korea) from 1950 to 1953, and signed a new defense treaty with Japan in 1960. These actions not only strengthened the security and economic aspects of the new liberal order, but also restrained Soviet power. To contain the Soviet Union, the United States aligned both itself and these newly established institutions to continental Europe, the United Kingdom, and Northeast Asia, where U.S. troops remain to the present day.

Previous administrations shaped their foreign policy on numerous different ideas, with *realpolitik* being a dominant and recurring one. *Realpolitik* has shaped U.S. foreign policy since

¹ The Mission of the League of Nations was “to promote international co-operation and to achieve international peace and security,” Yale Law School, *Avalon Project*, “The Covenant of the League of Nations” (Amended December 1924), http://avalon.law.yale.edu/20th_century/leagcov.asp.

² Freedom of navigation is defined as exercise and assertion of rights, freedom, and uses of the sea on a worldwide basis in a manner that is consistent with the balance of interests reflected in the Law of the Sea Convention. As adapted from the U.S. Department of Defense, “Freedom of Navigation Program,” *Fact Sheet*, March 2015.

the Nixon Administration.³ The concept encourages negotiation with other nations on the basis of practicality rather than any political doctrine. In the Nixon Administration, realpolitik formed the basis of foreign policy, evidenced by the decision to negotiate with the People's Republic of China. In contrast, other administrations have adopted more ideological foundations for its foreign policy. For instance, President Ronald Reagan based many of his foreign policy decisions on his opposition to communist ideology. While some experts have referred to President Donald Trump as ideological, others like former President Barack Obama have pointed out that Trump is in fact "pragmatic."⁴ According to Obama, Trump's pragmatism could "serve him well."⁵

While U.S. foreign policy towards Asia has encompassed a consistent strategic agenda for the past 70 years, now that Obama has left Washington, there is an air of uncertainty regarding Trump's new administration. Many Asia experts and journalists have expressed their concerns over specific policies concerning Trump's commitment to the Asia-Pacific, for example his threatening the removal of American troops from Japan and South Korea.⁶ According to the White House website, it is clear that Trump will push forward with the expansion of America's

³ Kissinger was a staunch proponent of this philosophy and was responsible for introducing it into U.S. foreign policy.

⁴ Dina Esfandiary and Ariane Tabatabai "Trump vs. the European Union: The Coming Storm," *National Interest*, February 21, 2017, <http://nationalinterest.org/feature/trump-vs-the-european-union-the-coming-storm-19525>.

⁵ Oliver Darcy, "Obama on Trump: 'I Don't Think He's Ideological,'" *Business Insider*, November 14, 2016, <http://www.businessinsider.com/obama-trump-ideological-pragmatic-2016-11>.

⁶ Jesse Johnson, "Trump Rips U.S. Defense of Japan as One-Sided, too Expensive," *Japan Times*, August 6, 2016, <http://www.japantimes.co.jp/news/2016/08/06/national/politics-diplomacy/trump-rips-u-s-defense-japan-one-sided-expensive/#.WK4EEvkrLgk>; and Catherine Wong, "Unclear Direction of Trump Policy Poses Uncertainty, Possible Danger to Asia-Pacific Region, Says Experts," *South China Morning Post*, November 12, 2016, <http://www.scmp.com/news/china/diplomacy-defence/article/2045243/unclear-direction-trump-policy-poses-uncertainty>. For other Asia expert's concerns see, Abraham Gerber, "Trump Win Draws Mixed Reactions," *Taipei Times*, November 10, 2016, and David Morgan, "Asia Expert: Trump 'Picking a Fight with China,'" *CBS*, December 5, 2016.

armed forces, with the commitment to “rebuild” America’s navy.⁷ As stated on the website, Trump claims the need to expand these forces “because he knows that our military dominance must be unquestioned.”⁸ Some of Trump’s rhetoric is not consistent with the way the United States has conducted foreign policy in the past.

2.3 Alliance Structures in East Asia

The United States developed a different type of alliance framework in East Asia called the “hub and spokes” system that is absent in other alliance structures. The United States acts as a “hub,” and Japan, South Korea, Australia, Thailand, New Zealand and the Philippines as “spokes.”⁹ This system differs from the U.S. alliance with Europe because “hub and spokes” is an arrangement of multiple bilateral alliances instead of a collective, multilateral security alliance.¹⁰

The United States created various alliances to address vital concerns, including perceived ideological and geopolitical threats. The rise of the Soviet Union and the subsequent fear of a positive outcome for the domino theory propelled the United States into entering bilateral alliances with countries in East Asia. These alliances, such as the U.S.–Japan, U.S.–South Korea, and U.S.–Philippines alliances, are still robust and imperative to the United States and the balance of powers in the Asia-Pacific.

⁷ White House, “Making Our Military Strong Again,” <https://www.whitehouse.gov/making-our-military-strong-again>.

⁸ White House, “America First Foreign Policy,” <https://www.whitehouse.gov/america-first-foreign-policy>

⁹ John Foster Dulles, U.S. Secretary of State coined this term during the San Francisco Peace Treaty 1951.

¹⁰ Victor Cha argues that the reason bilateralism developed in East Asia was: “because of the “powerplay” rationale behind U.S. postwar planning in the region ... The United States created a series of bilateral alliances in East Asia to contain the Soviet threat, but a congruent rationale was to constrain anticommunist allies in the region that might engage in aggressive behavior against adversaries that could entrap the United States in an unwanted larger war. Underscoring the U.S. desire to avoid such an outcome was a belief in the domino theory—that the fall of one small country in Asia could trigger a chain of countries falling to communism.” Victor Cha, “Powerplay: The Origins of the U.S. Alliance System in East Asia,” *International Security* 34, no. 3 (2010): 158–196. The United States did have a collective security arrangement in Asia, SEATO, but this organization was dismantled in 1977.

The U.S.–Japan alliance is one of the five foundations of U.S. defense policy in the region, along with South Korea, the Philippines, Australia, and Thailand. The U.S.–Japan alliance has strengthened substantially throughout the last two decades, beginning when China surpassed Japan as the greatest economic threat to the United States.¹¹ The alliance was further consolidated after the military and economic rise of China and the nuclear weapons development North Korea. Since the 2000s, Japan has not only deployed troops to Iraq, but also worked closely with the United States in developing anti-missile defense systems. The “Treaty of Mutual Cooperation and Security,” (revised in 1961) grants the United States access to naval, air and land forces facilities within Japan and requires the United States to come to Japan’s aid in the event of an attack.¹² Even though the alliance remains secure, challenges have arisen. “North Korea’s nuclearization, territorial disputes with China, and Japan’s recent push to upgrade its defense preparedness have all challenged the alliance’s resilience as the Obama administration considers the direction of its strategic pivot to the Asia-Pacific region.”¹³

The second important alliance is the U.S.–South Korea alliance. This alliance was created to combat communist expansion in Asia during the Cold War, and since then both parties have worked together to combat the threat of North Korea, sign free-trade agreements, and conduct military exercises. The alliance’s main goal today is the denuclearization of North Korea, and although they disagree on the specifics, it has brought both parties closer together. In fact, a 2010 Council on Foreign Relations Task Force Report with the former President Lee Myung-Bak of South Korea stated that “emphasis on denuclearization brings U.S. and South Korean policies

¹¹ Beina Xu, “The U.S.–Japan Security Alliance,” *Council on Foreign Relations*, <http://www.cfr.org/japan/us-japan-security-alliance/p31437>.

¹² “Treaty of Mutual Cooperation and Security Between Japan and The United States of America” (1960), <http://www.mofa.go.jp/region/n-america/us/q&a/ref/1.html>.

¹³ Beina Xu, “The U.S.–Japan Security Alliance,” *Council on Foreign Relations*, <http://www.cfr.org/japan/us-japan-security-alliance/p31437>.

closer in line with each other.”¹⁴ China, as North Korea’s closest ally, continues to complicate the U.S.–South Korea alliance by sending aid in the form of food and fuel to the DPRK, which puts the country at odds with the United States and South Korea over how to denuclearize North Korea.¹⁵

The United States and the Philippines have a historically intricate security alliance, which is now facing multiple threats. The United States is directly committed to the Philippines through an Enhanced Defense Cooperation Agreement (2014), where the United States vowed to help modernize the armed forces of the Philippines. That said, the Philippines appears to be aligning themselves closer to China. On a four-day trip to China to meet with President Xi Jinping in October of 2016, President Rodrigo Duterte emphasized the importance of working together bilaterally and diplomatically in order to solve disputes, particularly in the South China Sea.¹⁶ Although this overture could be considered evidence of closer Sino–Philippines relations, its effectiveness remains to be seen. From the point of view of the United States, there exists even more uncertainty. Despite historically close ties, the newly elected Philippines President Duterte provided some uncertainty in the alliance through his falling out with President Obama in September 2016, which culminated in President Obama cancelling his meeting with Duterte.¹⁷ However, in a phone conversation with President-elect Trump, Duterte “could sense a good

¹⁴ Charles Pritchard, John Tilelli Jr and Scott Snyder, “U.S. Policy Toward the Korean Peninsula,” Independent Task Force Report 64, *Council on Foreign Relations*, (New York: Council on Foreign Relations, 2010): 27.

¹⁵ In a speech to the annual United Nations General Assembly on September 21, 2016, Chinese Premier Li Keqiang said that “we should remain committed to the denuclearization of the Korean peninsula... and seek consultation and dialogue for a solution, so as to maintain the international nuclear non-proliferation regime.” David Brunnstrom, “At U.N., China Calls for North Korean Denuclearization, Dialogue,” *Reuters*, September 21, 2016, <http://www.reuters.com/article/us-un-assembly-china-asia-idUSKCN11R1WF>.

¹⁶ “Xi, Duterte Agree on Full Improvement of Ties,” *Xinhua*, October 20, 2016, http://news.xinhuanet.com/english/2016-10/20/c_135769623.htm.

¹⁷ Their falling out was due to the U.S.’s harsh criticism toward President Duterte’s extrajudicial killings, Duterte responded by directing expletive remarks at President Obama. See, Christine Hauser, “After Obama Cancels Talk, Rodrigo Duterte of Philippines Says He Regrets Slur,” *New York Times*, September 5, 2016, https://www.nytimes.com/2016/09/06/world/asia/philippines-duterte-obama.html?_r=0.

rapport” and said that the President-elect understood the way the Philippines was handling its campaign against drugs.¹⁸ Moving forward, the relationship is rather speculative, yet some experts say that the Philippines is still committed to the United States, and that President Duterte is just playing the United States and China off each other.¹⁹

2.4 U.S. Strategy in the Asia-Pacific and the Pivot to Asia

The “pivot to Asia,” one of the most recent foreign policy initiatives towards the Asia-Pacific, has several aims. The pivot to Asia, or “rebalance,” was one of President Obama’s keystone foreign policy initiatives, which sought to focus on the fastest growing economies in the world by increasing U.S. focus toward the region.²⁰ Historically, however, Obama’s idea of a “pivot” was actually initiated in the mid-2000s by the Bush Administration. The aim of Obama’s labeling of the “pivot” was to discourage China for competing to establish hegemony in the region, and thus maintaining the balance of power in the region with a U.S.-dominated order in place.²¹

¹⁸ Felipe Villamor, “Rodrigo Duterte Says Donald Trump Endorses His Violent Antidrug Campaign,” *New York Times*, December 3, 2016, <https://www.nytimes.com/2016/12/03/world/asia/philippines-rodrigo-duterte-donald-trump.html>.

¹⁹ “Rather than switch allegiances between the two nations, Mr. Duterte managed to play them off each other, in that way improving his position with both and cementing his image at home as a strong nationalist un beholden to foreign powers. And he did it while keeping his nation’s security guaranteed by a 65-year-old treaty with the United States,” Max Fisher, “Rodrigo Duterte Plays U.S. and China Off Each Other, in Echo of Cold War,” *New York Times*, November 3, 2016, <https://www.nytimes.com/2016/11/04/world/asia/philippines-duterte-us-china-cold-war.html>.

²⁰ The term ‘pivot’ was popularized following Secretary of State Hillary Clinton’s speech that was published on *Foreign Policy*. Hillary Clinton, “America’s Pacific Century,” *Foreign Policy*, October 11, 2011, <http://foreignpolicy.com/2011/10/11/americas-pacific-century>. Subsequently, in November 17, 2011 during a speech to Parliament House in Canberra, President Obama laid his strategy for the “pivot,” see “Remarks by President Obama to the Australian Parliament,” White House, *Office of the Press Secretary*, (speech at Parliament House, Canberra, Australia, November 17, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/17/remarks-president-obama-australian-parliament>. In the Asia-Pacific, China, Philippines, India, Malaysia, Thailand, Taiwan, South Korea and Singapore are among the emerging economies dominating global growth. Josh Robinson, “The 20 Fastest-Growing Economies This Year,” *Bloomberg*, February 25, 2015, <https://www.bloomberg.com/news/articles/2015-02-25/the-20-fastest-growing-economies-this-year>.

²¹ Nina Silove, “The Pivot Before the Pivot: U.S. Strategy to Preserve the Power Balance in Asia,” *International Security* 40, no. 4 (2016): 45–88.

The pivot to Asia has also endured many criticisms. Prime among them include experts who argued that a lack of cohesion has confused the governments of countries in the Asia-Pacific and the United States.²² Thus, the need for a clear framework for U.S. defense strategy in Asia-Pacific is necessary to advance U.S. interests. The confusion generated by the pivot has led the region to a strategic environment of ambiguity, and “ambiguity is not good. When nations have a difficult time understanding their strategic environments, many feel insecure and look to expand their allies; some nations see opportunities to pursue ambitions.”²³

The criticisms of the pivot are also due to its inability to successfully utilize all of the appropriate power structures in the region. Regarding cohesion, and the lack thereof in the “pivot to Asia,” *Figure 2.1* points to the three necessary power structures that need to be in place and interrelate in order to generate a competent national security.²⁴ The Obama administration’s “pivot to Asia” caused confusion, even to members of the U.S. government, because diplomacy is more likely to succeed if it is backed up by military force.²⁵ To that end, the best way to demonstrate U.S. commitment to freedom of the seas would be to conduct freedom of navigation operations (FONOPS) within 12 nautical miles of China’s reclaimed artificial islands in the South China Sea. As a strategic choice, decreasing FONOPS could undermine U.S. credibility.

²² According to Christian Worth, a research fellow at Griffith University in Australia, “the so-called ‘pivot’ or ‘rebalancing’ is causing more confusion and increases tensions rather than stabilizing an already dynamic region... It heightens fears of containment on the part of China and increases expectations of military protection, and at times lends itself to assertive policies on the part of some U.S. allies.” “Obama Visits Japan as ‘Asia Pivot’ Causes Confusion,” *Business Insider*, April 23, 2014, <http://www.businessinsider.com/obama-visits-japan-as-asia-pivot-causes-confusion-2014-4>; and, “the administration’s own defense officials are sometimes confused as to the policy,” Scott W. Harald, “Is the Pivot Doomed? The Resilience of America’s Strategic ‘Rebalance,’” *Washington Quarterly* 37, no. 4, (2015): 85–99; and, Thitinan Pongsudhirak, “Obama’s Asian Pivot Faces Uncertain Fate,” *Bangkok Post*, December 12, 2016, <http://www.bangkokpost.com/print/1149569>.

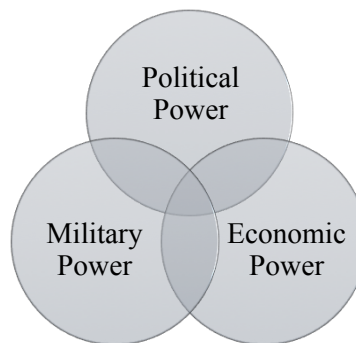
²³ Richard Ellings, “Step or Stumble: The Obama Administration’s Pivot to Asia,” testimony before the House Committee on Foreign Affairs, Subcommittee on Asia and the Pacific, Washington D.C., December 6, 2016.

²⁴ These three components are expressed in President Clinton’s administration’s *National Security Strategy of Engagement and Enlargement*, the “first is to credibly sustain our security with military forces that are ready to fight,” second is “to bolster America’s economic revitalization,” and third is “to promote democracy abroad.” President Clinton, “A National Security Strategy of Engagement and Enlargement,” *National Security Strategy Archive*, July 1, 1994, <http://nssarchive.us/national-security-strategy-1994>.

²⁵ Graham Webster, “Asia Pivot: Does the U.S. Need to ‘Rebalance Harder?’” *Diplomat*, January 29, 2016.

Furthermore, when the United States engages in these operations, it signifies commitment to its allies. For example, in 1996 when China threatened to integrate Taiwan using force, the United States responded by sending two aircraft carriers to the region, leading China to halt its takeover to avoid confrontation. FONOPS are thus important projections of U.S. naval power and an essential part of the international liberal order. The Obama administration conducted four FONOPS within 12 nautical miles of China's disputed features, however, according to multiple sources, Secretary of Defense James Mattis said "the U.S. is set to increase the frequency of patrols within 12 nautical miles of man-made islands China has constructed in the sea."²⁶ These operations are important to ensure a maritime order based on the rule of law.

Figure 2.1: Components of National Security²⁷



2.5 Overview of Current Threats and U.S. Concerns in the Asia-Pacific

The greatest, direct threats to the United States in the region include China, North Korea, and Russia. China poses a strategic threat to the U.S. balance of power in the region because China intends to establish (in some aspects 're-establish') hegemony in the Asia-Pacific.²⁸ North Korea poses a more immediate threat than China with its unpredictable leader, rapid build-up of

²⁶ Ankit Panda, "How the South China Sea Could Heat Up Again in 2017," *Diplomat*, February 9, 2017, <http://thediplomat.com/2017/02/how-the-south-china-sea-could-heat-up-again-in-2017/>.

²⁷ Peter Hays, Brenda Vallance, and Alan Van Tassel, *American Defense Policy*, Baltimore: Johns Hopkins University Press, 1997.

²⁸ Center for Strategic International Studies, *Asia-Pacific Rebalance 2025: Capabilities, Presence, and Partnerships*, Report, January 2016; and, Jack Jarmon, *The New Era in U.S. National Security: An Introduction to Emerging Threats and Challenges*, (Plymouth: Rowman and Littlefield Publishers, 2014).

uranium enrichment capabilities, and increasingly frequent missile tests, the latest occurring on February 10, 2017, with the launch of a “medium- or intermediate-range system.”²⁹ Similar to China’s reassertion of power, Russia also seems to be pursuing this idea with the invasion of the Ukraine, indicating a pivotal moment in U.S.–Russia relationship. In the past few weeks, further political complications have emerged such as the Michael Flynn controversy.

In the realm of security threats from China, the anti-access/aerial-denial (A2/AD) strategy presents the biggest danger to U.S. forces in the area.³⁰ Anti-access “refers to those actions and capabilities, usually long-range,” and aerial-denial “refers to those actions and capabilities, usually of shorter range, designed not to keep an opposing force out, but to limit its freedom of action within the operational area designed to prevent an opposing force from entering an operational area.”³¹ The Department of Defense has created a “Joint Operational Access Concept” (JOAC) to combat the A2/AD threat, with the goal that joint forces will “leverage *cross-domain synergy* to establish superiority in some combination of domains that will provide the freedom of action required by the mission.”³² China is building its A2/AD using different components of information operations, cyber-operations, long-range precision strike, ballistic

²⁹ Admiral Harry B. Harris Jr, Commander, U.S. Pacific Command stated that North Korea is a bigger and more direct concern than China, “the greatest threat I face on a day-to-day basis is the threat from North Korea, because you have an unpredictable leader who is in complete command of his country and his military,” Kim Jong-un is “on a quest for nuclear weapons and the means to deliver them intercontinentally... at some point in the future, as he develops his capability, North Korea will present a very real threat to Hawaii and the rest of the United States,” Jim Garamone, “Harris Says North Korea is PACOM’S Biggest Worry, Gives Report on Asia Rebalance,” U.S. Department of Defense, October 10, 2015, <https://www.defense.gov/News/Article/Article/622705/harris-says-north-korea-is-pacoms-biggest-worry-gives-report-on-asia-rebalance>; Choe Sang-hun, “North Korea Fires Ballistic Missile, Challenging Trump,” *New York Times*, February 11, 2017, <https://www.nytimes.com/2017/02/11/world/asia/north-korea-missile-test-trump.html>.

³⁰ Anthony Cordesman and Joseph Kendall, “How China Plans to Utilize Space for A2/AD in the Pacific,” *National Interest*, August 17, 2016.

³¹ Department of Defense, *Joint Operational Access Concept*, January 17, 2012.

³² Cross-domain synergy refers to: the complementary vice merely additive employment of capabilities in different domains such that each enhances the effectiveness and compensates for the vulnerabilities of the other. Department of Defense, *Joint Operational Access Concept*, January 17, 2012.

missile defense, surface and undersea operations, space and counterspace, and integrated air defense systems.

In a theater of war, maintaining strategic satellite positioning and cyber-communications is of vital importance. China knows that it trails the United States in the development of its cyber-technology, which is why a 2015 Chinese Ministry of Defense White Paper suggested that their warfare strategy change to increase the application of information technology in all aspects of military operations. China is focusing on expanding its technological warfare application, and this could undermine the superiority of U.S. military technology.³³ China continues to build both offensive and defensive capabilities that allow the country to project power and achieve sea dominance in both the neighboring seas and cyberspace. They are also developing under-sea capabilities for anti-submarine access in the region. Beyond that, China seeks to expand its cyberspace capabilities to improve surveillance and reconnaissance. Accordingly, China's satellite fleet stands at 181 compared to just 10 in 2000; the United States has the dominant lead with 576 while Russia stands at 141 satellites.

To complement its A2/AD strategy, China introduced major military reforms at the end of 2015, which could bear significant implications for the United States. These reforms include a new ground force headquarters and an organization called the "Strategic Support Force." In effect, the army has now spun off into its own branch, effectively streamlining its military structure. The People's Liberation Army's goal remains "to consolidate the functions of the Four General Departments into a single Joint Staff Department."³⁴ Under a united single Joint Staff Department, China may find it more manageable to implement its A2/AD strategy by having the

³³ Ministry of National Defense (China), *China's Military Strategy 2015*, (Beijing, May 2015), <http://eng.mod.gov.cn/Database/WhitePapers/index.htm>.

³⁴ "China Takes a Bold Step Toward Military Reform," *Stratfor*, January 11, 2016, <https://www.stratfor.com/analysis/china-takes-bold-steps-toward-military-reform>.

cooperation of air force, navy and the newly established rocket force to actualize A2/AD and therefore either limit U.S. naval access to the South China Sea or restrict the scope of U.S. FONOPs in the region.³⁵

China's potential responses should be evaluated to some extent, given its vital importance as a key player in the Asia-Pacific. On July 12, 2016, President Xi declared he would "not accept any proposition or action based on the decision Tuesday by the South China Sea arbitral tribunal," and that "territorial sovereignty and marine rights' in the seas would not be affected by the ruling."³⁶ The underlying goal for U.S. foreign policy, which is engrained in current U.S. policy, "is to advance practical cooperation with China," which is why evaluating China's responses to U.S. actions in the region is essential.³⁷ The most recent event happened during the Secretary of State's nomination hearing, when Rex Tillerson remarked on January 11, 2017, to members of the Senate Foreign Relations Committee that China's actions were illegal and "akin to Russia's taking of Crimea.... We're going to have to send China a clear signal, that, first the island-building stops ... and second, your access to those islands is not going to be allowed."³⁸ Following these remarks, Su Hao (Professor at China Foreign Affairs University in Beijing) noted in an interview with the *New York Times* that "China will not adjust its policy regarding

³⁵ "The PLA has come to realize that it cannot pose any threat to the U.S. military, especially its aircraft carriers, unless it has the cooperation of other services and ballistic missile forces. That each service goes its own way without building coordination with other services is already a serious problem, as it greatly reduces the combat strength of the PLA. So, in terms of improving combat strength, the transition from military region to battle zone is not only to streamline personnel but also to establish battle zones as the main operations command that serve actual needs on the battlefield." Ying Yu Lin, "The Implications of China's Military Reforms," *Diplomat*, March 7, 2016, <http://thediplomat.com/2016/03/the-implications-of-chinas-military-reforms>.

³⁶ "Chinese Leaders Reject S. China Sea Arbitration Award," *Xinhua*, July 12, 2016, http://news.xinhuanet.com/english/2016-07/12/c_135507946.htm; and Tom Phillips, Oliver Holmes and Owen Bowcott, "Beijing Rejects Tribunal's Ruling on South China Sea Case," *Guardian*, July 12, 2016, <https://www.theguardian.com/world/2016/jul/12/philippines-wins-south-china-sea-case-against-china>.

³⁷ "The United States welcomes a strong, peaceful, and prosperous China playing a greater role in world affairs and seeks to advance practical cooperation with China," Department of State, *U.S. Relations with China*, <https://www.state.gov/r/pa/ei/bgn/18902.htm>.

³⁸ Michael Forsythe, "Rex Tillerson's South China Sea Remarks Foreshadow Possible Foreign Policy Crisis," *New York Times*, January 12, 2017, <https://www.nytimes.com/2017/01/12/world/asia/rex-tillerson-south-china-sea-us.html>.

the South China Sea.... We will continue to do things that are in line with our own national interests and our own logic.”³⁹ Subsequently, on January 23, 2017, in response to Press Secretary Sean Spicer’s comments with regard to the South China Sea, Chinese Foreign Ministry Spokesperson Hua Chunying made clear that China is protecting its own sovereignty and reiterated that the United States is not a party in the dispute.⁴⁰ Hua also stated that China upholds freedom of navigation in the region and it seeks peace and stability.⁴¹ On a related note, China has also not welcomed South Korea’s THAAD deployment, which is another point of contention that will be discussed in Chapter 6.

As time continues to elapse, the United States and China remain in a stalemate. On the one hand, China cannot infringe on U.S. rights to freedom of navigation. On the other hand, the United States cannot reverse China’s progress in its island build-up without risking war.

Barring the security concerns presented by China, North Korea poses a major immediate threat to the United States and its nuclear program needs be wiped out. Kim Jong-un’s power grip is heavily consolidated, but North Korean society has seen an increase in demand for outside information with the rise of black-markets.⁴² The DPRK continues to maintain its antagonistic position of its artillery along the demilitarized zone, the northern limit line, and the northwest islands. Additionally, its *songun* (선군정치, meaning “military first”) policy is still upheld vigorously, and a 2014 South Korea Ministry of Defense White paper estimated that the DPRK’s navy has 430 combatant vessels, 260 amphibious ships, 20 mine warfare vessels, and 70

³⁹ Javier Hernandez, “Chinese State Media Denounce Rex Tillerson’s Call to Block Island Access,” *New York Times*, January 13, 2017, <https://www.nytimes.com/2017/01/13/world/asia/rex-tillerson-south-china-sea.html>.

⁴⁰ Mr. Spicer commented on January 23, 2017, “it’s a question of if those islands are in fact in international waters and not part of China property, then yeah, we’re going to make sure that we defend international territories from being taken over by one country.”

⁴¹ “China Urges U.S. to Watch How It Talks About the South China Sea Issue,” *Xinhua*, January 24, 2017, http://news.xinhuanet.com/english/2017-01/24/c_136009856.htm.

⁴² Center for Strategic International Studies (CSIS), *Asia-Pacific Rebalance 2025: Capabilities, Presence, and Partnerships*, Report, January 2016, 19.

submarines.⁴³ The country also has the world's largest special operations force estimated at 60–180,000 and around 7 million reservists. The *songun* policy suggests that North Korea is spending heavily on military resources (estimates place North Korea's military expenditure at more than 30% of its gross national income), and accordingly it is unsurprising that they face a multitude of humanitarian crises.⁴⁴ In addition, due to food shortages, economic problems, poor training, and aging equipment, North Korean forces are not as well prepared as their numbers indicate.⁴⁵ That said, the country still poses significant security concerns such as its nuclear program, its open pursuit of an intercontinental ballistic missile (ICBM) that could reach the United States, and an unpredictable leader.

North Korea's recent nuclear tests have caused grave concern in the international community. North Korea has two nuclear facilities, and since 2003 has no longer been a party to the Nuclear Nonproliferation Treaty. Currently, North Korea is the only country in the world possessing nuclear facilities without International Atomic Energy Agency (IAEA) safeguards.⁴⁶ Although it is hard to know for a fact the exact yield of North Korea's fifth and most recent

⁴³ "The army has, 4,300 tanks, 2,500 armored vehicles, 8,600 canons, and 5,500 multiple rocket launchers and in addition, the air force has, 820 combat aircraft, 30 surveillance and control aircraft, 330 transport craft, 170 trainers, and 300 helicopters." See, Ministry of National Defense (Republic of Korea), *Defense White Paper 2014*, (Seoul, December 31, 2014),

http://www.mnd.go.kr/user/mnd_eng/upload/pblicitn/PBLICTNEBOOK_201506161156164570.pdf.

⁴⁴ Chung-in Moon and Sangkeun Lee, "Military Spending and the Arms Race on the Korean Peninsula," *Asia Pacific Journal* 8, no. 2, (2010): 5, <http://apjif.org/-Sangkeun-Lee--Chung-in-Moon/3333/article.pdf>. "Food production in 2015 was estimated at 5.4 million tons, down 9 percent from 5.9 million tons in 2014. That includes production of cereals, soybeans and potatoes." The DPRK's Outlook for Food Supply and Demand 2015/16 (November/December), *Food and Agriculture Organization of the United Nations*, April 27, 2016, <http://www.fao.org/3/a-i5572e.pdf>.

⁴⁵ Even though its equipment is aging and the majority of submarines in their fleet are relatively technologically inferior there is still cause for concern, most of their submarines run on diesel which according to Rear Admiral Frank Drennan, "picking up the quiet hum of a battery-powered, diesel-electric submarine in busy coastal waters is like trying to identify the sound of a single car engine in the din of a major city," so while it cannot operate all that well in the open ocean, "North Korea could still plant its submarines along major coastal transport and trade routes without Seoul being able to detect them," Jeremy Bender, "Here's Why North Korea's Decrepit Submarine Force Still Freaks out the South," *Business Insider*, August 31, 2016, <http://www.businessinsider.com/heres-why-north-koreas-decrepit-submarine-force-still-freaks-out-the-south-2015-8>.

⁴⁶ Center for Strategic International Studies, *Asia-Pacific Rebalance 2025: Capabilities, Presence, and Partnerships*, Report, January 2016.

nuclear weapons test—specifically because they never officially released the numbers—South Korea’s defense ministry estimates a 10-kiloton yield, and the United States claims it detonated a plutonium device.⁴⁷ The U.S. Navy needs to continue to monitor this threat attentively, since it could reach U.S. naval bases in Japan and South Korea. The U.S. Navy views North Korea as the biggest threat in the Asia-Pacific, and are ready to “shoot down ballistic missiles in midflight” at any time.⁴⁸ Additionally, North Korea has over 700 ballistic missiles and is seeking ICBM technology capable of reaching continental United States.⁴⁹

North Korea’s denuclearization is of vital importance to the United States, China and every country that depends on stability in the region. Although the United States has no formal relations with the DPRK, China has bilateral relations with the country and maintains an embassy in the capital of Pyongyang.⁵⁰ According to the “1961 Sino-North Korean Treaty of Friendship, Cooperation and Mutual Assistance,” China would be forced to come to North Korea’s defense in the event of an “unprovoked” attack.⁵¹ However, when faced with the possibility of a nuclear North Korea, Beijing, Seoul, and Washington have all expressed support regarding denuclearization of North Korea.⁵² However, differences remain as to how best to achieve this. For instance, China does not think that economic sanctions work, because cutting

⁴⁷ Michael Forsythe, “North Korea’s Nuclear Blasts Keep Getting Stronger,” *New York Times*, September 9, 2016, https://www.nytimes.com/2016/09/10/world/asia/north-korea-nuclear-weapons-tests.html?_r=0; and Thom Shanker and David Sanger, “North Korean Fuel Identified as Plutonium,” *New York Times*, October 17, 2016.

⁴⁸ Statement from Vice Adm. Joseph Aucoin in interview with *USA Today*, Kirk Spitzer, “North Korea is Biggest Concern for U.S. Navy’s Top Commander in Asia,” *USA Today*, January 8, 2016, <http://www.usatoday.com/story/news/world/2016/01/08/us-navy-commander/78496368>.

⁴⁹ Center for Strategic International Studies, *Asia-Pacific Rebalance 2025: Capabilities, Presence, and Partnerships*, Report, January 2016.

⁵⁰ Embassy of the People’s Republic of China in the Democratic People’s Republic of Korea, *Homepage*, <http://kp.china-embassy.org/chn/>.

⁵¹ Treaty of Friendship, Co-operation and Mutual Assistance Between the People's Republic of China and the Democratic People's Republic of Korea (July 11, 1961), https://www.marxists.org/subject/china/documents/china_dprk.htm.

⁵² Scott Snyder, “A Complex China-ROK Relationship,” *Comparative Connections* 17, no. 3 (2016), CSIS, https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/1503qchina_korea.pdf.

off certain goods is not necessarily an effective tactic against a nation with a very independent economy.⁵³ As such, it is important for the United States to keep the dialogue open with China, and it is in the interest of both nations to have North Korea denuclearize. China has leverage over North Korea; therefore, the United States must keep its policy of peaceful relations with China an important priority. The United States should also worry about the geopolitical alliance between China and North Korea, two authoritarian powers in Asia, which have the potential to make overtures to less stable regimes like Pakistan and even nations in Southeast Asia.

2.6 Policy Recommendations

2.6.1 Increase existing dialogue with China and ultimately push for a more proactive approach in China's support for nonproliferation within North Korea. North Korea's denuclearization is an issue in which the United States and China can find common ground and work together, despite the current debate between the two powers over how to achieve this goal.

2.6.2 Continue to strengthen the JOAC, as China's aerial-denial capabilities increase. The Department of Defense needs to monitor and propose ways to counter China's aerial-denial strategy as the nation continues to become more advanced, especially following China's recent military reforms.

2.6.3 Expand FONOPs in the Asia-Pacific. It is important to continue U.S. Navy FONOPs to demonstrate commitment to U.S. allies and ensure a maritime order based on the rule of law.

⁵³ For more information on China-North Korea Relations, see "The China–North Korea Relationship," *Council on Foreign Relations*, <http://www.cfr.org/china/china-north-korea-relationship/p11097>.

CHAPTER 3

UNCLOS and the Role of International Law

Haley Plamondon

3.1 Introduction

The United States has a long, varied history dealing with both international institutions and international law. While the United States considers itself to be a leader in most international bodies, it is also wary of signing away any of its own sovereignty, frequently resulting in treaty reservations, understandings, and declarations (RUDs) and multiple failures to ratify common conventions. That said, the use of diplomacy through international law and institutions is paramount to the longevity of American interests. In the case of maritime law, the most relevant and comprehensive treaty on managing the oceans is the United Nations Convention of the Law of the Sea (UNCLOS). The tribunal award given in July 2016, brought forth in a suit over the South China Sea by the Philippines, has defined the ways in which maritime law is applied to the escalating situation in the South China Sea, the repercussions of which could resonate around the world. A popular position in U.S. foreign relations is the use of international law to solve disputes between countries, and the U.S. stance is no different in the South China Sea disputes. In fact, this chapter argues that the United States should ratify UNCLOS to solidify its stance on the issue. In order to better understand the application of international law in this region of the world, this chapter is broken into four parts: America's general approach to international law, an explanation for a few of UNCLOS's most important articles, a description of the decisions made by the UN tribunal, and options for the United States to follow to support international law.

3.2 U.S. Approach to International Law and Institutions

Generally, the United States tries to strike a balance between the use of force and negotiations to enforce international law, particularly when it comes to dealing with international disputes and conflicts over such issues as territorial rights or sovereignty. U.S. involvement in places such as Kuwait or Crimea serve as instructive examples of this approach. Publically, the United States government will advocate a peaceful resolution through the use of diplomacy, often in tandem with bodies like the United Nations. This approach is reliant on methods such as resolutions and sanctions, and endeavors to use established international laws as a way to peacefully determine the outcome of international issues in favor of U.S. interests. To this end, international law provides proven avenues of operation for “integrating U.S. national interests into constructive foreign policy opportunities.”¹

Yet critics are quick to censure this course of action, despite the necessity of its use. Realists argue that international law is not an effective means to constrain state action, especially in “the absence of centralized enforcement mechanisms ... as states generally retained the ability to auto-interpret and apply treaty provisions.”² However, since the end of the Cold War and the rise of multilateral international relations, international law became viewed by many as a necessary and helpful tool in constraining each different state’s pursuit of their own national interests, and is viewed not only as rules, but also as a series of informative processes; “processes perform a wider range of functions: communication, reassurance, monitoring and routinization.”² This interpretation means not only that international laws might constrain people to keep the

¹ Encyclopedia of the New American Nation, “New American Nation, Law and U.S. Foreign Policy Approaches,” *New American Nation*, <http://www.americanforeignrelations.com/E-N/International-Law-Law-and-u-s-foreign-policy-approaches.html>.

² Dunoff, Jeffrey L., and Pollack, Mark A., *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*, (Cambridge: Cambridge University Press, 2012).

peace, but also that the process of creating laws helps foster that peace. International law, and by extension the international institutions that create and enforce them, have been conduits for the American government to conduct both diplomacy and peacekeeping actions in the past, and is the realm in which the United States might take the lead to settle disputes in the South China Sea between countries such as China and the Philippines while simultaneously ensuring its own rights in the region. As Congressman Matt Salmon, then chairman of the House Asia-Pacific subcommittee, said, “As in many other realms, responsibility falls to the United States in the South China Sea, not just to advance our allies and partners’ interest, but to protect our own. Every nation has a stake in the rule of law, the protection of territorial integrity, and in peaceful dispute resolution.”³

However, the future of U.S. foreign relations is not as predictable as it might have been in the past. The appointment of a new government under President Trump has caused debate among many in the international realm who wonder how his policies will differ from past administrations. While it is still too early to know if President Trump intends to use the UN and international laws to resolve the SCS conflict, he has made his disdain for the UN known, tweeting “The United Nations has such great potential but right now it is just a club for people to get together, talk and have a good time. So sad!” It is unclear whether or not President Trump would favor a more forceful approach to the issue.

3.3 UNCLOS

The most applicable international law used to resolve maritime disputes is UNCLOS, a convention with an important history. The process of forming UNCLOS was challenging and protracted; it took three different UN Conferences to finally come to a consensus on the

³ *America’s Security Role in the South China Sea*, (Hearing Before the Subcommittee on Asia and the Pacific of the Committee on Foreign Affairs House of Representatives), July 23, 2015.

Convention. The third conference for UNCLOS negotiations started in 1973 before being adopted in 1982, and entering into effect in 1994. The convention built upon the four 1958 law of the sea conventions and sought to define the rights and responsibilities of nations in context to the world's oceans.⁴ UNCLOS is the principal framework for international law on oceans, as it is the most comprehensive and significant treaty for maritime law. After being in effect for a little over 20 years, the convention has been adopted by 167 countries. These countries include all states involved in the East and South China Sea disputes, except Taiwan and North Korea.⁵ The United States has also not adopted it, although the United States accepts it as customary law, meaning that it is “traditional common practice that has become an intrinsic part of the accepted and expected conduct in a community ... and is treated as a legal requirement.”⁶

UNCLOS is particularly important because of its provisions, which yield significant economic and territorial consequences. One of the most important aspects of UNCLOS was the establishment of the Exclusive Economic Zone (EEZ), a 200 nautical mile zone in which a country has “sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.”⁷ The EEZ itself is determined by examining the country from the baseline of the territorial seas—the 12 nm that extends from state's coast—over which the country has complete sovereign rights, including the regulation of innocent passage. Article 19 of UNCLOS

⁴ Tonnesson, Stein, “The South China Sea: Law Trumps Power,” *Asian Survey* 55, no. 3 (2015): 455–77.

⁵ Schoenbaum, Thomas J., “The South China Sea Arbitration Decision and a Plan for Peaceful Resolution of the Disputes,” *Journal of Maritime Law and Commerce* 47, no. 4 (2016).

⁶ Business Dictionary, “What is Customary Law?” (Definition), <http://www.businessdictionary.com/definition/customary-law.html>.

⁷ United Nations, “United Nations Convention on the Law of the Sea” (1982), http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

defines innocent passage as “not prejudicial to the peace, good order, or security of the coastal State,” and military ships from other countries. If two different countries have overlapping EEZs, UNCLOS’s Article 59 suggests that the conflict should be resolved on the basis of equity, and through negotiation.⁸

There are tremendous material benefits within an EEZ. Economically, EEZs give states rights to all resources within and under those waters, which entails full access to resources such as oil and fish. UNCLOS also gives jurisdiction to the sovereign state in the “establishment and use of artificial islands installations and structures.”⁹ It is important to realize that all of these rights stem from sovereignty over the landmass from which an EEZ extends. A more contentious question concerns the rights and benefits given to military ships in an EEZ, both in the case of the sovereign country and a foreign one. UNCLOS states that while EEZs provide “coastal countries the right to regulate economic activities within their EEZs, it does not give coastal states the right to regulate foreign military activities in the parts of the EEZs beyond their 12-nautical-mile territorial waters.”¹⁰ China, and a small group of other countries such as Cambodia and Vietnam, disagree with this and consider it their right to regulate both economic and military power in their EEZs. This disagreement has been a main factor driving most of the small clashes between U.S. and Chinese ships and aircraft in both international waters and airspace respectively.¹¹

Another important regulation under UNCLOS is the distinction between maritime features such as rocks, islands, and low-tide elevations. The ability of these features to generate

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ O’Rourke, Ronald, *Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress* (CRS Report No. R42784), Washington D.C.: Congressional Research Service, 2016, <https://fas.org/sgp/crs/row/R42784.pdf>.

¹¹ Smith, Jeff M., and Eisenman, Joshua, “China and America Clash on the High Seas: The EEZ Challenge,” *National Interest*, May 22, 2014, <http://nationalinterest.org/feature/china-america-clash-the-high-seas-the-eez-challenge-10513?page=2>.

both territorial and economic zones make their definitions and their ownership controversial. UNCLOS classifies natural maritime features into four categories. First, coral reefs, which are wholly submerged under water at all times, generate neither territorial zones nor an EEZ. Similarly, low-tide elevations are features that are above water only at low tide, and also do not generate any maritime zones. However, if they are within territorial waters, low-tide elevations can be used to measure the breadth of the territorial sea. Next are rocks, which are islands that cannot sustain any human habitation or economic life of their own. Rocks are given a 12 nautical mile territorial zone, but they do not generate the 200 nautical mile EEZ, unlike islands. Islands, which are naturally formed lands that support life, generate both a territorial zone and an EEZ.¹² Under UNCLOS, all maritime claims stem from sovereignty over land territories, meaning without the basis of such formations as islands, no claim can be made over maritime areas.¹³ UNCLOS provides a definition of these features, but does not determine sovereignty over them.

A number of the fifteen submissions made by the Philippines when they initiated arbitration with China over China's behavior in the South China Seas were made with the understanding of the above definition of EEZs and maritime features. The Philippines brought forth issues such as Chinese fishing in EEZs belonging to the Philippines, the building of artificial islands on features that the Philippines contend are within their EEZ, and also the classifications of maritime features such as Subi Reef and Scarborough Shoal.¹⁴ After finding it possessed legal jurisdiction over the matters the Philippines brought forth, the Tribunal then proceeded with the trial that would clarify international law in the South China Sea.

¹² UNCLOS.

¹³ Beckman, Robert, "The UN Convention on the Law of the Sea and the Maritime Disputes in the South China Sea," *American Journal of International Law* 107, no. 1 (2013): 142–63.

¹⁴ "Special Issue on The South China Sea Arbitration Responses and Implications," ASEAN Focus 8, (ISEAS Yusof Ishak Institute, 2016), <https://iseas.edu.sg/images/pdf/ASEANFocusSChinaSeaArbitration.pdf>.

3.4 UNCLOS Award in the South China Sea

The UNCLOS award to the Philippines in July 2016 was a landmark ruling. An overwhelming victory for the Philippines, the ruling sided with them on almost every claim they brought forth and helped express the definition of international law in relation to the issue. China stated that they do not respect the legitimacy of the award, and declared they would not “accept, recognize, or execute” the ruling.¹⁵ This is an expected opinion, especially since China opposes UNCLOS provisions for third party settlement. In fact, China prefers to rely solely on negotiations and “therefore took exception to the provisions in UNCLOS for international adjudication or arbitration when it ratified the Convention in 1996.”¹⁶ As such, China refused to participate in the trial at all, though their non-appearance did “not deprive the Tribunal of jurisdiction” over the matter.¹⁷ China based some of its criticism of the trial on the fact the tribunal’s ruling was based on evidence provided by the Philippines.¹⁸ Some Chinese scholars also contend that the issue is one of sovereignty, and as such has no place within maritime law.¹⁹ With or without China’s acknowledgement, the decisions by the tribunal are the new basis for international law in the South China Sea.

One of the most significant issues that the tribunal decided on, and in fact considered by many “the most difficult issue facing the tribunal,” was the classification of the status of maritime features in the South China Seas.²⁰ As stated above, this classification is key to the establishment of maritime zones, especially considering the benefits attached to them. By

¹⁵ “Courting Trouble,” *Economist*, July 16, 2016, <http://www.economist.com/news/china/21702069-region-and-america-will-now-anxiously-await-chinas-response-un-appointed-tribunal>.

¹⁶ Tonnesson.

¹⁷ Noyes, John E., “In Re Arbitration Between the Philippines and China,” *American Journal of International Law* 110, no. 1 (2016): 102–8.

¹⁸ Tiantian, He, “Commentary on Award on Jurisdiction and Admissibility of the Philippines-instituted Arbitration Under Annex VII to the UNCLOS: A Discussion on Fact-Finding and Evidence,” *Chinese Journal of Global Governance* 2, no. 1 (2016): 96–128.

¹⁹ *Ibid.*

²⁰ “Special Issue,” ASEAN.

carefully studying the wording of UNCLOS and undertaking a technological evaluation of features in the Spratlys, the tribunal ruled that, “All the high-tide features in the South China Sea considered by the tribunal—even those denominated as “islands”—were ruled to be merely “rocks” under UNCLOS Article 121(3), each of which is limited to one maritime zone—a surrounding territorial sea of 12 nautical miles,” and are therefore are not entitled to an EEZ.²¹ In effect, maritime features that had been considered islands, like Thitu, West York Island, and even Taiping were actually rocks under the definition of UNCLOS, and therefore do not enjoy the benefit of a 200nm EEZ, although they are entitled to the 12 nm territorial sea. The tribunal also classified many features such as Subi Reef and Mischief Reef as low-tide features, which generate neither territorial seas nor EEZs.²²

If classifications of the South China Sea’s maritime features are accepted by states, they have a number of consequences for maritime laws and conflicts in the area. In fact, classifications more fully define boundary lines generated by these maritime features. For example, freedom of navigation (FON), which is a foreign military’s right to operate in a country’s EEZ, is an important issue to the United States, and FON would “be greatly enhanced since, as a general rule, small, uninhabited islands cannot generate 200-mile EEZs.”²³ As a result, defining more of the ocean as high seas (which by definition are not claimed by any one country) would shrink areas of disputes around military regulations in EEZs. Disputes might also be lessened due to the absence of EEZs, entailing fewer overlapping maritime zones and a decreased desire to occupy these features without the promise of benefits those EEZs bring. While China refutes findings by the Tribunal—including maritime feature classification—the

²¹ *Ibid.*

²² Schoenbaum.

²³ *Ibid.*

United States should support the tribunal's ruling in the South China Sea to ensure compliance by all other countries involved in this ruling.

Another important ruling to enforce is the ruling on artificial islands. China is not the only country in the SCS to build upon existing features, but no other country has developed their artificial islands as quickly or as extensively.²⁴ Two of the Philippines' fifteen claims brought before the tribunal were germane to China's artificial island building, not only in the context of environmental destruction (which will be covered in a later chapter), but also in the context of encroaching on the rights of the Philippines' EEZ, the prime example being China's construction on Mischief Reef.²⁵ It is the right of the sovereign country to create artificial islands within their own EEZ.²⁶ The Tribunal examined if China had violated that section under UNCLOS and also their obligations to protect and preserve marine environments with their island building projects. After interpreting Article 121, the Tribunal concluded that "the entitlements of a feature depend on ... its natural condition."²⁷ In effect, the natural characteristics of a maritime feature determine the classification those features receive. Even if China created an artificial island the size of New Zealand, the feature would have little more than a safety buffer zone around the island and would not generate an EEZ, because "Artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf."²⁸ The reaffirmation that "human modification is incapable of changing or upgrading their [the feature's] legal status," especially in the case of the South China Sea, could

²⁴ O'Rourke.

²⁵ "Special Issue," ASEAN.

²⁶ UNCLOS.

²⁷ "Special Issue," ASEAN.

²⁸ "Special Issue," ASEAN.

have a number of ratifications in maritime issues.²⁹ If followed, this ruling would perhaps again curtail the race to own maritime features so as to construct on them, as no sovereign EEZ would be gained. With that economic benefit gone, the “protection of the marine environment will be enhanced, since states cannot gain rights by land reclamation activities on small maritime features,” the reason being that land reclamation and construction on sensitive marine features will almost certainly result in marine pollution and destruction.³⁰

The Tribunal's decision regarding China's famed “nine-dash line” is both precedent setting and contentious with regard to the country in question. China's nine-dash line encompasses a grand majority of the South China Sea, which according to China is their historic right. However, “China is maintaining a policy of ‘strategic ambiguity’ concerning its maritime claims in the South China Sea.”³¹ Chinese officials have not clearly stated if the line is meant to include the entire South China Sea and its features, or just sovereignty over the rocks and reefs within it. Whichever interpretation they have intended, however, according to UNCLOS the nine-dash line has no standing under international law.³² The Tribunal discounted “the nine-dash line as a claim to title and then ruled that, as a claim to historic rights, the nine-dash line was superseded by UNCLOS. Furthermore, the nine-dash line is inconsistent with the maritime zones proclaimed by UNCLOS.”³³ By signing and ratifying UNCLOS, China in effect signed away their legal right to their historical claims, even if China maintains that this claim is legal under the convention's section on historic claims. Because most of China's claims in the South China Seas are made through the use of the nine-dash line, this ruling is a blow to China legally and also a loss of face, another reason why China so strongly states its objection to the award at

²⁹ Schoenbaum.

³⁰ *Ibid.*

³¹ Beckman.

³² Schoenbaum.

³³ *Ibid.*

large. However, as President Tommy Koh of Singapore, the president of the third UNCLOS meeting, stated at the signing of UNCLOS “the provisions of the Convention are closely interrelated and form an integral package. Thus it is not possible for a State to pick what it likes and to disregard what it does not like.”³⁴ By signing UNCLOS and declining to represent themselves at the Tribunal, China is at a disadvantage in the decision under international law.

3.5 What Does This Mean for the United States?

The establishment of these precedents in international law in the South China Sea raises a question for the United States; will international law be enough to negotiate these issues in a way that upholds U.S. national interests? The United States has already participated in these issues by warning against the use of force and maintaining that solutions to the dispute are based in international law. The states bordering the South China Sea have also “repeatedly declared their intention to apply international law,” but China’s absolute refusal to recognize the award might make negotiations through law more delicate.³⁵ As such, will states as militarily and financially powerful as China feel the need to bend to international law, or will smaller states become beholden to China’s small but increasing land grabs? Border revision of any sort is particularly risky for any state, especially in an increasing globalized world where much of a country’s wealth may not be tied within its own borders. Since World War II, it has been a key component of international relations that “in the eyes of the law a state cannot establish sovereignty to a territory through conquest,” without risking backlash from other countries, such as Russia did with the annexation of Crimea.³⁶ Because of increased globalization, “powerful states must also abstain from using force if they want a consensual relationship with less powerful neighbors,”

³⁴ O’Rourke.

³⁵ Tonnesson.

³⁶ *Ibid.*

relationships that are often very important in terms of trade and financial assets.³⁷ When force garners such negative reactions from other countries, the best way to realize a country's national interest in a secure international landscape is to "utilize, develop, and comply with international law."³⁸

Ideally, "international law should provide a basis for the peaceful settlement of disputes between nations."³⁹ However, since these countries and this conflict do not exist in an ideal world, international law is merely one of a few tools that the United States has at its disposal, to be used in a myriad of ways against a backdrop of other policy decisions to be discussed later on in this report, such as through military and economic policy. International law and its application can be a powerful means to achieve national interest, which is why finally fully ratifying UNCLOS is a step the United States should take in relation to the South China Seas dispute.

There are of course still arguments against joining UNCLOS fully: that the United States might join a binding document that will not always support our interests, and that it does not need to in order to fulfill goals in the South China Sea of a peaceful resolution through international law. However, Senator Richard Lugar, a strong supporter of both UNCLOS and the ratification of the Convention, found, "Strong opposition ... was less about the treaty and more about the very nature of multilateral agreements."⁴⁰ This skepticism of cooperative global arrangements does not help advance American interests, especially concerning maritime interests, as "the Law of the Sea [will] continue to form the basis of maritime law regardless of whether the U.S. [is] party."⁴¹ In fact continued American absence from the treaty could cause

³⁷ Schoenbaum.

³⁸ Tonnesson.

³⁹ Schoenbaum.

⁴⁰ Shaw, John, and Lugar, Richard G., *Statesman of the Senate: Crafting Foreign Policy from Capitol Hill*, (Bloomington: Indiana University Press, 2012).

⁴¹ *Ibid.*

“the country to forfeit its leadership in oceans policy,” as the United States will not have say in later negotiations of the convention.⁴²

The idea that maybe one day UNCLOS will be detrimental to American national interests is not a concrete enough reason to keep from formally ratifying the convention, when its ratification in the present could help national interests in one of the most important regions in the world. The concern about future conflicts should not take precedent over present disputes that could benefit from the ratification of this document. Besides that, the implication of the award goes further than the dispute between the Philippines and China. As discussed before, if followed, the award designates most of the South China Sea as high seas territory; the question of how to govern such spaces that might have profitable natural resources is presently defined by UNCLOS. “The high seas are not governed by the national sovereignty of the United States or any other country. If we are to establish order, predictability, and responsibility over the oceans—an outcome that is very much in the interests of the U.S.—we have to engage with other countries” in a multilateral sense; ratifying UNCLOS is a perfect way to do so.⁴³ In regards to ocean policy, there is no unilateral option the United States can take.

With President Trump’s recent decision to have the United States pull out of the Trans-Pacific Partnership (TPP), joining UNCLOS is also a way to reiterate U.S. interest and involvement in the region. The TPP took significant effort from all parties involved, and the U.S. withdrawal could cause a lack of faith in American commitment to the region, or even open a vacuum for China to occupy. While UNCLOS is a convention that applies worldwide, right now the issue of maritime international law is especially contentious in the South China and East China Sea. By joining UNCLOS, the United States reiterates to their allies in the region that they

⁴² *Ibid.*

⁴³ *Ibid.*

believe international law is the way to peacefully solve the issue, and that the United States will back the decisions made by the award. It will be a concrete example of U.S. commitment for a peaceful resolution, instead of a mere verbal one, and give the United States more legitimacy in the realm of supporting maritime law. By ratifying UNCLOS, it also gives the United States a “seat at the table” to participate in discussions relating to the treaty, and also improves U.S. ability to call out China for not following international law.⁴⁴ The moves China has taken has helped the United States present its position as legally principled, and given the United States the moral high ground in the eyes of the international community.⁴⁵ At the moment the United States follows UNCLOS through customary law, and many view it as a principal framework for resolving disputes peacefully.⁴⁶ The United States has said many times that it “supports the principle that disputes between countries should be resolved peacefully, without coercion, intimidation, threats, or the use of force, and in a manner consistent with international law,” and ratifying UNCLOS is a way to reiterate that belief as well as U.S. commitment to a peaceful resolution in the South China Sea and to our allies in the region.⁴⁷

⁴⁴ O’Rourke.

⁴⁵ DeLisle, Jaques, *International Law in the Obama Administration's Pivot to Asia: The China Seas Disputes, the Trans-Pacific Partnership, Rivalry with the PRC, and Status Quo Legal Norms in U.S. Foreign Policy* Case Western Reserve Journal of International Law 48, no 1, (2016): 143–76.

⁴⁶ O’Rourke.

⁴⁷ “Hearing.”

PART II
DIPLOMACY

CHAPTER 4

U.S.–China Relations

Helen Lui

4.1 Introduction

China's advances in the South China Sea have had a destabilizing effect, keeping the maritime domain at the forefront of discussions about overall security. China's continued strengthening of the People's Liberation Army Navy (PLAN) from its "near-coast-defense" to its "far-seas-operation" will yield troublesome implications for those concerned with freedom of navigation the region. These events call for a serious reconsideration of how best to overcome barriers in U.S.–China relations, which provides the most effective pathway to achieve a security rebalance. First, the difference in the domestic structure and historical trajectory between the United States and China reflects the divergence of their respective national security interests. The two countries differ in their views of the sea and maritime sovereignty, fueling the prevailing security dilemmas in the Asia-Pacific. Despite these disparities, the importance of maintaining peace, stability at sea, and freedom of navigation for the benefits of maritime-related economies are recognized by both sides. More than sixty bilateral exchanges and working groups exist, including the Strategic & Economic Dialogue (S&ED) and the Memorandum of Understanding (MOU) on Notification of Major Military Activities Confidence-Building Measures Mechanism.¹ The United States and China share enough fundamental foreign policy goals such as counterterrorism, curbing climate change, and resolving the global economic problem to keep cooperation, diplomatic ties, and deterrence from all-out war high among their priorities.

¹ Embassy of the People's Republic of China in the United States of America, "China-U.S. Relations," <http://www.china-embassy.org/eng/zmgx/ocusr/t946195.htm>.

Currently, with the changing balance of power, both countries are increasingly uncertain about each other's long-term maritime intentions and perceptions. This chapter first examines the prominence of the maritime domain in the respective national interests of the United States and China. Second, each perspective regarding each other's interests are presented, and challenges to the maritime domain are addressed through potential areas of cooperation that relieve tension in the U.S.–China relations.

4.2 Theoretical Framework

Potential maritime measures towards China's growing assertiveness and military capacity in the "near seas" (*jinhai*, 近海) are grounded in realist thought. The theory on hegemonic stability offers a cautionary note on how the United States should approach the effects of China's tenfold increase in annual defense spending since 1989.² As China continues to engage in double-digit increase in official military spending, the United States should use hard policies to preserve dominance.³ According to the theory, every hegemon eventually yields, because the cost of maintaining dominance in the system is high, with a tendency to overemphasize consumption at the expense of investments.⁴ Analysts expect that China's nominal gross domestic product (GDP) will surpass the United States by 2026, and in this context the United States should be wary of its future economic capabilities when engaging with both China and the rest of the world.⁵ Moreover, other great powers that have declined such as Spain, France, and Britain exhibit a pattern—their economies were not able to sustain over-extending military

² Clover, Charles, "China: Projections of Power," *Financial Times*, April 8, 2015, <https://www.ft.com/content/12424108-da0b-11e4-9b1c-00144feab7de>.

³ Global Security, "China Military Spending/Budget," <http://www.globalsecurity.org/military/world/china/budget.htm>.

⁴ Gilpin, Robert, *War and Change in World Politics* (New York: Cambridge University Press, 1981).

⁵ Holodny, Elena, "China's GDP Is Expected to Surpass the US' in 11 Years" *Business Insider*, June 24, 2015, <http://www.businessinsider.com/chinas-gdp-is-expected-to-surpass-the-us-in-11-years-2015-6>.

commitments.⁶ Thus, if the United States engages in over-extending commitments, such as increased military expenditures over the creation of wealth, the imperium of United States will face serious consequences. Regarding U.S.–China relations, further engaging in a hard unilateral context towards China’s assertiveness will leave China with fewer options, encouraging the country to take action constraining future U.S. capacity in handling other emerging issues. Military bipartisan cooperation between the United States and China should be expanded in the region in order to sustain a balance of power.

4.3 Understanding U.S.–China Relations in the Maritime Domain: The U.S. Side

U.S. ideals and international authority are deeply rooted in ensuring free trade. Protecting free trade was the U.S.Navy’s *raison d’etre*, and it is the goal of the United States to spread peace through economic prosperity.⁷ This core interest of the United States faces threats as China pursues degrees of foreign exclusion in the South China Sea (SCS). The United States, although not a claimant, has entered many conflicts with foreign states mainly due to constraints in the freedom of navigation. For instance, during World War II, the United States’ minimal response towards Japan’s aggression in China did not change *until* Japan announced the New Order policy of establishing a greater East-Asia sphere.⁸ This policy threatened U.S. national interests of having the freedom to access Chinese ports and the principles of the Open Door policy. The importance of securing a maritime domain of free access provides the strategic momentum for enforcing U.S. national interests and deterring threats. Especially throughout the 20th century, the United States and its allies were able to affect the balance of power and prevent the expansion of

⁶ Kennedy, Paul, *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000*, (New York: Random House, 1987).

⁷ Alexander Hamilton, “The Federalist Papers No. 11,” (1787), *Yale Law School Avalon Project*, http://avalon.law.yale.edu/18th_century/fed11.asp.

⁸ “The United States and Japan’s New Order in Asia,” *CQ Researcher*, <http://library.cqpress.com/cqresearcher/cqresrre1939120900>.

hegemonic forces, thus protecting U.S. national security interests. As the United States took on the responsibilities of a world leader, securing access to sea lines is vital not only for capacity to respond to crisis abroad, but also to project its values and global peace principles. Thus, China's aggravating actions in the SCS undermine U.S. interests in national security in the Asia-Pacific.

4.3.1 U.S. Perspective on Chinese Interests in the Maritime Domain

China's interpretation that no military operations should be allowed in the exclusive economic zones (EEZ) without the coastal state's consent differs significantly from the United States. The United States believes that all states have the right to conduct military operations in the EEZs, and thinks China selectively uses the international law, through its sovereignty arguments, to support its interests. The 2013 Pentagon report on China's military power describes how China is enhancing capabilities to enable anti-access/area-denial (A2/AD) missions.⁹ This reflects U.S. suspicion towards China's motives and skepticism against China's peaceful statements in regards to the maritime domain.

The current conflict between the United States and China in the South China Sea is also based on the Freedom of Navigation Program, which is the U.S. mechanism to respond to growing threats. In 1979, the United States established the Freedom of Navigation (FON) Program to promote maritime stability and universal rights, where all states abide by the international law of the sea.¹⁰ Operations involving diplomatic representation and military measures exist globally and in accordance with this policy. That said, there are still some anxieties. There is a perception that American strategic planners are continuously anxious about strategic surprise assaults on their domain after historical events such as the attack on Pearl

⁹ Office of the Secretary of Defense, "Annual Report to Congress: Military and Security Developments Involving the People's Republic of China, 2013," http://archive.defense.gov/pubs/2013_China_Report_FINAL.pdf.

¹⁰ U.S. Department of State, "Maritime Security and Navigation," *U.S. Department of State*, <https://www.state.gov/e/oes/ocns/opa/maritimesecurity>.

Harbor and 9/11.¹¹ Additionally, the idea that the “PRC is hoping to prevent scrutiny of submarine and related assets arouses suspicion and prompts American resolve to ensure that it not be caught unaware of newly devised capabilities.”¹² As such, security concerns reveal that U.S. navigation and military operations in these EEZs are an essential right for all states.¹³ Other challenges exist, including recent PRC activities that exhibit resentment towards U.S. intelligence and surveillance activities. For instance, China’s seizure of an unmanned U.S. Navy drone beyond the claimed nine-dash line in December 2016 not only implies the lack of legality, but also signifies that China is willing to challenge U.S. naval presence in the region.¹⁴ The very idea of the PRC engaging in degrees of exclusionary actions in the region arouses suspicion and strengthens U.S. resolve to respond to new and unexpected capabilities.¹⁵

4.4 Understanding U.S.–China Relations in the Maritime Domain: The China Side

The United States needs to consider the importance of the maritime domain within China’s national core interests, which would help discern the most sustainable approach towards the overall security system in the Asia-Pacific. China’s sea area, also known as the “blue national territory,” (*lanseguotu*, 蓝色国土) is first to serve as a strategic barrier integral to its homeland security. The coastal area also encompasses the largest population in the country, with highly industrialized cultures. If coastal sovereignty is impeded or endangered, China’s important regions of political and economic development would become vulnerable. It is clear that China *will not* back down on the SCS issue through any kind of negotiation. It is thus difficult for the United States to deter further tension in the vicinity, and mutual trust should be fostered in less

¹¹ Wachman, Alan M, “Playing by or Playing with the Rules of UNCLOS,” *China Maritime Study Institute* 7, 107–19.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Maritime Awareness Project, “The Implications of China’s Seizure of a U.S. Navy Drone – Maritime Awareness Project,” December, 21, 2016, <http://maritimeawarenessproject.org/2016/12/21/the-implications-of-chinas-seizure-of-a-u-s-navy-drone>.

¹⁵ Wachman, Alan M, “Playing by or Playing with the Rules of UNCLOS.”

contentious areas. Beyond that, China also considers its coasts a vital security concern. It is strategically meaningful for China to advance the coastal region through modern military defense tactics such as long-range precision strikes, which provides strategic depth and early-warning time for the homeland defense.¹⁶ The impetus for coastal defense is also historically grounded. Prior to 1949, China suffered over 400 invasions from the sea, where major harbors and ports were forcibly ceded to external power.¹⁷ Additionally, invaders imposed many unequal trading, navigation, and extraterritoriality rights on China. Thus, the coastal areas are not only a bridgehead to attack China's inland territories, but also the gateway to China's national security.

China's recent economic stagnation has prompted the PRC to place more focus on the sea to provide state legitimacy and resources for further development. In the case of creating state legitimacy, China relies significantly on economic prosperity along with history, ideology, and nationalism.¹⁸ Economic progress is crucial to Chinese regime security because China's state owned enterprises (SOE) control approximately 50% of the GDP.¹⁹ These SOEs include many strategic areas such as coal, power, air transportation, and key defense-oriented sectors.²⁰ Thus, with recent discoveries of oil, gas, and other rich resources in the SCS, the maritime domain will remain vital to China's core national security interests. The ocean economy provides over 30 million jobs for the Chinese economy. And the ocean economy is slated to grow—according to highly optimistic estimates by Chinese analysts, the ocean economy may account for as much as

¹⁶ Guangqian, Peng, (Major General), People's Liberation Army (Ret.), "China's Maritime Rights and Interests," *Naval War College*, China Maritime Study 7, 15–23.

¹⁷ *Ibid.*

¹⁸ Yang Ruan, Lotus, "The Chinese Communist Party and Legitimacy," *Diplomat*, September 30, 2015, <http://thediplomat.com/2015/09/the-chinese-communist-party-and-legitimacy>.

¹⁹ Szamoszegi, Andrew, and Kyle, Cole, "An Analysis of State-Owned Enterprises and State Capitalism in China," *U.S.-China Economic and Security Review Commission*, October 26, 2011, http://sites.utexas.edu/chinaecon/files/2015/06/US-China-Commission_State-Owned-Enterprises-and-State-Capitalism.pdf.

²⁰ *Ibid.*

30 percent of the nation's GDP by 2050.²¹ However, although China possesses a large sea area, the ratio of China's sea area to land area is less than one-third of the world's average, and China's sea area per person is only one-tenth of the world's median level.²² Hence, every acre of the "blue national territory" is extremely important to China.

4.4.1 *China's Perspective of U.S. interests in the Maritime Domain*

Just as the views of the United States concerning China are relevant to security in the Asia-Pacific, Chinese views towards the U.S. intentions are also important. Chinese experts interpret U.S. intentions predominantly through the realist perspective.²³ As China sees the relative U.S. decline in global power in the 21st century, the U.S. pivot to Asia entailed a classic power logic from the point of view of the Chinese, with the United States simply trying to preserve its status as a hegemon. Hence, the United States should be cautious in its actions, as Chinese commentators can easily invoke the assertion that the United States seeks to "contain China."²⁴ In fact, the *USNS Impeccable* and *USS Cowpens* incidents in 2009 and 2013 respectively reflect China's distrust towards U.S. intentions. In both incidents, the American ships surveilled in the SCS, prompting China's PLAN to forcibly stop their trajectory and firmly ask them to leave the area. Similarly, China interprets the U.S. refusal to ratify UNCLOS as another hard-hegemonic tactic, implying that U.S. reluctance to cooperate with the international community on UNCLOS is a strategy to dominate the world and monopolize the ocean.²⁵ Thus,

²¹ Mallory, Tabitha Grace, "Preparing for the Ocean Century: China's Changing Political Institutions for Ocean Governance and Maritime Development," *Issues and Studies* 51, no. 2, (2015): 111–38.

²² Guangqian, Peng, "China's Maritime Rights and Interests," *Naval War College, China Maritime Study* 7, 15–23.

²³ Deng, Yong, "The Chinese Conception of National Interests in International Relations," *China Quarterly* 154 (1998): 308–29.

²⁴ Wachman, Alan M, "Playing by or Playing with the Rules of UNCLOS."

²⁵ Gao, Zhiguo, "'Meiguo Jujue Pijun 'Lianheguo Haiyangfa Gongyue' de Qian yinhouguo' [The Cause and Effects of America's Refusal to Ratify the UNCLOS]," *Shanghai International Maritime Information and Documentation Network*, June 5, 2007.

as a signatory of UNCLOS, China infers that its interpretation should have a higher moral ground over the United States.

4.5 U.S.–China: Addressing Cooperation & Disagreements

4.5.1 Maritime Challenges

The maritime domain is where states exert their power-status. Examining historical patterns, every powerful nation possessed a powerful navy to protect national economic interests abroad.²⁶ Many nations grow in power relative to existing great powers with strong navies. In a majority of the cases when the balance of power is offset, war occurs.²⁷ If the United States and China are not cautious enough, the maritime domain could become the medium of a zero-sum game with sunk-costs, which can escalate conflict. Current situations clearly point to a security dilemma where both countries are vested in their own interests and unyielding in their views.

Currently, the most contentious area of debate in the maritime domain with implications for U.S.–China relations is the EEZ dispute. Due to historical trajectories and different views of the sea, the United States believes in freedom of military access in the EEZ while China supports conditional access. The United States seeks to cooperate with China while simultaneously expanding its military to prepare for escalation of conflicts. As an insecure authoritarian regime, China lacks the transparency required to project its future military capabilities and intentions. Lacking knowledge on China’s strategic intent, the United States can reasonably engage in surveillance and monitoring programs for the sake of deterring potential military rivalry.²⁸ A

²⁶ Alfred Thayer Mahan, *The Influence of Sea Power Upon History, 1660-1783* (New York: Dover Publications, 1987).

²⁷ Booty, Harry, “The Balance of Power: A Cause of War, a Condition of Peace, or Both?” *E-International Relations* (2011), <http://www.e-ir.info/2011/01/31/the-balance-of-power-a-cause-of-war-a-condition-of-peace-or-both>.

²⁸ Redden, Mark, and Saunders, Philip C, “The U.S.–Chinese Maritime Dynamic.” *Naval War College, China Maritime Study* 13 (2015): 95–116.

recurring tactic used against Soviet Union during the Cold War, surveillance and monitoring are, according to the United States, justified for preserving peace under international law.

The Chinese perspective on surveillance operations is influenced through China's view towards potential threats and mind-set shaped by historical grievances of foreign intervention. Territorial sovereignty is a concern for Chinese leaders because of China's "Century of Humiliation" delineating the time period between the 19th and 20th century where Western Powers and Japanese imperialism subjugated the country. U.S. surveillance operations are seen as a violation towards China's sovereignty, as they are considered inconsistent with a mutually cooperative and bilateral relationship. In 2013, to relieve mutual distrust, China proposed to establish U.S.–Chinese working groups on two military confidence-building measures (CBMs), announced in an MOU by Presidents Xi Jinping Barack Obama in 2014.²⁹ The CBMs draw on international rules to ensure the safety of air and maritime encounters where annual assessment meetings under the Military Maritime Consultative Agreement (MMCA) is implemented.³⁰ This bilateral agreement is a good step forward in fostering mutual trust and keeping communication paths open.

4.5.2 *Maritime Cooperation*

There are many areas of common interest that offer opportunities for cooperation between the United States and China. Consequently, understanding that the meaning of "sea power" (*Haiquan*, 海权) in China differs from the Western views of "hegemonic" sea powers is essential. Sea power in China can mean anything from "military to economic to spiritual/cultural strength ... where China does not seek 'hegemonic' sea power."³¹ The wide range of

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ Mallory, Tabitha Grace, "Preparing for the Ocean Century: China's Changing Political Institutions for Ocean Governance and Maritime Development."

interpretation means that there are openings to foster a stronger cooperation between the two countries. First, given the substantial convergence in environmental interests, there is already an existing cooperation between the United States and Chinese coastguards to combat driftnet fishing in the northern Pacific. This extensive cooperation has existed for over two decades and has fostered a healthy bilateral relationship between China's Fisheries Law Enforcement Command (FLEC) and U.S. Coastguard.³² Currently, both coastguards patrol the northern Pacific to deter illegal activities, and if necessary arrest violators of this international ban.³³ An analyst remarked that these operations were important, "considering the key role that China's coast guard is playing, and indeed contributing to, with regard to regional maritime tensions."³⁴ The momentum of this cooperation should be expanded and deepened.

Economic and security interests are also further pursued under the U.S.–China Strategic and Economic Dialogue (S&ED) and other bilateral talks alike. S&ED in particular offers a strong medium for top officials of both countries to engage in effective exchanges. The dialogue operates under the direct supervision of both countries' president. Both presidents are ensured to be briefed on all top issues, can specifically designate the leads for the dialogues, and confirm commitment in this bilateral relationship.³⁵ In order to further address problems more efficiently, it might be viable to help facilitate cabinet members' meeting with the optimal mix of top

³² China Daily, "China, US Join Hands to Stop Drift Net Fishing," June 11, 2004, <http://www.china.org.cn/english/2004/Jun/97962.htm>.

³³ Coast Guard News, "United States and China Coast Guards Interdict Vessel for Illegally Fishing on the High Seas," *Coast Guard News*, June 4, 2014, <http://coastguardnews.com/united-states-and-china-coast-guards-interdict-vessel-for-illegally-fishing-on-the-high-seas/2014/06/03>.

³⁴ Sputnik, "Could US–China Joint Coast Guard Operation Mean an Improvement in Relations?" August 27, 2016, <https://sputniknews.com/us/201608271044683521-us-china-coast-guard-operations>.

³⁵ Reade, Claire, "The U.S.-China S&ED: Time to Tinker, Not to Toss," *Center for Strategic and International Studies*, June 27, 2016, <https://www.csis.org/analysis/us-china-sed-time-tinker-not-toss>.

Chinese officials informally on the perimeters of the S&ED on key topics of interest to them, to maximize the utility of the time commitment by all.³⁶

Additionally, a new major area of interest convergence is the Arctic venue. As a member of the Arctic Council, top priorities for the United States in the Arctic lie in the arenas of science, infrastructure, energy development, and indigenous peoples.³⁷ China, on the other hand, recently gained the observer status in the Arctic Council in 2013 and expressed deep interests in the potential economic opportunities, emerging trade routes, as well as access to the natural resources.³⁸ As new sea lanes open up, cooperation with infrastructure projects can provide adequate port and fueling facilities, which develops a strong potential area of mutual interests. Thus, there are rich opportunities for U.S.–China cooperation in the changing Arctic to deepen mutual trust and benefits for both nations.

Finally, U.S.–China military relations have generally maintained a momentum of steady progress. Since 2015, the two militaries have continued to improve the confidence in their mutual relationship. In 2015, they held a Joint Humanitarian Assistance and Disaster-Relief Field Exercise and Disaster Management Exchanges in both China and the United States respectively. From late June to early August 2016, the Chinese Navy participated in Rim of the Pacific (RIMPAC) 2016, a joint military exercise in Hawaii.³⁹ In July and August, the U.S. Chief of Naval Operations and Chief of Staff of the Army visited China. Maritime military cooperation could enhance and expand other cooperative programs such as noncombatant evacuation operations or humanitarian assistance.

³⁶ *Ibid.*

³⁷ “U.S.-Sino Relations in the Arctic: A Roadmap for Future Cooperation,” *Center for Strategic and International Studies* (2017), https://csis-prod.s3.amazonaws.com/s3fs-public/publication/170127_Conley_USSinoRelationsArctic_Web.pdf?Ri2iQmeBhGEHKyPQg0SnyeA8U0a0xeDN.

³⁸ Pulkkinen, Kaisa, “The Arctic Council and the Northeast Asian Observers,” *Swedish Institute of International Affairs* (2013), <http://www.ui.se/eng/upl/files/98358.pdf>.

³⁹ Ministry of Foreign Affairs of the People’s Republic of China, “China’s Policies on Asia-Pacific Security Cooperation,” January 11, 2017, http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1429771.shtml.

4.6 Policy Recommendations

4.6.1 Sustain stable U.S.–China relations by inviting the PLAN to participate in a range of national security issues, and ensure that the South China Sea does not become the center and source of hostility. To expand on military actions involving cooperation, RIMPAC should serve as a platform to invite China as an observer for the Cooperation Afloat Readiness and Training (CARAT) exercise that the United States conducts annually with the Southeast Asian militaries. Then, at a subsequent date the PLAN could be invited to participate as a full partner in an extension of the exercise.

4.6.2 Deepen existing bilateral cooperation that can help foster mutual trust and appreciation. The MOU on military confidence building mechanisms should be sustained and expanded. The U.S Navy and PLA should regularly hold high-level dialogues to discourage small military frictions from worsening. A bipartisan working group could be created to work towards a bilateral compromise agreement on voluntary guidelines for military and intelligence gathering activities in foreign EEZs. Additionally, the existing coastguard cooperation could be further expanded from driftnet fishing to other non-traditional security issues such as piracy and human trafficking. Lastly, the potential cooperation in the Arctic should be pursued through expanding the number and enhancing the engagement of state and non-state observers to the Arctic Council.

CHAPTER 5

Multilateral Relations

Stephen Cuplin

5.1 Introduction

Former President Dwight Eisenhower once stated, “Though force can protect in an emergency, only justice, fairness, consideration, and cooperation can finally lead men to the dawn of eternal peace.” Although multilateral, cooperation-based institutions like the United Nations (UN) have not prevented all violence from occurring, there still have not been any wars between major powers since WWII. In the Asia-Pacific, the most prominent organizations include the Association of Southeast Asian Nations (ASEAN) and associated organizations such as the ASEAN Regional Forum (ARF), which have been on the radar of the United States for over 40 years. Other forums include but are not limited to the East Asia Summit (EAS), the Asia-Pacific Economic Cooperation (APEC) forum, and the Shangri-La Dialogue. These forums are integral to regional security and a foreign policy framework for both regional nations and the United States. Thus, it is crucial that policy makers understand what these forums are, and how they can be utilized to the benefit of the economic, security, and political interests of the United States and its regional allies and partners. By strengthening ties to these organizations, and the individual nations within them, the United States will strengthen its position, protect its economic investments, and ensure regional stability.

5.2 ASEAN, U.S. Partners and Related Organizations

ASEAN is a collection of nations in Southeast Asia that have joined together for a common cause, and has become a significant regional political force. Founded on August 8, 1967, ASEAN emerged from the former Association for Southeast Asia, which included

Malaysia, Thailand, and the Philippines, but expanded to include Singapore and Indonesia. Since then, it has also grown to encompass Brunei Darussalam, Cambodia, Laos, Vietnam, and Myanmar, making it perhaps the most potent political force in Southeast Asia. Its goals are fairly straightforward and are largely in line with those of the United States: seeking to promote regional peace and security in accordance with international law and the UN; to foster and sustain economic growth and prosperity among the member nations and partners thereof; and to ensure that Southeast Asia will not fall victim to the interests of foreign powers that seek to keep the region divided and weak. At the time of ASEAN's founding, the foreign minister of Singapore stated that ASEAN wished to ensure a "...stable Southeast Asia, not a Balkanized Southeast Asia," underscoring that desire to maintain a unified front. ASEAN's goals include the resolution of internal disputes through internal means and dialogue rather than foreign intervention.¹ Even today, this insistence on staying free of foreign domination continues to play out in the foreign policies of its member nations.²

5.2.1 Economics (ASEAN)

By virtue of most Southeast Asian nations being party to it, ASEAN has emerged as a burgeoning economic powerhouse and thus holds significant economic promise for the United States. Flush with hydrocarbon resources, and a \$2.4 trillion-dollar economy, ASEAN is the third largest economic center in Asia, and the seventh largest in the world.³ The United States already has significant economic ties to the region, totaling over \$247 billion in trade, which supports more than 450,000 American jobs, and is equal to approximately 1/14 of American

¹ U.S.-ASEAN, "What Is ASEAN," *US-ASEAN Business Council* <https://www.usasean.org/why-asean/what-is-asean>.

² Kuik, Cheng-chwee. "Malaysia's Balancing Act," *New York Times*, December 6, 2015, <https://www.nytimes.com/2015/12/07/opinion/malaysias-balancing-act.html>.

³ ASEAN UP, "Overview of Oil and Gas in Southeast Asia." *ASEAN UP*, February 10, 2016, <https://aseanup.com/overview-of-oil-and-gas-in-southeast-asia/>.

international trade.⁴ Of that \$247 billion, approximately three-fifths of it are with Thailand (a nation in which the United States has directly invested \$14 billion, and with which the United States has close security ties), Singapore, and Malaysia respectively.⁵

5.2.2 *Security and American Partners (ASEAN)*

However, economic and security concerns are often intertwined, and for the United States, ASEAN is no exception. To that end, the United States recently unveiled a \$425 million dollar program known as the Maritime Security Initiative (MSI), aiming to not only bolster the marine infrastructure of Vietnam and the Philippines, but also to improve Indonesia's maritime capabilities through a variety of exercises, further deepening their ties to the United States.⁶ Projects such as MSI hold great promise for the United States, as it signifies engagement while simultaneously bolstering the ability (via infrastructure and equipment) of both ASEAN nations and the organization as a collective to act independently. Further, the United States presents itself as a reliable partner and empowers these states to deter undue Chinese influence, helping to ensure a rules-based system of order.

Aside from its practical investments in the region, the United States also has both strategic partners and treaty allies (specifically the Philippines and Thailand) that are members of ASEAN, with these partners sharing multiple concerns with the United States. Perhaps the most high profile and recent example of this is with the Philippines and the Permanent Court of Arbitration (PCA) ruling regarding the South China Sea. Now that Scarborough Shoal has indeed

⁴ U.S.-ASEAN, "ASEAN's Economy," *US-ASEAN Business Council*, <https://www.usasean.org/why-asean/asean-economy>.

⁵ U.S. Department of State, "Thailand," *U.S. Department of State*, <http://www.state.gov/r/pa/ei/bgn/2814.htm>; U.S. Department of State, "Singapore," *U.S. Department of State*, <http://www.state.gov/r/pa/ei/bgn/2798.htm>; and U.S. Department of State, "Malaysia," *U.S. Department of State*, <http://www.state.gov/r/pa/ei/bgn/2777.htm>.

⁶ Parameswaran, Prashanth, "US Launches New Maritime Security Initiative at Shangri-La Dialogue 2015," *Diplomat*, <http://thediplomat.com/2015/06/us-launches-new-maritime-security-initiative-at-shangri-la-dialogue-2015>.

been determined to be within the jurisdiction of the Philippines, which is a treaty ally, it falls under the protection of the United States should it become subject to Chinese aggressions.⁷ While Thailand is not a treaty ally, it remains an important strategic partner (designated a Major Non-NATO ally in 2003) that the United States has worked with for over fifty years, even though the United States does not base armed forces there.⁸ However, the United States has been permitted use of the U-Tapao airfield, where logistical operations are conducted.⁹ Thailand and the United States also issued a Joint Vision Statement for the Thai-U.S. Defense Alliance in 2012, which further articulates and emphasizes the high degree of cooperation that exists between the two nations regarding a variety of issues, including but not limited to natural disaster response.¹⁰ While joint vision statements are not binding, they are declarations by nations who share certain goals, even if they disagree on the exact methodology of achieving them.

Barring allies, the United States also has other strategic partners within ASEAN, namely Indonesia, and Singapore. Diplomatically and politically, Indonesia is both strategically positioned and an excellent candidate to serve as a bridge between Islam and the West, especially as a member of the G-20. This convergence of shared values (such as both the United States and Indonesia being partners in democracy) and geopolitical relevance make Indonesia one of the foremost U.S. partners in both Southeast Asia and Asia more broadly, which is evidenced by the U.S.–Indonesia Comprehensive Partnership. Within this partnership, the United States will work with Indonesia to pursue objectives such as improving the latter’s state of democracy, facilitating

⁷ Yale Law School, “Mutual Defense Treaty Between the United States and the Republic of the Philippines (1951),” *Avalon Project*, http://avalon.law.yale.edu/20th_century/phil001.asp; and Corr, Anders, “Chinese Bomber Buzzes Philippines’ Scarborough Shoal in Latest Salvo of U.S.-China Signaling War,” *Forbes*, July 17, 2016, <http://www.forbes.com/sites/anderscorr/2016/07/17/chinese-bomber-buzzes-philippines-scarborough-shoal-in-latest-salvo-of-u-s-china-signaling-war>.

⁸ U.S. Department of State, “Thailand,” *U.S. Department of State*, <http://www.state.gov/r/pa/ei/bgn/2814.htm>.

⁹ “Thai Cabinet Delays Decision on US Request to Use U-Tapao Military Base,” *BBC Monitoring International Reports*, June 20, 2012.

¹⁰ U.S. Department of Defense, “2012 Joint Vision Statement for the Thai-U.S. Defense Alliance,” <http://archive.defense.gov/releases/release.aspx?releaseid=15685>.

research exchanges, assisting in modernizing security forces, bolstering trade, and promoting the development of clean energy.¹¹ Given Indonesia's location, the modernization of security forces is particularly salient; positioned along the Strait of Malacca, over 50% of the world's merchant fleet passes through Indonesian waters on the way to their destinations.¹² Indonesia's ability to keep those waters safe for transit is imperative for global commerce. Singapore is another nation with which the United States works. Like Indonesia, Singapore is also strategically located on the aforementioned Strait of Malacca, which also sees over 15 million barrels of oil pass through it daily, some of it in transit to allies such as Japan and South Korea in addition to the United States.

5.2.3 *Politics, Geo and Otherwise (ASEAN)*

Beyond the security relationships with both ASEAN as a collective and the individual states within it, the geographical region that ASEAN comprises is also of significant political, economic and security interest to the United States. Over \$5 trillion in trade passes through the South China Sea, and over one-fifth of that is bound for the United States.¹³ As described with the Strait of Malacca, ASEAN states are strategically positioned around the South China Sea, which is also the site of territorial contention within ASEAN itself, and between the South China Sea and China. These flashpoints could pose significant risk for freedom of navigation and the passage of commerce through the area. At a baseline level, this could impact the American economy should trade and investments in the region suffer.

¹¹ U.S. Department of State, "United States-Indonesia Comprehensive Partnership," *U.S. Department of State*.

¹² Vaughn, Bruce, "Indonesia: Domestic Politics, Strategic Dynamics, and the U.S. Interests," *Congressional Research Service*, RL32394, January 31, 2011, <https://fas.org/sgp/crs/row/RL32394.pdf>.

¹³ Justina Crabtree, "Why South China Sea Disruption Could Have 'Gigantic' Consequences for Global Trade," *CNBC*, July 18, 2016, <http://www.cnbc.com/2016/07/18/why-disruption-in-the-south-china-sea-could-have-gigantic-consequences-for-global-trade.html>.

From a political standpoint, ASEAN poses many other strategic challenges to the United States. In fact, as the United States deepens its ties with Vietnam, this relationship inadvertently exacerbates historical animosities with Cambodia, causing Cambodia to turn away from both ASEAN and the United States, acting as a veto for the Chinese.¹⁴ Because resolutions by ASEAN, such as a statement condemning China's island building activities in the South China Sea, must be unanimous, it poses a problem for the efficacy of the organization.¹⁵ This leads to a weaker, less independent ASEAN that impacts both the American economy and wellbeing of American allies.

Given ASEAN's breadth, there are a number of other related organizations that focus on other strategic concerns. Some focus on specific aspects, such as security concerns under the ARF, and economic ones within ASEAN + 3.¹⁶ Other forums include ASEAN members, but they will be discussed later given their close relationship to another organization, the East Asia Summit. Prime among the important organizations would be the ARF. The ARF principally addresses security concerns in Southeast Asia. Established in 1994, the ARF brings together senior foreign policy and defense officials from the ten ASEAN states and organizations that significantly impact on the overall security of Southeast Asia, such as the United States, China, India, and Russia. Within this forum, which is the foremost security institution in the region,¹⁷ these nations are able to discuss pressing security concerns, and work towards improving the

¹⁴ Nathan Thompson, "Unlikely Friends? United States and Vietnam," *CNN*, May 22, 2016, <http://www.cnn.com/2016/05/22/politics/vietnam-united-states-friends/index.html>; and Greer, Tanner, "Cambodia Wants China as Its Neighborhood Bully," *Foreign Policy*, January 5, 2017, <https://foreignpolicy.com/2017/01/05/cambodia-wants-china-as-its-neighborhood-bully>.

¹⁵ Fuchs, Michael H., and Harding, Brian, "The Missing Link: Multilateral Institutions in Asia and Regional Security" *Center for American Progress*, (2016), <https://cdn.americanprogress.org/wp-content/uploads/2016/05/27091406/AsianRegionalArchitecture-report.pdf>.

¹⁶ Feigenblatt, Otto Von, "ASEAN and Human Security: Challenges and Opportunities," *Ritsumeikan Asia Pacific University* (RCAPS Working Paper No. 09-5), (2009).

¹⁷ Feigenblatt, Otto Von, "ASEAN and Human Security: Challenges and Opportunities."

peace and stability of the overall region.¹⁸ On the other hand, ASEAN +3 is a forum consisting of the ASEAN nations, along with China, Japan, and South Korea, and focuses primarily around economic concerns regarding energy, transportation, and communications technology.¹⁹

ASEAN as an institution provides a medium for the United States to work and coordinate in concert with the nations in the region, be they allies, partners or otherwise, to pursue shared goals. As the United States is already extensively involved in strategic and economic capacities within ASEAN, developing a policy that continues to strengthen the U.S. relationship with ASEAN as a collective, its associated groups, and individual member states would be a prudent course of action. This would buttress the position of the United States as it reaffirms commitment to the organization and to the region, demonstrating that the United States is a reliable partner. If the United States were not to continue with its policy of engagement, or to give the impression that it is not committed (such as former Secretary of State Condoleezza Rice not attending the ARF summits in 2005 and 2007), more countries may turn towards China as Cambodia has.²⁰ Should such shifts in alignment occur, ASEAN independence could suffer, and the United States could face complications regarding freedom of navigation exercises and suffer diminished returns on investments. The United States could also simply commit more forces to the region, but this would likely provoke China, and may also alienate countries wary of U.S. forces. Furthermore, applying force would not build or foster new relationships with ASEAN states that are crucial to pursuing American interests.

¹⁸ Moon, Chung-in, "ASEAN Regional Forum" 2017, *Britannica*, <https://www.britannica.com/topic/ASEAN-Regional-Forum>.

¹⁹ Asian Development Bank, "Association of Southeast Asian Nations Plus Three (ASEAN+3) Cooperation on Energy, Transport, and Information & Communications Technology Initiative," <https://aric.adb.org/initiative/association-of-southeast-asian-nations-plus-three-cooperation-on-energy-transport-and-information-communications-technology>.

²⁰ Feigenblatt, Otto Von, "ASEAN and Human Security: Challenges and Opportunities."

5.3 East Asia Summit, American Partners, and Associated Organizations

Aside from ASEAN, another important regional forum is the East Asia Summit (EAS), of which the United States is a member. Although lacking in institutions to facilitate cooperation (discussions that take place between the attending heads of state are rarely followed up on, much less acted upon), the EAS holds significant promise for the United States.²¹ Comprising 18 nations that are home to more than half of the world's total population and GDP, it brings together the heads of state from the three largest economies (the United States, China, Japan), the two most populous nations (China, India), and four of the world's nuclear armed states (Russia, the United States, India, China).²² Initially formed in 2005 by ASEAN +3, with India, Australia, and New Zealand joining later that year, the forum expanded to include Russia and the United States in 2011. Although it nominally has six core interests in health, energy, education, finance, connectivity, and global health, it is primarily occupied with the goals of preserving regional peace, security, and prosperity.²³ The EAS serves as a medium for dialogue regarding shared concerns in the security, economic and political realms.²⁴

5.3.2 Economics (EAS)

From an economic standpoint, the concerns voiced in the prior section regarding ASEAN retain their importance, but with the widened scope of the EAS, there are others concerns to consider. Despite the Trump Administration withdrawing the United States from the TPP, the remaining prospective nations have indicated they are interested in salvaging the agreement, meaning that it has the potential to remain a significant economic force in the area, given that all

²¹ Feigenblatt, Otto Von, "ASEAN and Human Security: Challenges and Opportunities."

²² Ministry of External Affairs (India), "About East Asia Summit," <http://www.mea.gov.in/aseanindia/about-eas.htm>.

²³ Feigenblatt, Otto Von, "ASEAN and Human Security: Challenges and Opportunities."

²⁴ Ministry of External Affairs (India), "About East Asia Summit."

former partners in TPP are members of the EAS.²⁵ Also included in the EAS are the two largest U.S. trading partners, China and Japan, which together account for over \$800 billion in exchange, when exports and imports are totaled.²⁶ Incidentally, these nations are also among the most important U.S. counterparts regarding the Asia-Pacific and maritime security.

5.3.3 *Security, and American Partners (EAS)*

Within the EAS, as with ASEAN, the United States has a number of allies and partners that cooperate regarding a host of security issues, in addition to the aforementioned economic ties between them. Among the member states of the EAS, the United States is allied with Japan, South Korea, and Australia (in addition to the Philippines, though they, along with Indonesia, Thailand and Singapore have already been discussed), and is becoming increasingly intertwined with India and China. Japan is arguably the prime U.S. ally in the region, and Japan hosts not only the U.S. Navy's Seventh Fleet at Yokosuka, but also a large contingent of other military personnel in locations such as Okinawa and Misawa. Japan also is a partner in a joint missile defense program whose focus is deterring and defending against North Korea.²⁷ With the increased flare-ups over the Senkaku/Diaoyu Islands, Japan and the situation overall require additional attention. Defense Secretary James Mattis and the Trump Administration have affirmed the viewpoint that the Senkaku/Diaoyu Islands are administered under the Okinawa prefecture. Thus, as with the Philippines and Scarborough Shoal, the United States is obligated to come to Japan's aid should said islands be a target of Chinese military action.

²⁵ Greenfield, Charlotte, and White, Stanley, "After U.S. Exit, Asian Nations Try to Save TPP Trade Deal," *Reuters*, January 24, 2017, <http://www.reuters.com/article/us-usa-trump-asia-idUSKBN15800V>. See also Chapter 8.

²⁶ Global Edge, "United States: Trade Statistics," <https://globaleedge.msu.edu/countries/united-states/tradestats>.

²⁷ Xu, Beina, Council on Foreign Relations, "The U.S.-Japan Security Alliance." 2017. *Council on Foreign Relations*. Accessed January 17. <http://www.cfr.org/japan/us-japan-security-alliance/p31437>; and Treaty of Mutual Cooperation and Security Between Japan and The United States of America (1960), <http://www.mofa.go.jp/region/n-america/us/q&a/ref/1.html>.

South Korea is the other U.S. treaty ally in Northeast Asia, and will serve as the deployment site of the Terminal High Altitude Air Defense (THAAD) system.²⁸ Ideally, THAAD will assist in deterring North Korean aggression, and bolster the defense of South Korea, Japan, and other locations of interest to the United States through its anti-missile capacities. However, THAAD has elicited Chinese opposition to such a deployment, arguing that it undermines their security.²⁹ There is also the discord over the Takeshima/Dokdo islands between South Korea and Japan, which is noteworthy given its potential impacts on South Korean–Japanese relations, which are important for the sake of a cohesive alliance. Until recently, South Korea and Japan would not share information directly with one another, instead using the United States as an intermediary, indicative of the less than cordial relations between two key American partners.³⁰

Further south is Australia, a former member of the Australia, New Zealand, United States Security Treaty (ANZUS). Though the treaty itself is in a bit of a grey zone, with New Zealand having withdrawn over concerns about nuclear submarines visiting its ports, in practice it continues to function as a mutual defense treaty like those with Japan and South Korea.³¹ Also, like Japan and South Korea, Australia regularly hosts United States military persons participating in training exercises, and is considering hosting military aircraft.³² This arrangement leads to Australia having the capacity to serve as a base of sorts for the United States to further project

²⁸ See chapter 5.

²⁹ See chapter 9.

³⁰ Fifield, Anna, “Japan and South Korea Sign Long-Awaited Intelligence-Sharing Deal.” 2017. *Washington Post*. Accessed February 11. https://www.washingtonpost.com/world/japan-and-south-korea-sign-long-awaited-intelligence-sharing-deal/2016/11/23/bcad8c3f-9c4d-4eff-b41a-4d8ee2ab7035_story.html.

³¹ ABC (Australia), “Fact Check: Does ANZUS Commit the US to Come to Australia’s Aid?” 2014. Text. *ABC News*. July 8. <http://www.abc.net.au/news/2014-07-08/does-anzus-commit-us-to-come-to-australias-aid-fact-check/5559288>.

³² McPhedran, Ian, “Agreement for US Troops in Australia.” 2014. *NewsComAu*. August 11. <http://www.news.com.au/national/new-agreement-for-thousands-of-us-troops-to-train-in-australia/news-story/7084dd7d600ad66f36cb3ffb0c19dac4>.

influence, and thus bolster U.S. partnerships in the region, particularly considering Australia's proximity to the southern ASEAN nations.

To the west lies India, a nation that has a population of over 1 billion, and an economy that could rival that of China (and along with it, the United States and Japan). India, like the United States, is seeking to take on a larger role in the Asia Pacific, and is expanding its interactions with ASEAN.³³ India also shares concerns with the United States over freedom of navigation within the South China Sea, though they agree with China on their definitions of what that means. That said, India and the United States are deepening their bilateral ties, which is evidenced by the 10-year Defense Framework Agreement, encompassing a variety of activities, notably joint development of jet engines and aircraft carriers. The Agreement also includes provisions for innovations in sectors such as green energy, and the development of mobile solar powered generators.³⁴ Finally, the United States has a long standing, and complex relationship with China that shall be explored in the U.S.–China Relations chapter.

5.3.4 *Politics, Geo and Otherwise (EAS)*

As with ASEAN, there are a number organizations related to the EAS that serve in more supplementary but disconnected capacities. The ASEAN Dialogue Partners are included, though it would be more accurately defined as a grouping of ten nations that have formal relationships with ASEAN, such as the ASEAN + 3 nations, along with the United States, Russia, Australia, New Zealand, India, the European Union, and Canada. These nations take part in ASEAN + 1 meetings that occur during the EAS, where they can discuss in greater detail agreements specific to ASEAN and the nation in question, such as the MSI. The Expanded ASEAN Maritime Forum

³³ Parameswaran, Prashanth, "India and ASEAN: Beyond 'Looking East.'" *The Diplomat*. Accessed February 11. <http://thediplomat.com/2014/08/india-and-asean-beyond-looking-east/>.

³⁴ U.S. Department of Defense, "U.S., India Sign 10-Year Defense Framework Agreement." 2017. U.S. Department of Defense. Accessed January 17. <http://www.defense.gov/News/Article/Article/604775/us-india-sign-10-year-defense-framework-agreement>.

is another such organization. Formed in 2010, it is comprised of EAS member states that have a focus on maritime issues that concern them, with a goal of fostering cooperation. The ASEAN Defense Ministers Meeting Plus (ADMM+) was created in 2012, which, as the name implies, is led by the defense ministers of the EAS who organize a variety of meetings and military-to-military exercises among its members. Both the Expanded ASEAN Maritime Forum and the ADMM+ are institutions that the United States played a role in constructing, and thus the United States should continue U.S. participation in these.³⁵

The EAS comprises 18 nations that command more wealth and population than the other 178 nations combined. This grouping brings together the heads of state from arguably the most powerful nations on the planet, and the influence that they have on global policy cannot be understated. Maintenance of the status quo has yet to deter assertive actions by China, such as island building, and if the United States were to withdraw or pursue a policy of isolationism, it would leave a power vacuum in the EAS and Asia as a whole. Given that China is already trying to play a larger, more assertive role on the global stage, and in Asia in particular, it is not difficult to determine who would fill this vacuum, perhaps with further demonstrations of power as seen recently with the *Liaoning*'s exercises around Taiwan.³⁶ Thus, it is paramount that the United States remain active, engaged and in pursuit of strengthening the EAS and its spin-offs.

5.4 Shangri-La Dialogue

The Shangri-La Dialogue is another prominent forum in the Asia Pacific, though unlike ASEAN and the EAS, it functions more as a conference that facilitates a number of interactions among the attendees. Formed in 2002 as a joint venture between a British think-tank, the

³⁵ Fuchs, Michael H. and Harding, Brian. "The Missing Link: Multilateral Institutions in Asia and Regional Security". Center for American Progress. <https://cdn.americanprogress.org/wp-content/uploads/2016/05/27091406/AsianRegionalArchitecture-report.pdf>.

³⁶ Forsythe, Michael and Buckley, Chris, "Taiwan Responds After China Sends Carrier to Taiwan Strait." *The New York Times*, January 10, 2017.

International Institute for Strategic Studies (IISS), and the Singaporean Government, the Shangri-La Dialogue annually brings together representatives from over 50 nations. Among the luminaries in attendance are defense ministers, military chiefs, academics, business executives, and even some heads of state.³⁷ Its main goals are to serve as a discussion forum to speak on a number of matters, both generally, and on those that are more pressing (last year's topics included North Korea, terrorism, and peaceful resolution of conflicts), and to build relationships among the professional community (public and private, via bilateral discussions on the sidelines). Perhaps more similar to the World Economic Forum in Davos than it is an institution, it remains an excellent opportunity to assess the political climate, and facilitate military-to-military (and other) contacts. These contacts are vital for preventing contentious situations from occurring, and de-escalating ones that do (i.e., unplanned encounters at sea), thus the United States should maintain its participation to build up its own contacts, and remain apprised of the regional feeling.

5.5 Policy Recommendations

5.5.1 EAS lacks institutionalized cooperation mechanisms, thus the United States should standardize follow-up meetings between appropriate representatives. Out of the forums in Asia, the EAS holds the most direct potential for the United States, as it is a gathering of heads-of-state, and an institution that the United States is directly participating in as a member. This allows the United States and its allies to directly work with one another on a multilateral basis.

5.5.2 The United States should continue to invest and expand its ties with ASEAN via projects such as the MSI. This engagement will augment ASEAN's ability to act independently and cohesively. The United States should extend such programs to the other members of

³⁷ Parameswaran, Prashanth, "What Did the 10th East Asia Summit in Malaysia Achieve?" *The Diplomat*. Accessed January 16. <http://thediplomat.com/2015/12/what-did-the-10th-east-asia-summit-in-malaysia-achieve>.

ASEAN. The United States should also ensure that the Secretary of State, or another significant representative regularly attends ASEAN summits as a visible statement of our commitment.

5.5.3 Additionally, the United States should make a concerted effort to dampen tensions and continue to urge the parties in question to avoid provoking one another when dealing with territorial disputes. This will facilitate a more stable regional order by lessening the chances of hostilities, and lead to a more cohesive alliance with American regional partners. While the United States is limited in its capacity to resolve these disputes given a long-standing policy of not taking sides, it should be proactive in facilitating dialogue (particularly between South Korea and Japan), perhaps on the sidelines of the EAS where bilateral discussions are common.

PART III
SECURITY

CHAPTER 6

Asia-Pacific Militarization

Min Seung Kim

6.1 Introduction

Held on June 3, 2016, the latest “Shangri-La Dialogue” seriously addressed growing concerns over tensions in the South China Sea (SCS), where the majority of the states in Asia-Pacific alluded to the rise of China and subsequent militarization on the disputed waters as the main cause. The general trend in the Asia-Pacific is competitive modernizations of naval and coast guard forces to secure greater influence and capabilities in the ocean amidst aggravating territorial and political disputes.¹ As highlighted in the other sections of the report, the two regions of the East China Sea (ECS) and SCS continue to be strategically, economically, and militarily important for the United States. The new naval arms race trend of the Asia-Pacific imposes various threats to American interests and international maritime security. This chapter analyzes the complex nature of Asia’s maritime security and the significant implications of regional militarization to both U.S. and Asian countries as follows: 1) the growing political tensions and naval arms race among the Asian countries, 2) the increasing magnitude of sea control capabilities, and 3) the increasing number of potentially escalatory encounters at sea. Finally, the paper concludes with several policy recommendations for the United States to not only better protect regional peace and international maritime security but also American interests and values in the Asia-Pacific amidst the growing tension and challenges.

6.2 The Complexity of Asian Security and Implications of Militarization

Since World War II, the United States has developed interdependent

¹ Hermesauto, “5 highlights of Shangri-La Dialogue 2016,” Text, *The Straits Times*, (June 6, 2016), <http://www.straitstimes.com/asia/se-asia/5-highlights-of-shangri-la-dialogue-2016>.

relationships in economic, political, and military sectors across the region. Despite the recent rise of China and the significant influence on the dynamics of regional maritime security, it is important for U.S. policymakers to comprehensively understand the complex nature of Asia's security rather than solely taking China into account and establishing bilateral efforts as a solution.² The complex nature of Asian maritime security that limits the effectiveness of bilateral cooperation is the unresolved historical resentments and political disparity among the Asian nations despite the current scale of Asian countries' interdependent economy and subsequent geopolitical weight in the international community.³

Historical resentments from the global wars and Cold War in Asia are still existent and influential in Asian foreign affairs. During and after the Western and Japanese colonialism when many Asian countries underwent the so-called Westernization process and the concept of nationalism in the 20th century began to spread, the unresolved historical resentment of war crimes or international conflicts have permeated the national sentiment of many Asian countries. For example, the two of the closest U.S. allies in Asia, the Republic of Korea (ROK) and Japan, are still reluctant to invest in a trilateral relationship due to unresolved historical resentments. China and Taiwan continue to clash over the One China policy. Various scenarios and causes of animosity embedded within the nationalism are commonly found in the majority of Association of South East Asian Nations (ASEAN) countries.

Political disparity across Asian countries elevates the complexity of Asian security when compared to its European counterparts. As of 2017, four out of five

² "Issues & Insights Vol. 16 - No. 11 - Beyond Bilateralism: Exercising a Maritime Security Network in Southeast Asia | Center for Strategic and International Studies," accessed February 11, 2017, <https://www.csis.org/analysis/issues-insights-vol-16-no-11-beyond-bilateralism-exercising-maritime-security-network>.

³ Chung Min Lee, *Fault Lines in a Rising Asia* (Carnegie Endowment for International Peace, 2016), <http://www.jstor.org/stable/j.ctt1dfnt1t>.

Communist states remain in Asia—China, Democratic People’s Republic of Korea (DPRK), Vietnam and Laos. Several countries such as Myanmar and Thailand are again under the rule of military regimes. The Cold War frame still sustains a separation between China–DPRK and ROK–Japan–U.S. relations. The recent territorial disputes have encouraged ASEAN nations to choose sides between pro-U.S. and pro-China lines.⁴ In conclusion, because of these historical and political layers of division, which are directly related to a variety of perspectives and interests, it is especially difficult to promote a universal agreement or set of values among the Asian countries with regard to international conflicts.

Although most Asian states have been maintaining insular worldviews compared to their counterparts in Europe, they not only have realized the consequences and subsequent responsibilities from the scale of their economic rise but are also taking actions to increase their input in the global society.⁵ As the result, the new highlighted trend in Asia’s maritime security sphere is the continuous development of weapons modernization and consequently increasing regional tension in both the East and South China Seas. Although China is the region’s biggest and most threatening player who outnumbers its rivals in total military expenditure and scale by far, the majority of the Asian states including Japan, the ROK, the Philippines, Vietnam, Indonesia, Taiwan, and Malaysia have all taken part in the naval arms race to acquire greater sea power with concern for their maritime security.⁶ The significance of weapons modernization programs is that the newly adopted high-end technologies not only blur the boundary between the conventional naval force and

⁴ “Report: Tackling Asia’s Greatest Challenges – Center for the National Interest,” accessed February 11, 2017, <https://cftni.org/publications/report-tackling-asias-greatest-challenges/>.

⁵ Lee, *Fault Lines in a Rising Asia*.

⁶ “Asia-Pacific Regional Security Assessment 2016,” accessed February 11, 2017, <https://www.iiss.org/en/publications/strategic%20dossiers/issues/asia-pacific-regional-security-assessment-2016-2288>.

coast guards but also further one's naval capability on disputed waters, which is recognized as a serious security threat to others. As more states develop their sea power both qualitatively and quantitatively, the previously trivial encounters of different forces in the contested waters not only bear a greater potential to escalate into more serious and devastating confrontation, but also to occur more frequently than before.⁷

6.3 Naval Arms Race and Growing Political Tensions

The intensified territorial dispute and militarization of the ECS and SCS have resulted in increased political tensions among the Asian nations and a naval arms race. The majority of Asian states have shown a continuous increase in their annual military expenditure (see Figure 6.1), and the most significant player in the region is China. With its rapid economic development as the impetus, China is modernizing “every aspect of its maritime-related military and law enforcement capabilities, including its naval surface fleet, submarines, aircraft, missiles, radar capabilities, and coast guard” and currently “possess[es] the largest number of vessels in Asia, with more than 300 surface ships, submarines, amphibious ships, and patrol craft” to accomplish its historical mission based on Sino-centrism.⁸ The Department of Defense (DoD) estimated Chinese military expenditures to exceed \$180 billion in 2015, based on its continuous average 9.8% annual growth from 2006.⁹ In addition, China has reformed the organizational structure of four out of its five maritime law enforcement agencies by consolidating them under the State Oceanic Administration to increase the

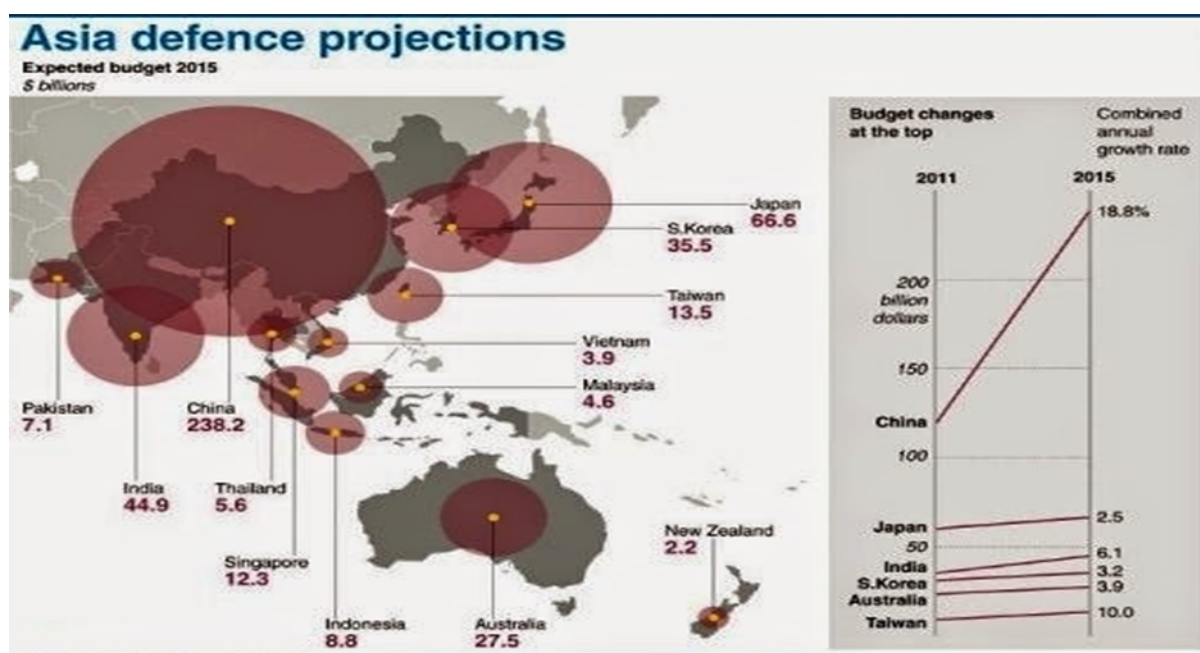
⁷ *Ibid.*

⁸ “The Asia-Pacific Maritime Security Strategy: Achieving U.S. National Security Objectives in a Changing Environment” (Department of Defense, August 21, 2015), https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF.

⁹ “DoD Report: China's Military Investments Continue” (US Department of Defense), accessed February 12, 2017, <https://www.defense.gov/News/Article/Article/759522/dod-report-chinas-military-investments-continue>.

operational effectiveness.¹⁰ The rapid development of China's maritime forces including the Chinese Coast Guard (CCG), the People's Liberation Army Air Force (PLAAF) and the People's Liberation Army Navy (PLAN) has raised security concerns among neighboring states in the ECS and SCS. These entities in turn respond with their own maritime capacity expansion and modernization.¹¹

Figure 6.1 Estimates of Asia's Military Expenditures, in \$billions (2015)



In the ECS, the growing Chinese assertion of power has increased political tension with Japan in an already tense Northeast Asia. Several statements from Chinese officials have revealed anti-Japanese sentiment from historical resentments. The number of confrontations between the Chinese Coast Guard (CCG) and the Japanese Coast Guard (JCG) near the disputed Senkaku/Diaoyut Islands have been

¹⁰ Andrew Erickson, "New Fleet on the Block: China's Coast Guard Comes Together," *WSJ*, March 11, 2013, <http://blogs.wsj.com/chinarealtime/2013/03/11/new-fleet-on-the-block-chinas-coast-guard-comes-together/>.

¹¹ The PLAAF patrols, after the Hague Ruling in 2016, consisted of H-6K bombers which are capable of equipping nuclear warheads alongside the Su-30 air superiority fighters and aerial re-fueling tankers. Brian Kalman, "Escalation, Naval Deployments and Geopolitical Conflict in the South China Sea," *Global Research*, August 16, 2016, <http://www.globalresearch.ca/escalation-naval-deployments-and-geopolitical-conflict-in-the-south-china-sea/5541122>.

increasing.¹² In recognition of growing Chinese sea power, the Japanese Ministry of Defense announced the adoption of a shore-based anti-ship guided missile system that could cover approximately 190 miles by 2023.¹³ Although neither side has had any casualties yet, the increase in the number of sea control forces with more powerful combat capabilities continues to increase the regional tension, which is mutually recognized as threats to their maritime security. The U.S. priority, however, should be focused on reducing the political tensions, as China is also strongly relevant to the aforementioned conflict over the DPRK in the region. Recently, a terminal high altitude area defense (THAAD) system was negotiated between the United States and South Korea and Japan as the Obama administration's strategic patience had little success in achieving nuclear non-proliferation and reducing the subsequent threat from the DPRK.¹⁴ In the given circumstances, American presence as the peacekeeper and security provider is more crucial than ever as for South Korea's and Japan's maritime security against growing Chinese sea powers and intensifying DPRK provocations. However, the fundamental principle and ultimate goal of American endeavors should focus on maintaining and fostering a peaceful security environment which necessitates

¹² Nozomu Hayashi, "A New Phase for Japan-China Ties After the South China Sea Ruling | Center for Strategic and International Studies," accessed February 12, 2017, <https://www.csis.org/analysis/new-phase-japan-china-ties-after-south-china-sea-ruling>. Ankit Panda Diplomat The, "East China Sea: China Coast Guard Enters Disputed Waters Following Mattis' Japan Trip," *The Diplomat*, accessed February 18, 2017, <http://thediplomat.com/2017/02/east-china-sea-china-coast-guard-enters-disputed-waters-following-mattis-japan-trip/>.

¹³ People's Liberation Army Navy's primary focus has switched from 'offshore waters defense' to 'open seas protection' as the command desires for wider reach of its operations, and consequently, various components of PLAN arsenal – conventional/nuclear submarines, construction of 2nd aircraft carrier, frigates, destroyers, corvettes, amphibious docks – has been constantly modernized and increased in numbers. Ronald O'Rourke, "China Naval Modernization: Implications for U.S. Navy Capabilities—Background and Issues for Congress" (Congressional Research Service, June 17, 2016), <https://fas.org/sgp/crs/row/RL33153.pdf>. Kalman, "Escalation, Naval Deployments and Geopolitical Conflict in the South China Sea."

¹⁴ For similar reasoning as ROK, Japan has demonstrated interest in adopting the US THAAD system shortly after the latest DPRK's intermediate range ballistic missiles test that had one of the missile splash within the exclusive economic zone (EEZ); both China and DPRK has recognized the Korean and Japanese attempt to install THAAD as serious threat to their national security. Ibid. Scott A. Snyder, "U.S. Policy Toward North Korea" (Council on Foreign Relations, February 2013), <http://www.cfr.org/north-korea/us-policy-toward-north-korea/p29962>.

the establishment of amicable communication and relations with China.¹⁵

In the SCS, the political division among ASEAN nations has intensified with the territorial dispute and China's militarization of contested islands where the members are split between pro-U.S. and pro-China camps. In general, the ASEAN members are divided into disputants (Brunei, Malaysia, the Philippines and Vietnam) and non-disputants (Cambodia, Indonesia, Laos, Myanmar, Singapore and Thailand) and various states have joined the militarization trend in the troubled waters of the South China Sea.¹⁶ Compared to the military expenditures in the ECS, the SCS military budgets are relatively insignificant although increasing: the militarization of ASEAN countries is focused more on modernization of their obsolete naval and air forces.¹⁷ Vietnam and the Philippines are eager to expand their maritime capacity by increasing cooperation with the United States and Japan.¹⁸ Although the United States has clarified its neutral position with regard to territorial disputes, preventing hostile encounters among different states as well as maintaining peace until the resolution should be the primary priority for the United States. The political tensions based on territorial disputes in the SCS have increased inter-coast guard, inter-naval and civilian encounters, which have led to violence on troubled waters.

¹⁵ Bernard Cole, *Asian Maritime Strategies: Navigating Troubled Waters* (Naval Institute Press, 2013).

¹⁶ The artificial expansion of island 'Fiery Cross Reef' extended the China's operational range east and south by 620 miles and furthered Chinese power projection in the region, as China could facilitate the reclamation sites in South China Sea for anti-access/area-denial (A2/AD) systems that include "radars, electronic listening equipment, surface-to-air missiles (SAMs), anti-ship cruise missiles (ASCMs) / "China's Maritime Disputes," accessed February 11, 2017, <http://www.cfr.org/chinasea>. See also Zhengyi Lin, *The South China Sea Dispute: Navigating Diplomatic and Strategic Tensions* (Singapore: ISEAS-Yusof Ishak Institute, 2016), <https://muse.jhu.edu/book/47835/>.

¹⁷ Compared to Chinese annual military expenditure (+ \$180 billion) in 2015, the expected total aggregate of ASEAN's military expenditure through 2015 – 2020 was \$58 billion. Rafiq Dossani et al., "Maritime Issues in the East and South China Seas" (RAND Corporation, 2016), Conference Proceedings, http://www.rand.org/pubs/conf_proceedings/CF358.html.

¹⁸ Vietnam signed Joint Vision Statement on Defense Relations with US and removed the American sales ban on lethal weapons. Former Secretary of DOD Carter committed to provide \$18 million for Vietnamese coast guard development in 2015. The recent Vietnamese development targets monitoring the troubled waters, EEZ and anti-shipping and anti-submarine warfare capabilities. "Report: Tackling Asia's Greatest Challenges – Center for the National Interest." See also "The U.S.-Philippines Defense Alliance," *Council on Foreign Relations*, October 21, 2016, <http://www.cfr.org/philippines/us-philippines-defense-alliance/p38101>.

6.4 Advancing Sea Control Capabilities

The militarization and naval arms race of the Asia-Pacific has resulted in a significant increase in the presence and advancement of sea control forces. The sea control capability in this paper refers to the extensive elements of maritime domain awareness (MDA) as well as joint or unilateral naval operations and the technologies of naval intelligence, surveillance, and reconnaissance (ISR). Although cooperative operations between the United States and China have occurred recently—joint naval operations and agreement to prevent data destruction regarding cyber security in 2015—the bilateral advancement of sea control capabilities have not only furthered the challenge of the U.S. freedom of navigation (FON) principle and the freedom and rights protected under the United Nations Convention on the Law of the Sea (UNCLOS) in the region but have also imposed greater threats on one another’s maritime security.¹⁹

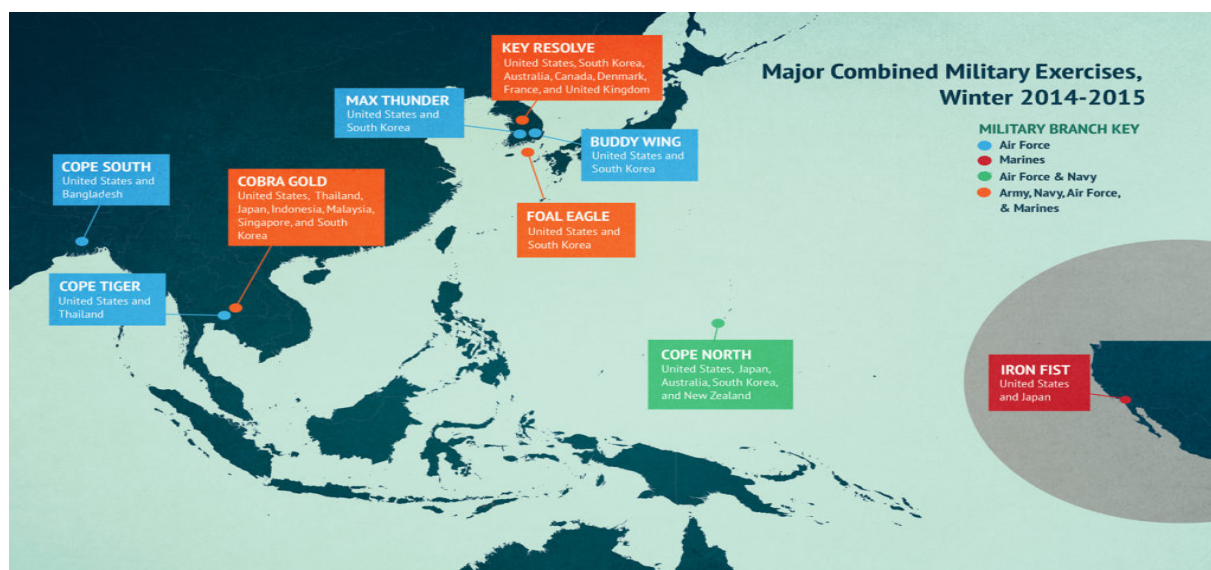
The significance of the air defense identification zone (ADIZ) for a country’s maritime security is that it enforces both military and commercial aircrafts to be identified, monitored, and controlled when entering the zone. In 2013, China arbitrarily established and announced an ADIZ that overlapped with the Japanese ADIZ near the Senkaku/Diaoyu Islands.²⁰ With the militarization and increasing airstrips in the SCS, the possibility of the Chinese adoption of an ADIZ in the SCS region has also increased. For the United States, the increasing Chinese MDA and ISR capabilities—“land-based over-the-horizon backscatter (OTH-B) radars, land-based over-the-horizon surface wave (OTH-SW) radars, electro-optical [and] radar satellites,

¹⁹ Patrick M. Cronin, “Power and Order in the South China Sea” (Center for a New American Security, November 10, 2016), <https://www.cnas.org/publications/reports/power-and-order-in-the-south-china-sea>.

²⁰ Roncevert Ganon Almond Diplomat The, “South China Sea: The Case Against an ADIZ,” *The Diplomat*, accessed February 21, 2017, <http://thediplomat.com/2016/09/south-china-sea-the-case-against-an-adiz/>.

and seabed sonar networks” ... and “increased array of reconnaissance satellites”—means an increasing threat to both the United States and its allies, including Japan, South Korea, the Philippines, as these technologies significantly improve the effectiveness and precision of the PLAN’s operations and ASCMs.²¹ Therefore, both the United States and China are also increasing their maritime cyber capacity to effectively counter and protect imposed threats on the cyber domain as well.²² As the advancing sea control technologies constantly affect the regional balance and dynamics by “creating a mechanism [that guarantees] the de facto control over the South China Sea in any scenario short of war,” it is crucial for the United States to continue investing in the development of technological capabilities and preserving superiority in the competition to maintain stability and maritime security in the region.²³

Figure 2. U.S.–Allies Joint Military Operations in 2015



With militarization, an increased number of general naval exercises, operations

²¹ O’Rourke, “China Naval Modernization: Implications for U.S. Navy Capabilities—Background and Issues for Congress.”; Michael Pilger, “ADIZ Update: Enforcement in the East China Sea, Prospects for the South China Sea, and Implications for the United States” (U.S.-China Economic and Security Review Commission, March 2, 2016), http://origin.www.uscc.gov/sites/default/files/Research/ADIZ%20Update_0.pdf.

²² Paul F.Zukunft, “United States Coast Guard Cyber Strategy” (US Department of Homeland Security, June 2015), <https://www.uscg.mil/SENIORLEADERSHIP/DOCS/cyber.pdf>.

²³ Michael Pilger, “ADIZ Update: Enforcement in the East China Sea, Prospects for the South China Sea, and Implications for the United States.”

and drills in Asia-Pacific are reported, which the Asian states recognize as growing threat for the maritime security. In addition to the existing military operations and exercises of U.S. partners (see Figure 6.2), the cooperation among Asian states without the United States is also growing. The India–Vietnam joint training of military and coast guard, the Australia–India–Japan trilateral security network, and the Japan–Vietnam maritime cooperation are great examples of developing interoperability in the troubled seas. As both China and the United States increase their regular drills and exercises, the magnitude of maritime security threats also expands: China conducted an eight-day joint naval drill with Russia, which included an island-seizing drill in 2016.²⁴ Nevertheless, the multilateral innovative exercises such as the Rim of the Pacific (RIMPAC) in 2016 that involves both the United States and China (since 2014) suggests that the future role of military exercises in the Asia-Pacific should not be limited to threatening one another’s maritime security with a display of power.²⁵ In order to reduce political tensions amidst the growing multilateral sea force presence, transparent interactions and constant communications to minimize misunderstanding or potential conflicts should be the priority for the United States, China and other Asian states.

6.5 Implications of Militarization: Increasing Hostile Encounters on Disputed Waters

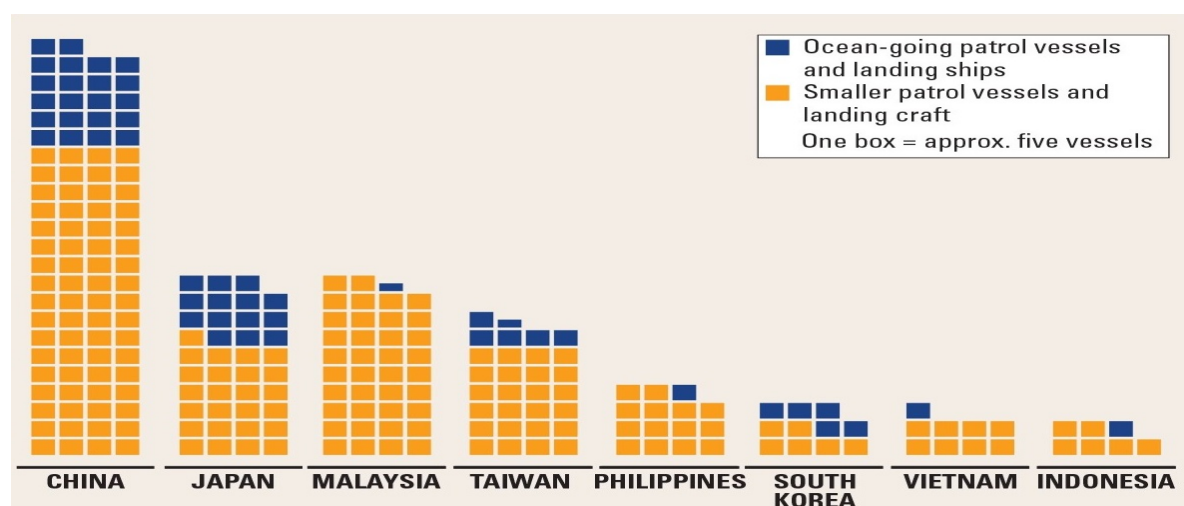
One of the direct effects of regional militarization is an increased level of sea force presence and modernized coast guards, which has subsequently increased the

²⁴ Robert Birsel, “China Wraps up Exercise with Three Warships in South China Sea,” *Reuters*, February 17, 2017, <http://www.reuters.com/article/us-southchinasea-china-idUSKBN15W0WA>. Franz-Stefan Gady, “US Navy Holds Naval Drill in South China Sea,” *The Diplomat*, October 7, 2016, <http://thediplomat.com/2016/10/us-navy-holds-naval-drill-in-south-china-sea/>; Sam LaGrone, “Chinese, Russian South China Sea Exercise Includes ‘Island Seizing’ Drill,” *USNI News*, September 12, 2016, <https://news.usni.org/2016/09/12/china-russia-start-joint-south-china-sea-naval-exercise-includes-island-seizing-drill>.

²⁵ Ash Carter, “The Rebalance and Asia-Pacific Security,” *Foreign Affairs*, October 17, 2016, <https://www.foreignaffairs.com/articles/united-states/2016-10-17/rebalance-and-asia-pacific-security>.

number of force collisions.²⁶ As mentioned previously, many countries are adopting militarization of their coast guard forces where they replace the law enforcement vessels with their naval ships to increase their mobility and firepower capability. As the territorial disputes have significantly escalated the sea power projection of the disputants, the number of international collisions between law enforcements and civil agents, mainly fishing boats, has increased in recent years. In addition, other scenarios of inter-naval confrontations and inter-coast-guard encounters have occurred in both the ECS and SCS. The growing potential of dangerous encounters challenges the criminal jurisdiction clause of UNCLOS and threatens civilians', mostly fishermen's, individual rights and survival in the Asia-Pacific.

Figure 3. Asia-Pacific countries' coastguard vessels in comparison (2016)



Although the majority of naval encounters have been resolved within the code for unplanned encounters at sea (CUES) agreement and remained at the stage of confrontation, the growth in number of confrontations increases the escalatory potential

²⁶ Despite the fact that China already possesses the largest coast guard in the region, China Coast Guard (CCG) has newly adopted the Type 054A Frigate in addition to the 200 vessels of all sizes currently in service. The CCG's #46301 is twice as heavier than Japanese Coast Guard *Shikishima* Class Cutters and capable of cruising at the speed of 18knots and maximum distance of 8,000 nautical miles without replenishment. Kalman, "Escalation, Naval Deployments and Geopolitical Conflict in the South China Sea."

of the situations.²⁷ For example, the PLAN's seizure of a U.S. underwater drone could have escalated into a serious clash had it not been for the communication channel used to resolve the conflict through "friendly consultations."²⁸ The greater concern lies with the increasing number of collisions between modernized coast guards and foreign fishing boats: between 2010 and 2016, the CCG was involved in 72% of the 46 major incidents where the violent actions such as vessel ramming, water cannons, gun fires, impoundment and destruction of ships ensued.²⁹ These actions are in violation of Article 27 of UNCLOS on Criminal Jurisdiction. However, the injury and death of the fishermen is unlikely to cease in the near future as the fisheries are often the only livelihood for many.³⁰ The encounters further the political standoff among the disputants as they are also directly related to one's protection of its citizens and naval jurisdiction amidst territorial disputes. In order to prevent economic and physical harm on both state agents and civilians in the dispute waters, more states are expanding civilian fleet sizes and maritime capacity for future encounters. While it is important for the United States to encourage the development of their partners' maritime capacity, promoting the agreed interpretation of UNCLOS and CUES should also be prioritized in order to maintain peace in the region.

Whereas the types of conflict and political stand-offs often occur bilaterally in the ECS, the SCS conflicts and disputes tend to be more multilateral. In consideration of American interests and significant influence in both areas, whether the future of the Asia-Pacific theater progresses towards tension-relief and mutual cooperation or an

²⁷ Gregory Poling, "Prepare for a Stormy 2017 in the South China Sea," *Asia Maritime Transparency Initiative*, January 12, 2017, <https://amti.csis.org/prepare-stormy-2017-south-china-sea/>.

²⁸ Steph Solis, "China Returns U.S. Drone Seized in South China Sea," *USA TODAY*, December 20, 2016, <http://www.usatoday.com/story/news/world/2016/12/20/china-returns-american-drone-navy/95643520/>.

²⁹ China Power Project, "Are Maritime Law Enforcement Forces Destabilizing Asia?," *Center for Strategic & International Studies*, August 18, 2016, <http://chinapower.csis.org/maritime-forces-destabilizing-asia/>.

³⁰ Pamela Boykoff, "Fisherman Caught in the South China Sea Fray," *CNN*, July 12, 2016, <http://www.cnn.com/2016/05/22/asia/vietnam-fisherman-south-china-sea/index.html>.

exacerbation of conflict and potential severance of diplomatic relations depends on the upcoming U.S. approach. Despite the complex nature of Asia's maritime security and various perspectives on the sources of conflicts in the Asia-Pacific, the highest priority of the United States is protecting international maritime security and maintaining peace until the resolution of the political and territorial disputes. The following policy recommendations could effectively contribute to promoting a peaceful and stable maritime security environment for both the United States and Asian states in the region.

6.6.1 Policy Recommendations

6.6.1 Strengthen the existing military alliances and guarantee partners' maritime security. For many entities in Asia such as the ROK, Japan, the Philippines, and Taiwan, the presence and protection of the United States is crucial. Enhancing existing U.S. military alliances through naval exercises in various scenarios, developing interoperability, and expanding U.S. freedom of navigation operations could contribute to the assurance of U.S. allies' and partners' maritime security.³¹

6.6.2 Preserve superiority in sea control capability and actively engage in confidence building measures (CBMs) with China. Most of the security threats arising from Chinese militarization are due to the ambiguity of what the militarized bases and modernized forces mean and are capable of. Development of U.S. sea control capability could clarify Chinese intentions by collecting data sufficiently. While both sides may endeavor to acquire more developed technologies, it is important to share necessary data and CBMs with China in order to reduce the any additional political tension.

³¹ See Ruomi Li's Sea Lines of Communications chapter in this report

6.6.3 Develop a common rules-based maritime strategy and security network.

The Asia-Pacific theater is vulnerable to conflicts due to the lack of a strong common maritime security framework. The United States should promote and lead the establishment of a common security framework with China and ASEAN + 3 to lay a military and law enforcement code of conduct and CUES to reduce the number of hostile encounters and victims. Developing common strategies to counter non-traditional threats or cooperating in less-sensitive areas of maritime security issues are a good starting point.

6.6.4 Encourage and develop U.S. partners' maritime capacity to promote multilateral contributions. Alongside the increase in U.S. partners' cooperation in the region, cooperation among Asian states has also increased. For example, Japan has not only increased its joint naval trainings with the United States but also its military aid to other countries such as the Philippines and Vietnam.³² The United States should continue investing in the development of partners' maritime capacity on the premise of multilateral cooperation, and encourage more states to contribute to achieving regional stability.

³² Emiko Jozuka, "Japan to Join US in South China Sea Patrols," *CNN*, accessed February 12, 2017, <http://www.cnn.com/2016/09/15/asia/japan-south-china-sea-patrols/index.html>.

CHAPTER 7

Sea Lines of Communications (SLOCs)

Ruomi Li

7.1 Introduction

Sea Lines of Communications (SLOCs) are a key component of maritime security in the Asia-Pacific. SLOCs constitute a powerful link of marine routes from Southern China to Taiwan, from Southeast Asia to Northeast Asia, and from Northeast Asia to Europe and the Middle East. One of America's main approaches to defeating the Japanese during the Second World War was to block Japan's SLOCs in the South China Sea, which connected Southeast Asia to China and Japan.¹ Looking at today's contentious political climate in the Asia-Pacific, for instance China's assertive naval modernization in the South China Sea SLOCs, it is crucial to seriously consider the importance of freedom of navigation (FON). The United States, as an adherent to FON, has an immutable interest in continuing rightful FON operations (FONOPs) to ensure SLOCs do not come under force or coercion. Guided by the principle that all countries should have equal rights in accessing SLOCs for peaceful military activities and commerce, the United States should shoulder the responsibility of balancing powers in the region while mitigating tensions in the Asia-Pacific. This chapter will first discuss the root of the conflicts between the United States and China over FONOPs. Then, the analysis will identify five main U.S. interests in continuing FONOPs: conforming to international law, limiting Chinese dominance over SLOCs, achieving stability among littoral states, safeguarding commerce and energy supply, and combating terrorism.

¹ Minglian, Zhang and Fang, Yang, "South China Sea: Reconciling Chinese-US Interests," *RSIS Commentaries*, last modified 22 July, 2010. <http://aspa.mfa.gov.th/aspa/upload/pdf/RSIS0802010.pdf>.

7.2 The Root of Conflicts in FON Operations

The dispute over FONOPs in the South China Sea arises from the different interpretations of FON between the United States and China, and how these two major powers react to one another's stand on FON will directly influence the future of the SLOCs security. The U.S Department of Defense (DoD) defines FON as "all of rights, freedoms and lawful uses of the sea and airspace, including for military ships and aircraft, under UNCLOS."² Aside from all of the rights under FON, Articles 3, 17, 19 of the United Nation Convention on the Law of the Sea (UNCLOS) also address the right of innocent passage (IP).³ According to these articles, military and commercial vessels may enjoy the right of IP within the country's 12-nautical mile territorial zone provided they do not undertake activities that can be interpreted as threats to the littoral states.⁴ The Chinese, however, states that under the UNCLOS, there is no specific term stating that military vessels have the right of FON.⁵ Moreover, China believes that any warship traversing the South China Sea must gain permission. This belief not only challenges the concept of FONOPs but also nullifies the rights of foreign warships to conduct IP.

Differences over FON interpretation directly result in tensions between the United States and China. Although the United States maintains neutrality on territorial claims in the South China Sea, safeguarding SLOCs through FONOPs is an explicit interest for the United States since past administrations. During the Obama Administration, the United States considered the

² The Department of Defense. "Asia-Pacific Maritime Security Strategy," (2015):2. https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF.

³ "Part II, Territorial Sea and Contiguous Zone" *United Nations Convention on the Law of the Sea*. http://www.un.org/Depts/los/convention_agreements/texts/unclos/part2.htm

⁴ Joseph A. Bosco, "Are Freedom of Navigation Operations and Innocent Passage Really the Same," *The diplomat*. Last modified February 17, 2016. <http://thediplomat.com/2016/02/are-freedom-of-navigation-operations-and-innocent-passage-really-the-same/>

⁵ Dana R. Dillon, "Countering Beijing in the South China Sea," *Policy Review* 167, (2011):51-67. <http://search.proquest.com.offcampus.lib.washington.edu/docview/873340468?accountid=14>

navigation and overflight provisions as reflective of customary international law.⁶ President Obama recognized that the United States has “an interest in upholding the basic principles of freedom of navigation,” and this interest is augmented by the idea of a “pivot” to Asia, which means that the U.S. support for FON ensures that the Asia-Pacific will remain a region where everyone can thrive.⁷ Under Obama’s command, the United States has conducted several high-profile FON patrols near Chinese-held features to secure freedom of sea-lines since October 2015 when the USS Lassen carried out the first FONOP after a hiatus.⁸ The U.S. rationale in conducting these FONOPs is to give high seas freedom to all regional states, including China.⁹

In recent years, China has responded to U.S. FONOPs over South China Sea in an increasingly ambiguous manner. On the one hand, China condemned the United States for the inimical FONOPs, accusing the United States of deliberately causing tension.¹⁰ On the other hand, China no longer confines its navy forces to patrolling its own coasts, but started to conduct its own FON patrols. After U.S. FONOP near the Spratlys, the People’s Liberation Army Navy (PLAN) conducted its own patrol in the Bering Sea off the coast of Alaska in September 2015. This event signified the first time the United States has seen a Chinese Navy patrol in

⁶ Stuart Belt, “An approach that works,” U.S Naval Institute Proceedings 140, no.4 (2014): 44-48. <http://eds.b.ebscohost.com.offcampus.lib.washington.edu/ehost/detail/detail?sid=b0a78fcd-2599-45bd-8a04-3297274c2367%40sessionmgr120&vid=0&hid=114&bdata=JnNpdGU9ZWhvc3QtbGl2ZQ%3d%3d#AN=95584157&db=mth>

⁷ Timothy Heath, “How will China respond to future U.S freedom of Navigation operations,” *Center for Strategic & International Studies*. Last modified October 29, 2015, <https://amti.csis.org/how-will-china-respond-to-future-u-s-freedom-of-navigation-operations/>

⁸ Joseph Chinyong Liow, “What the United States and India can do together on the South China Sea,” *Brookings*. Last modified June 10, 2016. <https://www.brookings.edu/blog/order-from-chaos/2016/06/10/what-the-united-states-and-india-can-do-together-on-the-south-china-sea/>

⁹ “Asia-Pacific Maritime Security Strategy,” *Department of Defense*, (2015):2. https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF.

¹⁰ Tom Phillip, “Beijing summons US ambassador over warship in South China Sea,” *The guardian*. Last modified October 27, 2015. <https://www.theguardian.com/world/2015/oct/27/us-warship-lassen-defies-beijing-sail-disputed-south-china-sea-islands>

international waters.¹¹ As China starts to venture deep into the Pacific, and Indian Ocean as well as the Mediterranean Sea, its own interpretation of FON under UNCLOS becomes self-contradictory. This development implies that China is concerned more with the security threat of having warships sailing across sea lines than the rightful interpretation of FON itself.

In this fast-changing dynamic over the South China Sea, the United States has five main interests in continuously promoting FONOPs to protect the security of SLOCs security from disruption.

7.3 Conforming to International Law

The United States has a long history of safeguarding today's international law. The United States believes that it has an obligation to promote maritime stability consistent with international law, and also an obligation to stress the need for all States to adhere to customary international law.¹² FONOPs allow the United States to “exercise and assert its navigation and overflight rights and freedoms ... consistently with the balance of interests reflected in the United Nations Convention on the Law of the Seas (UNCLOS).”¹³ This right is enshrined in UNCLOS, which guarantees all ships the right of “innocent passage” through the territorial sea and the right of conducting any activities in the Economic Exclusive Zone (EEZ), including military exercises and surveillance.¹⁴ U.S. FONOPs are thus operations that challenge the

¹¹ Jeremy Page and Gordon Lubold, “Five Chinese Navy Ships Are Operating in Bering Sea off Alaska”, *The Wall Street Journal*. Last modified September.2, 2015. <http://www.wsj.com/articles/pentagon-watches-as-chinese-navy-ships-sail-in-bering-sea-1441216258>

¹² Maritime Security and Navigation, *U.S. Department of State*.
<https://www.state.gov/e/oes/ocns/opa/maritimsecurity/>

¹³ Annie Kowalewski, “It’s All About the Ships and the Schedule: US Freedom of Navigation Operations in the South China Sea,” *Georgetown Security Studies Review*. Last modified November 22, 2016.
<http://georgetownsecuritystudiesreview.org/2016/11/22/its-all-about-the-ships-and-the-schedule-us-freedom-of-navigation-operations-in-the-south-china-sea/>

¹⁴ “Part V, Exclusive Economic Zone”, *United Nations Convention on the Law of the Sea*.
http://www.un.org/Depts/los/convention_agreements/texts/unclos/part5.htm

unilateral acts on the part of littoral states that suppress the freedom of SLOCs. Conducting FONOPs will ensure that such acts do not become customary international law.

To be clear, U.S. FONOPs will not be an antagonistic act to contest Chinese claims or an effort to favor other claimants, but it is an assertion of the black-letter principles clearly entailed in the international law. Since the United States began FONOPs in 1983, it has conducted FONOPs across the world. U.S. FONOPs have always been a principle-based program to challenge excessive maritime claims in every region of the world based upon the global interest in mobility and access.¹⁵ In 2015, U.S. FONOPs challenged the excessive straight baselines in Nicaragua, restrictions on right of transit passage through Strait of Hormuz in Iran, prior consent required for military exercises in the Indian EEZ, and the excessive maritime claims in ten other countries.¹⁶ By doing FONOPs, the U.S. Navy will be sending a message to China and the world about the almost universally accepted interpretation of the law, clarifying its position that the United States believes upholding FON to ensure all countries have the right to FON in any EEZs and IP in territorial zones.

7.4 Limiting Chinese Dominance on SLOCs

Freedom of the seas is the backbone for achieving stability among major littoral states in the Asia-Pacific. In the interest of ensuring that the South China Sea does not fall into any unilateral dominance of any nation state, conducting FONOPs elucidates that the United States will not accept littoral state limitations to FON that all navies enjoy. However, increased Chinese militarization on the artificial islands of the South China Sea has sent an unequivocal message to

¹⁵ “Freedom of Navigation program Fact sheet,” *U.S. Department of Defense*. Last modified March 2015. [http://policy.defense.gov/Portals/11/Documents/gsa/cwmd/DoD%20FON%20Program%20--%20Fact%20Sheet%20\(March%202015\).pdf](http://policy.defense.gov/Portals/11/Documents/gsa/cwmd/DoD%20FON%20Program%20--%20Fact%20Sheet%20(March%202015).pdf)

¹⁶ “Freedom of Navigation (FON) Report for Fiscal Year (FY) 2015,” *U.S. Department of Defense*. Last modified April 19, 2016. http://policy.defense.gov/Portals/11/Documents/gsa/cwmd/FON_Report_FY15.pdf

the world: China is determined to dominate SLOCs over the South China Sea, which will disadvantage other regional states that share the public resources in the region.

Chinese militarization over the South China Sea can be defined as aero-amphibious. At each of the Chinese outposts in the Spratly Islands, anti-aircraft gun and a probable close-in weapon system (CIWS) were finished being installed in December 2016.¹⁷ By installing these military structures, China seems to be transforming the islands into an air base. By employing this air-defense system, it could counter missiles launched by the United States. It would also back up the future deployment of mobile surface-to-air missile (SAM).¹⁸ This defense fortification will allow China to employ its air and navy assets permanently in the very heart of the South China Sea with an interlocking ring of protection for the foreseeable future.¹⁹ As China further monitors its strategic SLOCs, it would impede the right of FON.

Apart from the militarization of artificial islands, the newly commissioned aircraft carrier Liaoning signified a new era of Chinese air capability. In January 2017, a J-15 “Flying Shark” fighter jet took off from the aircraft carrier Liaoning, breaking through the first island chain and flying to the airspace over the South China Sea.²⁰ According to the captain of the Liaoning, the fleet led by Liaoning is the most suitable imaginary enemy as it can imitate the tactical movement of the United States to train the combat skills of Chinese troops in the South China Sea.²¹ As the Liaoning starts to receive more complex tasks as a combat ship in the South China Sea, it will increase its control over SLOCs. Although the Liaoning is still incapable of

¹⁷ “China’s new Spratly islands defense,” *Center for Strategic & International Studies*. Last modified December 13, 2016. <https://amti.csis.org/chinas-new-spratly-island-defenses/>

¹⁸ “China’s new Spratly islands defense,” *Center for Strategic & International Studies*. Last modified December 13, 2016. <https://amti.csis.org/chinas-new-spratly-island-defenses/>

¹⁹ *Ibid*

²⁰ Yao Jianning, “Expert: China’s home advantage in South China Sea cannot be overlooked,” *Ministry of National Defense, The People’s Republic of China*. Last modified January 4, 2017. http://eng.mod.gov.cn/Opinion/2017-01/04/content_4769264.htm

²¹ *Ibid*

confronting a U.S. aircraft carrier face-to-face, its proximity to the homeland undoubtedly assists China to further assert its territorial claims in the South China Sea.

The tension over SLOCs may further escalate if China seeks to establish an Air Defense Identification Zone (ADIZ) above the South China Sea. An ADIZ is a publicly defined area extending beyond national territory in which unidentified aircraft are liable to be interrogated and, if necessary, intercepted for identification before they cross into sovereign airspace.²² China has already developed a series of landing strips in the Spratly Islands that could be used to enforce the ADIZ. The ADIZ can be used as a means of anticipatory self-defense from immediate threats emanating above the sea, which can directly impede FONOPs and the right of all states to freedom of the seas.²³ In November 2014, China established a controversial ADIZ above the East China Sea.²⁴ Although China still lacks capacity to fully enforce the ADIZ over the East China Sea at the current stage, it created a clever “ratchet effect.” By asserting itself in a maximalist position, then somewhat scaling back while still retaining incremental gains, China can ratchet up and down depending on the level of tension in the East China Sea.²⁵ Drawing on a lesson from the ADIZ in the East China Sea, Washington urgently needs to increase its naval presence in the South China Sea to check Chinese dominance over SLOCs, preventing further Chinese geopolitical maritime expansion in the Asia-Pacific.

Far beyond the militarization in Chinese-claimed artificial islands in the South China Sea, the China Coast Guard (CCG)’s increasing presence in the South China Sea and rapid modernization is raising a concern. CCG has evolved into the world’s largest coast guard fleet,

²² David A. Welch, “What’s an ADIZ,” *Foreign Affairs*. Last modified December 9, 2013. <https://www.foreignaffairs.com/articles/east-asia/2013-12-09/whats-adiz>

²³ Roncevert Ganan Almond, “South China Sea: The Case Against an ADIZ,” *The Diplomat*. Last modified September 13, 2016. <http://thediplomat.com/2016/09/south-china-sea-the-case-against-an-adiz/>

²⁴ Harry J. Kazianis, “The strategy behind China’s ADIZ in the East China Sea,” *Asia Times*. Last modified March 17, 2016. <http://www.atimes.com/article/the-strategy-behind-chinas-adiz-in-the-east-china-sea/>

²⁵ Ibid

steadily becoming China's second Navy in the Asia-Pacific.²⁶ Even though China claims its using of unarmed coast guard ships as a means to serve traditional coast guard functions and operate within its 12-nautical mile territorial sea, China may also use these ships to safeguard Chinese territorial rights against foreign incursion. CCG patrols have extended to all waters claimed by China, from the mouth of the Yalu River to James Shoal, with a special emphasis on waters where rights infringements take place most frequently.²⁷ CCG ships would intercept foreign vessels operating in China's EEZ and yell words (喊话) to defend Chinese sovereignty over these waters.²⁸ As China employs more very large displacement cutters (greater than 3000 tons) and a potential 10,000-ton cutter to its CCG, this fleet will enable China to conduct longer patrols and conduct more challenging maneuvers to protect its claimed interests and heighten its control over SLOCs.²⁹

From anti-aircraft guns and an aircraft carrier to the ADIZ and finally to the recent CCG, the South China Sea has become a central theater for the Chinese Navy. Increasing Chinese militarization has put the U.S. Naval combatants and bases at the risk if China controls major SLOCs. To confront these risks, the United States must cooperate with China to reduce risk. However, cooperation between great powers needs to be advanced through strength. From a position of strength, the United States can lead further regional cooperation and still preserve the balance of power as China rises. This constructive approach does not oppose to China's interests. Given the fact that no country in the world has benefited from this U.S.-led international system as much as China, China always seeks the greatest economic gains in international

²⁶ Ryan D. Martinson, "China's Second Navy," *U.S. Naval Institute*. Last modified April, 2015. <http://www.usni.org/magazines/proceedings/2015-04-0/chinas-second-navy>

²⁷ Ryan D. Martinson, "China's Second Navy," *U.S. Naval Institute*. Last modified April, 2015. <http://www.usni.org/magazines/proceedings/2015-04-0/chinas-second-navy> Ibid

²⁸ *Ibid*

²⁹ *Ibid*

organizations.³⁰ As China persists in prioritizing its economic development, military conflicts over SLOCs in the South China are unlikely to spill over to economic cooperation with the United States. With close economic ties to the United States and regional states, China doesn't have the capability yet to undermine the U.S.-led international system or break diplomatic relations with the United States. Taking this opportunity, a demonstration of U.S. military strength in the South China Sea can ensure sufficient capacity to project American rules-based power to safeguard the freedom of the seas while still facing manageable risks and maintaining relative peace in Asia-Pacific.

In the meantime, the United States should seek a diplomatic approach to protect the channels of communication with China to scale down the current hostility between two countries. As the key conflict lies in the different understandings of FONOPs, the United States should reassert bilateral and multilateral agreements to promote common understandings on FONOPs to better integrate China into a rule-based maritime order. In 2014, the United States and China signed a Memorandum of Understanding (MOU) on the Rules of Behavior for the Safety of Air and Maritime Encounters. In the MOU, it addressed FON specifically as a reference to UNCLOS.³¹ Both the United States and China see the MOU as an important step in building confidence on both sides for reaching an agreement on unifying different interpretations of FON.³² However, questions regarding whether the MOU is legally binding and how to hold accountability for offensive behavior remain unclear.³³ An ambiguous MOU does little to help

³⁰ Patrick M. Cronin, Robert D. Kaplan, "Cooperation from strength: The United States, China and the South China Sea," *Center for New American Security*. Last modified January 2012. <https://www.cnas.org/publications/reports/cooperation-from-strength-the-united-states-china-and-the-south-china-sea>

³¹ Mark J. Valencia, "The US-China MOU on Air and Maritime Encounters," *The Diplomat*. Last modified November 17, 2014. <http://thediplomat.com/2014/11/the-us-china-mou-on-air-and-maritime-encounters/>

³² Mark J. Valencia, "The US-China MOU on Air and Maritime Encounters," *The Diplomat*. Last modified November 17, 2014. <http://thediplomat.com/2014/11/the-us-china-mou-on-air-and-maritime-encounters/>

³³ *Ibid.*

solving conflicts in FONOPs. Therefore, the United States needs to push to address FONOPs in the MOU, striving for a binding agreement on FONOPs. The United States can see the MOU as an opportunity to further include China in a U.S.-led international security regime.

To protect the right of FONOPs amid the new emerging problem of the CCG, extending the current Code for Unplanned Encounters at Sea (CUES) to coast guards can serve the exigent need to institutionalize the usage of coast guards. Currently, there is no relevant legal clause specifically deal with coast guards. Thus, China took an advantage in this loophole. ASEAN leaders have proposed a detailed inclusion of coast guards and other maritime force in CUES.³⁴ Rather than designing an onerous new code, CUES is the most tangible option for the United States at the current stage. Although CUES is a non-binding agreement, it can be seen as the first milestone in achieving multilateral cooperation between coast guards.³⁵ Prioritizing taking coast guards into consideration can allow countries to develop a common understanding in maritime law enforcement and make the first move to manage the new risk of the CCG.

7.5 Achieving Stability among Littoral States

The South China Sea is a place where major powers' geopolitics collide. The escalating territorial disputes and ensuing tensions are destabilizing the relationship between China and its neighboring littoral states. In the interest of balancing a rising China, it is critical for the United States to strengthen cooperation with regional allies and littoral states based on common understanding of FON to mitigate conflicts over SLOCs. Cooperation with Japan, India, the Philippines and Australia is feasible for the United States since their interpretation of FON is in line with that of the United States. Japan and India are two of the most vital cooperative forces for the United States. Japanese and Indian actions can largely influence China's future moves

³⁴ Sam Bateman, "CUES and coast guards," *East Asia Forum*. Last modified October 7, 2016. <http://www.eastasiaforum.org/2016/10/07/cues-and-coast-guards/>

³⁵ *Ibid.*

and SLOCs security in the Asia-Pacific. The United States should take the opportunity to garner support from regional partners on the right of FONOPs. On the other hand, the United States needs to assure that joint FONOPs will not provoke further tensions in their relationships with China.

Japan remains the wariest of other regional partners about Chinese expansion in the Asia-Pacific. Japan shares common interests with the United States in protecting freedom of SLOCs. In recent years, as Japan has evolved into a key extra-regional player in the South China Sea, its every move increasingly touches China's sensitive nerves. Triggered by the tension over the Senkaku/Diaoyu Islands, an intense nationalist anger has burst on both sides. China is building a \$544 million military base in Wenzhou, the nearest location in Mainland China to the Senkaku/Diaoyu Islands, which hikes the risk of military conflicts dominating SLOCs.³⁶ In consequence, Japan argues that China infringes on its rights over SLOCs, standing firmly against China by supporting the usage of military vessels in conducting FONOPs. Japan showed its willingness to provide patrol ships to Vietnam and the Philippines. Earlier, Japan indicated that it would participate in "joint training cruises" with the U.S Navy in the South China Sea.³⁷ Japan, as a crucial player in balancing powers in the Asia-Pacific and an important ally to the United States, needs support from the United States in defending its interests in South China Sea SLOCs. Japan certainly has the right to conduct FONOPs in international water. Encouraging Japan to conduct its own FONOPs is an option to empower FONOPs in protecting freedom of sea lines. However, the United States should also be aware that Japanese FONOPs or a joint FONOP between the United States and Japan will elevate Japan's role in the dispute and further

³⁶ Steve Mollman, "Japan and China's maritime tensions in the South China Sea are resurfacing World War II-era wounds," *Quart.* Last modified September 22, 2016. <https://qz.com/780317/japan-and-china-are-ramping-up-maritime-tensions-in-the-south-china-sea-and-east-china-sea/>

³⁷ *Ibid.*

escalate tensions in China–Japan relations. During this special moment—a downward spiral—in China–Japan relations due to sovereignty claims over the Senkaku/Diaoyu Islands, joint FONOPs with Japan may push China into a corner and trigger a resurgence of nationalism. Outbursts of nationalism will make people with moderate views lose their voices, largely limiting policy options between two governments.³⁸ Hence, incorporating Japan in FONOPs at current stage has risks. For the goal of achieving stability in the Asia-Pacific, the United States needs to fully evaluate its risks, navigating areas, and proper timing before involving Japan in FONOPs.

U.S. cooperation with India via joint FONOPs is more ideal and less sensitive to China than FONOPs with Japan. India, as a nascent great power, has emerged as a prominent player in the Asia-Pacific. India is strategically significant to the balance of maritime power in Asia. Over the past few years, India’s relations with China and the United States over SLOCs was fast-changing. Even though India’s interest in the South China Sea is rooted in maintaining open SLOCs, both China and India tend to play down their conflicts on SLOCs, particularly in government pronouncement as opposed to media headlines in the past.³⁹ Both sides believed that they had different interests in geopolitics and therefore should not stoke a peer-rivalry.⁴⁰ However, as China starts to become more assertive in the South China Sea, India has seen China’s disruption of SLOCs a threat to its influence in the region.⁴¹ Correspondingly, the protection of sea lines has become the main driver of the Indian Navy’s recent close engagement

³⁸ Nozomu Hayashi, “A New Phase for Japan-China Ties after the South China Sea Ruling,” *CSIS*. Last modified August 1, 2016. <https://www.csis.org/analysis/new-phase-japan-china-ties-after-south-china-sea-ruling>

³⁹ Jonah Blank, Jennifer D.P. Moroney, Angel Rabasa, Bonny Lin, “Look East, Cross Black Waters,” *Rand Corporation*. Last modified 2015.

http://www.rand.org/content/dam/rand/pubs/research_reports/RR1000/RR1021/RAND_RR1021.pdf.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

with the United States.⁴² The Indian Prime Minister declared that India supports FON under UNCLOS. The Indian Navy has staged a series of deployments to Southeast Asian waters, including the South China Sea.⁴³ India's fast-reversing position on the South China Sea issue can give the United States the opportunity to strengthen cooperation with India. The United States needs India in the Indian Ocean region to undertake tasks that the United States can no longer undertake alone in facing the rise of China. Washington needs to seek allies whose interests align with its own. By standing in line with India, the United States can gain access to more operation locations in Southeast Asia. Operation locations enable U.S. Naval forces to disperse at the outset of conflicts, improving the resilience of U.S. Naval operations to better enhance regional stability.

7.6 Safeguarding Commerce and Energy Supply

Freedom of SLOCs is the premise of being free from interrupted commerce and energy supply for both regional states and the United States. FONOPs, do not only serve as a means to fortify U.S. commitment toward regional allies and partners to counterbalance Chinese militarization in Asia Pacific, but FONOPs also protect flowing commerce and energy in the South China Sea. More than half of the world's commerce that travels by sea and about half of the world's oil tanker shipments pass through sea lines in the South China Sea.⁴⁴ Sea lines are varied depending on where the vessels are sailing to, however, major routes enter and exit the South China Sea via strategic choke points. As seen in Figure 7.1, the Straits of Malacca, Strait

⁴² "India backs freedom of navigation in South China Sea, seeks respect for law," *The Financial Express*, Last modified September 8, 2016. Ibid

⁴³ *Ibid.*

⁴⁴ Jeffery Bader, Kenneth Lieberthal, and Michael McDevitt, "Keeping the South China Sea in perspective," *Brookings Institution: The foreign policy brief*, Last modified August 2014. <https://www.brookings.edu/wp-content/uploads/2016/06/south-china-sea-perspective-bader-lieberthal-mcdevitt.pdf>

of Sunda, Strait of Lombok and Strait of Makassar are considered as the most vital choke point in Asia-Pacific.⁴⁵

Figure 7.1: Major choke points in Asia-Pacific⁴⁶



Among all the choke points, The Straits of Malacca are the most vital and the most cost-efficient route. About 60,000 vessels transit the Straits of Malacca each year, including tankers holding more than 13 billion barrels of petroleum, or more than 40% of globally produced oil.⁴⁷ The Straits of Malacca are the “energy lifeline” for economic powerhouses like China, Japan, South Korea and Taiwan. For China, about 80% of its total energy imports are required to go

⁴⁵ Ji Guoxing, “SLOC security in the Asia Pacific,” Daniel K. Inouye Asia-Pacific Center for Security Studies. Last modified February, 2000. <http://apcss.org/Publications/Ocasional%20Papers/OPSloc.htm>

⁴⁶ “The Map of Major Choke Points”, *University of Texas Library*. Last modified 2002. http://www.lib.utexas.edu/maps/middle_east_and_asia/indonesia_physio-2002.pdf

⁴⁷ Felipe Umana, “Transnational security Threats in the Strait of Malacca”, *The fund for Peace*. Last modified 2012. <http://library.fundforpeace.org/library/ttcvr1213-threatconvergence-malaccastraits-08e.pdf>

through the Straits of Malacca, which are known as the “Malacca dilemma.”⁴⁸ Closure of the Straits of Malacca could cause immediate increases in freight rates worldwide, and hit bulk shipment the hardest.⁴⁹ The vulnerability of the Strait of Malacca encouraged the PLA to develop a strong interest in safeguarding the SLOCs. The PLA’s rapid military modernization embodies a serious dedication in preventing the Straits of Malacca from potential disruption. For Japan and South Korea, about 85% to 90% of their energy supplies flow through the South China Sea, so any existential threat to the maritime trade routes is of strategic concern to Japan, as well as others in the region.⁵⁰ Although U.S. oil imports from the Middle East are declining, the United States is still closely tied to international oil markets. Any major disruption of oil flows will have negative consequence for the U.S. economy and U.S. allies. As U.S. economic prosperity largely depends on trade partners’ well-being, the United States should continue FONOPs to monitor risks near these chokepoints and to ensure unhindered SLOCs. Moreover, since these chokepoints are surrounded by multiple states, no state can possibly claim exclusive rights over them. The United States can increase the frequency of FONOPs near these chokepoints without the risk of trespassing on any state’s territory.

7.7 Combating Terrorism

The threats associated with non-traditional security concerns could have far-reaching impacts on the security of SLOCs. Terrorism has emerged as the most serious among non-traditional threats in the post-9/11 world. There are four main concerns facing the United States, which include terrorists using sea lines as a transport route, terrorists using ships as weapons

⁴⁸ Wallace Cheng, “China’s new silk road: implications for the US,” International centre for Trade and Sustainable Development. Last modified June 1 2015. <http://www.ictsd.org/opinion/china>

⁴⁹ John.H. Noer, “Southeast Asian Chokepoints,” *Institute for National Strategic Studies*. Last modified December 1996. <http://www.dtic.mil/get-tr-doc/pdf?AD=ADA394162>

⁵⁰ Felipe Umana, “Transnational security Threats in the Strait of Malacca”, *The fund for Peace*. Last modified 2012. <http://library.fundforpeace.org/library/ttcvr1213-threatconvergence-malaccastraits-08e.pdf>

against targets at sea or on land, terrorists' attacks on vessels at sea and the risk of using highly dangerous weapons to cause serious destruction on SLOCs.⁵¹ By witnessing the rapid surge in maritime shipping traffic and the tighter integration of global trade supply chain, free flow of global commerce starts to become more vulnerable to terrorists' attacks.⁵² These vulnerabilities are amplified when littorals have inadequate coastal surveillance. Hence, a fool-proof security system must be put into practice to prevent SLOCs from becoming terrorists' targets. The United States has pioneered many cooperative initiatives with regard to global maritime security such as the Container Security Initiative (CSI) and the International Ship and Port Facility Security (ISPS) Code.⁵³ These initiatives are effective in setting up standards for shipment safety, but since targeting terrorists is elusive in nature, those initiatives still lack the full capacity to deter a serious terrorist. FONOPs can be proper means to complement these existing initiatives. FONOPs can function as terrorism patrols to monitor risks on the seas, and respond to sudden events more quickly and in a more capable way.

7.8 Policy Recommendations

7.8.1 Continue current U.S. FONOPs, encourage regional states to conduct their own FONOPs, and promote multilateral FONOPs and joint patrols with regional partners. The United States is the only country that has systematic FONOPs, however, the FONOPs are trapped in a dilemma: its operational tempo is decreasing, while its unilateral image increasingly antagonizes China. Soaring costs and stagnant budget have strained the U.S. ability to conducting FONOPs. Hence, the United States needs to solicit help from regional partners to

⁵¹ Steffi Marianne Ploger, "The prevention of maritime terrorism", *University of Tromsø*. Last modified October 9, 2008. https://www.duo.uio.no/bitstream/handle/10852/22765/MASTERTHESIS_mitxNamen.pdf?sequence=1

⁵² Peter Chalk, "The maritime Dimension of International Security", *RAND Corporation*. Last modified 2008. http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG697.pdf

⁵³ Peter Chalk, "The maritime Dimension of International Security", *RAND Corporation*. Last modified 2008. http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG697.pdf

protect sea lines by encouraging regional actors to conduct their own FONOPs. Washington can empower FONOPs and soften the image of U.S.–China rivalry in the Asia-Pacific, strengthening FON as a fundamental right under UNCLOS and the notion of freedom of SLOCs.

7.8.2 Facilitate FONOPs and further expand CUES cover coast guards. The MOU between the United States and China helps to reduce the risk of escalating tensions over the different interpretation of FON. Since China has not yet expressed its comment on the MOU regarding rules of behavior for safety of air and maritime encounters in the South China Sea, the United States needs to close the gap. CUES currently does not cover coast guards and other civilian vessels.⁵⁴ Since China has increasingly used these two to back its presence in the South China Sea, the United States should support the recent Singapore proposal for China and ASEAN to expand CUES to standardize the use of coastguard and civilian vessels.

7.8.3 Improve communications to negotiate strategic differences with China. The United States should be clear that global cooperation on governing the South China Sea is not going to be accomplished without Washington’s down-to-earth or assertive realism backed by bold naval power. While Washington should avoid direct military conflicts with China over the South China Sea, it should not hesitate to be unyielding in diplomatic confrontation over the freedom of the seas. At the same time, the United States need to ensure other regional states will not give up their maritime rights when they negotiate economic deals with China.

⁵⁴ Lynn Kuok, “The U.S. FON program in the South China Sea”, Brookings Institution. Last modified June 2016. <https://www.brookings.edu/wp-content/uploads/2016/07/The-US-FON-Program-in-the-South-China-Sea.pdf>

CHAPTER 8

U.S. Economic Policy in the Asia-Pacific

Yinong Su

8.1 Introduction

In the next decades, no region of the world will do more to shape U.S. economic interests than Asia. The United States has enduring economic and security interests in the Asia-Pacific: five of the seven countries that the United States has mutual defense agreements with are in the Asia-Pacific; seven of the top fifteen U.S. trading partners are in Asia. The ability of the United States to advance its agenda in the Asia-Pacific is contingent upon an economic policy that not only secures the good will of its treaty partners, but also ensures that the United States retains its economic clout and leadership overall. The Asian economy is now undergoing significant change as China rises to redefine economic norms in the region, some of which do not favor the United States and its interests. Thus, the United States must actively participate in regional economic integration, promote U.S. values, and exert more influence, making sure the economic rules set in the Asia-Pacific align with U.S. interests. This chapter first discusses the interdependent economic relations between the United States and the Asia-Pacific, then addresses the current challenges to U.S. leadership brought about by China's economic projects, and finally offers some policy recommendations.

8.2 Why a Strong Economic Policy is Indispensable

A robust economic policy is indispensable to an overall security strategy in the Asia-Pacific. First, the performance of the Asia-Pacific has a great impact on the U.S. economy. Second, the United States could lose its leadership position and disappoint its allies if it fails to address economic concerns, making it harder for Washington to advance its security strategy in

the region. With these two key considerations in mind, Washington should increase its economic involvement in the region and ensure that the economic rules set in the Asia-Pacific align with U.S. interests.

The United States is the largest economy in the world, and the Asia-Pacific is the leading economic bloc, with both sharing many economic interests. Five of the top ten U.S. trading partners are in Asia, which includes China, Japan, South Korea, India and Taiwan, accounting for 28% of total trade.¹ The huge volume of both exports and imports, as shown in the graphic, underscores an interdependent and mutually beneficial relationship between the United States and its Asian trading partners.

Figure 8.1: Year-to-Date Total trade (Data are goods only, on a Census basis, in billions of dollars, unrevised)²

Rank	Country	Exports	Imports	Total Trade	Percent of Total trade
---	Total, All Countries	1,327.9	2,005.0	3,332.8	100%
---	Total, Top 10 Countries	933.5	1,563.3	2,496.8	74.9%
1	China	104.1	423.4	527.6	15.8%
2	Canada	245.6	254.8	500.4	15%
3	Mexico	211.8	270.6	482.5	14.5%
4	Japan	57.6	120.0	177.6	5.3%
5	Germany	45.0	104.6	149.6	4.5%
6	Korea, South	38.0	64.5	102.5	3.1%
7	United Kingdom	51.1	49.6	100.6	3.0%
8	France	28.0	43.2	71.2	2.1%
9	India	19.6	42.6	62.1	1.9%
10	Taiwan	23.4	35.9	59.4	1.8%

¹ “Foreign Trade: Data,” U.S. Census Bureau Foreign Trade Division, Foreign Trade Data Dissemination Branch, accessed January 22, 2017, <https://www.census.gov/foreign-trade/statistics/highlights/top/top1611yr.html>.

² *Ibid.*, November 2016.

The United States has benefited from the rapid growth of East Asian countries. In 2015, U.S. goods and services exports to Asia were worth more than \$750 billion, and these exports support more than 3 million U.S. jobs.³ Moreover, Asia's economic potential is still growing. The Asian Development Bank forecasts that by 2030, Asia will account for more than 40% of global GDP.⁴ This indicates more demand for U.S. goods and business investment opportunities in Asia.

However, the United States cannot take these economic advantages for granted. Many threats are rising. China and other developing countries in the region are facing a "middle-income gap," meaning that their labor-intensive industries are losing advantages before they transform towards high technology industries. The United States has a stake in helping East and Southeast Asia innovate and develop their technologies, because slow growth will not only hurt people in Asia, but also U.S. export-oriented industries selling a large volume of goods to Asian consumers every year. Further, Asian trading frameworks and regulatory institutions need to evolve and some current rules do not cohere to U.S.-led international standards. To support U.S. industry and business interests in the region, Washington should step in and take an active role in setting trade agreements with Asian countries, and update the Asian economic architecture to address issues such as restrictions on capital mobility and intellectual property theft, which concern American business.

The economic performance of both ASEAN countries and China also holds implications for security concerns. For many Asian countries, economic development is the foundation of

³ "Reinvigorating U.S. Economic Strategy in the Asia Pacific," Center for Strategic and International Studies. https://csis-prod.s3.amazonaws.com/s3fs-public/publication/161228_Barshefsky_USEconomicStrategyAsiaPacific_Web.pdf

⁴ Asian Development Bank (ADB), *Asia 2050: Realizing the Asian Century* (Manila: ADB, August 2011).

security.⁵ Southeast Asian countries that are overly reliant on China's economic growth face two difficulties: A strong China forces them to yield when faced with political disputes with China; but if China's growth slows, their economies will also suffer. During the ASEAN Summit in April 2015, ASEAN members that normally avoid confrontation with China over their aggressive behavior finally but implicitly identified China as the cause of regional problems, stating that they "share the serious concerns expressed by some Leaders on the land reclamation being undertaken in the South China Sea, which has eroded trust and confidence and may undermine peace, security and stability in the South China Sea."⁶ However, ASEAN cannot take a unified, firm stance challenging China's aggressive behavior in the South China Sea if they heavily depend on China's economic strength.

Diversification of economic partners and export markets has been a central strategy for ASEAN countries to buffer against overdependence on China's economic growth, which is part of the impetus of the TPP.⁷ Southeast Asian countries demand a deeper economic tie with the United States to encourage relative independence when facing a politically and economically more assertive China. Increasing domestic demands and diversifying exports are also a way to offset the negative effects of the Chinese economy slowing down. Thus, the United States should continue to support ASEAN's economic integration and to diversify its trade. Failing to strengthen the economic dimensions of ASEAN will leave a void for China to expand its influence.

⁵ "Reinvigorating U.S. Economic Strategy in the Asia Pacific", Center for Strategic and International Studies. https://csis-prod.s3.amazonaws.com/s3fs-public/publication/161228_Barshefsky_USEconomicStrategyAsiaPacific_Web.pdf

⁶ Brad Glosserman and Ralph A. Cossa, "A Frustrating Start to 2015 for the US," *Comparative Connections* · Volume 17, Issue 1. <http://cc.csis.org/2015/05/frustrating-start-2015-us/>

⁷ Meredith Miller, "China's Relation with Southeast Asia," US-China Economic and Security Review Commission. http://www.uscc.gov/sites/default/files/Miller_Written%20Testimony_5.13.2015%20Hearing.pdf

8.3 Rising Challenges and Opportunities in Asia

The Asia-Pacific is now undergoing significant changes, some of which are not in line with U.S. interests. In seeking a leadership role in the region, China has already jumped ahead by initiating some high-profile economic projects, with complex implications for global governance. The United States should mitigate the potential negative effects and maximize its benefits by selectively backing these China-led projects.

8.3.1 *One Belt One Road Initiative*

For the United States, the One Belt One Road Initiative (OBOR) brings both risks and opportunities. On the one hand, China's expansion of its influence across Eurasia can erode U.S. leadership; on the other hand, improving infrastructure can help foster economic prosperity in countries along OBOR, which is in U.S. interests. A viable approach for the United States is to cautiously back the many aspects of OBOR that advance U.S. interests and oppose those do not.⁸

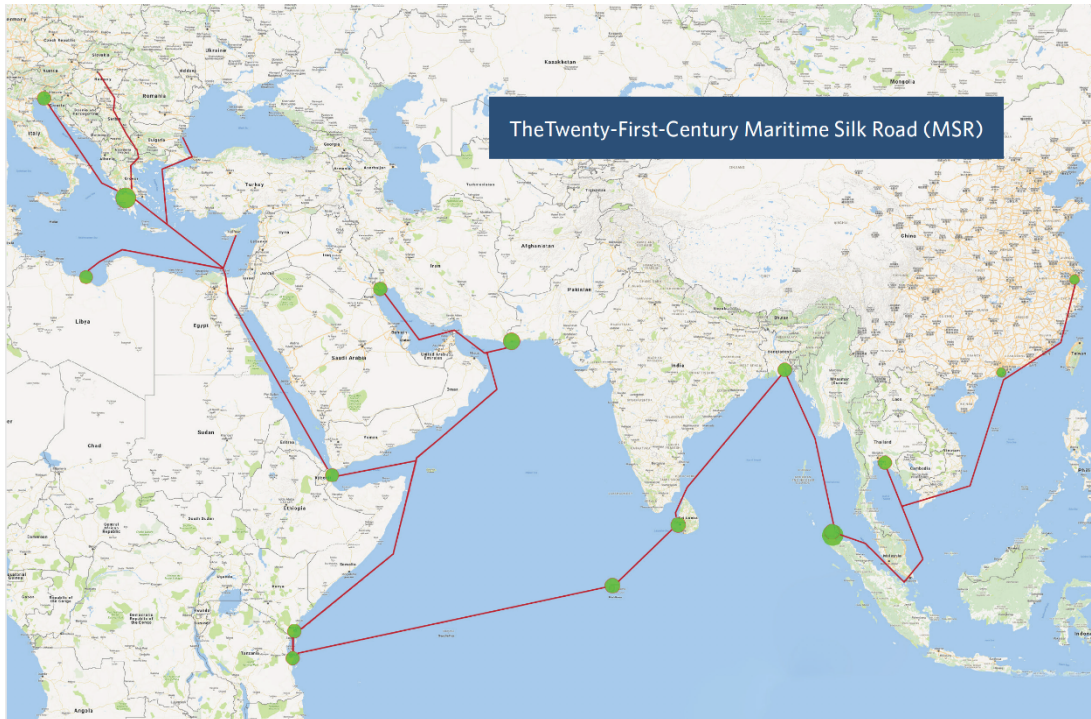
In 2013, China launched OBOR, a program that shows China's ambitions to increase bilateral trade dependence and reshape political order in the region. An essential component of OBOR is the Maritime Silk Road (MSR), which begins at the South-Eastern coasts of China via the Indian Ocean, the Red Sea and the Mediterranean. The route links East Asia with the Middle East, Africa and Europe. Initially launched as a regional infrastructure project, the latest release of the Action Plan indicates that the scope of the OBOR strategy has expanded to establish a free trade network, promote the free flow of capital and technology, and promote effective economic interaction across East Asia and Europe.⁹ China is also building OBOR jointly with ASEAN countries to improve bilateral relations that have been jeopardized by territorial disputes such as

⁸ Gal Luft, "China's Infrastructure Play." Foreign Affairs. Accessed February 18, 2017. <https://www.foreignaffairs.com/articles/asia/china-s-infrastructure-play>.

⁹ Michael M Du, "China's "One Belt, One Road" Initiative: Context, Focus, Institutions, and Implications", *The Chinese Journal of Global Governance* 2 (2016) P.30–43.

the South China Sea.¹⁰ While the MSR improves maritime architecture facilitating regional trade, given the increased tensions in the South China Sea, particularly since the ruling of The Hague against China's historical claims in the region, China might attempt to change the status quo in the region by using the MSR as a cover for its construction and land reclamation activities.¹¹

Figure 2: The 21st Century Maritime Silk Road¹²



U.S. analysts generally express two opposing sentiments about OBOR—analysts either dismiss its feasibility or voice fear about the United States losing its leadership. Some argue OBOR might not work, citing not only the formidable resources and commitment required for China to complete it, but also the economic and political fragility of countries along OBOR. However, others fear that a China-led OBOR will undermine the mainstream western economic

¹⁰ *Ibid.*

¹¹ Gaul Luft, "It takes a Road: China's One Belt One Road Initiative: An American Response to the New Silk Road." Institute for the Analysis of Global Security. http://www.iags.org/Luft_BRI.pdf

¹² Institute for the Analysis of Global Security.

rules set by U.S.-led institutions such as the IMF and the World Bank.¹³ These conflicting thoughts lead to a more important task: how should the United States respond? The United States does not have to choose between securing its leadership and assisting economic growth across Eurasia: selectively backing OBOR would help achieve both goals.¹⁴ The most important task is mitigating the negative effects of China's connection with the rest of Eurasia and maximizing U.S. benefits from this.¹⁵ The United States can hardly achieve anything from OBOR if it is not even a participant. By boycotting the Chinese-sponsored institutions (i.e., the AIIB), the United States gains nothing beyond losing opportunities for its companies' exports. As such, to show the U.S. commitment towards rebalancing its attention to Asia, the United States needs to participate in the new institutions that the Chinese and other Asian countries are creating.¹⁶

Moving forward, there are a range of acceptable actions to consider, including investing in OBOR. The United States does not have to embrace OBOR in its entirety, and the United States is rightly wary of projects that enhance China's military capacity.¹⁷ However, it would be ideal to encourage U.S. companies to take opportunities from this giant infrastructure building project across Eurasia. Infrastructure building is also a prerequisite for connectivity and regional economic exchange, which ultimately increases growth rates.¹⁸ This step is optimal for both countries on OBOR's list as well as U.S. firms seeking expansion in these developing countries. The Chinese have already made efforts to encourage U.S. private capital to invest in OBOR. In September 2016, representatives of ten Chinese state-owned enterprises visited Washington and

¹³ Michael M. Du China's "One Belt, One Road" Initiative: Context, Focus, Institutions, and Implications

¹⁴ Gal Luft, "China's Infrastructure Play." *Foreign Affairs*. Accessed February 18, 2017. <https://www.foreignaffairs.com/articles/asia/china-s-infrastructure-play>.

¹⁵ Chas W. Freeman, Jr. "One Belt One Road: What's in It for Us?" Reconnecting Asia, <https://reconnectingasia.csis.org/analysis/entries/one-belt-one-road-whats-it-us/>

¹⁶ *Ibid.*

¹⁷ Marco Grossman, "China and the US: Two Visions, One Collaboration?," Yale Global Online, accessed February 18, 2017, <http://yaleglobal.yale.edu/content/china-and-us-two-visions-one-collaboration>.

¹⁸ Gaul Luft, "It takes a Road: China's One Belt One Road Initiative: An American Response to the New Silk Road," Institute for the Analysis of Global Security. http://www.iags.org/Luft_BRI.pdf.

New York to promote U.S. commercial interests in OBOR opportunities.¹⁹ Increasing U.S.–China cooperation on the OBOR is feasible. In fact, Washington and Beijing are already working together in Pakistan on the clean-energy project Sapphire Wind.²⁰ Connecting U.S. firms to OBOR requires a joint effort by many parts of the U.S. government, including the Departments of State and Commerce, the U.S. Overseas Private Investment Corporation, and the Export Import Bank.²¹

It is worth noting that some aspects of OBOR are potentially detrimental to U.S. interests, but these negative effects can be managed through closer U.S. engagement.²² OBOR provides Beijing a tool to change the status quo in the South China Sea and distance U.S. allies from Washington. For example, despite the PCA ruling against China’s claims on the South China Sea, the Philippines remains closer to China than the United States and is eager to be on the receiving side of China’s OBOR investments.²³ Washington should reassure Manila by placing higher priority on the economic development of the Philippines to dilute Beijing’s influence.

8.3.2 *The Asian Infrastructure Investment Bank (AIIB)*

The United States faces threats from China trying to establish the new financial institution, the AIIB, which could undermine U.S.-led international institutions such as the World Bank and the IMF. The AIIB is another ambitious project launched by China to compete with the Japan-led Asian Development Bank (ADB). The mission of the AIIB is to foster long-term economic development and finance infrastructure building projects such as OBOR.

¹⁹ Marco Grossman, “China and the US: Two Visions, One Collaboration?,” Yale Global Online, accessed February 18, 2017, <http://yaleglobal.yale.edu/content/china-and-us-two-visions-one-collaboration>.

²⁰ *Ibid.*

²¹ *Ibid.*

²² Gaul Luft, *It takes a Road: China’s One Belt One Road Initiative: An American Response to the New Silk Road*. Institute for the Analysis of Global Security. http://www.iags.org/Luft_BRI.pdf

²³ *Ibid.*

The U.S. perspective on the AIIB is full of suspicion and mistrust. The United States not only refused to join the AIIB, but also tried to prevent its allies from joining. Obama made a tough remark on the AIIB, stating that “China wants to write the rules for the world’s fastest-growing region that would put our workers and our businesses at a disadvantage.... We should write those rules. We should level the playing field.”²⁴ This was a calculated push to persuade Congress to approve the TPP, but it also reflected deep suspicion about Chinese intentions.²⁵ U.S. officials attempted to discourage several American allies including Australia, South Korea and the UK from joining the bank, but their efforts all failed.²⁶ The AIIB initiative turned out to be an unexpected success, with 47 countries on board as founding stakeholders. Later, President Obama’s administration softened its rhetoric and voiced support for the new bank.²⁷ From China’s perspective, the AIIB episode illustrates Washington’s mistrust towards Beijing and efforts to limit China’s influence. It also shows the volatility of U.S. coalitions, since the United States was unable to keep its partners from joining the AIIB.

One lesson learned from this episode is that neither side should portray U.S-China relations as a zero-sum game, for many reasons. First, a U.S-China hegemonic struggle forces U.S. allies in Asia to pick a side, and pressure from the United States would not necessarily bring a satisfying result because its allies have their own economic and political concerns. Second, there are many aspects for potential cooperation between the United States and China if both parties are willing to trust each other. In view of the reality that the AIIB is one of the major

²⁴ Bonnie Glaser and Jacqueline Vitello, “China Makes Strides with AIIB and a Great Wall of Sand”, *Comparative Connections* · Volume 17, Issue 1, <http://cc.csis.org/2015/05/china-makes-strides-aiib-great-wall/>.

²⁵ *Ibid.*

²⁶ Bonnie Glaser and Jacqueline Vitello, “China Makes Strides with AIIB and a Great Wall of Sand”, *Comparative Connections* · Volume 17, Issue 1, <http://cc.csis.org/2015/05/china-makes-strides-aiib-great-wall/>.

²⁷ *Ibid.*

funding sources for OBOR, and that widespread infrastructure investment in Central Asia benefits U.S. business in Asia, the United States should consider joining the AIIB.

8.3.3 *Regional Comprehensive Economic Partnership (RCEP)*

As the United States is not a member of the RCEP, it has little power to shape economic rules in the Asia-Pacific through this institution. The RCEP also does not address many FTA quality issues concerning U.S. interest groups. From the point of view of the United States, the *RCEP* is viewed as a China-led, lower-barrier version of the TPP. Its members include the ASEAN + 6 (Australia, China, India, Japan, South Korea and New Zealand). The RCEP reflects China's recent strategy towards greater engagement in international trade agreements, and it is a tool for China to consolidate its preferences in Asia and counter U.S. clout in the region.²⁸ While Washington is skeptical of Beijing's intentions to establish new institutions, Beijing has been wary of the TPP and has tried to dilute American influence over the region. Chinese leaders would prefer a diversified nexus of institutions that rely on its control rather than permitting the TPP to become a dominant institution, particularly because China is not a member.²⁹ The RCEP is the ideal tool for Beijing to achieve such a goal. By leading the RCEP, China also wants to win its neighbors' trust in a region strained by tensions over territorial claims in the South China Sea and East China Sea. Though Asian countries are skeptical about Beijing's vision of the future Asia, they are willing to accept help to promote regional integration, especially after the United States withdrew from the TPP.

As mentioned, the RCEP is also an ideal strategy for China to undermine U.S. multilateral engagement yet it lacks the appropriate infrastructure to accomplish this. To this end,

²⁸ Adrian H. Hearn and Margaret Myers, *The Changing Currents of Transpacific Integration: China, the TPP, and Beyond*. Boulder: Lynne Rienner Publishers, 2017.

²⁹ Tim Summers, "Chinese Multilateralism: Diluting the TPP" Hearn, Adrian H., and Margaret Myers, eds. *The Changing Currents of Transpacific Integration: China, the TPP, and Beyond*. Boulder: Lynne Rienner Publishers, 2017. P54-55.

the RCEP is not an alternative of the TPP, but rather, a partnership intended to rival it. The agreement itself is modest, and it does not address FTA quality issues such as the protection of intellectual property (IP) rights, which are included in the TPP's ambitious "21st century agenda."³⁰ Hence, measured principally through IP protection and FTA quality issues, the RCEP is not a game-changing institution setting higher norms in the Asia-Pacific and cannot replace the TPP.

Since the United States currently is not a member of the RCEP, this undermines the U.S. ability to set trading norms in the region, which could further weaken U.S. clout in the Asia-Pacific.

8.4 Keys for Devising a Sound Economic Strategy

American rule-based open economy faces challenges from both home and abroad. The United States needs to take actions addressing these challenges, which are potentially inconsistent with our interests. However, it cannot achieve these goals by making unwelcome moves towards reversing the trend of free trade. Withdrawal from the TPP put forecasted large economic gains at risk and damaged the credibility of the United States as an economic and strategic partner, especially as China expanded its leadership in the economic and political order of the Asia-Pacific by promoting its low-barrier, less open system. Economic erosion can further undermine American leadership in political sphere. Thus, the United States should begin negotiating new trade agreements within the Asia-Pacific and strengthen the existing Asian economic architecture to promote its rule-based values, ensuring that economic norms set in Asia align with U.S. interests.

³⁰ Jeffrey D. Wilson, "Mega-Regional Trade Deals in the Asia-Pacific: Choosing Between the TPP and RCEP?" *Journal of Contemporary Asia*, 25 September 2014, 45:2, 345-353, DOI: 10.1080/00472336.2014.956138.

8.4.1 *The Trans-Pacific Partnership (TPP).*

The TPP was not only a regional mega-trade pact across the Pacific, generating enormous economic benefits, but also an important component in the U.S. strategy of rebalancing toward Asia, which includes the investment of increased diplomatic resources and—through the TPP—a renewed U.S. economic interest in the region.³¹ The TPP was abandoned by the United States due to misunderstanding of its economic implications on the part of many U.S. domestic interest groups, which are projected by anti-trade rhetoric. Despite its withdrawal from the TPP, the United States should keep parts of the TPP in a new multilateral or bilateral trade framework when negotiating new trade agreements with the Asia-Pacific, given the significant economic benefits brought forth by the TPP and the strategic importance of delivering a gratifying trade agreement to our Asian allies and partners.

The TPP possesses components rendering its economic impact as beneficial for several reasons. First, the TPP supports “made in U.S.A” exports and jobs. In fact, TPP countries account for 45% of total U.S. goods exports supporting 3.1 million U.S. jobs in 2014, and 97% of exporters shipping goods to TPP countries in 2012 were small and medium-sized companies.³² The Office of the U.S. Trade Representative’s report introduces the overall U.S. benefits that will be brought by the TPP: over 18,000 taxes posed on made-in-U.S. goods would be eliminated, and IP will receive increased legal protection, a major concern for U.S. companies doing business in Asia.³³ Japan, which rigorously protects its domestic agriculture industries, has lifted the import bar for the first time, and this will greatly help U.S. agricultural exporters. The TPP

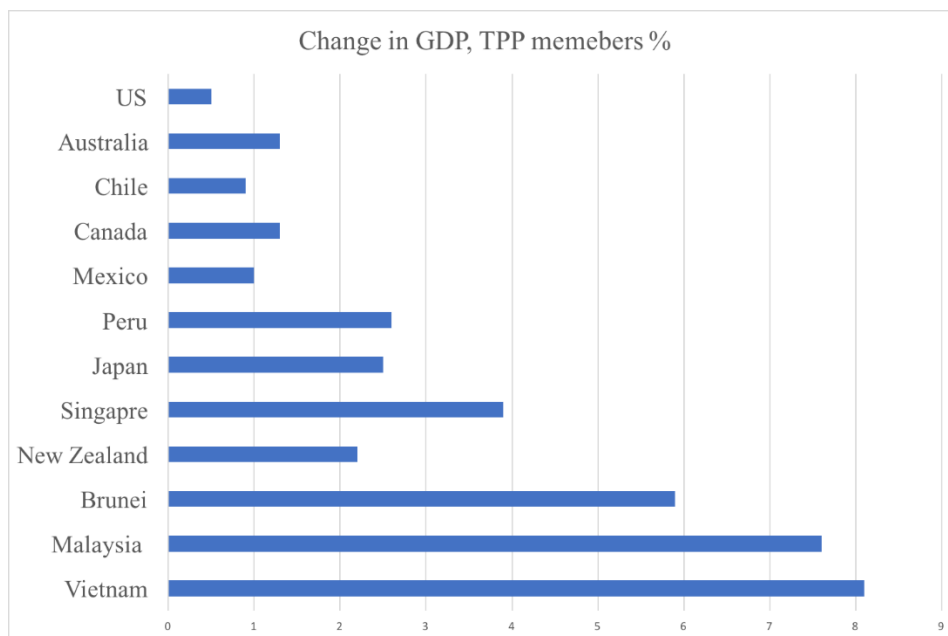
³¹ Mathew Davies, “The TPP Is Over. What Happens Now?,” *CNN*, accessed February 22, 2017, <http://www.cnn.com/2016/11/22/opinions/tpp-over-what-next-asia/>.

³² “U.S. Secretary of Commerce Penny Pritzker Highlights Economic Benefits with Trans-Pacific Partnership,” Department of Commerce, <https://www.commerce.gov/news/press-releases/2015/10/us-secretary-commerce-penny-pritzker-highlights-economic-benefits-trans>.

³³ “TPP: Overall U.S. Benefits Fact Sheet,” Office of the United States Trade Representative, <https://ustr.gov/sites/default/files/TPP-Overall-US-Benefits-Fact-Sheet.pdf>.

will increase annual exports in the United States by \$357 billion, or 9.1 percent of exports, over baseline projections by 2030.³⁴ Forecasts conducted by the World Bank and various economic institutes all show an increase in GDP of the TPP members, while most non-members will experience a decrease in their GDP.³⁵

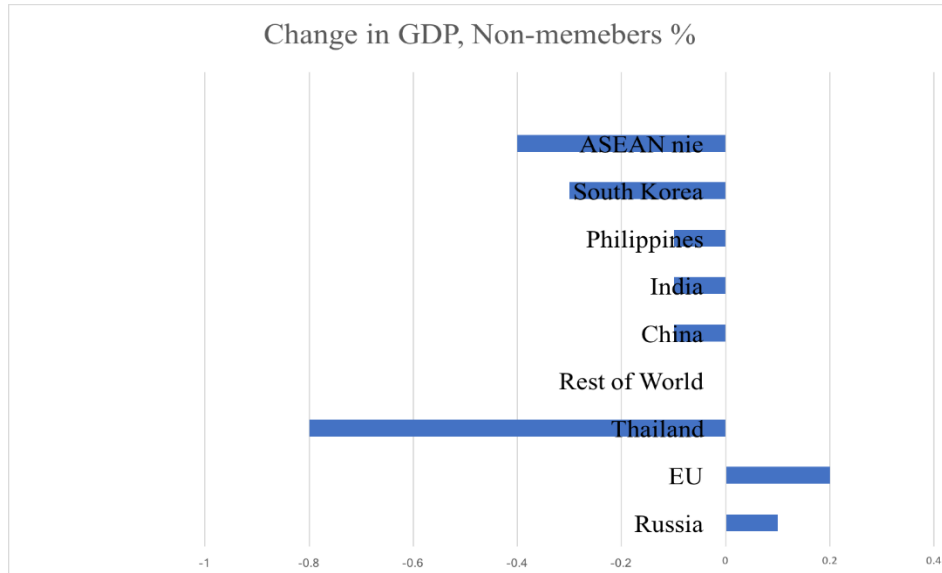
Figure 8.3: Change in GDP, TPP members³⁶



³⁴ “Assessing the Trans-Pacific Partnership Volume 1: Market Access and Sectoral Issues,” Peterson Institute for International Economics, <https://piie.com/publications/piie-briefings/assessing-trans-pacific-partnership-volume-1-market-access-and-sectoral>.

³⁵ *Ibid.*

³⁶ Peterson Institute for International Economics, percentage change in 2030 from baseline year 2015.

Figure 8.4: Change in GDP, Non-members³⁷

In addition, there are strategic advantages that have been neglected. In fact, the withdrawal from the TPP also overlooked its innate strategic importance. The TPP is a great instrument for the United States to promote its values and a rules-based trading system. Many Asian countries, including Singapore, hope the agreement would shape the architecture of future international trade and deals issues beyond tariffs, which includes labor rights, environmental safeguards, and the protection of IP.³⁸ These are often the most pernicious barriers to commerce in 21st-century economies. TPP establishes strong measures to prevent theft of trade secrets, including cyber theft of trade secrets and establishes rules that promote transparency and due process with respect to trademarks and geographical indications.³⁹ Completing the TPP will establish a healthy guide for trade in Asia that could be binding for China and the United States

³⁷ *Ibid.*

³⁸ “The Collapse of Trans-Pacific Partnership”. *The Economist*. November 23, 2016. <http://www.economist.com/blogs/economist-explains/2016/11/economist-explains-14>.

³⁹ “Intellectual Property Rights,” Office of the United States Trade Representative, <https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/tpp-chapter-chapter-negotiating-9>.

in the future.⁴⁰ The decision to abandon the TPP, then, is to relinquish rule-setting power at the same time. Other regional agreements that are being negotiated, such as the RCEP, do not contain clauses addressing these problems, and it would be hard for the United States to exert influence and to change the rules as a non-member of the RCEP.

More importantly, the TPP is designed as a vital component of military strategy. As Secretary of Defense Ash Carter comments, the “TPP is as important to me as another aircraft carrier.”⁴¹ Asia is a region that views economic development as the foundation of security. An impasse on the TPP and its implementation undermines U.S. credibility and commitment to Asia on both economic and security terms. As President Trump pulls America out of the agreement, it leaves a power vacuum for other actors such as China, whose interests are very different from those of the United States, to set norms.

Ignoring the interests of Asian partners will push them closer to Beijing. Although other partners in the TPP show no intention of abandoning the deal, the TPP is technically dead without America. Article 30.5 of the agreement requires six signatures representing 85% of the group’s combined GDP, a requirement that cannot be fulfilled without America participation.⁴² The decision to withdraw greatly perturbs Japan, the most important U.S. ally in the Asia-Pacific and a keen proposer of the TPP. The TPP is also a key project of Abenomics, Prime Minister Abe’s effort to revive the stagnant Japanese economy. Abe has emphasized many times that the

⁴⁰ “Try, Persist, Persevere!” *The Economist*. November 17, 2016. Accessed February 18, 2017. <http://www.economist.com/news/leaders/21710251-americas-participation-tpp-over-dont-give-up-efforts-free-trade-and-harmonise>.

⁴¹ “Remarks on the Next Phase of the U.S. Rebalance to the Asia-Pacific,” Department of Defense, Accessed January 23, 2017. <https://www.defense.gov/News/Speeches/Speech-View/Article/606660/remarks-on-the-next-phase-of-the-us-rebalance-to-the-asia-pacific-mccain-instit>.

⁴² “President Trump Fulfills Day 1 Promise to Abandon TPP,” Center for Strategic and International Studies. Accessed January 23, 2017. <https://www.csis.org/analysis/president-trump-fulfills-day-1-promise-abandon-tpp>.

“TPP is meaningless without America.”⁴³ Abe has also warned that failing to conclude the TPP would likely cause Japan to shift its attention toward other regional trade pacts, such as the Japan-China-Korea Free Trade Agreement and the RCEP.⁴⁴ The Trump-Abe meeting in February eased some fears, but many trade issues remains unsolved, which could become a weak point in the U.S.-Japan alliance.⁴⁵ The new administration should initiate more rounds of high-level dialogues and quickly launch new multilateral or bilateral agreements to reassure our most important ally in the Asia-Pacific.

8.5 Advancing New Trade Agreements

The United States cannot abandon the TPP without offering new trade agreements. Asian allies and partners all feel very uncertain about the demise of the TPP. Despite the U.S. withdrawal from the TPP, the notion of high-standard trade and investment negotiation in the Asia-Pacific that is created under America’s leadership is still in U.S. interests. The United States should catch up with China by launching new agreements with important partners such as Japan to advance mutual economic interests in the region. The best option will be a new multilateral agreement, ideally through keeping parts of the TPP—specifically agreements on IP and agriculture, as a negotiating framework. If that is not feasible, a bilateral agreement is another viable approach.

Currently, President Trump’s trade advisors are keenly proposing one-on-one bilateral free trade agreements with Asia-Pacific partners. They presume this will give Washington more leverage when negotiating terms, but the United States should refrain from suppressing Asian

⁴³ “Japan PM Says TPP Trade Pact Meaningless Without U.S.,” *Reuters*, November 21, 2016, accessed February 01, 2017, <http://www.reuters.com/article/us-japan-tpp-abe-idUSKBN13G2IK>.

⁴⁴ Sheila Smith and Charles McClean. “US-Japan Relations: US-Japan Relations and the Trump Effect,” *Comparative Connections*, Vol. 18, No. 3, pp. 9-16.

⁴⁵ “How Do You Assess the Abe-Trump Meeting?” *The Japan News*. Accessed February 23, 2017. <http://www.the-japan-news.com/news/article/0003528336>.

partners on the other side of table, as they can simply join the China-led RCEP.⁴⁶ It is especially important to notice that the mess of bureaucracy and complex system of bilateral agreements are likely to discourage small and intermediate business from joining.⁴⁷ Instead of using a universal standard in a multilateral agreement, different countries can impose different standards in a bilateral one, which adds burden to small and middle businesses because they have to meet these standards if they want to export to different Asian countries. Thus, the United States should carefully design bilateral agreements with Asian countries and curtail unnecessary restraints. In addition, another problem with bilateral trade agreements is the larger costs of “trade diversion.” Trade diversion refers to when a member of an FTA switches its import of a good from an efficient non-member to a less efficient member because of the removal of tariffs within the group, and this reduces economic welfare because resources are being diverted from an efficient producer to a less efficient producer.⁴⁸ Multilateral agreements are preferable to bilateral ones because they involve more countries and create a more competitive environment, which creates more trade than it diverts; a bilateral agreement includes only two countries and thus will divert more trade, contracting the benefits from free trade.⁴⁹ Considering the problems associated with bilateral agreements, it might be difficult to manage at the current stage. The best option for the United States is still to pursue a multilateral agreement within the Asia-Pacific. It is practical to use parts of the TPP deal as a framework to launch a new multilateral agreement, since many important issues including the protection of IP and removing tariff barriers have been worked out in the context of TPP.

⁴⁶ “What’s Next for Asia,” *Forbes*. <http://www.forbes.com/sites/alexcapri/2017/01/26/whats-next-for-asia-after-trumps-america-leaves-tpp/#601861aacd7b>

⁴⁷ *Ibid.*

⁴⁸ William H. Cooper. “Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy,” Congress Research Service, <https://fas.org/sgp/crs/row/RL31356.pdf>

⁴⁹ *Ibid.*

If the new administration insists using a bilateral agreement, its highest priority should be a U.S.–Japan agreement. Provisions representing the exchange of interests between the United States and Japan can be separated from the TPP and used as the basis for a bilateral agreement. One of the keys for devising a beneficial trade agreement is to remove localization barriers to trade measures designed to protect domestic industries, service providers, and IP at the expense of those from other countries.⁵⁰ Japan and the United States have reached consensus on many of the key issues of a trade agreement, such as lowering tariff barriers for agriculture and automobiles in the context of the TPP.⁵¹ If the United States is to expand its overtures to Japan, it would be effective to use parts of TPP as the framework.

8.6 Update the Asian Economic Architecture

The United States should also help update and uphold the Asian economic architecture, increasing its participation in setting economic rules in the region. As mentioned above, this action is advantageous as it leaves little room for a power vacuum that would be filled by other competitors. Rules-based orders in the Asia-Pacific, such as the ADB and the APEC forum, promote regional integration and cooperation, and they have also been important sources of leverage for the United States in strengthening trans-Pacific patterns of economic exchange to reinforce U.S. leadership in the region.⁵² The United States has a stake in updating and strengthening economic institutions such as the ADB and APEC to balance the power structure in Asia and mitigate the potential negative effects caused by Beijing's institutions. The United States should also participate more in the economic dimensions of ASEAN.

⁵⁰ “Localization Barriers to Trade,” Office of the United States Trade Representative, <https://ustr.gov/trade-topics/localization-barriers>.

⁵¹ Simon Lester, “Trump-Abe Meeting Portends Potential Trade Deal with Japan.” *The Hill*. February 08, 2017. Accessed February 23, 2017. <http://thehill.com/blogs/pundits-blog/economy-budget/318479-trump-abe-meeting-portends-potential-trade-deal-with-japan>.

⁵² “Reinvigorating U.S. Economic Strategy in the Asia Pacific”, Center for Strategic and International Studies. https://csis-prod.s3.amazonaws.com/s3fs-public/publication/161228_Barshefsky_USEconomicStrategyAsiaPacific_Web.pdf

Many these traditional Asian institutions are “soft” in the sense that they do not involve a deep pooling of sovereignty or legally binding commitments. However, the notion of gathering regional leaders in search of consensus and common interest is strong.⁵³ As mentioned in the previous section, ASEAN members are concerned about China’s aggressive behavior in the South China Sea, albeit they are hesitant to challenge China due to their deep economic ties with the country. Hence, the United States needs to strengthen ASEAN’s economic capacity.

Some progress has been made, but the United States still should deepen cooperation through joint institutions. The Sunnylands Declaration, a joint statement of the 2016 U.S.–ASEAN summit, reaffirmed the key principles to guide cooperation going forward, which includes freedom of navigation and sustainable economic development.⁵⁴ This agreement indicates U.S. and ASEAN commitment to a rules-based order in the Asia-Pacific, which is central to preserving regional peace and prosperity.⁵⁵ At the summit, the United States also made efforts to support six ASEAN countries that are not members of the TPP through a series of U.S.–ASEAN trade workshops.⁵⁶ These achievements help embed the United States in the region, and the United States should sustain its participation in regional institutions to continuously promote its rules-based values, thereby increasing the economic capacity of ASEAN.

8.7 Policy Recommendations

New policies are needed in a more volatile environment in Asia, where growth rates are slowing down and countries are witnessing a politically and economically more assertive China. ASEAN members yield to China on territorial disputes such as the South China Sea, as they are

⁵³ *Ibid.*

⁵⁴ Prashanth Parameswaran, “What Did the US-ASEAN Sunnylands Summit Achieve?,” *The Diplomat*, February 18, 2016, accessed February 23, 2017, <http://thediplomat.com/2016/02/what-did-the-us-asean-sunnylands-summit-achieve/>.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

overly reliant on its economic power. The withdrawal from the TPP upsets Japan, and this undermines American credibility, creating a power vacuum in the Asia-Pacific. To continue its position as a Pacific power, the United States must initiate a set of strong economic strategies to forward its goals in the Asia-Pacific.

8.7.1 Promote the creation of a multilateral/bilateral trade agreement that preserves both the TPP's goal of free and fair trade and strategic engagement in the realms of diplomacy and security in the Asia-Pacific. The United States should engage with Asian trading partners—both TPP members and non-members such as the Philippines—to launch a new multilateral agreement, ideally by preserving parts of the TPP as the framework for negotiating new deals with Asian countries. If that is not feasible, the United States should carefully craft bilateral agreements with Asian countries and identify a new trade agreement with Japan as the highest priority. Vestiges of the previous TPP, such as regulation and IP restrictions, should become the basis of the new deal.

8.7.2 Increase U.S. involvement in infrastructure-building and general investment in the region. The United States should selectively back China-led economic projects and financial institutions including OBOR and the AIIB. America should also connect U.S. firms to OBOR and the AIIB, which requires a joint effort by many parts of the U.S. government, including the Departments of State and Commerce, the U.S. Overseas Private Investment Corporation and the Export Import Bank. Finally, the United States should facilitate an overall maritime security strategy in the Asia-Pacific and initiate its own projects to bolster economic developments in less developed countries, such as Vietnam and the Philippines, so that they do not overly rely on China.

8.7.3 Update and uphold rules-based institutions that share U.S. values and interests. The United States should sustain high-level participation in key regional institutions such as the ADB and APEC. It should also sustain regular participation by sending President Trump to U.S.–ASEAN summits, and strengthen economic ties with ASEAN by building on the achievements of 2016 Sunnylands summit.

PART IV
REGIONAL ISSUES

CHAPTER 9

South China Sea and the PCA Arbitration

Jessica Park

9.1 Introduction

The collision of U.S. attempts to maintain presence and military control in the Asia-Pacific with the rise of China and its expanding presence is exemplified through the dispute over the South China Sea. Extending from the Strait of Malacca to the Strait of Taiwan, the South China Sea is full of natural resources and bordered by several surrounding countries. Not only is the South China Sea home to the world's busiest and most crucial sea lines, it connects the Pacific and Indian Oceans, thus concerning the interests of many non-claimant countries. China claims sovereignty over almost the entire South China Sea through the nine-dash line. The Philippines filed a case against China's expansive claims in the South China Sea, but even after the Permanent Court of Arbitration (PCA) ruled against China's claims in South China Sea, China rejected the decision, sparking anger in other countries in the region.

This chapter begins with a discussion of the background and importance of the South China Sea dispute, then turns to an examination of the PCA ruling and the Philippine, Chinese, and U.S. responses to the ruling. The chapter concludes with policy recommendations. While some U.S. policymakers argue that ratifying UNCLOS will undermine U.S. sovereignty through the regulation of commercial activities and constraint over its freedom of action, however, ratification of UNCLOS will enhance legitimacy, providing the United States with more leverage to advocate for freedom of navigation in the South China Sea.

9.2 Background on South China Sea

Conflicts over claims in South China Sea created strife well before the advent of the PCA

ruling. In 1947 China, the then ruling Kuomintang party claimed sovereignty over the South China Sea using an eleven-dash line on a map, which became the nine-dash line today.¹ China did not claim sovereignty as assertively as it does today, and the response of other countries in 1940s and 1950s to China's claims were muted.

However, the discovery of hydrocarbon resources in the South China Sea brought greater attention to the disputes by neighboring states. In 1969, in a report to the United Nations, the UN Economic Commission for Asia and the Far East discovered substantial energy deposits available in the water off the Senkaku/Diaoyu Islands. Furthermore, in 1976 the Philippines discovered Nido oil field off the coast of Palawan Island.² These initial discoveries paved the way to other subsequent discoveries, especially in the Spratlys.³

These discoveries of critical natural resources spurred the sovereignty claims from the many countries that are now involved in disputes with China over the South China Sea. As stated in Chapter 3, in 1982 the creation of EEZs in UNCLOS established the jurisdiction of coastal states over resources in their continental shelves. After UNCLOS was established, whether China's provocative actions in the South China Sea were violating international law became subject of debate.

Since the discovery of hydrocarbon and the advent of UNCLOS, violent conflicts in the South China Sea increased.⁴ Challenges in deciding which coastal states possessed rightful

¹ Daiss, Tim. "Newly Found Maps Dispute Beijing's South China Sea Claims." *Forbes*. June 18, 2016. Accessed February 18, 2017. <http://www.forbes.com/sites/timdaiss/2016/06/01/newly-found-maps-dispute-beijings-south-china-sea-claims/#ca937c033d36>.

² Ruff, Dr. Abdul. "Countries back China over South China Sea dispute." *Modern Diplomacy*. June 15, 2016. Accessed February 18, 2017.

http://moderndiplomacy.eu/index.php?option=com_k2&view=item&id=1502%3Acountries-back-china-over-south-china-sea-dispute&Itemid=868.

³ TED (Trade and Environment Database), Mandala Project (December 1997). "Spratly Islands Dispute". ICE Case Studies. American University.

⁴ Glaser, Bonnie S. "Armed Clash in the South China Sea." *Council on Foreign Relations*. Accessed February 17, 2017. <http://www.cfr.org/asia-and-pacific/armed-clash-south-china-sea/p27883>.

jurisdiction drew the attention of the international community. Incidents such as China's attack on Vietnamese forces near Fiery Cross Reef in 1988 and the military eviction of the Philippines forces in Mischief Reef in 1995 caused ASEAN countries to respond to China's actions.⁵ In 2002 ASEAN persuaded China to accept the ASEAN Declaration of the Conduct of Parties in South China Sea in order to lower tensions in the region, expressing a desire to "resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force."⁶ These conflicts indicate that as more valuable resources were discovered, each country started to fight over South China Sea for sovereignty over the features and attendant maritime jurisdiction. Tensions culminated most recently with the Philippines filing a case against China under the UNCLOS arguing that China has violated international law.

9.3 Importance of the South China Sea

Despite China's ratification of UNCLOS, the country's maritime activities in Southeast Asia contradict international law. Why is the South China Sea so valuable to China that it would flout international laws and norms? Economic, security, and political factors provide an explanation of China's interests in the South China Sea.

First of all, the South China Sea serves as the connecting point between the Western Pacific and Indian Oceans. This passage has become one of the most important trade routes, with more than half of the world's annual merchant fleet passing through South China Sea. These noteworthy trade routes are important to South Korea, Japan, Taiwan, and China. As the world's ninth largest energy consumer, South Korea imports two-thirds of its energy supplies, which pass

⁵ Pike, John. "Military Clashes in the South China Sea." GlobalSecurity.org. Accessed February 18, 2017. <http://www.globalsecurity.org/military/world/war/spratly-clash.htm>.

⁶ "DECLARATION ON THE CONDUCT OF PARTIES IN THE SOUTH CHINA SEA." ASEAN | ONE VISION ONE IDENTITY ONE COMMUNITY. Accessed February 19, 2017. http://asean.org/?static_post=declaration-on-the-conduct-of-parties-in-the-south-china-sea-2.

through the Indian Ocean and the South China Sea.⁷ About 60 percent of Japan and Taiwan's energy supplies are imported through the South China Sea.⁸ China imports 80 percent of its crude oil from Saudi Arabia, Russia and elsewhere, much of which also passes through the South China Sea to reach the mainland.⁹ The Strait of Malacca, the connecting passage between the Indian Ocean and the South China Sea, is one of the most important trade routes to and from Asia. The Strait is also the shortest sea route connecting Africa and the Persian Gulf to Asia.¹⁰ While energy resources are the main goods transported from the Persian Gulf, other commodities, and manufactured goods are also transported through the South China Sea, increasing the value of the sea.

Furthermore, due to abundant potential oil reserves, many researchers have named South China Sea "the second Persian Gulf." While the dispute does not solely center around resource conflict, China's land reclamation and building of artificial islands signal its desire to control the resource-rich region. According to the U.S. Energy Information Agency, the South China Sea holds approximately 11 billion barrels of oil and 190 trillion cubic feet of natural gas.¹¹ The areas surrounding the Spratly Islands, involving the most disputed South China Sea claims, feature excellent geological conditions for hydrocarbon development.¹² Furthermore, fisheries in the South China Sea have also become crucial natural resources for neighboring countries, including

⁷ "South Korea Hungry for Oil and Gas." *The Maritime Executive*. Accessed February 12, 2017. <http://www.maritime-executive.com/article/South-Korea-Hungry-for-Oil-and-Gas-2014-04-04>.

⁸ Kaplan, Robert D. "Why the South China Sea is so crucial." *Business Insider Australia*. February 20, 2015. Accessed February 12, 2017. <http://www.businessinsider.com.au/why-the-south-china-sea-is-so-crucial-2015-2>.

⁹ Daiss, Tim. "China's Oil Production Drops Will Increase Foreign Oil Dependency." *Forbes*. November 14, 2016. Accessed February 12, 2017. <http://www.forbes.com/sites/timdaiss/2016/09/13/chinas-oil-production-drops-will-increase-foreign-oil-dependency/#32d51dcb11b0>.

¹⁰ Hirst, Thomas. "The world's most important trade route?" *World Economic Forum*. May 21, 2014. Accessed February 11, 2017. <https://www.weforum.org/agenda/2014/05/world-most-important-trade-route/>.

¹¹ Maxie, Jeremy. "The South China Sea Dispute Isn't About Oil, At Least Not How You Think." *Forbes*. April 25, 2016. Accessed February 12, 2017. <http://www.forbes.com/sites/jeremymaxie/2016/04/25/the-south-china-sea-dispute-isnt-about-oil-at-least-not-how-you-think/#78f7d5557275>.

¹² Daiss, Tim. "Why The South China Sea Has More Oil Than You Think." *Forbes*. May 30, 2016. Accessed February 12, 2017. <http://www.forbes.com/sites/timdaiss/2016/05/22/why-the-south-china-sea-has-more-oil-than-you-think/2/#65621bee7d61>.

China, for both economic gain and food security. China's giant fishing fleet is not just a means to feed its 1.3 billion people; it also serves as a weapon through which China attempts to assert control over the South China Sea.¹³ In April 2016 Indonesia destroyed 23 foreign fishing boats caught poaching in Indonesian waters.¹⁴ This episode signaled that catching fish is not the only issue. Indonesia's aggressive action reflects the sensitivity of maritime boundary disputes. With China claiming sovereignty over the entire South China Sea, other countries will face challenges in terms of fishing rights and freedom of navigation. China's aggressive artificial island-building and provocative behavior toward Vietnam and the Philippines combined with China's need for crude oil and fish indicate that China will maintain its claim over the South China Sea because of the importance of resources.

Second of all, there is a national security objective China aims to attain. The South China Sea and its islands are strategically valuable. Claiming islands such as the Spratlys does not only indicate China's jurisdiction over adjacent waters full of natural resources, but in China's mind also provides jurisdiction over the activities of foreign naval vessels.¹⁵ Due to the small size of the features, China is unlikely to support large military units; however, air and sea patrols could be sustained on the islands, which strengthens China's maritime influence.¹⁶ China has been building airstrips, ports, radar, facilities, solar arrays, and lighthouses on the islands. China could

¹³ Johnson, Keith, and Dan De Luce. "Fishing Disputes Could Spark a South China Sea Crisis." *Foreign Policy*. April 7, 2016. Accessed February 19, 2017. <http://foreignpolicy.com/2016/04/07/fishing-disputes-could-spark-a-south-china-sea-crisis/>.

¹⁴ Ewing, Phil. "Smoke On The Water: Indonesia Blows Up Fishing Boats Of Poachers." *NPR*. April 05, 2016. Accessed February 23, 2017. <http://www.npr.org/sections/parallels/2016/04/05/473105715/smoke-on-the-water-indonesia-blows-up-fishing-boats-of-poachers>.

¹⁵ Fravel, Taylor. "Why does China care so much about the South China Sea? Here are 5 reasons." *The Washington Post*. July 13, 2016. Accessed February 12, 2017. https://www.washingtonpost.com/news/monkey-cage/wp/2016/07/13/why-does-china-care-so-much-about-the-south-china-sea-here-are-5-reasons/?utm_term=.24284f73b454.

¹⁶ Watkins, Derek. "What China Has Been Building in the South China Sea." *New York Times*. February 29, 2016. Accessed February 12, 2017. https://www.nytimes.com/interactive/2015/07/30/world/asia/what-china-has-been-building-in-the-south-china-sea-2016.html?_r=0.

be possibly building a longer-range-high-frequency radar installation to monitor air and ship traffic closely.¹⁷ China has been embarking on a substantial modernization of naval capabilities to enforce its sovereignty and jurisdiction. If China continues to develop its capabilities and exert control over the region, the U.S. Navy could be denied access in the western Pacific.¹⁸ China has routinely intercepted U.S. reconnaissance flights and naval vessels in the SCS. The heart of the dispute is differing interpretations of freedom of navigation throughout China's nine-dash line claim, most of which the United States considers international waters. Possessing SCS features and exerting military control over the region has become a significant security strategy for China.

Political factors play a role in China's claim to the South China Sea. For the past few decades, China gained enormous international power and reputation through economic development. From China's point of view, the United States is interfering in bilateral affairs between China and the Philippines. Upholding the Tribunal ruling is not helped by a contradictory U.S. policy—while the United States is the one that has not yet ratified UNCLOS, the United States nonetheless urges China to abide by international rule of law. Throughout history many countries, including the United States, have sought sea power to control the sea. Because no other coastal areas are more valuable to China than the South China Sea, China has similar sea power motivations. Moreover, although China has continuously argued for its claim over South China Sea, the United States, which never expressed any interest in the region, suddenly referred to the area as a “core interest.”¹⁹ The United State criticizes China for not abiding by the international rule of law, but China does not accept this since United States is the

¹⁷ "Another Piece of the Puzzle." Asia Maritime Transparency Initiative. February 22, 2016. Accessed February 12, 2017. <https://amti.csis.org/another-piece-of-the-puzzle/>.

¹⁸ Glaser, Bonnie S. "Armed Clash in the South China Sea." Council on Foreign Relations. April 2012. Accessed February 12, 2017. <http://www.cfr.org/asia-and-pacific/armed-clash-south-china-sea/p27883>.

¹⁹ Kim, Sung Hoon. " " (Herald Economy). February 25, 2016. Accessed February 12, 2017. <http://news.heraldcorp.com/view.php?ud=20160225000271>.

one that has not ratified UNCLOS. In order for the United States to gain legitimacy in demanding China and others follow international rule of law, it is necessary for the United States to ratify UNCLOS. Otherwise, the U.S. position on this matter is weakened.

9.4 Overview of the PCA Ruling

On July 12, 2016, the PCA decided on a landmark ruling on the territorial dispute between the Philippines and China. The intent of ruling was not to criticize or to punish China; the ruling intended to allocate the rights of states in maritime areas. The nine-dash line, a tool utilized by China to claim sovereignty over South China Sea, was declared invalid. Although China sought sovereignty through historical rights, the PCA ruled that China's historical use of South China Sea through navigation and fishing does not provide grounds for its sovereignty; rather, these activities were an exercise of high seas freedoms.²⁰ The ruling also addressed Chinese actions in the South China Sea. The tribunal ruled to allocate jurisdictional rights to the Philippines regarding its EEZ. PCA argued that China had interfered with Philippine petroleum exploration, purported to prevent Philippine vessels from engaging in fishing within the Philippines' EEZ, and constructed artificial islands at Mischief Reef without any authorization from the Philippines.²¹ Furthermore, the tribunal concluded that China had violated the Philippines' territorial rights and seriously damaged the marine environment within the region.²² China boldly responded that the award is null and void without any binding force. Although the ruling itself might be nothing more than a "piece of waste paper," the significance of the

²⁰ Special Issue On The South China Sea Arbitration Responses And Implications. 2017. Ebook. 1st ed. ISEAS YUSOF ISHAK INSTITUTE. <https://iseas.edu.sg/images/pdf/ASEANFocusSChinaSeaArbitration.pdf>.

²¹ *Ibid.*

²² "Why the South China Sea ruling matters," The Washington Post, July 12, 2016, , accessed February 11, 2017, https://www.washingtonpost.com/news/monkey-cage/wp/2016/07/12/why-the-south-china-sea-ruling-matters/?utm_term=.78a84079af68.

arbitration was that the Philippines, for the first time, formally and legally faced China.²³ The Philippines warned China before the international community that violence would ensue if China did not abide by international law and the ruling. The tribunal stated that the disputes stem from fundamentally different interpretations of their rights under UNCLOS, not because of intentions to infringe on the rights of other parties. Moreover, the decision of the tribunal further holds significance for Vietnam, Malaysia, Brunei, and Indonesia, since it was declared that China no longer has a legal basis to claim sovereignty over fish stocks or other natural resources in the SCS.

9.4.1 *The Philippine Response to the PCA Ruling*

After the Tribunal ruling, Davao Congressman Pantaleon Alvarez urged China to abide by the international law. He desired for China and the Philippines to reach a peaceful settlement of the territorial disputes in accordance with international law.²⁴ After Rodrigo Duterte became the new president, Philippine relations with China became smoother than under the previous administration. While the United States and the Philippines are allies, and even after the Philippines scored a victory against China through the ruling, Duterte has flipped the table. Duterte has expressed doubt as to whether United States will defend the Philippines if it faces military confrontation with China.²⁵ He desired to change Manila's aggressive policy toward Beijing. Because the Philippines cannot compete with Beijing's military forces, Duterte believes that the Philippines should not control Scarborough Shoal despite The Hague ruling. Moreover, he proclaimed that the Philippines would distance itself from the United States, even asserting

²³ Pan, Chengxin. "The South China Sea Ruling: Who Really Won?" *The Diplomat*. July 17, 2016. Accessed February 24, 2017. <http://thediplomat.com/2016/07/the-south-china-sea-ruling-who-really-won/>.

²⁴ Palatino, Mong. "How the Philippines Reacted to the South China Sea Ruling." *The Diplomat*. July 13, 2016. Accessed February 12, 2017. <http://thediplomat.com/2016/07/how-the-philippines-reacted-to-the-south-china-sea-ruling/>.

²⁵ Mourdoukoutas, Panos. "The Real Reasons Rodrigo Duterte Flip-Flopped On South China Sea Disputes." *Forbes*. January 10, 2017. Accessed February 12, 2017. <http://www.forbes.com/sites/panosmourdoukoutas/2017/01/04/the-real-reasons-rodriago-duterte-flip-flopped-on-south-china-sea-disputes/#4927b8356361>.

that he wants all American troops off Philippine soil.²⁶ During the last administration under President Aquino, China blocked Filipino fishermen from engaging in fishing near Scarborough Shoal. However, as soon as Duterte took office, China ended its blockade. Duterte argued that as long as China does not prevent Filipino fishermen from engaging in economic activities near the region, he will not care much about China building artificial islands on the South China Sea. Through his actions, the international community acknowledges that Duterte is trying to rebuild the Philippine's fractious relationship with China. It is crucial, strategically, for the United States to continue having the Philippines as its ally. Duterte's embrace with China is not something unexpected. Although Duterte's predecessor, Aquino, attempted to restore the relationship with China, the South China Sea issue had damaged ties between them. Duterte is now moving to repair the ties. However, despite Duterte's move, the United States must continue improving its ties with the Philippines. Because both countries have new ambassadors with fresh administrations, they have an opportunity to craft a framework for at least selective cooperation. Therefore, it is necessary for the United States to keep the Asia-Pacific as one of its priority concerns and peacefully cooperate with the Philippines to continue U.S. influence in the region.

9.4.2 Chinese Response to the PCA Ruling

Despite the negative depiction of China's response to the ruling in the media, China indicated its willingness to engage in bilateral talks, which China prefers, with the Philippines. Nevertheless, China responded to the tribunal ruling in subtler ways. By rejecting the ruling, China firmly stated that it has no intention to abide by the ruling, since the PCA ruling itself does not possess legally binding force. Surprisingly, Beijing did not immediately establish an Air Defense Identification Zone over the South China Sea or built new airstrips as a form of

²⁶ Beech, Hannah. "How Philippine President Rodrigo Duterte Is Shaking Up the South China Sea." *Time*. October 26, 2016. Accessed February 12, 2017. <http://time.com/4547711/philippines-rodrigo-duterte-south-china-sea/>.

reclamation around Scarborough Shoal.²⁷ On the contrary, there were signs that Beijing desired to hold diplomatic talks to ease tensions in the region. Chinese Foreign Minister Wang Yi affirmed that China would work with ASEAN to safeguard peace and stability in the South China Sea.²⁸ Furthermore, regardless of the PCA ruling's lack of binding force, China has softened its stubborn statement about historical claims and the nine-dash line claim sovereignty over the South China Sea. In order to maintain relations with the Philippines, China will utilize diplomatic strategies. For example, Duterte is executing a harsh war on drugs, killing about 1,400 people. By demonstrating tough policy on drug offenders in China, Xi Jinping and Duterte will be able to engage in bilateral dialogues outside the issue of the South China Sea to strengthen their ties. The United States must also cooperate with China on issues outside the South China Sea in order to prevent China and the Philippines develop stronger ties with each other than they have with the United States. Because the U.S. commitment to the Philippines on issues involving the South China Sea angered China, the United States must find a balance between China and the Philippines.

9.4.3 *U.S. Interests*

It is noteworthy that the administration change in the Philippines will impact U.S. foreign policy towards both the Philippines and China. While former President Aquino expressed hostility towards China, current President Duterte expresses hostility towards the United States. Aquino had depended on the United States for protection against China. Before the tribunal ruling was issued, Aquino argued that the United States is obligated to take military action in the

²⁷ "PacNet #57 - Critical questions: Judgement Day: the South China Sea Tribunal issues its ruling." | Center for Strategic and International Studies. July 12, 2016. Accessed February 12, 2017. <https://www.csis.org/analysis/pacnet-57-critical-questions-judgment-day-south-china-sea-tribunal-issues-its-ruling>.

²⁸ Wuthnow, Joel, Daniel L. Davis, Leon Hadar, and Daniel McCarthy. "China's Calibrated Response to the South China Sea Is Firm (Yet Flexible)." *The National Interest*. August 17, 2016. Accessed February 12, 2017. <http://nationalinterest.org/feature/chinas-calibrated-response-the-south-china-sea-firm-yet-17386>.

South China Sea if China reclaims a reef that is seriously contested.²⁹ In contrast, Duterte had set aside the ruling, which had overwhelmingly favored the Philippines, because he does not wish to create any more tension with China, especially after the Obama administration criticized Duterte for his unlawful and bloody crackdown on illegal drugs.³⁰ Before the end of Aquino's administration, the United States tried to leverage the Philippines and other countries that confront China on maritime issues. However, now the United States needs another plan to counterbalance China. Instead of countering China directly, the United States will seek Japan's assistance. Japan had signed an accord with the Philippines to supply military equipment to the Philippines in response to China's building of artificial islands and other aggressive actions in disputed waters.³¹ Through this cooperation, the United States and Japan can further strengthen their alliance and while counterbalancing China at the same time.

Despite the Obama administration's attempts to build partnerships between middle powers such as the Philippines and Vietnam, smaller countries are acting based on common self-interest, which they aim to achieve without U.S. leadership, triggering greater military buildup in the region.³² This indicates that there is a possibility of decreased U.S. power relative to other countries, not only in the South China Sea, but also in the Asia-Pacific more broadly. However, through the Joint Vision Statement on Defense Relations agreement, the United States and Vietnam promised closer military cooperation, with the United States fully lifting a longstanding

²⁹ Hernandez, Javier C. "Benigno Aquino Says U.S. Must Act if China Moves on Reef in South China Sea." *The New York Times*. May 19, 2016. Accessed February 12, 2017. https://www.nytimes.com/2016/05/20/world/asia/benigno-aquino-philippines-south-china-sea.html?_r=0.

³⁰ "Philippines to 'set aside' South China Sea tribunal ruling to avoid imposing on Beijing." *The Guardian*. December 17, 2016. Accessed February 12, 2017. <https://www.theguardian.com/world/2016/dec/17/philippines-to-set-aside-south-china-sea-tribunal-ruling-to-avoid-imposing-on-beijing>.

³¹ "Japan to supply Philippines with military equipment." *The Japan Times*. February 28, 2016. Accessed February 12, 2017. <http://www.japantimes.co.jp/news/2016/02/28/national/japan-to-supply-philippines-with-military-equipment/#.WKE10PkrLIU>.

³² Marston, Hunter, Aaron David Miller, Richard Sokolsky, Daniel McCarthy, and Joel Wuthnow. "Obama's South China Sea Strategy Is Working." *The National Interest*. May 10, 2016. Accessed February 19, 2017. <http://nationalinterest.org/blog/the-buzz/obamas-south-china-sea-strategy-working-16132>.

embargo on weapons sales to Vietnam.³³ Different from Obama, the Trump administration places importance on “America First.” While what policies the Trump administration will pursue on the South China Sea issue is uncertain, Trump believes that China will stop claiming sovereignty over features in the South China Sea if the United States eliminates the trade deficit and applies economic pressure.³⁴ Nevertheless, in order to avoid further escalating conflicts, the United States should pursue a peaceful coexistence with China through restorative relations based on common interests and cooperation on non-contentious issues, in order to maintain U.S. influence in the Asia-Pacific and uphold international rule of law, such as freedom of navigation.

9.5 Policy Recommendations

9.5.1 Ratify UNCLOS. Ratifying UNCLOS must be the first step taken if the United States continuously desires to exert its influence over the South China Sea and other countries in the region. Should the United States try to enforce rule of law over China, the United States must endorse and accept the rule of law first. Ratifying UNCLOS signifies that United States agrees to uphold a rules-based international order and negotiate with countries with which U.S. might not agree on certain issues. The United States has not ratified UNCLOS mainly due to opposition from Republicans in the Senate, who argue that ratification will undermine U.S. sovereignty. Opponents argue that if the United States does ratify UNCLOS, the convention would require states to transfer information, and that ratification undermines the U.S. military and its freedom of navigation doctrine. Nevertheless, ratification will bolster U.S. legitimacy in the international maritime domain. As the world’s leading maritime power and a champion of rule of law, reluctance to join UNCLOS undermines U.S. economic and national security interests.

³³ Nakamura, David. "In historic move, U.S. lifts embargo on arms sales to Vietnam." *The Washington Post*. May 23, 2016. Accessed February 19, 2017. https://www.washingtonpost.com/news/post-politics/wp/2016/05/23/in-historic-move-u-s-lifts-arms-sales-embargo-to-vietnam/?utm_term=.de3caf93ce6a.

³⁴ Kotani, Tetsuo. "Trump's World and the South China Sea." *The Diplomat*. January 25, 2017. Accessed February 19, 2017. <http://thediplomat.com/2017/01/trumps-world-and-the-south-china-sea/>.

Furthermore, UNCLOS is one of the few multilateral mechanisms that can directly address territorial conflicts in the waters. The United States should have a strong interest in legitimizing this multilateral dispute resolution mechanism.³⁵

9.5.2 Make the maritime domain a primary focus of the U.S. foreign policy. The United States must build a global framework that prevents China's challenge to a rules-based maritime order through use of national diplomatic, military, and economic power.³⁶ The United States needs to enhance and sustain the rebalance to the Asia-Pacific in order to strengthen U.S. military posture. Publicly and internationally challenging China's domestic maritime laws that are at odds with international law is necessary. While still advocating for a peaceful resolution of maritime disputes, the United States must urge China to comply with international law as reflected in UNCLOS.

³⁵ Mirasola, Christopher. "Why the US Should Ratify UNCLOS: A View from the South and East China Seas." Harvard National Security Journal RSS. March 15, 2015. Accessed February 19, 2017. <http://harvardnsj.org/2015/03/why-the-us-should-ratify-unclos-a-view-from-the-south-and-east-china-seas/>.

³⁶ Pham, Tuan N., Daniel McCarthy, Joel Wuthnow, and Harvey M. Sapolsky. "America Has a Chance to Beat Back China's South China Sea Strategy." The National Interest. July 5, 2016. Accessed February 19, 2017. <http://www.nationalinterest.org/feature/america-has-chance-beat-back-chinas-south-china-sea-strategy-16851?page=2>.

CHAPTER 10

Regional Disputes in Northeast Asia

Megan Condon

10.1 Introduction

Japan, South Korea, China, Taiwan, and Russia are in dispute over land and resources in the East China Sea, Sea of Japan, and Sea of Okhotsk. Many of these disputes, based upon the overlapping of Exclusive Economic Zones (EEZ), are amplified by historical disagreements and national pride.¹ These ongoing disputes are important to the United States because of U.S. alliance commitments, economic interests, and security threats in this region. If East Asia were to devolve into violent conflict, the United States risks involvement because of U.S. obligations to protect Japan and South Korea. This chapter will analyze the importance of East Asia's maritime disputes to U.S. interests. The analysis will provide a brief overview of the U.S. role in each dispute, focusing on U.S. allies in the region, before turning to an evaluation of potential threats to U.S. interests and possible future actions the United States might take. Overall, the United States should focus on protecting allies in the Asia-Pacific while also strengthening ties between allies. Encouraging joint military exercises will foster better relations amongst countries in the region.

10.2 Key Disputes

This section will explain the origins of the maritime disputes in East Asia, providing background information on the crux of each dispute—be it sovereignty, jurisdiction, or specific resources—and relations between the countries in dispute will be examined to gain a better understanding of the situation. The conflicts that are of the greatest interest to the United States

¹ See chapter 3 for more information about EEZs.

include the Senkaku/Diaoyu/Diaoyutai Islands, Chunxiao Gas Field, the Southern Kurils/Northern Territories, Socotra Rock/Suyan Rock, and Dokdo/Takeshima.

10.2.1 Senkaku/Diaoyu/Diaoyutai Islands

The Senkaku/Diaoyu/Diaoyutai dispute is a protracted conflict that involves Japan, one of the closest allies of the United States. This ongoing sovereignty dispute between China and Japan dates to the Sino-Japan War of 1894.² Taiwan also claims sovereignty rights to the islands on the basis that they are a part of Taiwan's historical territory. These eight-small barren uninhabited islands are important because the waters in their maritime jurisdiction possess rich hydrocarbon resources, fish stocks, and are seen as an important trade route.³

The main players in the Senkaku/Diaoyu dispute are China and Japan. The weight of history between China and Japan—the idea of a “victimized China” and an “aggressive Japan”—has prevented the two from reconciling. China contends that the Senkaku/Diaoyu islands were stolen from them during the Sino-Japanese war of 1894–1895. However, Japan argues that they acquired the islands both legally and legitimately. Prime Minister Shinzo Abe once stated that the “Senkakus are an inherent part of the territory of Japan in light of historical facts and based upon international law.”⁴ Even though the United States maintains neutral position on the question of who has rightful sovereignty over Senkaku/Diaoyu island, this could involve the United States if China decides to use force to gain control. Under the U.S.–Japan Mutual Security Treaty, it technically requires the United States to intervene for Japan and protect them against the aggressor.⁵

² “China’s Maritime Disputes,” *Council on Foreign Relations*, <http://www.cfr.org/chinasea>.

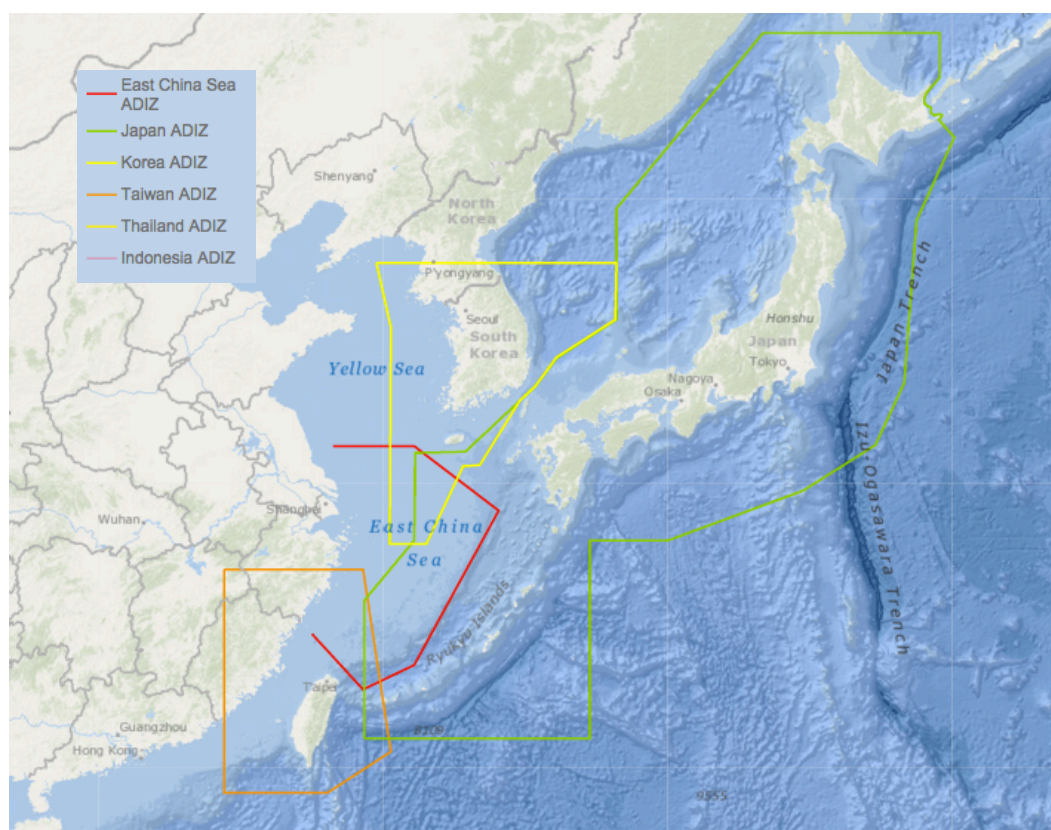
³ Jash, Amrita, “Diaoyu/Senkaku Islands Dispute: Identity versus Territory,” *Policy Forum*, Australian National University, January 12, 2016.

⁴ Brinkley, Joel, “Conflicting Claims: China, Japan, Taiwan on Edge,” *World Affairs Journal*, January/February (2014), <http://www.worldaffairsjournal.org/article/conflicting-claims-china-japan-taiwan-edge>.

⁵ Keating, Joshua, “Why the Japan-China Island Dispute Is an American Problem,” *Foreign Policy*, September 12, 2012, <https://foreignpolicy.com/2012/09/12/why-the-japan-china-island-dispute-is-an-american-problem>.

Tensions between the two states have been slowly rising over the years because of small incidents that keep occurring around the islands. In 2010, the Democratic Party of Japan (DPJ) government took into custody the captain of a Chinese fishing boat that had collided with Japanese Coast Guard vessels. This apprehension angered China and caused them to believe Japan was asserting their sovereignty over the territory. In 2012, the Japanese central government's purchase of three islets led to widespread demonstrations of anti-Japanese sentiment in China. In response, China has sent patrol ships, missile destroyers, and military aircraft to the waters that are close to the disputed lands.⁶

Figure 10.1: ADIZs in the East China Sea⁷



⁶ Nakano, Ryoko, "The Sino–Japanese Territorial Dispute and Threat Perception in Power Transition," *Pacific Review* 29, no. 2 (2016): 165–86.

⁷ NBR, *Maritime Awareness Project*, www.maritimeawarenessproject.org, The National Bureau of Asian Research.

China's 2013 announcement of the creation of an East China Sea Air Defense Identification Zone (ADIZ) has also done nothing to help foster better relations between the two.⁸ The ADIZ covers the Senkaku/Diaoyu islets and overlaps with pre-existing ADIZs of Japan, South Korea, and Taiwan (see Figure 10.1). Overlapping ADIZs can result in the increase of misunderstandings and miscalculations within these zones, which could then lead to a collision between aircrafts. China's ADIZ terms are also problematic. China's Aircraft Identification Rules do not distinguish between commercial and military aircraft, and it do not distinguish between aircraft flying parallel with China's coastline through the ADIZ and those flying toward China's territory.⁹ In addition, it also requires aircrafts that enter the zone to submit a flight plan, in advance, and submit radio frequency or transponder information.

It is crucial for the United States to remain strong military ties with Japan. The U.S.–Japan Mutual Security Treaty has greatly benefited the United States because it has allowed the United States to use Japanese bases for the deployment of U.S. forces in Asia.¹⁰ Japan dispatched Maritime Self-Defense Forces to the Indian Ocean to support U.S. military operations in Afghanistan. In 2011, when the earthquake and consequent tsunami hit Tohoku, the United States and Japanese coordinated a military response. In 2015, the U.S.–Japan alliance was strengthened upon the release of the revised U.S.–Japan Defense Guidelines. These Guidelines created new and expanded forms of security-oriented cooperation.

Besides the military ties between the two states, the United States and Japan cooperate on several global issues. These issues include joint work in development assistance, global health,

⁸ See chapter 7 for a definition of an ADIZ.

⁹ Glaser, Bonnie, Green, Michael, Szechenyi, Nicholas, Cha, Victor and Johnson, Christopher, "China's Air Defense Identification Zone: Impact on Regional Security," *Center for Strategic and International Studies*, November 26, 2013, <https://www.csis.org/analysis/chinas-air-defense-identification-zone-impact-regional-security>.

¹⁰ Xu, Beina, "The U.S.-Japan Security Alliance," *Council on Foreign Relations*, July 1, 2014, <http://www.cfr.org/japan/us-japan-security-alliance/p31437>.

environmental and resource protection, and women's empowerment. The United States also has a strong bilateral economic relationship with Japan. Enormous levels of trade and investment flow between the two states.¹¹

Taiwan plays a relative minor role in the disputes because of the lack of diplomatic recognition it receives from other countries. From China's perspective, Taiwan has no right to exist as an independent nation and thus has no authority to negotiate territorial disputes. Taiwan and China officially share the same position on maritime disputes, even if there are important nuanced differences in how they handle the disputes, and the conflict between them centers on which of the two is the rightful Chinese government.

While Japan does not diplomatically recognize Taiwan, the entities have a positive relationship, which has smoothed handling of maritime disputes.¹² Recently, there have been signs of improved relations between Japan and Taiwan. In Japan's and Taiwan's dispute over Okinotorishima, Taiwan is not questioning Japan's claim to Okinotorishima itself, rather its claim to Okinotorishima EEZ.¹³ Unlike mainland China, Taiwan's President Tsai Ing-wen and her administration declared that they would leave the resolution over the status of Okinotorishima as a rock or island to the discretion of the UN Commission on the Limits of the Continental Shelf. In 2013, Japan and Taiwan signed a historic fisheries agreement that allows fisherman from Taiwan to conduct operations within the surrounding waters.

¹¹ *Combating Human Trafficking in Asia*, Committee on Foreign Relations. Subcommittee on East Asian Pacific Affairs, Hearing before the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, United States Senate, April 7, 2011.

¹² Brinkley, Joel, "Conflicting Claims: China, Japan, Taiwan on Edge," *World Affairs Journal*.

¹³ Kotani, Tetsuo. 2016. "Taipei's Risky Agreement with Beijing on Okinotorishima." *Asia Maritime Transparency Initiative*. May 10. <https://amti.csis.org/taipeis-risky-agreement-beijing-okinotorishima/>.

10.2.2 Chunxiao Gas Field

Along with the Senkaku/Diaoyu/Daiyutai dispute, the Chunxiao Gas Field is another controversy between China and Japan. In 1995, the Chinese government discovered an undersea natural gas field that lies in the East China Sea.¹⁴ It is estimated that there are 60 million to 100 million barrels of crude oil and approximately 1 to 2 trillion cubic feet (tcf) of gas in reserve in this area.¹⁵ China and Japan both need large amounts of natural gas to sustain their countries. Both countries' need for oil causes them to rely heavily on oil imports and makes energy security a top priority for both parties.¹⁶ Having possession of this area would decrease reliance on imported energy resources.

Major conflict over this region began in 2003 when China launched projects to explore and extract oil and gas from this area. The Japanese government was not happy with how close China's development of the gas fields were to the dividing line. When Chinese operators started to develop the Chunxiao gas field, it caused conflict because the production was occurring less than two kilometers from the maritime median line.¹⁷ In addition, China's disinterest in sharing any data that was collected raised tensions, and the Japanese authority suspected that China would tap into reserves that went beyond China's respective zone. Discussions to resolve the issue would not occur until October of 2004 with the creation of "Japan-China Consultations Concerning the East China Sea and Other Matters".¹⁸ Nothing would come out of these talks until 2008 when the "Principle Consensus on the East China Sea Issue" was created. This meant

¹⁴ Kakazu, Hiroshi, "An Island Approach to the Territorial Disputes over the Senkaku/Diaoyu/Tiaoyutai Islands," *World Environment and Island Studies* 6 (2016): 21–33.

¹⁵ Waqas, Muhammad, "China, Japan Clash over East China Sea," *Oil and Gas Financial Journal* 12, December 17, 2015. <http://www.ogfj.com/articles/print/volume-12/issue-12/features/china-japan-clash-over-east-china-sea.html>.

¹⁶ Waqas, Muhammad, "China, Japan Clash over East China Sea."

¹⁷ Au, Kung-wing, "The East China Sea Issue: Japan-China Talks for Oil and Gas," *East Asia* 25, no. 3 (2008): 223–41.

¹⁸ Meierding, Emily, "Joint development in the South China Sea: Exploring the Prospects of Oil and Gas Cooperation Between Rivals," *Energy Research & Social Science* (2017).

that both China and Japan agreed to jointly develop the Chunxiao gas fields.¹⁹ Negotiations deteriorated in 2010, when conflict over the Senkaku/Daiouyu Islands increased. The rise in fighting led to Chinese officials cancelling the second round of negotiations that would have implemented the “Principle Consensus”. Since then, there has been no joint development between the two countries and China has continued to develop the resources independently.²⁰

When it comes to the disputes between China and Japan, the United States has taken a passive approach and has tried to stay out of them. This attitude, if continued, could put the good standing relationship between the United States and Japan in jeopardy. If Japan begins to think the United States will not fulfill their obligations to protect Japan from external threats, Japan may doubt the U.S. security guarantee. This may cause them to want to become more militarily self-reliant and think more about the possibility of becoming a nuclear state. To prevent this from occurring, the United States needs to reassure Japan that it will follow through on treaty obligations.

10.2.3 Southern Kurils/Northern Territories

Japan conflicts with Russia over who owns the Southern Kurils/Northern Territories. Located close to the Sea of Okhotsk and off Hokkaido are a string of desolate volcanic islands that Russia calls the Southern Kurils while Japan refers to them as the Northern Territories. Russia currently administers the islands, while Japan claims them as their own. The disagreement over ownership of these lands has been ongoing since World War II. These islands started in Russia’s possession, but then came under Japan’s possession. It is believed that at the Yalta Conference, U.S. President Franklin Roosevelt promised Stalin that if he joined the war on Japan he would receive the islands. These islands have stood in the way of Russia and Japan

¹⁹ Kakazu, Hiroshi, “An Island Approach to the Territorial Disputes over the Senkaku/Diaoyu/Tiaoyutai Islands.”

²⁰ Meierding, Emily, “Joint development in the South China Sea: Exploring the Prospects of Oil and Gas Cooperation Between Rivals.”

signing a formal peace treaty to end WWII. None of the attempts to sign a peace treaty have worked out.²¹

Russia benefits greatly from having control of the Southern Kurils/Northern Territories. This area is rich in hot springs, minerals, rare metals, and located where warm and cool water currents meet, which is beneficial for fisheries. Specifically, for Russia, having control of these islands allows Russia to have year-round access to the Pacific Ocean. The islands play a pivotal role for Russia's nuclear submarines and for Russia to reinforce its strategic position in the Asia Pacific. Russia made the decision in 2011 to deploy cruise missiles and more weapons to the islands to maintain its security.²² In August 2014, several large-scale military exercises and combat readiness snap inspections took place on the islands of Etorofu and Kunashiri, which are part of the Kuril chain. On top of that, Russia conducted military exercises in an airspace that was very close to Japanese territory.²³ These actions could increase the risks of an accident between Russian and Japanese aircraft, which could lead to a rise in tension and possible U.S. intervention.

When it comes to the Japan-Russia relationship, both sides have tried to resolve the territorial dispute. Russia has interests in economic cooperation with Japan to potentially boost Russia's economy and develop Russia's Far East. For Japan, a stronger relationship with Russia could help to protect Japan from an emerging China-Russia military alliance.²⁴ While an alliance between Russia and Japan is unlikely, improved Japan-Russia relations could help to foster better

²¹ "The Islands at the Heart of Japan-Russia Dispute," *Japan Times*, December 15, 2016, <http://www.japantimes.co.jp/news/2016/12/15/national/politics-diplomacy/kuril-islands-strategic-chain-heart-russia-japan-dispute>.

²² Kapur, K. D., "Russia-Japan Relations: Politico-strategic Importance of the Disputed Southern Kurile Islands/Northern Territories," *India Quarterly* 68, no. 4 (2012): 385-405.

²³ Cazacu, Andrei, "The Future of Russia-Japan Relations," *Center for Strategic and International Studies*, September 2, 2015, <https://www.csis.org/analysis/pacnet-55-future-russia-japan-relations>.

²⁴ Bukh, Alexander, "The 'Northern Territories' Dispute and the Future of Japan-Russia Relations," *E-International Relations*, November 4, 2016, <http://www.e-ir.info/2016/11/04/the-northern-territories-dispute-and-the-future-of-japan-russia-relations>.

U.S.-Russian relations. Also, if Japan was to improve relations with Russia this could help to mitigate China-Russian collusion, possibly including with North Korea, in the Asia-Pacific.

10.2.4 Socotra/Ieodo/Suyan Rock

Of the East Asian disputes, the Socotra/Ieodo/Suyan Rock is of lower priority but is still important to the United States. If conflicts continue to occur, the United States may be obligated to step in due to the South Korea alliance commitment. Located in the Yellow Sea, Socotra/Ieodo/Suyan Rock is submerged about fifteen feet below the sea's surface and is contested by China and South Korea. Both countries agree that the rock has no territorial status, yet both countries claim it as part of their EEZs.²⁵ Conflict first arose in 2003 when South Korea decided to build an Ocean Research Station, and then again in 2012 when China's State Oceanic Administration declared Socotra Rock a part of Chinese maritime authority, thus raising tensions between the two nations. China continued to push boundaries with their unilateral declaration of its ADIZ.²⁶

Even though China and South Korea have this current dispute, their overall relationship is on relatively good terms. The agreement between the United States and South Korea to install a Thermal High Altitude Area Defense (THAAD) system has led to a cooling in relations between China and South Korea and increased tension between the United States and China.

The THAAD agreement builds upon the U.S.–Republic of Korea (ROK) Mutual Defense Treaty signed at the end of the Korean War in 1953. Under the U.S.–R.O.K Mutual Defense treaty, the United States is committed to defend South Korea from any external aggression.

Through the treaty, the United States has stationed Army, Air Force, Navy, and Marine

²⁵ Kuo, Lily, "Will a Tiny, Submerged Rock Spark a New Crisis in the East China Sea?" *Atlantic*, December 9, 2013, <https://www.theatlantic.com/china/archive/2013/12/will-a-tiny-submerged-rock-spark-a-new-crisis-in-the-east-china-sea/282155>.

²⁶ Raj, Rahul, "China's Claim on Ieodo," *Korea Times*, January 19, 2016, http://www.koreatimes.co.kr/www/news/opinion/2016/03/162_195794.html.

personnel in the ROK and maintained a forward presence in East Asia. U.S. relations with the ROK throughout the years have also deepened into a comprehensive global partnership due to common values of democracy, human rights, and the rule of law. This friendship has led to an increasingly dynamic U.S.–ROK alliance that is based upon future-oriented partnership opportunities. These possibilities include partnerships in space, energy, health, climate change, and cyberspace. In 2015 the two states renewed the Civil Nuclear “123” Agreements and established a High-Level Bilateral Commission to address civil nuclear issues of mutual interest.²⁷

10.2.5 Dokdo/Takeshima

Japan laid claims to the territory in its annual defense reports, which angered South Korea. In 2012, Japanese leaders became upset when then South Korean President Lee Myung-bak became the first South Korean leader to make an official visit to the islands. American allies benefit the United States militarily and economically, but disputes between two American allies can lead to discord amongst everyone. Two tiny islets in the Sea of Japan or the East Sea are known as Dokdo by the Koreans and Takeshima by the Japanese. Japan claims these islets, yet they have been under the Republic of Korea’s administration since the early 1950s.²⁸ The fraught history between these two countries has made it hard for both sides to come to an agreement. The Japanese Foreign Minister Fumio Kishida stated, “the islets as [being] ‘Japan’s indigenous territory’” and the South Koreans countered by declaring that “Dokdo was indisputably Korean territory historically, geographically and under international law.”²⁹

²⁷ *Combating Human Trafficking in Asia*, Committee on Foreign Relations. Subcommittee on East Asian Pacific Affairs, Hearing before the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, United States Senate, April 7, 2011.

²⁸ Bukh, Alexander, “Korean National Identity, Civic Activism and the Dokdo/Takeshima Territorial Dispute,” *Journal of Asian Security and International Affairs* 3, no. 2 (2016): 183-199.

²⁹ Carpenter, Ted G, “The Island Dispute No One Is Talking About,” *National Interest*, February 23, 2015, <http://nationalinterest.org/feature/the-island-dispute-no-one-talking-about-12297>.

Both the U.S.–Japan and the U.S.–R.O.K. alliances are important to U.S. interests. The United States must continue to defend allies and encourage good relations. The unresolved historical resentment between Japan and ROK has imposed additional challenges on the resolution of territorial dispute over Dokdo/Takeshima. These circumstances have made it difficult to increase security cooperation between the two. When dealing with South Korea and Japan, the United States must not show favoritism toward one country. To maintain leadership in the Asia-Pacific and amidst a rising China and growing threats from North Korea, the United States is best served through strong relations with both Japan and South Korea augmented by cooperation between the two countries.

10.3 Other U.S. Interests

10.3.1 Increase in Hostilities with China

Due to the U.S.–Japan Mutual Security Treaty, U.S. forces are integrated with Japan's SDF. U.S. assists with intelligence, surveillance, reconnaissance (ISR) support, and participates in exercises designed to enhance Japan's defense capabilities. If the hostility between Japan and China continues to escalate, the United States may be asked to provide more assistance to Japan's SDF, increasing the possibility of an armed conflict with China.³⁰ For more information about the U.S.–China relations refer to chapter 4.

10.3.2 Regional Stability and the Status Quo

The United States has always supported the peaceful settlement of territorial and maritime disputes. U.S. retreat from these disputes could undermine economic prosperity and stability in the region.³¹ Continued assertiveness by China could disrupt the balance of power. China's maritime behavior in this region is perceived as unpredictable, causing Asia-Pacific

³⁰ Smith, Sheila A, "A Sino-Japanese Clash in the East China Sea," *Council on Foreign Relations* (2013), <http://www.cfr.org/japan/sino-japanese-clash-east-china-sea/p30504>.

³¹ Smith, Sheila A, "A Sino-Japanese Clash in the East China Sea," *Council on Foreign Relations*.

leaders to worry the implications of China's rise. A revisionist China, in the end, could jeopardize U.S. leadership and threaten the prosperity of Japan, South Korea, and other countries.³²

10.4 Policy Recommendations

10.4.1 Reassure the Asia-Pacific that the United States will not allow for China coercion in disputes. Continue advocating that maritime conflicts be resolved according to the rule of law.

The United States should continue to encourage countries in dispute to seek resolutions through peaceful means. Also, when it comes to the Senkaku/Diaoyu/Diaoyutai dispute, the United States should remind China that unilateral action will not change U.S. recognition of Japan's administrative control over the islands. The United States should also make it clear that it is committed to U.S. allies in the region and will not tolerate aggression toward them.

10.4.2 Increase the number of joint military exercises conducted among countries in the Asia-Pacific. Joint military exercises increase understanding and trust between different countries. In return, this cooperation will also help in maintaining stability and economic growth globally. Encouraging countries like China to participate could help increase transparency with regard to defense budget expenditures, strategies, plans, and intentions.

10.4.3 Make it a priority to help settle the disputes over Dokdo/Takeshima without getting dragged into historical debates and finger pointing. Helping to end the Dokdo/Takeshima dispute between Japan and South Korea would help foster better relations between the two states and alleviate tensions. Better bilateral relations would in return strengthen U.S.–Japan–ROK trilateral relations, allowing for smoother cooperation on regional security issues.

³² Smith, Sheila A, "A Sino-Japanese Clash in the East China Sea," *Council on Foreign Relations*.

CHAPTER 11

Indo-Pacific Security Infrastructure

Yue Cassie Xing

11.1 Introduction

As the center of geopolitics has gradually shifted from Europe to Asia, so has the focus of the U.S. maritime security interests. The United States has key economic and strategic concerns not only in the Pacific Ocean, including the East and South China Seas, but also stretching out to the Indian Ocean.¹ Since Prime Minister Narendra Modi launched the Act East Policy at the East Asia Summit in 2014, Delhi has started to strengthen the ties with Indian Ocean littoral states, underscoring a more active role not only in the Indian Ocean but also in the contentious waters of the South China Sea (SCS).²

This shift from “Looking East” to “Acting East” is a sign of India’s effort to deepen its engagement and influence in the maritime domain, especially on security issues. The United States already regards India as one of America’s most crucial strategic partners in confronting the Indo-Pacific maritime challenges. The opportunity to building a close partnership with India holds promise for the balance of power in the Asia-Pacific.³ Therefore, now is the perfect time for the United States to continue deepening ties with perhaps its most critical strategic partner in

¹ “The Asia-Pacific Maritime Security Strategy: Achieving U.S. National Security Objectives In A Changing Environment”, *Department of Defense*. https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF. Note: “Indo-Pacific” will be used throughout this chapter to refer to U.S. interests in the maritime Asia-Pacific region stretching from the Indian Ocean to East Asia. The Department of Defense uses similar terminology.

² Kundu Sampa, “India’s ASEAN Approach: Acting East”, *The Diplomat*, April 08, 2016. <http://thediplomat.com/2016/04/indias-asean-approach-acting-east/>; Sajjanhar, Ashok, “2 Years On, Has Modi’s ‘Act East’ Policy Made a Difference for India?”, *The Diplomat*, June 03, 2016. <http://thediplomat.com/2016/06/2-years-on-has-modis-act-east-policy-made-a-difference-for-india/>; Kugelman, Michael, “India Acts East: Washington’s pivot to Asia gets all the attention, but India’s pivot east will redefine regional politics”, *Foreign Policy*, May 17, 2016. <http://foreignpolicy.com/2016/05/17/india-acts-east/>

³ “Fact Sheet: Advancing the Rebalance to Asia and the Pacific”, *The White House*, November 16, 2015. <https://obamawhitehouse.archives.gov/the-press-office/2015/11/16/fact-sheet-advancing-rebalance-asia-and-pacific/>; Burns, R. Nicholas, “America’s Strategic Opportunity with India”, *U.S Department of State*. October 18, 2007. <https://2001-2009.state.gov/p/us/rm/2007/93728.htm>.

the Indian Ocean. U.S. understanding of the strategic importance of India and its interests in the Indo-Pacific is critical for strengthening the U.S.–India strategic partnership to rebalance the Indo-Pacific.

This chapter first emphasizes the key historical, political and language factors in South Asia that shape a strategic partnership between India and the United States. Then, this chapter will examine several critical military, political and economic dynamics in the Indian Ocean involving the United States, India, China and Pakistan that affect U.S. interests in these highly contentious waters.

11.2 India Overview: Why a U.S.–India Partnership?

India possesses several characteristics that are compelling reasons for the United States to enhance strategic ties with this country. Despite sometimes tumultuous U.S.–India relations since India’s independence, Washington and Delhi have deepened economic and strategic relations through trade, financial and military partnerships, particularly since the Clinton Administration.⁴

Politically, both countries are democratic, and India is the largest democracy in the world.⁵ Therefore, the United States and India have shared political values.⁶ As a result, Washington views the growing influence of Delhi in the world as broadly congruent with U.S. interests as India is a rising democratic power.⁷

⁴ “U.S.-India relations”, *Council on Foreign Relations*. <http://www.cfr.org/india/timeline-us-india-relations/p32994>

⁵ “India: the biggest democracy in the world”, European Parliament. [http://www.europarl.europa.eu/RegData/etudes/ATAG/2014/538956/EPRS_ATA\(2014\)538956_REV1_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2014/538956/EPRS_ATA(2014)538956_REV1_EN.pdf); “India Country Profile”, *BBC News*, Sept. 27, 2016. <http://www.bbc.com/news/world-south-asia-12557384>.

⁶ “Remarks by Secretary Carter and Defense Minister Parrikar in New Delhi, India”, *US Department of Defense*, Dec. 8, 2016.

<https://www.defense.gov/News/Transcripts/Transcript-View/Article/1025104/remarks-by-secretary-carter-and-defense-minister-parrikar-in-new-delhi-india>.

⁷ Burns, R. Nicholas, “America’s Strategic Opportunity with India”, *U.S Department of State*. October 18, 2007. <https://2001-2009.state.gov/p/us/rm/2007/93728.htm>.

Linguistically, India is an English-speaking country because of its colonial legacy. A similarity in political and cultural values allows for more effective bilateral and multilateral negotiations, as well as cooperation on current pressing global challenges.

Economically, enhancing relations with India is desirable also because India ranks as the world's fourth fastest growing economy whose gross domestic product (GDP) growth has surpassed China's in recent years.⁸ What gives Delhi an even greater edge in leading the future world economy is its relatively young population.⁹ Compared to the other two strong or fast growing economies in Asia—Japan and China, which have been witnessing an increasingly aging generation—economists believe this demographic potential could add a significant 2% to the GDP growth rate. This dynamic economy is thus a valuable partner for the United States in balancing a rising China in the Indo-Pacific. Washington has long had bilateral trade relations with Delhi. India is currently the U.S.'s 11th largest goods trading partner.¹⁰ In 2016, U.S. exports to India totaled \$21.689 billion and U.S. imports from India accounted for around \$46 million.¹¹ Economic growth is a top U.S. interest, and thus enhancing strategic ties with India is also profitable.

Geographically, India's location could not be more critical for strategic cooperation with the United States. Located in the center of the Indian Ocean, India has witnessed billions of dollars in wealth generated from seaborne trade activities passing through the southern tip of its continent. As the Indian Ocean links East Asia through the contentious South China Sea to West

⁸ "GDP Growth (annual %) 2015", *The World Bank*. <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG>; "Countries By GDP Growth 2016", *Statistics Times*. <http://statisticstimes.com/economy/countries-by-projected-gdp-growth.php>

⁹ Shivakumar Girija, "India is Set to Become the Youngest Country By 2020", *The Hindu*, April 17, 2013. <http://www.thehindu.com/news/national/india-is-set-to-become-the-youngest-country-by-2020/article4624347.ece>.

¹⁰ "U.S.-India Bilateral Trade and Investment", Office of the United States Trade Representative. <https://ustr.gov/countries-regions/south-central-asia/india>.

¹¹ "2016: U.S. Trade In Goods With India", United States Census Bureau. <https://www.census.gov/foreign-trade/balance/c5330.html>.

Asia and Africa, trade routes are expanding in terms of volume and significance. Security of trade routes has therefore become one of the most important interests to the countries engaged in trade in the region. In addition to the economic perspective, this region is also has security implications that are a critical consideration in the strategic partnership.

11.3 Dynamics in the Indo-Pacific

11.3.1 Military and Political Perspectives

The rise of China has disturbed the balance of the Indo-Pacific region. Yet, China's increasingly assertive moves have been shaping a growing convergence of U.S. and Indian interests and strategies in the Indo-Pacific maritime security domain.¹² The United States and India have been augmenting their strategic partnership through the Defense Trade and Technology Initiative (DTTI). One priority in the DDTI is to enhance India's military build-up in order to counter a rising China with expanding naval capabilities and more broadly, to rebalance the Indo-Pacific.¹³

India no longer sees China's increasing naval presence and military activities with Indian Ocean littoral states as simply promoting economic interests and an anti-piracy initiative as previously clarified by Beijing. Instead, Delhi has a strong tendency to consider this expanding engagement as a threat to the balance of its preeminent power in the Indian Ocean region.¹⁴

While arguing that its activities in this region are only economic, China has been deepening its

¹² Scott, David. "The "Indo-Pacific"—New Regional Formulations and New Maritime Frameworks for US-India Strategic Convergence." *Asia-Pacific Review* 19, no. 2 (2012): 85-109.

¹³ Garamone, Jim, "U.S., India Sign 10-Year Defense Framework Agreement", *U.S. Department of Defense*. <https://www.defense.gov/News/Article/Article/604775>; "Remarks by Secretary Carter and Defense Minister Parrikar in New Delhi, India", *US Department of Defense*, Dec. 8, 2016. <https://www.defense.gov/News/Transcripts/Transcript-View/Article/1025104/remarks-by-secretary-carter-and-defense-minister-parrikar-in-new-delhi-india>; Ghosh, Pijush K. "Maritime Challenges in Indian Ocean Region – Indian Response Strategies and Cooperative Approaches." *Adelaide Law School Research Unit on Military Law and Ethics*, RUMLAE Research Paper No. 16-06.

¹⁴ Scott, David. "India's Drive For A 'Blue Water' Navy." *Journal of Military and Strategic Studies*, Vol. 10, Issue 2 (2007-08); Vice Admiral Anup Singh, "India Maritime Security Perspective", *The University of Adelaide*;

ties with the littoral powers in the Indian Ocean through an influx of capital into construction projects such as deep-water port development and military patrols in Myanmar, Pakistan, Bangladesh and Sri Lanka.¹⁵ This phenomenon is also described as China's "String of Pearls."

These potential challenges from the world's second largest military power, China, as a result has prompted India to prioritize military engagement, deployment and modernization in its maritime strategy. In February 2016, India conducted its Second International Fleet Review, which brought fifty-two countries and more than a hundred warships for ceremonial inspections. This effort underscores Delhi's "growing indispensability of the maritime posture" in the Indo-Pacific.¹⁶ Furthermore, embedded in Prime Minister Modi's "Make in India" Policy, and advocating for self-reliance and indigenization in defense production, India has built up and acquired naval capabilities such as an aircraft carrier, jet fighters, airborne maritime surveillance and anti-submarine warfare (ASW).¹⁷ However, the quality of India's naval modernization turns out to be less promising.¹⁸ Inspections done by U.S. top naval engineers in 2016 suggested that Delhi's first indigenously made aircraft carrier has operational shortcomings such as a lack of small missile system, "a limited ability to launch sorties and no defined strategy for how to use the ship in combat."¹⁹ These findings alarmed both India and the United States because they show that India's naval development is still delayed and will probably not be capable of countering China's growing military deployment and improvement anytime soon. Because of

¹⁵ Albert Eleanor. "CFR Backgrounders – Competition In the Indian Ocean." *Council on Foreign Relations*. May 19, 2016. <http://www.cfr.org/regional-security/competition-indian-ocean/p37201>.

¹⁶ Malhotra, Aditi. "India Sees a New Regional Role for Its Navy." *The Foreign Policy*, June 10, 2016. <http://foreignpolicy.com/2016/06/10/india-sees-a-new-regional-role-for-its-navy/>

¹⁷ Kanwal, Gurmeet, "India's Military Modernization: Plans and Strategic Underpinnings", *The National Bureau of Asian Research*, September 24, 2012. <http://www.nbr.org/research/activity.aspx?id=275>

¹⁸ Malhotra, Aditi. "India Sees a New Regional Role for Its Navy." *The Foreign Policy*, June 10, 2016. <http://foreignpolicy.com/2016/06/10/india-sees-a-new-regional-role-for-its-navy/>; Stacey, Daniel, "U.S. Effort to Help India Build Up Navy Hits Snag." *The Wall Street Journal*, Nov. 30, 2016. <https://www.wsj.com/articles/u-s-effort-to-help-india-build-up-navy-hits-snag-1480501812>

¹⁹ Stacey, Daniel, "U.S. Effort to Help India Build Up Navy Hits Snag." *The Wall Street Journal*, Nov. 30, 2016. <https://www.wsj.com/articles/u-s-effort-to-help-india-build-up-navy-hits-snag-1480501812>

this inefficiency in India's military modernization, the United States has been strengthening its military cooperation with India through technology sharing and trade in defense equipment to help India modernize its naval forces.²⁰ Washington and Delhi signed a 10-Year Defense Framework Agreement in June 2015, featuring the incorporation of Modi's "Make in India" policy and the DTTI,²¹ to foster these trade activities and military technology-sharing while also retaining certain characteristics of Modi's indigenous defense production. This partnership, in response to a shift in power due a vigorously expanding China, will thus enhance the efficiency and competency of India's navy to not only secure the regional balance in the Indian Ocean but also that of the Indo-Pacific more broadly.

Indeed, besides helping India strengthen its military power in the Indo-Pacific, the United States, economically speaking, should persist with this military cooperation to retain its defense trade activities with India. Despite the Modi government advocating a "Make in India" initiative, India remains the world biggest military importer, diversifying its defense imports from foreign states, including Russia, the United States, France, Israel, the United Kingdom, Switzerland and others.²² Defense deals with Russia totaled around 75% of all of India's military imports from 2004 to 2014,²³ and U.S. supplies reached around 7%, which for the first time

²⁰ Garamone, Jim, "U.S., India Sign 10-Year Defense Framework Agreement", *U.S. Department of Defense*. <https://www.defense.gov/News/Article/Article/604775>; Stacey, Daniel, "U.S. Effort to Help India Build Up Navy Hits Snag." *The Wall Street Journal*, Nov. 30, 2016. <https://www.wsj.com/articles/u-s-effort-to-help-india-build-up-navy-hits-snap-1480501812>

²¹ Garamone, Jim, "U.S., India Sign 10-Year Defense Framework Agreement", *U.S. Department of Defense*. <https://www.defense.gov/News/Article/Article/604775>.

²² Gady, Franz-Stefan, "Russia Remains India's Largest Arms Supplier (For Now)", *The Diplomat*, March 1, 2016. <http://thediplomat.com/2016/03/russia-remains-indias-largest-arms-supplier-for-now/>. "Peri, Dinakar, "India Retains World's Largest Importer Tag", *The Hindu*, February 23, 2016. <http://www.thehindu.com/news/national/India-retains-worlds-largest-weapons-importer-tag/article14095784.ece>

²³ Gady, Franz-Stefan, "Russia Remains India's Largest Arms Supplier (For Now)", *The Diplomat*, March 1, 2016. <http://thediplomat.com/2016/03/russia-remains-indias-largest-arms-supplier-for-now/>; IANS, "Russia Remains India's Leading Military Supplier: Vladimir Putin." *The Times of India*, Oct 13, 2016. <http://timesofindia.indiatimes.com/india/Russia-remains-Indias-leading-military-supplier-Vladimir-Putin/articleshow/54829043.cms>.

became the second biggest military supplier to India.²⁴ Notice that U.S. arms exports to India generated \$302 million in 2015. Though India's overall arms imports, especially from Russia, have declined after Modi's government launched the "Make in India" Policy in September 2014, thanks to the DTTI military cooperation, the United States will be able to better retain its defense trade activities with India and thus benefit U.S. arms exporters. One potential obstacle in implementing the DTTI is U.S. export controls on military weaponries and technologies. Nevertheless, Washington had signed a Bilateral Defense Agreement with India in 2015, "providing highways for high level strategic discussions, continued exchange between armed forces of both countries and strengthening of defense capabilities."²⁵ Since direct military support toward defense weaponry will create more financial burden for the U.S. treasury, this military cooperation in the form of trade will give advanced defense technologies to India while allow the United States to retain economic profits. In sum, the China dimension spurs a convergence in Washington's and Delhi's strategic interests in the Indo-Pacific balance of power.

Besides this China perspective, Pakistan is another dynamic player in the Indian Ocean that ties Delhi's and Washington's interests together. Land territorial disputes at the India-Pakistan border have not been unresolved for the past 60 years. Tensions over Kashmir Line of Control (LOC) are ever present. Fighting intensified in late 2016, through several militant attacks.²⁶ Despite the fact that the Indian navy possesses more capabilities than the Pakistani navy, Pakistan is also a nuclear power. Therefore, Pakistan is hostile and dangerous from India's point of view. Furthermore, as mentioned previously, China is strengthening its military

²⁴ "South Asia and the Gulf Lead Rising Trend in Arms Imports, Russian Exports Grow, Says SIPRI." *Stockholm International Peace Research Institute*. 17 march 2014. <https://www.sipri.org/media/press-release/2014/south-asia-and-gulf-lead-rising-trend-arms-imports-russian-exports-grow-says-sipri>.

²⁵ "2016 Defense Markets Report Defense Products", *International Trade Administration*, June 2016. http://trade.gov/topmarkets/pdf/Defense_Top_Markets_Report.pdf.

²⁶ Kumar Hari; Masood Salman, "Fighting Intensifies Between India and Pakistan on Kashmir Line of Control", *The New York Times*, Nov. 23, 2016; Kumar Hari, Barry Ellen, "3 Indian Soldiers Are Killed in Kashmir" *The New York Times*, Nov. 22, 2016.

partnership with Pakistan, through navy patrols and port development. China at the same time has been exporting arms to Pakistan, which accounts for 35% of China's total military exports.²⁷ Due to Pakistan's military and nuclear power, and its military cooperation with China, India sees growing threats not only from China's increasing engagement in the Indian Ocean but also from Pakistan.

In the context of these complex Sino–U.S.–Pakistan–India quadrangular relations, America's and India's interests converge on the issue of how to balance power in the Indian Ocean. The dilemma here is the fact that Pakistan and the United States also have a complicated relationship.²⁸ The United States has a security partnership on counter-terrorism as well as bilateral economic relations with Pakistan. Not only is Pakistan a major recipient of Chinese military exports, is it also one of the top importers of the U.S. arms.²⁹ Yet, Washington has also been building a defense trade partnership with India to support its military modernization. Due to the military rivalry between India and Pakistan, this complex U.S.–China–Pakistan triangle may create a dilemma for the United States on how to deal with its partnerships with Pakistan and with India, respectively. Would prioritizing the strategic partnership with India to counter the rise of China and to rebalance power in the Asia-Pacific push Pakistan to further enhance its military deployment, its military escalation with India, as well as to even augment its strategic military cooperation with China? Or will a U.S.–India strategic partnership alarm Pakistan and prompt it to move closer to Washington over Beijing? These questions remain unknown

²⁷ Zhou, Laura, "China Almost Doubles Weapons Exports Over Past Five Years, With Pakistan Biggest Buyer: Think Tank", *South China Morning Post*, February 22, 2016. <http://www.scmp.com/news/china/diplomacy-defence/article/1915140/china-almost-doubles-weapons-exports-over-past-five>.

²⁸ "U.S. Relations With Pakistan", *U.S. Department of State*. January 24, 2017. <https://www.state.gov/r/pa/ei/bgn/3453.htm>.

²⁹ Brown, Curtis, Browne Ryan, and Cohen Zachary, "Here's Who Buys the Most Weapons From the U.S." *CNN*, May 25, 2016. <http://www.cnn.com/2016/05/24/politics/us-arms-sales-worldwide/>.

currently since the military cooperation initiatives between Washington and Delhi have just started to take effect.

What is at stake for the United States is balancing its interests between the potential risks and gains of weighing one partnership over another. If Washington chooses to put more weight on India in helping to counterbalance an assertive China in the Indo-Pacific, risks are on the United States in losing its most critical partner in countering terrorism at the Afghanistan-Pakistani border and the Taliban in West Pakistan. More broadly, since Washington helps India expand its naval capabilities, this choice would further destabilize order in the Indian Ocean due to military escalation between Pakistan and India.

Nevertheless, the Pakistan dimension may be less likely to threaten the U.S. goal of rebalancing power in the Asia-Pacific through U.S.–India military cooperation. First of all, despite a long-term partnership between Pakistan and China, Pakistan may not have a strong interest in interfering in U.S.–India defense cooperation in the Indo-Pacific because this initiative is not to counter Pakistan but China; and since Pakistan is not formally allied with China, it is not responsible for joining this military escalation in the contentious waters. Second, bearing in mind that India is a non-alignment country, India may not choose to align with any nation and maintain diverse potential military or economic partnerships. This means India is not responsible for a joint combat with another nation if that nation goes to war. The DTTI and other forms of military cooperation with India are features of a U.S. strategic *partnership*, not an alliance, and thus this cooperation need not necessarily provoke Pakistan. However, a U.S. strategic initiative with India to counter the rise of China and manage the shift of power in the Indo-Pacific will likely enhance Delhi's naval power. India's military modernization will potentially contain

Pakistan's naval power to some degree; and since China has been increasing its military partnership with Pakistan, China's projection in the Indian Ocean will be compromised.

11.3.2 Economic Perspective

As stated in the overview above, seaborne trade is extremely important to India's economic and strategic interests. Seeking to become a strong regional power, India has been enhancing its presence and power projection in the Indo-Pacific not only because India is striving to become a strong military security provider in the Indian Ocean region, but also because it wants to further stabilize and strengthen its economic growth.³⁰ According to the World Bank, India's trade-to-GDP ratio reached 42% in 2015.³¹ Moreover, trade activities as proportional to overall GDP in India are even higher than that of the United States and China.³² More importantly, the geographic configuration of the Indian Ocean determines that most of its interaction with the world is via sea.³³ Located in the center of the Indian Ocean, India is thus active in seaborne transport activities. The World Trade Organization (WTO) indicates that over 90% of India's trade activities are by sea.³⁴ This trade data also underscores that the geography of the Indian Ocean Region is strategically crucial.

Guaranteeing the security of seaborne trade in oil and gas is critical due to the strategic location of the Indian Ocean. Indeed, the Indian Ocean region is the link between the two biggest oil trade checkpoints: the Strait of Hormuz and the Strait of Malacca.

³⁰ 大明 龚, "印度莫迪政府的南海政策," 印度莫迪政府的南海政策 - 环球视野 -, February 23, 2016, accessed February 11, 2017, http://www.globalview.cn/html/global/info_9225.html.

³¹ "Trade (% of GDP), *The World Bank*

³² Thakur, Atul, "India's Trade-GDP Ratio Higher Than U.S., China's", *The Economic Times*, Aug. 30, 2015;

³³ Vice Admiral Anup Singh, "India Maritime Security Perspective", *The University of Adelaide*.

³⁴ "WTO Statistics Databases - India", *The World Trade Organization*".

<http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=IN>.

Figure 11.1: Major Crude Oil Trade Flows in the South China Sea, in bbl/d, 2011

Major crude oil trade flows in the South China Sea (2011)
million barrels per day



“The Strait of Hormuz, linking the Persian Gulf to the Arabian Sea, saw an oil flow of 15.5 million barrels per day (bbl/d) in 2009 when flows through this Strait accounted for roughly a third of all seaborne traded oil, or 17% of oil traded worldwide.”³⁵ Meanwhile, the Strait of Malacca, located between Indonesia, Malaysia, and Singapore, links the Indian Ocean to the South China Sea and the Pacific Ocean. Malacca is the shortest sea route between the Persian Gulf suppliers and the Asian markets. The Strait of Malacca has an estimate of 13.6

³⁵ “Maritime Checkpoints Critical to Petroleum Markets”, *The U.S. Energy Information Administration*.

million bbl/d flow in 2009.³⁶ For India, oil and gas imports are the largest non-agricultural imports.³⁷ Because the Indo-Pacific trade routes tightly link the world economic and trade activities together, India has claimed strong interests in protecting secure trade routes and supporting a free flow of trade activities.³⁸ This effort is seeking to eliminate barriers on naval navigation for sea trade transportation. The United States has been asserting and practicing freedom of navigation (FON) in the region, particularly in the South China Sea.³⁹ Recognizing Delhi's enduring economic and strategic interests in the Indo-Pacific, Washington should continue freedom of navigation operations (FONOPs) and cooperate with India to secure freedom of navigation on the seaborne trade routes, particularly through the disputed South China Sea. Cooperation on this point will be feasible based on India's strengthening naval capacities and U.S.–India military partnerships like the DTTI.

11.4 Policy Recommendations

In response to India's emergence as an increasingly influential power in the Indo-Pacific, the United States should consider common interests between the two nations to manage the changing balance of power in this region as a result of a rising China. In order to balance China's power and strategic interests in the maritime domain, the United States should help India become a mature security provider. In order to achieve these goals, the United State should:

11.4.1 Strengthen the military partnership with India to support India's role as a security provider. Washington needs to facilitate and reinforce the coordination between Modi's "Make in India" policy and the DTTI, encouraging Delhi to augment its naval power investments such

³⁶ "Maritime Checkpoints Critical to Petroleum Markets", *The U.S. Energy Information Administration*.

³⁷ "WTO Statistics Databases - India", *The World Trade Organization*.

<http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=IN>.

³⁸ 大明 龚, "印度莫迪政府的南海政策," 印度莫迪政府的南海政策 - 环球视野 -, February 23, 2016, , accessed February 11, 2017, http://www.globalview.cn/html/global/info_9225.html.

³⁹ "Maritime Security and Navigation", *Department of State*. <https://www.state.gov/e/oes/ocns/opa/maritimesecurity/>.

as to increase defense and military technology imports from the United States, while maintaining a certain level of Modi's indigenous and self-reliance initiative.

11.4.2 Consistently promote FON. FON is crucial to the economic gains and the common wealth for all the countries that endure trade activities within this region. Since trade accounts for such a large portion of India's GDP, and since India is the second-fastest growing economy in the world and is potentially able to surpass China in the future, FON will help India stabilize its economic power in the Indian Ocean. More broadly, Washington should cooperate with other regional littorals in the Indo-Pacific to promote FON since not only the Indian Ocean but the Indo-Pacific as a whole covers trade routes that are key to regional wealth and prosperity.

PART V
NON-TRADITIONAL SECURITY

CHAPTER 12

Marine Environment

Tyler Lincoln

12.1 Introduction

Understanding the environmental impact of any policy decision is important in determining threats to sustainable security management in the Asia-Pacific. Marine environments are major sites for economic activity, and they play a significant role in shaping regional security. They create spaces for trade, transport, green investment and naval modernization. Freedom of navigation operations are becoming especially crucial foreign policy tools for the United States. Increased surface temperatures, ocean acidification and frequent occurrences of natural disasters point to the fragility of marine environments. Effective management of oceans is therefore pivotal to maintaining an effective regional security. This chapter identifies opportunities for U.S. engagement with developments in environmental policy and argues that the United States should lead regional efforts to maintain environmental security by providing a framework for environmental management.

12.2 Background and Framework

The theoretical argument of the tragedy of the commons states that global common-pool resources, such as the environment, are shared among individual actors in a system where any one actor may take resources for their own benefit.¹ This framework highlights the self-serving nature of each actor that takes from the commons, driven by the assumption that other actors in the system are doing the same in order to maximize their share of resources.² This situation creates a “tragedy,” defined here as individuals taking at an infinite rate in a world with a finite

¹ Hardin, *Tragedy of the Commons*, 1986. <http://www.jstor.org/stable/1724745>

² Barrett, *Coordinating vs. Voluntarism and enforcement in sustaining international environmental cooperation*, 2016.

supply, until eventually the common-pool resources are depleted.³ This situation also risks waste and depletion of resources in the pool, which increases risk of pollution.⁴

Habitat destruction and climate change are two contributing stressors to the tragedy of the commons. Somewhat ironically, habitat destruction occurs as a result of efficient resource extraction from these habitats.⁵ Resource depletion can quickly lead to conflict in the international system. Whereas poor state infrastructure can cause internal conflict, external competition between states over shared trans-boundary resources can also lead to international conflict.⁶

Pollution, habitat destruction and climate change themselves do not actually create conflict, and violence cannot be solely attributed to these stressors. However, they create spaces with higher risks for conflict escalation.⁷ The U.S. Department of Defense (DoD) Quadrennial Defense Review in 2014 stated that the negative effects of environmental issues “aggravate stressors abroad such as poverty, environmental degradation, political instability, and social tensions—conditions that can enable terrorist activity and other forms of violence.”⁸

Collective action is a promising medium for effectively managing shared resources in a shared environment. Collective action balances risks of conflict escalation and the need to create institutions to facilitate collective resource sharing. The resulting challenge is the need to convince actors that meeting community needs offers a pathway for developing a sustainable economy. Understanding the theoretical framework which links environmental risks of resource

³ Hardin, *Tragedy of the Commons*, 1986. <http://www.jstor.org/stable/1724745>

⁴ *Ibid.*

⁵ McCormick et al., *Habitat degradation disrupts neophobia in juvenile coral reef fish*, 2016.

<http://www.pnas.org/content/113/51/14515?tab=author-info>

⁶ Nordas and Gleditsch, *Climate change and conflict*, 2007.

<http://www.sciencedirect.com/science/article/pii/S0962629807000856>

⁷ Livingstone, Stop Saying Climate Change Causes War, *Foreign Policy Magazine*, 2015.

<http://foreignpolicy.com/2015/12/04/stop-saying-climate-change-causes-war-paris-cop-21-bernie-sanders/>

⁸ DoD, *Quadrennial Defense Review 2014*, 2015 <https://www.defense.gov/News/Special-Reports/QDR>

scarcity to conflict is key in identifying opportunities for continued U.S. engagement with developments in environmental policy, which can have profound effects on regional security.

12.3 Environmental Security Risks in the Asia-Pacific

The Asia-Pacific region is a classic example of the tragedy of the commons. Conflict escalation through extensive environmental degradation is incentivized by open access to its common-pool resources. Poor fisheries management factors heavily into the issue of resource scarcity in the Asia-Pacific. The region's ecosystems comprise up to 400 species of coral with over 1,300 species of reef fishes, making it home to the most diverse and endemic-rich coral reefs on the planet.⁹ As of today, coastal fishing grounds in the Asia-Pacific have been depleted between 5% and 30%. In addition to poor fisheries management, fishermen in the region are increasingly utilizing destructive fishing practices such as blast fishing, the use of cyanide, using too large of net sizes, and trawling. These methods deplete fish resources at an alarming rate.¹⁰

Habitat destruction also contributes to the environmental degradation of the Asia-Pacific. China's reclamation activities are an instance of habitat destruction. While China is party to the United Nations Convention on the Law of the Sea, it contradicts its "obligation to protect and preserve the marine environment" by not taking measures to ensure its actions do not pollute the marine environment.¹¹ As part of the PCA ruling between the Philippines and China in 2016, the Tribunal found that China's land reclamation activities have contributed a significant amount of

⁹ McManus, *Coral Reefs and Biodiversity: A Critical and Threatened Relationship*, 1996.

https://www.researchgate.net/profile/John_Mcmanus4/publication/259471671_Coral_Reefs_and_Biodiversity_A_Critical_and_Threatened_Relationship/links/00b4952c1fdec8e67f000000/Coral-Reefs-and-Biodiversity-A-Critical-and-Threatened-Relationship.pdf

¹⁰ Mallory, *Fisheries in East Asia: Political, economic and security challenges*, 2015.

¹¹ United Nations Oceans and Law of the Sea, *United Nations Convention on the Law of the Sea of 10 December 1982*, 1982. http://www.un.org/Depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm

environmental degradation of the coral reefs in the South China Sea.¹² Despite this, China continues to refer to the reclamation activities as a green project.¹³

Pollution is poses a serious challenge the regional environmental security in the Asia-Pacific. As global markets increase demands for oil, deep-sea drilling in the oceans of the Asia-Pacific have become commonplace. The impact drilling has on the environment has serious implications for environmental security in the region. In the Gulf of Thailand alone, there have been over 200 oil spills in the last 30 years, one of the most recent being a 50,000 liter spill in July of 2013, quickly followed by a 500,000 liter spill of diesel into Manila Bay.¹⁴

Land erosion further degrades marine environments by increasing the presence of salts from agriculture fertilizers.¹⁵ Eutrophication, the process of water becoming overloaded with nutrients, can spur on algae blooms, a process whereby oxygen is depleted from the water in a faster rate to sustain bacteria feeding off the algae, thereby suffocating other aquatic life.¹⁶ This is yet another threat to the biodiversity that sustains the environmental infrastructure of the region.

Industrial land development in many Southeast Asian nations, such as Taiwan and the Philippines, has accelerated land erosion in the region. Unsustainable agricultural methods and increased deforestation have reduced the effectiveness of watersheds in absorbing rainwater. This increases the amount of both industrial and topsoil runoff, putting wetlands at an increased

¹² Tiezzi, South China Sea Ruling: China Caused ‘Irreparable Harm’ to Environment, *The Diplomat*, 2016.

<http://thediplomat.com/2016/07/south-china-sea-ruling-china-caused-irreparable-harm-to-environment/>

¹³ Allen-Ebrahimian, Beijing Calls South China Sea Island Reclamation a ‘Green Project’, *Foreign Policy*, 2016.

<http://foreignpolicy.com/2016/05/26/china-calls-south-china-sea-island-reclamation-a-green-project-spratly-islands/>

¹⁴ Palatino, Oil Spill Disaster Strikes Thailand and the Philippines, *The Diplomat*, 2013.

<http://thediplomat.com/2013/08/oil-spill-disasters-strike-thailand-and-the-philippines/>

¹⁵ Brookfield, *The Dimensions of Environmental Change and Management in the South-East Asian Region*, 1993.

Print

Keyuan, *China’s Marine Legal System and Law of the Sea*, 2005.

<http://site.ebrary.com.offcampus.lib.washington.edu/lib/uwash/detail.action?docID=10171756>

¹⁶ Soil Science Society of America, *Eutrophication*, 2017. <https://www.soils.org/discover-soils/soils-in-the-city/green-infrastructure/important-terms/eutrophication>

risk for flooding.¹⁷ Rapid urban expansion, industrial development and increased use of motor vehicles have increased overall harmful greenhouse gas emissions and also result in air pollution and acid rain, which affect the ocean.¹⁸

The effects of climate change exacerbate all previously mentioned risks to the environment of the Asia-Pacific. As a product of global climate change, the oceans are heating up at an alarming rate. In the Asia-Pacific region, by 2030 the oceans are expected to reach a temperature increase between 0.5°C and 2°C.¹⁹ Accompanying the rise of temperatures, global sea levels are supposed to rise between 3 and 16cm by 2030.²⁰ In Bangladesh alone, over 30 million people, a fifth of the total population, will lose their homes from the sea-level rise corresponding with just 1°C rise in ocean temperatures, or around 5 to 8cm.²¹ Low-lying coastal regions are at the highest risk of being affected by the resulting effects of this change.

Extreme weather event, such as typhoons and cyclones, have become more commonplace as changes in global weather patterns become more apparent. Given that low-lying coastal regions are at risk of being the most heavily affected by extreme weather, resilience mechanisms are essential in enhancing the regional security framework. Over the past 40 years, the number of typhoons hitting coasts in China, the Philippines, Taiwan, and other Asia-Pacific nations has increased from once a year to now around four per year, the intensity of which is increasing just as much.²² This destructive capacity has deleterious effects on the infrastructure of Asia-Pacific nations that continue to seek resilience strategies with partners.

¹⁷ Allen, *The Problems of Upland Land Management*, 1993. Print.

¹⁸ Sani, *Urban Environmental Issues in South-East Asian Cities: An Overview*, 1993. Print.

¹⁹ IFAD, *Climate Change Impacts on the Asia/Pacific Region*, 2011.

<https://www.ifad.org/where/region/resource/list/tags/pi>

²⁰ *Ibid.*

²¹ *Ibid.*

²² Al Jazeera, *Super Typhoon Meranti: 2016's most powerful cyclone*, 2016.

<http://www.aljazeera.com/news/2016/09/super-typhoon-meranti-2016s-powerful-cyclone-160913091320865.html>

The Asia-Pacific faces many environmental security risks. Resources exploitation, habitat destruction, pollution and climate change weaken the regional environmental infrastructure. In order to prevent conflict, the United States should create policies that encourage cooperation with regional partners in managing the marine environment.

12.4 U.S. Policy on Environmental Security in the Asia-Pacific

The U.S. policy on environmental security in the Asia-Pacific region has so far not been an aggressive one. Fortunately, however, there has been some inclusion of environmental aspects to security policies. The Obama administration was primarily focused on tackling the negative effects of climate change. In 2013, President Obama signed Executive Order 13653, which requires all agencies to integrate climate change risks and dangers posed by climate change into considerations of policy, and also lists climate change as a security threat.²³ By 2014, 38 federal departments had produced at least initial assessments on how to best incorporate climate change into their agendas and included metrics that could be used to measure them.²⁴

Of these departments, the DoD played a particularly important role in managing regional conflict. The DoD was farthest along out of any federal department in assessing vulnerabilities to the effects of climate change, particularly in its analysis of training and infrastructure purposes.²⁵ Its latest publication, the 2014 Quadrennial Defense Review, a strategic defense guide for the DoD, acknowledged that climate change could impact the “frequency, scale, and complexity of future missions ... while at the same time undermining the capacity of [their] domestic

²³ EPA, *Executive Order 13653, Preparing the United States for the Impacts of Climate Change*, n.d. <https://www.epa.gov/greeningepa/executive-order-13653-preparing-united-states-impacts-climate-change>
ASP, *GSDI: United States*, n.d. <http://www.americansecurityproject.org/climate-energy-and-security/climate-change/gsdicc/gsdi-united-states/>

²⁴ Congressional Research Service, *Climate Change Adaption by Federal Agencies: An Analysis of Plans and Issues for Congress*, 2015. <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/R43915.pdf>

²⁵ *Ibid.*

instillations to support training activities.”²⁶ The department further acknowledged that the impact of climate change on marine environments may affect its ability to complete naval exercises with other nations, something that is particularly important in its security strategy in the South China Sea.²⁷ In its FY 2014 Climate Change Adaption Roadmap, the DoD addressed climate change by integrating considerations into planning and policies by collaborating with other agencies, governments, international organizations, and industries to meet the challenges posed by climate change.²⁸

While acknowledgement and integration into policy are great steps on paper, the DoD has taken the extra step to implement climate-sensitive programs in practice. DoD actively uses information on climate change to execute missions, whether these be operations such as tactics and location of military operations or the instillation of new facilities and other infrastructure on bases located near coastal regions.²⁹ In particular, the U.S. Navy has the most fully developed climate change adaptive program, establishing the Navy’s Task Force Climate Change in 2009, and by 2010 had released its own Climate Change Roadmap ahead of the rest of the department’s.³⁰ The implementation of climate change-sensitive policies into the framework of the DoD, and particularly the Navy, is important to managing maritime security sustainably.

The State Department is another important player in managing maritime security. Along with the DoD, the State Department has also listed climate change as a threat to national security that will exacerbate vulnerabilities and increase the likelihood of conflict. In its Quadrennial Diplomacy and Development Review (QDDR) in 2015, one of the Department’s top four policy

²⁶ DOD, *Quadrennial Defense Review 2014*, 2015 <https://www.defense.gov/News/Special-Reports/QDR>

²⁷ CNA Military Advisory Board, *National Security and the Accelerating Risk of Climate Change*, 2014. <https://www.cna.org/mab/reports>

²⁸ DoD, *2014 Climate Change Action Roadmap*, 2014.

<http://www.globalsecurity.org/military/library/report/2014/2014-dod-climate-change-adaptation-roadmap.pdf>

²⁹ Congressional Research Service, *Climate Change Adaption by Federal Agencies: An Analysis of Plans and Issues for Congress*, 2015. <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/R43915.pdf>

³⁰ *Ibid*

priorities was incorporating climate change mitigation into diplomatic engagements with other nations, especially through the use of USAID.³¹ In order to achieve this, the Department has strengthened international lines of diplomacy, especially through the United Nations Framework Convention on Climate Change (UNFCCC), as well as through bilateral and multilateral agreements on climate change. These agreements had been made between the United States and China, India, and the European Union.³² Furthermore, the State Department and USAID have encouraged sustainable development by integrating climate change policies into other diplomatic priorities, further encouraging regional partners to invest in sustainable development programs. As the two pillars of the U.S. foreign policy, having the State Department and DoD incorporate climate change into existing policies and priorities is promising. These policies are foundational platforms on which sustainable practices in managing foreign affairs can be developed.

Incorporating climate change adaption into the foreign policy of the United States is important step forward in enhancing U.S. leadership in advocating for sustainable practices. However, the United must broaden its scope to incorporate other issues such as resource management, habitat destruction, and pollution. The new administration has displayed an ambiguous level of commitment to managing environmental protection.³³ In order to preserve U.S. leadership in the region in pioneering advocacy of sustainable practices, the United States should remain attentive to the environmental risks of modernization efforts and industrial developments at sea. Therefore, the United States should continue to promote environmental security topics such as climate change in the policies of the Department of Defense and the State

³¹ State Department, *2015 Quadrennial Diplomacy and Development Review*, 2015.
<https://www.state.gov/documents/organization/267396.pdf>

³² *Ibid.*

³³ Davenport, With Trump in Charge, Climate Change References Purged from Website, *The New York Times*, 2017.
https://www.nytimes.com/2017/01/20/us/politics/trump-white-house-website.html?_r=0

Department, and even expand their commitment to the protection of environmental security in a broader sense.

12.5 Current International Policies on Environmental Security in the Asia-Pacific

Regional organizations have taken the first step to create and implement policies aimed to protect environmental security interests. The largest of these actors is the United Nations (UN). The United Nations Framework Convention on Climate Change (UNFCCC) leads the UN on missions to improve environment health and security by managing climate change, specifically crafting policies that promote sustainable infrastructure. In December 2015, The UNFCCC held the 21st Conference of the Parties (COP21) in Paris, which hosted countries around the world in crafting a comprehensive strategy to counter the negative effects of climate change. For example, countries created climate-sensitive development strategies through reduction of GHG emissions.³⁴ In 2010, the UNFCCC also created the Global Climate Fund (GCF) in order to aid developing nations to create and implement sustainable development policies. Specifically, the GCF aimed to reduce the financial burden of developing sustainable infrastructure projects.³⁵

The United States, as a member state to the UN, attended COP21, signed, and ratified the outcome document, the Paris Agreement, and begun implementation in November 2016.³⁶ Rex Tillerson, the new Secretary of State, has stated previously the need to remain in the agreement in order to retain the U.S. status a relevant player in international environmental security negotiations.³⁷ Furthermore, the United States should continue to fund the GCF to support climate-sensitive infrastructure projects in the Asia-Pacific.

³⁴ Brookings Institute, *The Role of Public Policy in Sustainable Infrastructure*, 2015.

<https://www.brookings.edu/research/cop-21-at-paris-the-issues-the-actors-and-the-road-ahead-on-climate-change/>

³⁵ Brookings Institute, *Financing Sustainable Infrastructure*, 2015. <https://www.brookings.edu/research/cop-21-at-paris-the-issues-the-actors-and-the-road-ahead-on-climate-change/>

³⁶ UNFCCC, *Paris Agreement – Status of Ratification*, 2017. http://unfccc.int/paris_agreement/items/9444.php

³⁷ The Hill, *Trump preparing review of Paris deal, other treaties: report*, 2017. <http://thehill.com/policy/energy-environment/316150-trump-preparing-review-of-paris-deal-other-us-treaties-report>

Three major groups of regional actors remain strong advocates for enacting environmentally-sensitive policies: UN task groups which implement policies made at the international level;³⁸ independent groups, often NGOs, which cooperate with governments and other NGOs to promote policies;³⁹ and regional cooperative bodies which provide the structure for governments to collaborate on implementing policies. Regional cooperative bodies offer prime opportunities for U.S. leadership in continuing these policies.

Asia Pacific Partnership for Clean Energy and Climate (APP) provided opportunities for cooperation among important state actors in the international system. The now-disbanded group was the first public-private partnership project to join six of the most important regional actors in the Pacific, including both the United States and China, with private sector investors to seek sustainable development policies and eradicate poverty.⁴⁰ Today, the East Asia Summit (EAS) presents the same opportunity to facilitate the kind of exchange that would be most similar to the APP.⁴¹ While the EAS does not currently have much area for debate over shared resource management, U.S. retreat from these developments risks further forfeiture of U.S. national interests in the region. Furthermore, the United States and regional partners define climate change as a security threat that would warrant extensive discussion at the summit. If the United States can facilitate this transition, then it would once again be able to lead a cooperative effort

³⁸ For example, the Global Partnership Climate Change, Fisheries and Aquaculture. More information at ftp://ftp.fao.org/FI/brochure/climate_change/policy_brief.pdf

³⁹ There exist multiple groups depending on the focus of the policy. For reef protection a few most important groups are the Atlantic and Gulf Rapid Reef Assessment (AGRRA), Coastal Oceans Research and Development in the Indian Ocean (CORDIO), Conservation International (CI), and Coral Reef Alliance (CORAL). See <http://www.wri.org/publication/reefs-risk-revisited> for more details.

⁴⁰ APP, *About the Asia-Pacific Partnership on Clean Development and Climate*, n.d.

<http://www.asiapacificpartnership.org/english/about.aspx>

WRI, *China, The United States, and the Climate Change Challenge*, 2009. <http://www.wri.org/publication/china-united-states-and-climate-change-challenge>

⁴¹ More information about the EAS can be found in Chapter 5.

between itself and the Asia-Pacific region to take the first step in implementing policies to decrease the threat of conflict.

12.6 Policy Recommendations

12.6.1 Increase cooperation with Asia-Pacific nations. The environment is part of the global commons, and as such is subject to issues associated with common-pool resources. In order to decrease the risk of free-riding, cooperation among nations is necessary.

12.6.2 Promote an environmental focus within the EAS. The EAS is one of the most relevant organizations to promoting cooperation in the Asia-Pacific, as it already has in place a framework for the United States to work with regional powers such as China, Japan, and the ROK. By creating an environmental focus to the summit, the United States can lead action on environmental policies necessary for decreasing security threats.

12.6.3 Reaffirm commitment to the Paris Agreement. In order to lead cooperation, the United States should act as a global leader in promoting sustainable development and initiating climate-sensitive policies, including limiting its GHG emissions and contributing to international sustainable development funds.

12.6.4 Expand commitments of the DoD and the State Department to protect all threats to environmental security. Climate change is important, however the two main arms of foreign policy should also be sensitive to other environmental security risks such as habitat destruction and pollution. These can be incorporated into trainings and programs similar to the ways climate change has been incorporated.

CHAPTER 13

Economic Aspects of Natural Resources and Fisheries

Nanpeng Zhu

13.1 Introduction

Addressing maritime security in the Asia-Pacific is complicated. Neither traditional nor non-traditional security perspectives alone can provide the full picture of the marine competition in the region. Among all U.S. interests in the Asia-Pacific, pursuing economic interests has always driven U.S. maritime presence in the Asia-Pacific. Alfred Thayer Mahan, a former U.S. Naval officer and historian, pinpointed, “Safeguarding economic interests is at the heart of any country’s pursuit of sea power.”¹ In the deep ocean, natural resources including fishery resources generate considerable economic interests for coastal states in the Asia-Pacific. Energy consumption and food security are the salient driving forces of a country’s economy. Nowadays, since the demand for energy resources—primarily hydrocarbons and natural gas—and fisheries is far higher than the limited supply, it triggers a growing competition over these resources between coastal states in the Asia-Pacific. In consequence, this competition creates non-traditional security concerns for countries in the Asia-Pacific, which affect U.S. economic interests in the region. The United States, therefore, has a responsibility to rebalance disputant countries’ interests in natural resources and fisheries through economic mechanisms in order to ensure a stable economic environment in the Asia-Pacific in which everyone can thrive.

This chapter will discuss from an economic perspective U.S. interests in major regional conflicts over natural resources, including oil, natural gas and fisheries, analyzing what role

¹ Mallory, Tabitha, “Preparing for the Ocean Century: China’s Changing Political Institutions for Ocean Governance and Maritime Development (PDF Download Available).” *ResearchGate*. Accessed February 23, 2017. https://www.researchgate.net/publication/303804064_Preparing_for_the_Ocean_Century_China’s_Changing_Political_Institutions_for_Ocean_Governance_and_Maritime_Development

should the United States should play in these conflicts. Then the chapter will emphasize the need to develop multilateral cooperation mechanisms to mitigate conflicts over marine resources and will discuss current barriers to achieving multilateral cooperation. Furthermore, the analysis will assess potential risks of Chinese-led bilateral cooperation. Finally, the chapter will present policy recommendations on how to reach collaboration between the United States and its partners in the realm of marine resource competition.

13.2 The Role of the United States in Regional Conflicts

Due to rapid industrialization and modernization, populations over time demand more natural resources to satisfy a relatively higher standard of living. The Asia-Pacific is currently undergoing this high-speed development and therefore the region's demand for natural resources is enormous. Because of its large population, China is the best example of a country engaged in resource competition with other coastal states, creating conflicts in the South China Sea (SCS) and East China Sea (ECS). The United States has an interest in maintaining security in the region because of its own specific economic interests in the Asia-Pacific, as well as commitments made to allies and partners, and therefore should mitigate resource competition.

13.2.1 Northeast Asia

The two major maritime conflicts in Northeast Asia are the ECS and the South Kuril Islands/Northern Territories. The conflicts affect the interests of the United States because the U.S. economy is seriously dependent on China and Japan, and taking a side on the South Kuril Islands/Northern Territories might benefit the potential U.S. oil market. The first major conflict in this region is the ECS. The conflict has been introduced for decades after China and Japan ratified the United Nations Convention on the Law of the Sea (UNCLOS). The ECS is believed to hold tremendous reserves of oil and natural gas. Conservatively speaking, the U.S. Energy

Information Administration (EIA) estimates that the ECS has proved and probably reserves of 200 million barrels of oil and 1 to 2 trillion cubic feet of natural gas.² Besides energy reserves, the ECS seafood industry also has important implications for regional food security.

In the case of the ECS, the claimants (China and Japan) are the essential backbones of the economy of the United States. To the West of the ECS, China is the top trading partner of the United States with nearly \$600 billion in total trade. To the East, the United States is the largest investor in Japan. Japan is the largest U.S. bondholder in recent years.³ The United States needs to play a coordinating role in the region, otherwise the U.S. economy will face the challenge of being controlled or overwhelmed by one party in the region. Taking into considerations the military angle; should China take unilateral action to take over the region or the Senkaku/Diaoyu Islands, the United States seems likely lose its sea lines of communication (SLOCs) in the ECS. For China, a rising sea power, the ocean economy has already become an influential driver of the overall Chinese economy, with 3.7% annual growth during its 12th Five-Year Plan (2011–2015).⁴ China's largest import was crude petroleum valued at \$205 billion in 2014.⁵ On the other side of the ECS, Japan is the second largest net importer of fossil fuels in the world—in 2014 Japan imported \$116 billion in crude petroleum, \$80.1 billion in petroleum gas, and \$23.9 billion in refined petroleum—because it lacks essential energy resources.⁶

² U.S. Department of Energy, "East China Sea - International - Analysis - U.S. Energy Information Administration (EIA)." Accessed January 16, 2017. <https://www.eia.gov/beta/international/regions-topics.cfm?RegionTopicID=ECS>.

³ Mullen, Jethro, "China Is No Longer the Biggest Foreign Holder of U.S. Debt." *CNNMoney*, December 16, 2016. <http://money.cnn.com/2016/12/16/investing/china-japan-us-debt-treasuries/index.html>.

⁴ State Council (China), "China Announces First Ocean Economic Development Index." Accessed January 31, 2017. http://english.gov.cn/news/top_news/2016/11/25/content_281475499724594.htm.

⁵ Observatory of Economic Complexity, "OEC - China (CHN) Exports, Imports, and Trade Partners." Accessed January 28, 2017. <http://atlas.media.mit.edu/en/profile/country/chn/>.

⁶ Observatory of Economic Complexity, "OEC - Japan (JPN) Exports, Imports, and Trade Partners." Accessed February 9, 2017. <http://atlas.media.mit.edu/en/profile/country/jpn/>.

Japan's economy may be weakened by China's overpowering actions on energy exploitation and fishing in overlapping maritime boundary claims. In the past few years, the tensions between China and Japan have increased over the ESC mainly because of illegal fishing and coast guard operations by China's government in disputed waters.⁷ Japan is also afraid of the recent usage of Chinese radar equipment and a renewed gas exploration platform close to disputed waters.⁸ The equipment potentially signifies that China intends to drill in the region, which might cause water pollution that leads to a downturn in the Japanese fisheries industry. As a supporter of international law (UNCLOS), the United States has the obligation to defend its ally's economic interests in the ECS in order to balance China's dominant economic power in the Asia-Pacific. If the United States wishes to protect its stable economic growth, it has to interfere and help mitigate competition over natural resources in the ECS. The United States should encourage progressive bilateral talks between China and Japan on sustainable marine economic growth because face-to-face confrontation with China will also indirectly hurt U.S. foreign direct investment in other parts of China, such as Chevron's commercial interests in Sichuan, China.⁹

The Southern Kurils/Northern Territories dispute is another significant clash in Northeast Asia. The Southern Kurils/Northern Territories are a major point of contention between Russia and Japan. The special geographical location of the islands has significant implications for implementation of the U.S. "Pivot to Asia" strategy. Furthermore, with reserves of 1,800 tons of

⁷ Panda, Ankit, The. "Japan: 7 Chinese Coast Guard Ships, 230 Fishing Boats in Disputed East China Sea Waters." *The Diplomat*. Accessed February 17, 2017. <http://thediplomat.com/2016/08/japan-7-chinese-coast-guard-ships-230-fishing-boats-in-disputed-east-china-sea-waters/>.

⁸ Reuters, "Japan Protests over Signs of Renewed Chinese Gas Exploration." *Reuters*, October 13, 2016. <http://www.reuters.com/article/us-japan-china-idUSKCN12C1FR>.

⁹ Chevron, Government and Public Affairs, "Exploration & Production in Asia-Pacific." *Chevron.com*. Accessed February 17, 2017. <https://www.chevron.com/operations/exploration-production/exploration-production-in-asia-pacific>.

gold, over 9,000 tons of silver, deposits of rhenium and plenty of natural gas and oil around Southern Kurils/Northern Territories, both Russia and Japan hold tough attitudes on this territorial dispute.¹⁰ With increasing pollution and environmental degradation, the Russian Federation is facing the challenge of reduced fish catches in inland waters.¹¹ Based on the data from the *2016 State of World Fisheries and Aquaculture*,¹² the marine capture production of Russia has declined 2% from 2013 to 2014 with total decrease of 85,630 tons of catch. Therefore, whether from an economic or military perspective, holding jurisdictional rights over the Southern Kuril Islands/Northern Territories, Russia not only has year-round access to the Pacific Ocean militarily (see Chapter 10) but it is also able to extend its Exclusive Economic Zone (EEZ) to enhance its fishery industry around the Shikotan or Kunashir Island, which is close to Hokkaido.

13.2.2 Southeast Asia

The SCS dispute is the most controversial topic in the Asia-Pacific because it holds tremendous natural resource reserves that could benefit the claimant nations including China, Philippines, Brunei, Malaysia, Indonesia and Vietnam. There is also competition between China and the United States indirectly, not only because the United States wants to preserve its lead both economically and militarily, but also because the U.S. economy is dependent upon resources in the SCS. The EIA estimates that the SCS has at least 11 billion barrels of oil reserves and 190 trillion cubic feet of natural gas reserves, and there are more undiscoverable

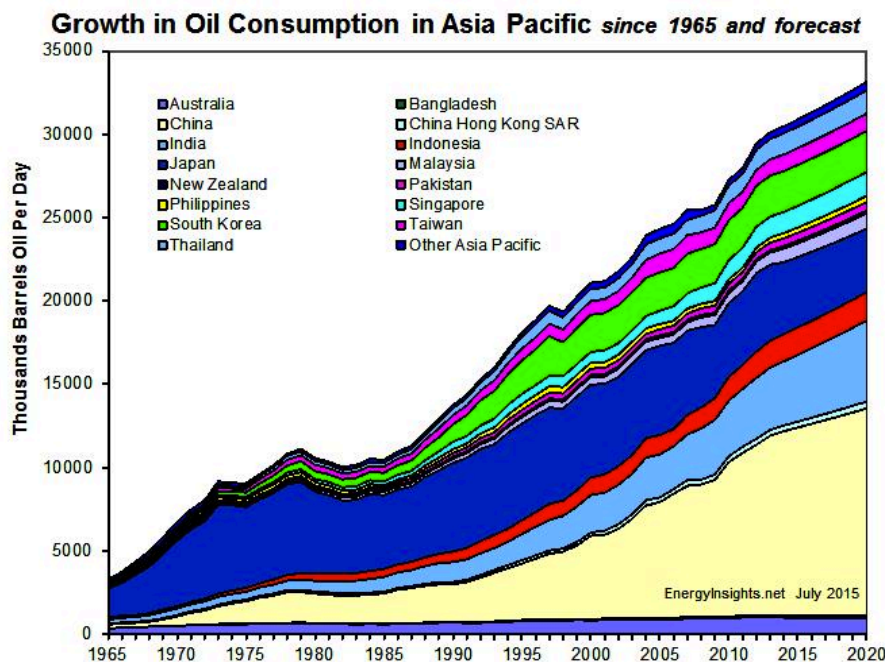
¹⁰ Pravda Report, "What Makes Japan Cling to Russia's Kuril Islands?" PravdaReport. Accessed January 17, 2017. http://www.pravdareport.com/world/asia/26-01-2012/120335-japan_russia_kuril_islands-0/.

¹¹ United Nations, "FAO Fisheries & Aquaculture - The State of World Fisheries and Aquaculture (SOFIA)." Accessed February 11, 2017. <http://www.fao.org/fishery/sofia/en>.

¹² United Nations, "FAO Fisheries & Aquaculture - Nutrition and Food Security." Accessed February 10, 2017. <http://www.fao.org/fishery/topic/16603/en>.

resource reserves.¹³ What is more, the Western Central Pacific (which mostly covers the area of the SCS) accounts for about 15% of global marine fisheries production.¹⁴ The SCS has one of the most important fisheries in the world, with 3.7 million workers and catch valued in billions of dollars each year.¹⁵ However, China's nine-dash line claim threatens nations' access to energy and fisheries in the SCS. And, the dispute places the United States in a dilemma to defend its allies' and partners' economic interests in the SCS.

Figure 13.1 Growth in Oil Consumption in Asia Pacific¹⁶



¹³ U.S. Department of Energy, "South China Sea - International - Analysis - U.S. Energy Information Administration (EIA)." Accessed January 16, 2017. <https://www.eia.gov/beta/international/regions-topics.cfm?RegionTopicID=SCS>.

¹⁴ United Nations, "FAO Fisheries & Aquaculture - The State of World Fisheries and Aquaculture (SOFIA)." Accessed February 11, 2017. <http://www.fao.org/fishery/sofia/en>.

¹⁵ Bale, Rachael, August, and 2016. "One of the World's Biggest Fisheries Is on The Verge of Collapse." *National Geographic News*, August 29, 2016. <http://news.nationalgeographic.com/2016/08/wildlife-south-china-sea-overfishing-threatens-collapse/>.

¹⁶ Energy Insights, "Energy Insights: Special Report: 145: Proven Reserves and Oil Production - Analysis and Insights." Accessed February 24, 2017. <http://www.energyinsights.net/cgi-script/csArticles/articles/000078/007882.htm>.

As an important business partner of ASEAN members, the United States plays an indispensable role in the SCS. Asserting the significance of sustainable marine economic development and encouraging multilateral talks on natural resources exploitation are the roles that the United States needs to play. In the oil and natural gas industries, private businesses in the United States play the most salient roles in the U.S. economy. Moreover, overfishing in the SCS will also hurt the seafood consumption in the United States because “over 90% of seafood consumed in the United States is imported (including a great portion caught by American fishermen, exported for processing, and then reimported to the United States),” and many of its top-importing partners are Asian countries.¹⁷ It is therefore critical for the United States to persuade a sustainable fisheries industry in the region to prevent Illegal, Unregulated and Unreported (IUU) fishing activities to provide more adequate resources and enforcement capacity.¹⁸ Facilitating multilateral management on the natural resources between China and its allies or partner countries offers the United States more legal access to the region and helps maintain U.S. leadership in the Asia-Pacific.

According to Figure 13.1, after 2010 China has been responsible for one third of the total oil consumption in the Asia-Pacific. Furthermore, China is the biggest consumer of fish in the region with 6% growth between 1990 and 2010.¹⁹ China makes a robust claim to the SCS, and it emphasizes the importance of “blue national territory” (蓝色国土), which uses maritime strategies including economic development and environmental protection approaches to maintain

¹⁷ Fish Watch, “The Global Picture | FishWatch.” Accessed February 10, 2017.

<https://www.fishwatch.gov/sustainable-seafood/the-global-picture>.

¹⁸ National Oceanic and Atmospheric Administration, “Fisheries Cooperation in Asia and the Pacific; Office of International Affairs.” Accessed January 19, 2017.

http://www.nmfs.noaa.gov/ia/international_development/asia_pacific/asia_pacific.html.

¹⁹ Adam Greer, The. “The South China Sea Is Really a Fishery Dispute.” *The Diplomat*. Accessed February 23, 2017. <http://thediplomat.com/2016/07/the-south-china-sea-is-really-a-fishery-dispute/>.

China's administration over the disputed waters.²⁰ China intends to increase energy consumption and develop energy sufficiency in order to create a regionally integrated economy led by China. For instance, it increasingly pushes the Free Trade Area of Asia-Pacific (FTAAP) after the election of President Trump.²¹ In other words, China proposes to invite more countries to participate in the FTAAP rather than the Trans-Pacific Partnership (TPP) because President Trump has withdrawn from the TPP. In this way, it could play the role without receiving too much pressure from the United States. Besides the need for oil and natural gas, boosting fisheries production, which in turn increases fishermen income, has been a major priority in China for decades. With dramatic increases in its fisheries production, China not only solves the food security issue but also becomes to the largest exporter of fish and fishery products, which represents more than 60% of world aquatic production.²² However, China success results from overfishing its domestic fishery resources [see Figure 13.2]. If China is granted complete access to the SCS, it will eventually become to the absolute dominant producer of fisheries in the region, damaging others' economies. This would have multiple consequences, for example Philippines might lose roughly 3% of its national GDP (from the fishing industry) if China controls the entire SCS.²³

²⁰ Zhonguo Xinwen Wang 中国新闻网. Li Keqiang: Haiyang shi Baogui Lanse Guotu Jianjue Weihu Guojia Haiyang Quanyi 李克强: 海洋是宝贵蓝色国土 坚决维护国家海洋权益 [Li Keqiang: Ocean is the precious blue national soil insisting on maintaining national marine right]. Beijing: Xin Jing Bao Wang, 2014. <http://www.bjnews.com.cn/news/2014/03/05/307553.html>

²¹ Reuters, "China Pushes Asia-Pacific Trade Deals as Trump Win Dashes TPP Hopes." *Reuters*, November 10, 2016. <http://www.reuters.com/article/us-china-diplomacy-trade-idUSKBN1350S4>.

²² United Nations, "FAO Fisheries & Aquaculture - The State of World Fisheries and Aquaculture (SOFIA)." Accessed February 11, 2017. <http://www.fao.org/fishery/sofia/en>.

²³ Adam Greer, The. "The South China Sea Is Really a Fishery Dispute." *The Diplomat*. Accessed February 23, 2017. <http://thediplomat.com/2016/07/the-south-china-sea-is-really-a-fishery-dispute/>.

Figure 13.2 The South China Sea's Depleted Fisheries²⁴

In general, each Asia-Pacific country has specific, shared interests with the United States in the SCS mainly because they wish to enhance their economic size by increasing the consumption and extraction of hydrocarbon resources and stabilize the capacity of their fisheries. The Philippines, for example, claims the Spratly Islands as part of its territory under UNCLOS. One optimistic estimate shows that the potential oil resources of the Spratly and Paracel Islands could reach 105 billion barrels of oil, which, given the economic size of the Philippines, would be a significant economic boost.²⁵ Furthermore, the Philippines claims to have full legal fishing access to the SCS. However, China also claims the Spratly Islands based on historical sovereignty and maintains an assertive posture in the region, forcing many Philippine fishermen

²⁴ Baker, Rodger, Harnagel, Amelia, Rees, Evan. "Fish: The Overlooked Destabilizer in the South China Sea." *Stratfor*. Accessed February 24, 2017. <https://www.stratfor.com/analysis/fish-overlooked-destabilizer-south-china-sea>.

²⁵ Global Security, "South China Sea Oil and Natural Gas." Accessed February 10, 2017. <http://www.globalsecurity.org/military/world/war/spratly-oil.htm>.

to move to too less abundant areas.²⁶ With these overlapping claims, a tremendous amount of natural resource reserves for the Philippines is at risk of being lost, dramatically affecting sustainable energy and food supplies in the country. The United States has the responsibility to balance interests between China and the Philippines and to promote balanced development to enhance maritime security around the Spratly and Paracel Islands.

Brunei is also impacted by China's claims in the SCS. The economy of Brunei is driven by oil and natural gas exports. In furthering its own development, Brunei plans to increase extraction of hydrocarbon and encourages foreign investments in the coming years to boost its economy.²⁷ However, losing resources within its EEZ to China's territorial claims will decrease Brunei's commercial opportunities with foreign countries, such as the United States. The United States has an economically important relationship with Brunei, as many American firms work in the energy sector, financial services, and consulting for Brunei's government projects.²⁸ From the view of private sector, the United States needs these commercial opportunities in Brunei to benefit its economic output and enhance its social stability relating to the creation of jobs, which has been emphasized by the current U.S. administration.

Malaysia also protects the jurisdiction of its EEZ because of the importance of hydrocarbon extraction in the SCS. Malaysia is a dominant natural gas and oil producer in the Asia-Pacific.²⁹ However, due to territorial interference, crude oil production in Malaysia is expected to decrease from 693,000 barrels of oil a day in 2015 to 635,000 barrels of oil a day in

²⁶ Bale, Rachael, August, and 2016. "One of the World's Biggest Fisheries Is on The Verge of Collapse." *National Geographic News*, August 29, 2016. <http://news.nationalgeographic.com/2016/08/wildlife-south-china-sea-overfishing-threatens-collapse/>.

²⁷ International Trade Administration, "Brunei - Oil and Gas Extraction | Export.gov." Accessed February 9, 2017. <https://www.export.gov/article?id=Brunei-oil-and-gas-extraction>.

²⁸ U.S. Department of State, "Brunei." *U.S. Department of State*. Accessed February 21, 2017. <http://www.state.gov/r/pa/ei/bgn/2700.htm>.

²⁹ Jian, Yi Ho, "Malaysia's Special Role in the South China Sea." *Penang Monthly*, October 20, 2014. <http://penangmonthly.com/malaysias-special-role-in-the-south-china-sea/>.

2024.³⁰ Assisting Malaysia in securing its access to the SCS would allow the country to contribute to the oil supply market in the United States, and would also facilitate many bilateral trade and investment issues that have been discussed between the United States and Malaysia in recent years.³¹

The nine-dash line also hurts non-claimant countries' economic interests. For instance, the nine-dash line overlaps with the EEZ of Indonesia's Natunas Island, which has huge natural oil reserves. The Indonesia government has an agreement with PT PERTAMINA (an Indonesian state-owned oil and natural gas corporation) to invest and exploit the natural gas field around the Natunas Island, partnering with ExxonMobil.³² U.S. intervention could further strengthen relations with Indonesia and assure stronger relations with ASEAN as a whole because Indonesia has a meaningful position in ASEAN.³³

A lack of access by coastal countries to fish resources is a major economic issue, as the fisheries industry provides large quantities of seafood necessary for food security in the region. According to FAO, "Food security is a fundamental dimension of poverty. People who are chronically poor usually lack access to adequate food. Malnutrition negatively affects people's working and learning capacity, and may affect vulnerable groups living just above the poverty threshold, causing them to enter the ranks of the poor. Eliminating hunger and malnutrition,

³⁰ Liao, Y-Sing, "QuickTake Q&A: Oil Steers Path of Malaysian Economy, Currency." *Bloomberg.com*, August 23, 2016. <https://www.bloomberg.com/news/articles/2016-08-23/quicktake-q-a-oil-steers-path-of-malaysian-economy-currency>.

³¹ Office of the United States Trade Representative, "Malaysia." Accessed February 23, 2017. <https://ustr.gov/countries-regions/southeast-asia-pacific/malaysia#>

³² Global Security, "Natuna Islands." Accessed January 26, 2017. <http://www.globalsecurity.org/military/world/war/natunas.htm>.

³³ East Asia Forum, "Indonesia's Role in ASEAN and the EAS." *East Asia Forum*, February 9, 2013. <http://www.eastasiaforum.org/2013/02/09/indonesias-evolving-cooperation-with-asean-and-the-eas/>.

therefore, is a precondition for the eradication of poverty.”³⁴ The United States should discourage IUU activities and promote a sustainable fisheries industry in Asia-Pacific coastal countries to benefit domestic seafood supply, and therefore reduce poverty.

13.3 U.S. Economic Influence on the Asia-Pacific

China’s government perceives the “Pivot to Asia” strategy differently than the original definition provided by the Obama Administration. China sees the strategy as a re-engagement of the United States in Asia to contain the regional influence of China’s power. Concerned about the binding political power of U.S. allies and partners in the region, China has attempted to avoid multilateral cooperation in the Asia-Pacific over management of natural resources and fisheries. However, China does show willingness to undertake bilateral management with individual nations on these issues. For example, the “Joint Statement” is a new agreement promoting bilateral cooperation between China and the Philippines on the development of the energy and fisheries industries in the SCS.³⁵ In addition, China rejects U.S. intervention in the region because of political mistrust. In a recent interview, a Chinese Senior Foreign Minister spokesman warned the United States that the disputes in the region are between China and other Asian countries, and the sovereignty of these islands is not for the United States to determine.³⁶

China’s bilateral agreements on energy exploitation and fishing have the potential to overshadow the political and economic influences of the United States in the Asia-Pacific, which means the economy of the United States might be challenged by China’s strong economy. OBOR, the AIIB and RCEP are economic projects that were created by China to leapfrog U.S

³⁴ United Nations, “FAO Fisheries & Aquaculture - Nutrition and Food Security.” Accessed February 10, 2017. <http://www.fao.org/fishery/topic/16603/en>.

³⁵ Philippine Star, “FULL TEXT: Joint Statement of the Philippines and China.” *Philstar.com*. Accessed February 19, 2017. <http://www.philstar.com/headlines/2016/10/21/1635919/full-text-joint-statement-philippines-and-china>.

³⁶ Birtles, Bill, “China Tells Trump to Stay out of South China Sea Dispute.” Text. *ABC News*, January 25, 2017. <http://www.abc.net.au/news/2017-01-25/china-tells-trump-to-stay-out-of-south-china-sea-dispute/8212246>.

interests.³⁷ China has also become the largest energy investor around the world with \$315 billion in investments.³⁸ Furthermore, of total energy investment globally, nearly 60% of investment goes to oil and gas. If the United States stops advocating multilateral talks with China over the SCS and ECS disputes, the future of natural resource supplies for U.S. allies and partners will be restricted by China's overpowering natural resources industries in the Asia-Pacific.

Russia and Japan issued a statement of "Joint Economic Activities," which discusses fisheries, tourism, culture and medicine, and other agreements related to energy development were signed in 2016.³⁹ Further consultation will be held in March 2017 to further explore potential activities.⁴⁰ A potential long-term cooperation will satisfy both countries' interests and avoid military conflicts over the territory. However, from the U.S. point of view, better Russia–Japan relations could diminish the capacity of the "Pivot to Asia" strategy. Especially considering Russia's strong ties with China, by increasing its influence in the region, Russia could attempt to block the United States from gaining access to areas like the ECS and SCS.⁴¹ Furthermore, if Russia–China military cooperation is able to disrupt sea lines of communication (SLOCs) in the region, the United States will lose the confidences of its allies on its freedom of navigation operations to maintain maritime security.

13.4 Current U.S. Policy on Natural Resources in the Asia-Pacific

Currently, the United States does not have specific foreign policies that toward the development of oil, natural gas and fisheries industries in the Asia-Pacific. However, the United

³⁸ International Energy Agency, "World Energy Investment 2016." Accessed February 19, 2017. <https://www.iea.org/newsroom/news/2016/september/world-energy-investment-2016.html>.

³⁹ Padden, Brian, "Japan, Russia Summit Produces Economic Deals, No Peace Treaty." *VOA*. Accessed February 11, 2017. <http://www.voanews.com/a/japan-russia-summit-economic-deals-no-treaty/3638773.html>.

⁴⁰ Sputnik, "Russia, Japan Agree to Hold First Consultations on Joint Activity on Kurils." Accessed February 2, 2017. <https://sputniknews.com/politics/201702011050242628-kurils-japan-russia/>.

⁴¹ Litovkin, Nikolai, "Russia Could Gain from Backing China in South China Sea Disputes." *UPI*. Accessed February 19, 2017. http://www.upi.com/Top_News/Opinion/2016/09/08/Russia-could-gain-from-backing-China-in-South-China-Sea-disputes/9801473345966/.

States does cooperate with many international organizations. For instance, the United States is one of the founding nations of the International Energy Agency (IEA), which highly values policy analysis, data collection, “[coordinating] on emergency response and partnership on key projects...with other international organization[s] and initiatives, such as Asia-Pacific Economic Cooperation (APEC) and ASEAN”.⁴² In facing the deficiency of foreign policy toward natural resources and fisheries in Asia-Pacific, the United States should come up with policies that focus on these areas. Nevertheless, the new administration shows interest on domestic energy development, and it also intends to achieve energy independence for the United States, rather than depending on the Organization of the Petroleum Exporting Countries (OPEC).⁴³ If potential U.S. policies toward the natural resource issues in the Asia-Pacific could be achieved, these will need to be joint-ventures because no one in the region is willing to sacrifice its economy by standing with the United States alone.

13.5 Conclusion

Without compromise on the maritime disputes, no restrictions or regulations will be implemented to avoid over-exploitation of marine resources. This will negatively impact the world economy, as many countries competing over disputed territories in the Asia-Pacific are the largest trade partners of the United States. If none of these countries are willing to compromise, the inequality of consumption and access to reserves of the natural resources will challenge the world balance and its order. “Cooperation of spirals” is an idea that explains how relations between the United States and China can be improved.⁴⁴ The United States needs to take the initiative on leading multilateral cooperation, as its allies and partners are being pushed by China

⁴² International Energy Agency, “International Energy Agency (IEA) | Department of Energy.” Accessed February 23, 2017. <https://energy.gov/ia/initiatives/international-energy-agency-ia>.

⁴³ “Trump Signals Big Shift on Energy, Climate Policies.”

⁴⁴ Phys Org, “Trump Signals Big Shift on Energy, Climate Policies.” Accessed February 19, 2017. <https://phys.org/news/2017-01-trump-big-shift-energy-climate.html>.

to cooperate bilaterally. Leading a multilateral collaboration effort can be seen as a strategic accomplishment of “Pivot of Asia” strategy because the United States will be recognized as a leader in the Asia-Pacific.

13.6 Policy Recommendations

13.6.1 Pursue low-profile multilateral cooperation on the sustainable fisheries industry in the Asia-Pacific. The United States and claimant countries in the Asia-Pacific are the members of the Western and Central Pacific Fisheries Commission, a treaty-based organization that manages tuna and other highly migratory fish species. Increasing multilateral cooperation and activities in the WCPFC will provide a pathway to mitigate differences between China and the United States.⁴⁵

13.6.2 Share fisheries data from the National Oceanic and Atmospheric Administration with China, and promoting a program to avoid IUU fishing. Overfishing is a serious issue. Furthermore, fisheries markets in the United States are dependent on the fisheries industry in the Asia-Pacific. Sending U.S. agencies and conducting an anti-IUU program with China’s officials could reduce the potential food security risks in the region and manage the marine environment in a sustainable way.

13.6.3 Address energy crises in the EAS and promote agreement on the topic of oil and natural gas production with ASEAN. Addressing the potential negative consequence of natural resources overexploitation in the EAS will help address this issue. Building upon the existing ASEAN–U.S. project in environmental improvement toward sustainable energy production would be a good approach to clarify the essential role of the United States in the energy industry in the region.

⁴⁵ Nankivell, Kerry Lynn, “Follow the Fish: Considering Options in the South China Sea,” Maritime Awareness Project, The National Bureau of Asian Research, <http://maritimeawarenessproject.org/2016/11/07/follow-the-fish-considering-options-in-the-south-china-sea/>.

CHAPTER 14

Maritime Crime: Piracy, Terrorism, and Human Trafficking

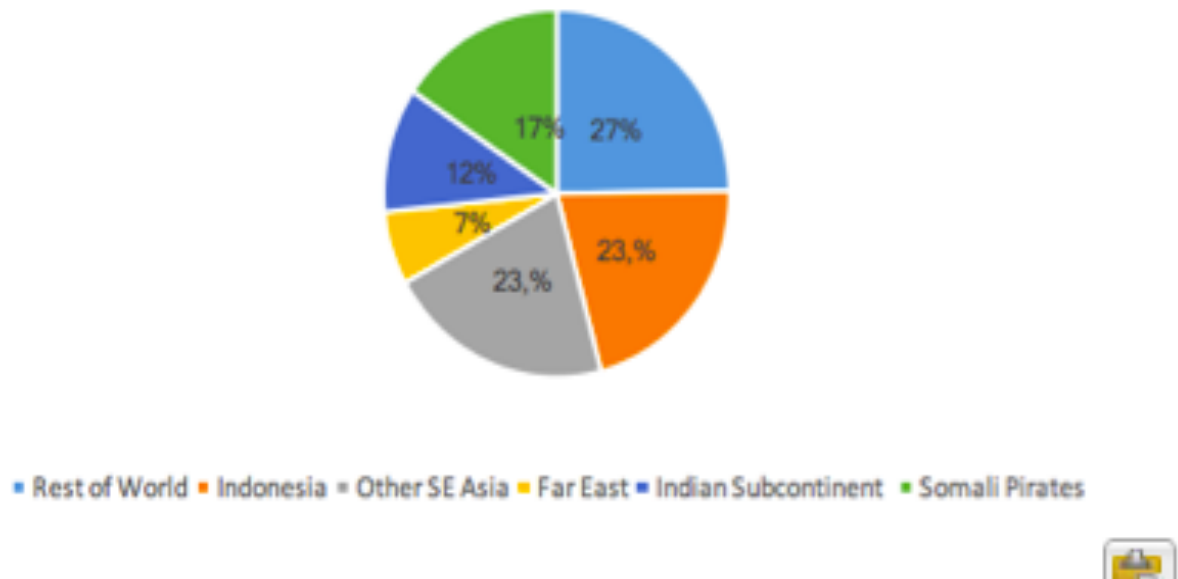
Yingshi Liu

14.1 Introduction

Non-traditional concerns such as piracy, human trafficking and smuggling are gaining prominence today due to their impact on contentious disputes in the Asia-Pacific region. The destabilizing impact of these maritime crimes disturbs the security of the region overall. Pirates and traffickers violate national boundaries of regional states and perpetuate other maritime crimes by providing financial support to these endeavors. The threat of maritime crimes to border security and regional economic stability calls for more cooperation to combat the issue. A peaceful maritime environment is fundamental to protecting U.S economic and security interests in the region, as well as that of its allies and partners. Therefore, continued U.S. leadership is essential to the development of an effective regional security posture. This chapter will provide an analysis of the stakes inherent in combating maritime crimes, and will recommend solutions to overcoming barriers in tackling human trafficking, piracy, and terrorism.

14.2 Piracy and Terrorism in the Asia-Pacific

Piracy is a major threat to the sea lines of communications (SLOCs) in the Asia-Pacific. Access to military equipment and weapons have led to ferocious attacks and violent plundering in the region, creating an imminent threat to the regional security infrastructure. Unlike in decades past, pirates in Southeast Asia have become more organized, which impedes current efforts to combat piracy. As seen in Figure 14.1, piracy in the Asia-Pacific has reached a high of 65% out of total cases in the world.

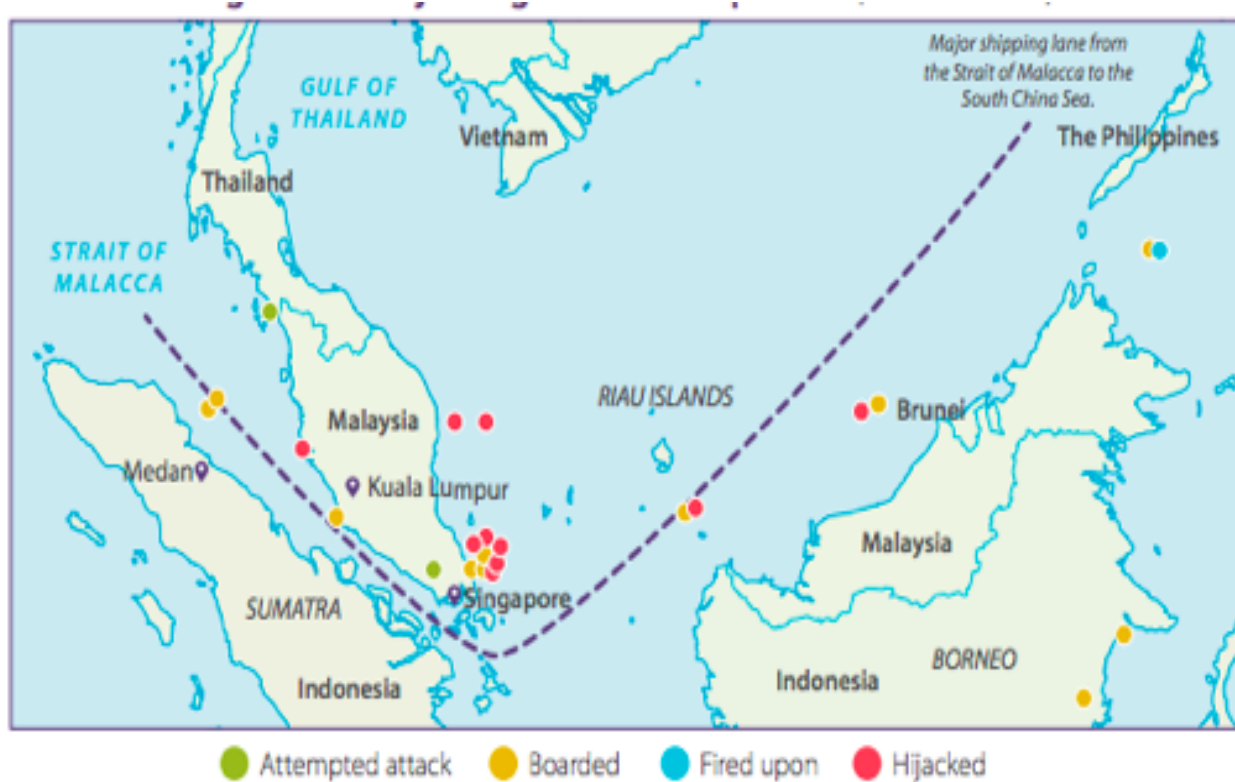
Figure 14.1: 1993–2015 Geographic Distribution of Global Piracy Incidents¹

Maritime trade networks are also at risk of disruption by maritime terrorism. Maritime terrorists can be classified as follows: those targeting commercial vessels and their passengers; those with armed capabilities that attack targets either at sea and on land; and those that target coastal facilities with access to weapons of mass destruction.² The incident of SuperFerry 14 is the most serious act of maritime terrorism in the Philippines, with 116 people killed and/or missing after a ferry sank in 2004 near Manila following a bomb explosion.³ These violations of law continue to threaten the safety of citizens. With access to weapons of mass destruction (WMD), maritime terrorists play an increasingly threatening role of disrupting the overall security of the region.

¹ “The Economics of Piracy in South East Asia.” *Global Initiative*. Accessed January 17, 2017. <http://globalinitiative.net/the-economics-of-piracy-in-south-east-asia/>.

² Steffi Marianne Ploger, “The prevention of maritime terrorism”, *University of Tromsø*. Last modified October 9, 2008. https://www.duo.uio.no/bitstream/handle/10852/22765/MASTERTHESIS_mitxNamen.pdf?sequence=1

³ Kranrattanasuit, Naparat. *ASEAN and Human Trafficking Case Studies of Cambodia, Thailand, and Vietnam*. International Studies in Human Rights. Leiden: BRILL, 2014.

Figure 14.2: All Hijacking from 2012–2016⁴

Piracy in Southeast Asia accounts for upwards of \$12 billion worth of losses from international trade annually, further highlighting the need for more effective protection, and increased regional cooperation.⁵ Today, the Strait of Malacca is one of the busiest trade routes in the world. Taking this into consideration, chokepoints at the port are some of the most frequently hijacked areas in Southeast Asia, as an increase in prices tends to escalate piracy in the Malacca Strait.

14.3 U.S. Engagement in Combating Piracy and Terrorism in the Asia-Pacific

In 2014, the United States joined the Regional Cooperation Agreement on Combating

⁴ “The Economics of Piracy in Southeast Asia.” *Global Initiative*.

⁵ “The Most Dangerous Waters in The World.” *TIME.com*. Accessed January 16, 2017. <http://time.com/piracy-southeast-asia-malacca-strait/>.

Piracy and Armed Robbery against Ships in Asia (ReCAAP).⁶ In order to support the new Maritime Security Initiatives (MSI), the United States announced five-year funding of \$425 million. One of the primary goals of the MSI is to help regional partners and allies enhance their regional security posture. Furthermore, the MSI marks increasing awareness of China in the South China Sea and points to openness towards regional cooperation with ASEAN nations. For instance, it focuses on enhancing regional capabilities to manage technical infrastructure, intelligence, surveillance, and radar (ISR) capabilities, which provides an important platform to effectively combat maritime crimes and terrorism.⁷ Aside from the Regional Maritime Security Initiative (RMSI) in 2002, the United States has extended the scope of its focus to the East China Sea and the Indian Ocean.⁸ Meanwhile, the United States has piloted other counterterrorism measures in the region. First, the Container Security Initiative (CSI) was set up to monitor illicit support provided to pirates and terrorists. It detects suspected containers in their ports of origin. Second, the Proliferation Security Initiative (PSI) seizes the delivery of WMD and nuclear equipment.⁹ All participating PSI states have the authority to board suspected vessels flying their own flag in international waters, and to provide the similar consent for other participants to board their own flagged vessels.¹⁰

The United States as the principal regional security guarantor against armed piracy and terrorism plays a pivotal role in supporting regional efforts in maintaining stability. U.S. leadership is key to protecting freedom of navigation and SLOCs, and sustaining peaceful

⁶ "Fact Sheet: U.S.–ASEAN Relations." *Whitehouse.gov*, November 21, 2015.

⁷ Diplomat, Prashanth Parameswaran, The. "US Kicks Off New Maritime Security Initiative for Southeast Asia." *The Diplomat*. Accessed February 23, 2017. <http://thediplomat.com/2016/04/us-kicks-off-new-maritime-security-initiative-for-southeast-asia/>.

⁸ Thachuk, Kimberley, and Tangredi, Sam, "Transnational threats and maritime responses." *Globalization and maritime power* (2002).

⁹ *Ibid.*

¹⁰ *Ibid.*

maritime security.¹¹ Under the United Nations Convention on the Law of the Sea (UNCLOS), member nations should empower their naval forces to take action against piracy.¹² Additionally, the coastal nations around the South China Sea call for collective action in ensuring freedom of navigation. The U.S. Navy is in an opportune position to counter the routine pirate attacks of the poorly policed Malacca Straits, in order to protect the energy supply and U.S. trade with partners in the region. Therefore, joint patrols present several benefits for preserving regional stability. Reduced economic loss can increase regional capacity to assume more responsibility in maintaining maritime security. As it stands, U.S. businesses have lost several millions of dollars in lost cargo, delayed trips, and damaged vessels. Joint patrols provide feasible solutions to meeting increased demand for improved patrols, improving enforceability of the MSI program established a few years ago, and encouraging greater cooperation.

Terrorist groups rely significantly on sea-based capabilities to overcome some constraints over their operations.¹³ Given that the driving force of piracy and terrorism are profit-motivated as well as politically charged, some groups of pirates also support the provision of armed forces and sea-based capabilities to dispose of pirated goods.¹⁴ Additionally, piracy is closely linked to illicit arms trade markets, human trafficking, and illicit drug markets.¹⁵ As a result, increased smuggling has become a foundation for the continued escalation of maritime crime. In other words, economic factors stimulate the participation of the Asian pirates and those involved in other criminal networks for maritime robbery. This influence indicates a dangerous nexus

¹¹ “Armed Clash in the South China Sea.” *Council on Foreign Relations*. Accessed February 21, 2017.

¹² Thachuk, Kimberly, and Tangredi, Sam, “Transnational threats and maritime responses,” *Globalization and maritime power* (2002).

¹³ *Ibid.*

¹⁴ Chalk, Peter. *The Maritime Dimension of International Security*. Report. Santa Monica: RAND Corporation, 2008. http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG697.pdf; and Rosenberg, David. “The Political Economy of Piracy in the South China Sea.” *Naval War College Review; Washington* 62, no. 3 (Summer 2009): 43–58.

¹⁵ Jenner, Matthew. “International Drug Trafficking: A Global Problem with a Domestic Solution.” *Indiana Journal of Global Legal Studies* 18, no. 2 (2011): 901-27.

between piracy and other crimes, which is devastating for the demanding energy markets since most of the world's oil and gas is shipped through the world's most pirate-infested waters. The capacity for terrorists to transport WMDs has resulted in mass economic destabilization. Therefore, this has become an important issue worthy of serious consideration in discussions on maritime security.¹⁶

After 9/11, the Strait of Malacca and the Singapore Strait became the second front of global terrorism, triggering U.S concerns over maritime security for international trade and shipping.¹⁷ Meanwhile, the rise of Al Qaeda in the Indian Subcontinent (AQIS) raised a new threat in maritime security and to the regional economy by undermining the security of maritime commerce.¹⁸ A secure maritime environment is one of the main foundations of the U.S. geopolitical strategy of pivoting towards Asia. Based on the connection between maritime terrorism and the proliferation of WMDs, the United States has tried to use the PSI to control the transportation of WMDs in order to control the frequency of attacks and minimize the effects of the destruction. In order to promote nonproliferation of WMD, the various types of export systems should be coordinated with the PSI. It is more effective that the right authorities stop the transportation of WMDs in the ports of origin. For instance, the CSI can prevent the illicit support for pirates and terrorists by detecting suspected containers located in the ports. Thus, this prevention might reduce the transportation of WMDs from the hands of terrorists.¹⁹ The United States as a leading power has the obligation to contain the development of rising terrorism. It is necessary to restrict the development of maritime terrorism in Asia due to the regions vast

¹⁶ Chalk, Peter. *The Maritime Dimension of International Security*. Report. Santa Monica: RAND Corporation, 2008.

¹⁷ Abdul Rahman, Nazira. "Multilateralism in the Straits of Malacca and Singapore." *Marine Policy* 44 (February 2014): 232–38. doi:10.1016/j.marpol.2013.08.030.

¹⁸ The Indian Ocean in 2015. Institute of Peace and Conflict Studies. Accessed January 17, 2017. http://www.ipcs.org/pdf_file/issue/SR167-Forecasts-IndianOcean.pdf

¹⁹ Clad, McDonald, Vaughn. *The Borderlands of Southeast Asia: Geopolitics, Terrorism, and Globalization*. 111

natural resources and numerous economic concerns. In order to develop a healthy economic environment for the world, the need to ensure a peaceful environment for the transportation of natural resources is fundamental.²⁰

14.4 Problems of Human Trafficking in the Asia-Pacific

The forced labor of migrant workers in Southeast Asia is a critical risk to border security and the region's economy, a problem that is gradually worsening due to the lack of law enforcement and joint coastguard patrols. An increase in demand for natural resources has led to an overall higher rate of exploitation of labor forces, as well as illegal, unreported, and unregulated (IUU) fishing in the region. The Thai economy, for instance, has relied heavily on the seafood export trade, which is valued at around \$6 billion and supports around 15% of fishing livelihoods in the world.²¹ The rising demand of seafood consumption has caused the downgrade of the ecosystem and stimulated the growth of competition over a dwindling pool of natural resources in the disputed territories of Southeast Asia; it's also worth noting that the United States is a major consumer of seafood in the region. Both chapters 12 and 13 addressed ecosystem destruction and migrating fishing patterns. The competitive pressure over natural resources leads to forced labor in the fishing industry.²² To avoid law enforcement, many Thai fishing vessels travel thousands of miles to unpoliced waters such as the Saya de Malha Bank area off the coast of East Africa.²³ Additionally, most of the Asian countries have limited political will to hold traffickers to the maximum account. American values in human rights have been eroded by labor exploitation. Additionally, Association of Southeast Asian Nation

²⁰ "The Most Dangerous Waters in The World." *TIME.com*. Accessed January 16, 2017. <http://time.com/piracy-southeast-asia-malacca-strait/>.

²¹ Department of Fisheries, Thailand (2014) Value of exports by country and commodity, 2013 http://www.fisheries.go.th/it-stat/yearbook/data_2556/Yearbook/yearbook2013-5.2.pdf

²² International Labour Organization (ILO) (2005) A Global Alliance Against Forced Labour http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081882.pdf

²³ CNN, Emiko Jozuka. "Greenpeace: Abuse Persists in Thai Fishing Industry." *CNN*. Accessed February 23, 2017. <http://www.cnn.com/2016/12/15/asia/thai-fishing-industry-report/index.html>.

(ASEAN) member nations have not formulated regional strategies to combat modern slavery.²⁴

14.5 Humanitarian Concerns of Maritime Security in the Asia-Pacific

Seeing as the United States upholds the values of democracy and human rights, it has a moral obligation to continuously support its regional partners by boosting greater cooperation and participation on guaranteeing human rights. The spectrum of abuses ranges from overwork and underpayment, to violence, torture, and execution-style killings. Out of these abuses, Thailand constantly remains on the worst ranking (Tier 3) of the U.S. Trafficking in Person Report.²⁵ Also, this result indicates that Thailand did not significantly try to contain human trafficking. According to a U.N. survey, 29 of 49 (or 59%) of the victims reported seeing a murder on Thai fishing boats by the boat captain when they traveled throughout the Pacific region.²⁶ The United States should have greater traceability mechanisms in the fishing industry, greater flag-state controlled enforcement, and greater protection of fishing observers to address the problems of forced labor on fishing vessels, because based on the inherently isolated nature of work on the vessels, it makes this a particularly difficult challenge to collect data and information.²⁷

Additionally, this illicit business chain negatively affects social stability in the region, as highlighted by the kidnapping of citizens in Cambodia, Bangladesh, and Myanmar.²⁸ Based on

²⁴ United States. Congress. Senate. Committee on Foreign Relations. Subcommittee on East Asian Pacific Affairs. *Combating Human Trafficking in Asia : Hearing before the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, United States Senate, One Hundred Twelfth Congress, First Session, April 7, 2011.*

²⁵ "Trafficking in Persons Report 2016: Topics of Special Interest." Accessed February 18, 2017. <https://www.state.gov/j/tip/rls/tiprpt/2016/258689.htm>.

²⁶ United States. Congress. Senate. Committee on Foreign Relations. Subcommittee on East Asian Pacific Affairs. *Combating Human Trafficking in Asia : Hearing before the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, United States Senate, One Hundred Twelfth Congress, First Session, April 7, 2011.*

²⁷ "Special Report: Traffickers Use Abductions, Prison Ships to Feed Asian Slave Trade." *Reuters*, October 22, 2014.

²⁸ "Thailand." *U.S. Department of State*. Accessed February 23, 2017. <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243547.htm>.

the lack of joint initiatives for combating human trafficking, the declining amount of resources generates pressure fueling the widespread use of slavery throughout industries. Meanwhile, people who come from vulnerable political situations likewise become particularly vulnerable to human trafficking. For instance, the stateless Rohingya ethnic group illustrate the challenge of combating human trafficking. Since no country is willing to provide citizenship status for Rohingya Muslims, that means it is harder to ask countries to rescue them as those countries have no obligation to provide any protection. Since Myanmar refuses to grant Rohingya Muslims citizenship, driving 140,000 Rohingya Muslims from their homes, it makes them easier prey for traffickers who lure them with promises of safety and jobs in Malaysia, for a price, or simply kidnapping them to sell them into slavery or extort ransom from their families.²⁹ Lack of citizenship makes it harder for the victims to attain the resources and help they need from other countries. To combat this, Indonesia and Malaysia have started marine search and rescue operations with the assistance of the United States. However, this is not a long-term solution to rescue the victims of human trafficking and forced labor in Southeast Asia. Cargo vessels can carry up to 700 passengers across the Bay of Bengal to Thailand in a five- or six-day journey; to combat these enormous numbers, the United States should encourage joint coast guard exercises with a common goal of combating human trafficking and maintaining border security.³⁰

Human trafficking is a necessary component of criminal networks. Human trafficking is not only a problem in transnational business but is also connected with the Thai fishing industry, and linked to other marine crimes such as smuggling among ASEAN countries. From the start of this business circle, Bangladeshis and Rohingya kidnap and trade their own people with the help

²⁹ The Editorial Board. "Horrors of Human Trafficking in South Asia." *The New York Times*, May 29, 2015. <https://www.nytimes.com/2015/05/29/opinion/horrors-of-human-trafficking-in-south-asia.html>.

³⁰ "Special Report: Traffickers Use Abductions, Prison Ships to Feed Asian Slave Trade." *Reuters*, October 22, 2014. <http://www.reuters.com/article/us-thailand-trafficking-specialreport-idUSKCN0IB0A320141022>.

of nationals from Thailand, Myanmar, Malaysia and Pakistan, and later those people are sent to trafficking camps located in Thailand.³¹ Human trafficking has also generated an environment for developing various types of crimes such as entrapment, coercion, and deceit.³² Under the system of UNCLOS, “each nation shall take effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag,” which provides the right for those disputed countries to respond on checking suspected ships (within Thai flat) during the safeguarding.³³ However, based on the uncertain state of the law on these matters, navies are hesitant to arrest anyone outside their territorial waters.³⁴

14.6 Current U.S. Policy on Maritime Crimes

The United States had signed various agreements and joined organizations in order to maintain the maritime security in Asia-Pacific since the late 1990s. Also, in 2014 the United States became the 20th member of ReCAAP, which emphasizes common interests in stability, prosperity, and peace in Southeast Asia. Undoubtedly, this was a positive move for the United States to join the main organization combating piracy and maintaining international maritime security. Additionally, the United States has promoted three security initiatives, such as the CSI, PSI, MSI to counter marine crimes on a global scale. The United States is mainly focused on detecting suspected containers from seaports, preventing the transmission of WMDs, and improving its partners’ maritime capacity to counter piracy in the Asia-Pacific. Even though the PSI operates outside the international system (through the United Nations) and heavily relies on the willingness of participants, it has at least established a consensus on the dangers of WMDs

³¹ *Ibid.*

³² “Special Report: Traffickers Use Abductions, Prison Ships to Feed Asian Slave Trade.” *Reuters*, October 22, 2014. <http://www.reuters.com/article/us-thailand-trafficking-specialreport-idUSKCN0IB0A320141022>.

³³ “Preamble to the United Nations Convention on the Law of the Sea.”

Accessed February 19, 2017. http://www.un.org/depts/los/convention_agreements/texts/unclos/part7.htm.

³⁴ “Special Report: Traffickers Use Abductions, Prison Ships to Feed Asian Slave Trade.” *Reuters*, October 22, 2014. <http://www.reuters.com/article/us-thailand-trafficking-specialreport-idUSKCN0IB0A320141022>.

for regional nations in countering marine terrorism. However, most experts argue that the financial budget of the MSI is inadequate for the United States to constantly be a leader in this area.

The United States signed the Trafficking Victims Protection Act (TVPA) in 2000 to constrain the development of human trafficking in the world. Consistent with TVPA, the United States encourages all the American directors of each multilateral development bank to deny loans to a designated Tier 3 country for most purposes.³⁵ Nevertheless, the TVPA can only prevent human trafficking to a certain extent but still cannot do much in the Tier 3 countries, such as Thailand. Moreover, the current maritime deployment in the Asia-Pacific cannot directly solve the problems of human trafficking based on the diverse laws that each country applies to the issue. The United States cannot achieve the goal of containing piracy without regional cooperation. Based on weak domestic rule of law, it reveals a position for human traffickers to disturb the social mobility and human right. Also, this issue is usually not the priority for the government to resolve because most of the victims are not their citizens. Lastly, it was difficult to engage with other countries' authorities to jointly inspected boats and sweatshops because of the respect of sovereignty disputes.³⁶

14.7 Policy Recommendations

14.7.1 Remain engaged with MSI in the Asia-Pacific. Since some of the regional nations have limited willingness on sharing the burden of countermeasures of marine crimes, the United States as a Pacific power should continually lead a role on the non-traditional security concerns by providing sufficient supports to its partners. However, the financial support of MSI is limited and

³⁵ 2016 Trafficking in Persons Report". Department of State.
<https://www.state.gov/documents/organization/258876.pdf>

³⁶ Diplomat, Laura Southgate, The. "Piracy in the Malacca Strait: Can ASEAN Respond?" *The Diplomat*. Accessed January 17, 2017. <http://thediplomat.com/2015/07/piracy-in-the-malacca-strait-can-asean-respond/>.

insufficient to cover all the improvement of the maritime capacity for those nations. Therefore, the U.S. leadership in encouraging cooperation is key in achieving these goals.

CHAPTER 15

Conclusion and Policy Recommendations

Adam Khan

This task force analyzed U.S. maritime security concerns in the Asia-Pacific, arriving at the conclusion that a comprehensive, multilateral strategy is required to protect U.S. interests in the region. Based on dominant traditional security concerns, including not only the bellicose behavior of China in both the East and South China Seas, but also the rapidly expanding technological capabilities of both partners and rivals in the region, the United States should behave proactively and utilize the infrastructure present in its network of treaty allies and partners to encourage sustainable security outcomes. The United States should also encourage dialogue addressing other nontraditional security concerns such as environmental deterioration, overfishing, piracy and human trafficking, which are liable to yield optimal policy outcomes that preserve the integrity of the region writ large. To that end, this task force suggests a litany of policy recommendations that support a stronger U.S. role in the region's volatile security landscape, with the intent to engage all of the relevant stakeholders in the region.

On a note of forbearance, it is also important to understand that the authors of this task force were careful to avoid the alarmist perspective that often characterizes the discussion between analysts on U.S.–China relations. China, as one of the most assertive claimants in the South China Sea, has myriad differences with the United States and various other claimant countries. However, this task force also provided a comprehensive analysis of the potential avenues of cooperation for all of the relevant stakeholders, with the intent to provide a balanced and constructive strategy that bolsters U.S. interests while simultaneously preserving the greater security of the region.

As aforementioned in the report findings, prime among the most immediate actions the United States can take to verify its ability to participate in disputes would be to solidify its stance on international law. As such, the United States should first ratify the UN Convention on the Law of the Sea (UNCLOS), providing the United States with an appropriate platform to challenge China's hegemonic claims and create a rules-based, maritime security network with allies and partners in the region. Similarly, the United States should also continue to encourage freedom of navigation in the region, pursuant to its ability to do so under international law. The United States encourage this practice and also expand freedom of navigation operations (FONOPs) in the Asia-Pacific writ large, re-affirming not only its commitment to this freedom under international law, but also its commitment to all of its allies and partners in the region that depend on the support of the United States.

Similarly, the United States should also expand on existing actions that protect the general security of the region. In addition to expanding FONOPs in the Asia-Pacific, the United States should also continue to strengthen its existing military alliances, with the intent to not only curtail China's aggression, but also protect states such as the Philippines, South Korea, Japan, and Taiwan. Further, the United States should also strengthen the regional security providers such as ASEAN, Japan, South Korea, and India, engaging not only in FONOPS, but also joint patrols and military development exercises that strengthen the role of regional states as mature security providers. The United States should also encourage states to develop their own FONOPS and delineate the role of the Coast Guard in the Code for Unplanned Encounters (CUES) with China. As China continues to become more assertive in its territorial pursuits, the United States should keep the security of the region at the forefront of its foreign policy endeavors. As such, the United States should strengthen its Joint Operational Access Concept (JOAC) as China's area-denial capabilities increases, while continually supporting the peaceful

resolution of maritime disputes. Further, the United States should not hesitate in its support of secure SLOCs, especially in its dealings with China.

While the United States should prevent the Chinese coercion of regional states, it should also actively seek ways to encourage confidence-building measures (CBMs) with China, specifically through areas where cooperation is likely. In particular, the United States should leverage China's similar stance on nonproliferation and seek new areas of cooperation. Selectively supporting Chinese-backed initiatives like the One Belt One Road Initiative (OBOR) and the Asian Infrastructure Investment Bank (AIIB) will potentially lend credence to the United States in its diplomatic endeavors with China. Further, the United States should allow Rim of the Pacific (RIMPAC) exercises to serve as a platform enabling the PLA Navy (PLAN) to participate in multilateral exercises, enhancing multilateral cooperation between China and regional states. The introduction of further CBMs, in conjunction with an improved communications plan between the two nations, should help ameliorate tensions.

Beyond traditional security, the United States should advance multilateral cooperation in the region. As such, the United States should utilize forums such as the East Asia Summit (EAS), Asia-Pacific Economic Cooperation (APEC), and various others to improve dialogue between the heads of state. The United States should also continue to invest in various capacity-building initiatives within ASEAN, such as the Maritime Security Initiative, to expand their power and influence as security providers in the region. To this end, the United States should standardize follow-up meetings between itself and heads of state in the region to encourage concrete dialogue and action on prevailing concerns. The potential for growth, then, should also focus on regional trade deals. To this end, this task force recommends that the United States explore a viable alternative to the Trans-Pacific Partnership (TPP) to preserve free and fair trade in the

region, with vestiges of the original agreement present to preserve rights such as intellectual property and related regulations.

Finally, the United States should adopt a more rigid focus towards nontraditional security concerns such as environmental protection, fisheries depletion, habitat destruction, and human trafficking. To accomplish this, it should utilize the existing infrastructure discussed in this report; in fact, the EAS could potentially be used to shift the conversation towards environmental security in the Asia-Pacific, especially since the gathering includes China, South Korea, and Japan—three powers that are equipped to address the problem. Furthermore, at the EAS the United States should also address energy crises, with the intent to discuss oil and natural gas production. The same discussion should be held with ASEAN. The United States should also reaffirm its commitment to the Paris Agreement, particularly in its commitment to reduce GHG emissions and contribute to sustainable development funds. Domestically, the United States can urge the Defense and State Departments to remain cognizant of environmental risks associated with its actions, including habitat destruction and pollution. Concerning fisheries, various actions can be taken to encourage the development of multilateral security. The United States should utilize its commitment to the Western and Central Pacific Fisheries Commissions to mitigate the control of highly migratory fish species, ideally mitigating the different stances that the United States and China may share on overfishing. Finally, the United States should also pursue cooperation with China through information-sharing, by sharing fisheries data from the National Oceanic and Atmospheric Administration (NOAA) with China with the intent to promote a program to avoid illegal unreported and unregulated (IUU) fishing. Collectively, it is the opinion of this task force that these measures are a proactive step in the right direction.

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