

# **CHINA'S MARITIME DISPUTES IN THE EAST AND SOUTH CHINA SEAS**

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**HEARING**  
**BEFORE THE**  
**U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION**

**ONE HUNDRED THIRTEENTH CONGRESS**  
**FIRST SESSION**

**THURSDAY, APRIL 4, 2013**

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**UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION**

**WASHINGTON: 2013**

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The Commission was created on October 30, 2000 by the Floyd D. Spence National Defense Authorization Act for 2001 § 1238, Public Law No. 106-398, 114 STAT. 1654A-334 (2000) (codified at 22 U.S.C. § 7002 (2001), as amended by the Treasury and General Government Appropriations Act for 2002 § 645 (regarding employment status of staff) & § 648 (regarding changing annual report due date from March to June), Public Law No. 107-67, 115 STAT. 514 (Nov. 12, 2001); as amended by Division P of the “Consolidated Appropriations Resolution, 2003,” Pub L. No. 108-7 (Feb. 20, 2003) (regarding Commission name change, terms of Commissioners, and responsibilities of the Commission); as amended by Public Law No. 109-108 (H.R. 2862) (Nov. 22, 2005) (regarding responsibilities of Commission and applicability of FACA); as amended by Division J of the “Consolidated Appropriations Act, 2008,” Public Law No. 110-161 (December 26, 2007) (regarding responsibilities of the Commission, and changing the Annual Report due date from June to December).

The Commission’s full charter is available at [www.uscc.gov](http://www.uscc.gov).

April 11, 2013

The Honorable Patrick J. Leahy  
*President Pro Tempore of the Senate, Washington, D.C. 20510*  
The Honorable John A. Boehner  
*Speaker of the House of Representatives, Washington, D.C. 20515*

DEAR SENATOR LEAHY AND SPEAKER BOEHNER:

We are pleased to notify you of the Commission's April 4, 2013 public hearing on "*China's Maritime Disputes in the East and South China Seas*." The Floyd D. Spence National Defense Authorization Act (amended by Pub. L. No. 109-108, section 635(a)) provides the basis for this hearing.

At the hearing, the Commissioners received testimony from the following witnesses: Rear Admiral Michael McDevitt (Ret.), Senior Fellow, Strategic Studies, CNA; Dr. Michael Swaine, Senior Associate, Asia Program, Carnegie Endowment for International Peace; Peter Dutton, Professor and Director, China Maritime Studies Institute, U.S. Naval War College; Dr. Jessica Chen Weiss, Assistant Professor, Department of Political Science, Yale University; Dr. Steven Lewis, Fellow and Professor, Baker Institute for Public Policy, Rice University; and Lloyd Thrall, Project Associate, RAND Corporation. This hearing explored the security, political, and economic drivers of China's maritime disputes in the East and South China Seas. In addition, this hearing examined the implications of these disputes for the United States as well as prospects for resolution.

We note that prepared statements for the hearing, the hearing transcript, and supporting documents submitted by the witnesses will soon be available on the Commission's website at [www.USCC.gov](http://www.USCC.gov). Members and the staff of the Commission are available to provide more detailed briefings. We hope these materials will be helpful to the Congress as it continues its assessment of U.S.-China relations and their impact on U.S. security.

The Commission will examine in greater depth these issues, and the other issues enumerated in its statutory mandate, in its 2013 Annual Report that will be submitted to Congress in November 2013. Should you have any questions regarding this hearing or any other issue related to China, please do not hesitate to have your staff contact our Congressional Liaison, Reed Eckhold, at (202) 624-1496 or via email at [reckhold@uscc.gov](mailto:reckhold@uscc.gov).

Sincerely yours,



Hon. William A. Reinsch  
*Chairman*



Hon. Dennis C. Shea  
*Vice Chairman*

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THURSDAY, APRIL 4, 2013

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## **CHINA'S MARITIME DISPUTES IN THE EAST AND SOUTH CHINA SEAS**

THURSDAY, APRIL 4, 2013

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### **U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION**

*Washington, D.C.*

The Commission met in Room G-50 Dirksen Senate Office Building, Washington, D.C. at 9:00 a.m., Commissioner Katherine C. Tobin and Commissioner Peter Brookes (Hearing Co-Chairs), presiding.

### **OPENING STATEMENT OF COMMISSIONER KATHERINE C. TOBIN HEARING CO-CHAIR**

HEARING CO-CHAIR TOBIN: Good morning, fellow Commissioners, those of you in the audience today, and those who are watching online. Welcome to the third hearing of the United States-China Commission's 2013 Annual Report cycle.

Today's hearing will cover China's maritime disputes in the East and South China Seas. We'll examine the security, political, legal, and economic drivers of these disputes in our three panels today.

Though China's approaches to the East China Sea and South China Sea differ, we consider them both today to better understand the overall challenge China faces in its maritime periphery. This is not a new security issue, nor is it the first time the Commission has focused its attention closely on the China seas.

For those of you interested, I suggest that you look at the Commission's 2012 Report, which you will find on our Web site. There's a Section on the East China Sea and, further on, in chapter three, a thorough analysis of disputes in the South China Sea.

If you follow the news, you know that in 2013 we've seen continued and escalated action, so we seek again today to learn from experts. We'll be asking further questions of them.

We'll begin by discussing the broad security situation on the high seas. As China's maritime forces have become more capable over the past decade, Beijing has become more confident in its ability to assert its claims in the disputed areas.

We look forward to hearing our witnesses' testimony today on China's security interests in the East and South China Seas and how other actors

throughout that region may shape Beijing's security calculus. Most importantly, our panel will include a discussion on the implications of these disputes for the United States as well as prospects for resolution.

Beyond China's "hard" security concerns, however, other domestic, political, and legal elements shape China's policy in the East and South China Seas. Our second panel considers popular nationalism as one of these elements. It has become a key driver of Chinese foreign policy as personality politics in Beijing has given way to a collective leadership seeking Party legitimacy. We look forward to a discussion on how nationalism helps or hinders China as it manages its foreign and domestic policy on its near seas.

We'll also explore in depth how China uses international legal language to further its maritime rights and interests in disputed waters. In light of the Philippines' recent initiation of arbitration proceedings regarding China's nine-dashed line, we'll discuss how the tangle of boundaries in the East and South China Seas can be resolved.

After our lunch break, we'll conclude with a panel on how resources and economic drivers shape China's maritime disputes. Security of China's near seas is critical to the unimpeded flow of trade and imported energy resources. Though the natural resources in the East and South China Sea undoubtedly shape the security landscape, there appears to be a debate on the centrality of oil and gas resources to the dispute.

We've asked our witnesses to weigh in on the debate, and we look forward to hearing about how China aligns its foreign policy goals with its economic interests in disputed areas.

Before we introduce our distinguished guests for the first panel, let me take a moment to thank Senator Tom Udall of New Mexico and his staff for securing this room for us today. I'd also like to remind our witnesses to keep their remarks to seven minutes so that we have time for our question and answer session.

Commissioner Brookes.

**PREPARED STATEMENT OF COMMISSISONER KATHERINE C. TOBIN  
HEARING CO-CHAIR**

**Commissioner Tobin Opening Statement**

February 7, 2013 Hearing: China's Maritime Disputes in the East and South China  
Seas

COMMISSIONER TOBIN: Good morning, and welcome to the third hearing of the U.S.-China Commission's 2013 Annual Report cycle. Today's hearing covers China's maritime disputes in the East and South China Seas. We'll examine the security, political, legal, and economic drivers of these disputes in our three panels today. Though China's approach to the East China Sea and South China Sea differ, we consider them both today to better understand the overall challenge China faces in its maritime periphery.

This is not a new security issue. Nor is it the first time the Commission has focused its attention closely on the China Seas. For those of you interested, I suggest you look at the Commission's 2012 report which you will find on our Website. There is a section on the East China Sea and further on in Chapter 3 a thorough analysis of disputes in the South China Sea. If you've followed the news, you know that in 2013



we've seen continued and escalated action, so we seek again to learn from experts, to ask further questions.

We'll begin by discussing the broad security situation on the high seas. As China's maritime forces have become more capable over the past decade, Beijing has become more confident in its ability to assert its claims in disputed areas. We look forward to hearing our witnesses' testimony today on China's security interests in the East and South China Seas, and how other actors throughout that region may shape Beijing's security calculus. Most importantly, our first panel will include a discussion on the implications of these disputes for the United States, as well as prospects for resolution.

Beyond China's "hard" security concerns, however, other domestic political and legal elements shape China's policy in the East and South China Seas. Our second panel considers popular nationalism as one of these elements. It has become a key driver of Chinese foreign policy as personality politics in Beijing has given way to a collective leadership seeking Party legitimacy. We look forward to a discussion on how nationalism helps or hinders China as it manages its foreign and domestic policy on its near seas. We'll also explore in depth how China uses international

legal language to further its “maritime rights and interests” in disputed waters. In light of the Philippines recent initiation of arbitration proceedings regarding China’s nine dashed line, we’ll be interested in a discussion on how the tangle of boundaries in the East and South China Seas can be resolved.

After our lunch break, we’ll conclude with a panel on how resources and economic drivers shape China’s maritime disputes. Security of China’s near seas is critical to the unimpeded flow of trade and imported energy resources. Though the natural resources in the East and South China Seas undoubtedly shape the security landscape, there appears to be a debate on the centrality of oil and gas resources to the dispute. We’ve asked our witnesses to weigh in on this debate, and we look forward to hearing about how China aligns its foreign policy goals with its economic interests in disputed areas offshore.

Before we introduce our distinguished guests for the first panel, let me take a moment to thank Senator Tom Udall of New Mexico and his staff for securing this room for us today. I’d also like to remind our witnesses to keep remarks to 7 minutes so that we have time for our question-and-answer session.

## **PANEL I INTRODUCTION BY COMMISSIONER PETER BROOKES**

HEARING CO-CHAIR BROOKES: Thank you, Katherine. Good morning.

We're delighted to have two distinguished witnesses with us this morning to discuss the security situation in the East and South China Seas. Rear Admiral Mike McDevitt is a Senior Fellow at CNA where he focuses on Indo-Pacific maritime security issues and China's maritime strategy. His 34-year active duty career in the Navy included senior service in the Office of the Secretary of Defense as well as at the Pacific Command.

Dr. Michael Swaine is a Senior Associate at the Carnegie Endowment for International Peace and specializes in Chinese defense and foreign policy as well as U.S.-China relations. He's also served as a Senior Policy Analyst at RAND.

Thank you both for being here today. It's good to see you again. Rear Admiral McDevitt, if you'd start, we'd be glad to hear your comments.

**OPENING STATEMENT OF REAR ADMIRAL MICHAEL MCDEVITT (RET.)  
SENIOR FELLOW, STRATEGIC STUDIES, CNA**

RADM McDEVITT: Thank you.

Co-Chairs Tobin and Brookes and members of the Commission, I'm delighted to be back to see you again. I'm going to read my oral statement so I have some hope of getting it done in seven minutes.

Over the past three years, China's activities in both the East China Sea and the South China Sea have, along with North Korea, become the most frequently addressed security issues in East Asia.

The confrontations that China has had with its neighbors have raised concerns throughout East Asia, as well as here in the United States, that perhaps these events provide a glimpse into the future--one in which China is willing to "throw its weight around" in the region. This, of course, is a direct concern to Washington because it challenges the central premise of U.S. policy in East Asia, namely, that the United States is a stabilizing presence in the region.

In my judgment, the issues associated with the East China Sea are most important to the United States. For Washington, the East China Sea represents the one area along the East Asian littoral where a shooting war with China is conceivable. Taiwan, which lies at the southern end of the East China Sea, has been a perennial flashpoint, and now, more recently, the Senkaku/Diaoyu islands, also in the southern portion of the East China Sea, have become a second flashpoint.

The rationale for U.S. involvement with China over Taiwan is well understood. The reasons behind our possible involvement in conflict over the Senkakus are less well known. Essentially, the U.S.-Japan Security Alliance obligates the U.S. to contribute to the defense of territories under Japanese administrative control, as these islands are.

In other words, if China elects to use force against Japan over these islands, there is the possibility that the United States could become directly involved.

In the case of Taiwan, fortunately, the cross-strait relations between Taipei and Beijing are probably as good today as they've ever been, and, as a result, the risk of conflict is currently very low. But since China refuses to renounce the use of force, the possibility of a military crisis or even conflict cannot be completely ruled out.

I don't want to belabor Taiwan since the focus of this panel is China's other maritime disputes, but it is useful to keep in mind that from a sovereignty and military perspective, Taiwan is China's biggest and most important maritime dispute.

The East China Sea and the Yellow Sea, the coterminous Yellow Sea basin, are essentially home waters for the navies of China, Japan, and both Koreas. As a result, it is a local training area for four or, if one includes Taiwan, five littoral navies. If we include the United States Seventh Fleet, these are waters

where all the parties routinely operate their navies. These waters are also of enormous economic import to China; commercial traffic must traverse the East China Sea or Yellow Sea to reach six of China's ten largest ports.

Finally, China understands that historically these waters were routes that the West crossed to attack China. Beijing considers them "near seas" and has embarked on a military program to ensure that it can establish sea control in times of war over this "first island chain" maritime basin.

The South China Sea, on the other hand, is another of China's near seas. It is a more complex policy problem for the United States because of overlapping sets of issues. Sovereignty disputes involve six countries: China, Taiwan, Vietnam, the Philippines, Malaysia, and Brunei. China and Taiwan claim all of the islands, rocks, shoals in the South China Sea. Vietnam claims the Spratlys and the Paracel groups. Five of the countries, all but Brunei, occupy some of the islands with military or paramilitary forces.

The South China Sea picture is further muddled because China also makes claims based upon assertions of historic waters delimited by a vague, undemarcated line on maps known as the "U"-shaped or "nine-dashed" line, which covers virtually the entire sea.

This line is the cause of significant confusion because Beijing has so far refused to define what it thinks the line means legally and because the line overlaps the legitimate Economic Exclusive Zones and Continental Shelf claims of the other South China Sea coastal states, specifically, the Philippines, Vietnam, a bit of Malaysia, and a touch of Indonesia's EEZ.

Despite protestations of neutrality regarding sovereignty issues in the South China Sea, the United States has willingly become more deeply involved than ever before. In a departure from past U.S. policies of neutrality and, I would argue, semi-alooofness in the summer of 2010, the Obama administration clearly began to signal through a combination of diplomacy and enhanced military presence, that the United States does consider rule-based stability in the South China Sea to be an important U.S. national objective.

Having become more directly involved by trying to foster a collaborative solution to the disputes in the South China Sea during the 2010 ASEAN Regional Forum meeting in Hanoi, I would argue that the United States now has strategic "skin in the game" when it comes to the South China Sea.

Secretary Clinton's intervention was a departure from traditional U.S. policy, which has assiduously tried to avoid becoming embroiled in sovereignty disputes that did not involve U.S. equities. It was China's assertive behavior in 2009, and then in 2010, and again in 2012, that I believe was a major contributing factor to this new "normal" for U.S. policy in the South China Sea.

Unfortunately, while Washington is now more involved diplomatically, it has little leverage in actually reaching the desired non-coercive rules-based outcome. What the U.S. can do to reduce tension and foster a code of behavior is focus on international law and not raw power without taking a position on sovereignty claims.

Finally, the issue that directly involves the United States military in both the East China Sea and the South China Sea has to do with arguments over freedom of navigation. The United States argues that China is trying to obstruct it. The disagreement concerns what military activities are permitted in the EEZ of China, which, based on China's claims, could potentially encompass most of both of these maritime basins.

Washington argues that the UNCLOS treaty permits nations to exercise high sea freedoms in the EEZs of coastal states. These freedoms include the right to conduct peaceful military activity, which include, inter alia, surveillance and military surveys.

China disagrees. This disagreement over surveillance activities has already caused two serious incidents: the EP-3 collision, mid-air collision in 2001; and harassment of the U.S. Naval ship Impeccable in 2009.

In conclusion, there is no easy or quick resolution to either dispute. I believe, quite frankly, that China is very satisfied with its current approach because I believe Beijing thinks it has strengthened its claims, and, as a result, I don't think that China is going to dramatically change what I would call a proactive approach toward creating a new favorable status quo in these waters, a new and favorable to China, status quo in these waters.

Thank you.

**PREPARED STATEMENT OF REAR ADMIRAL MICHAEL MCDEVITT (RET.)  
SENIOR FELLOW, STRATEGIC STUDIES, CAN**

Hearing: April 4, 2013

Name of Panelist: Rear Admiral Michael McDevitt, USN (retired)

Senior Fellow, Center for Naval Analyses

“Testimony before the US-China Economic and Security Review Commission”

Hearing title: ***“China’s Maritime Disputes in the East and South China Seas”***

**Introduction**

Over the past three years, China’s activities in both the East China Sea and the South China Sea have, along with North Korea, become the most frequently addressed security issues in East Asia. The confrontations China has had with its neighbors have raised concerns throughout East Asia, as well as in the United States, that perhaps these events provide a glimpse into the future—one in which China is willing to “throw its weight around” the region. This is an issue of direct concern to Washington because it challenges the central premise of U.S. policy in East Asia—namely, that the United States is a stabilizing presence in the region.

In my judgment, the issues associated with the East China Sea are the most important to the United States. For Washington, the East China Sea represents the one area along the East Asian littoral where a shooting war with China is conceivable. Taiwan which lies at the southern end of the East China Sea has been a perennial flashpoint; and now, more recently, the Senkaku/Diaoyu islands, also in the southern portion of the ECS has become a second flashpoint. The rationale for US involvement with China over Taiwan is well understood. The reasons behind our possible involvement in conflict over the Senkaku’s are less well known. The U.S.-Japan Security Alliance obligates the US to contribute to the defense of territories under Japanese administrative control—as these islands are. In other words, if China elects to use force against Japan over these islands, there is a very real possibility that the United States could become directly involved.

In the case of Taiwan, fortunately, cross strait relations between Taipei and Beijing are probably as good today as they have ever been, and as a result the risk of conflict is very low. But, since China refuses to renounce the use of force, the possibility of a military crisis or even conflict cannot be completely ruled out. I don’t want to belabor Taiwan since, based on the questions I was asked to address, the focus of this panel is on China’s *other* maritime disputes. It useful to keep in mind, however, that from a sovereignty and military perspective, *Taiwan is China’s biggest and most important maritime dispute.*

Approximately 70 percent of China's eastern seaboard forms the western limit of the East China Sea and coterminous Yellow Sea basin, while the Ryukyu Chain is the East China Sea's eastern boundary. The East China Sea/Yellow Sea basin is essentially home waters for the navies of China, Japan, and both Koreas. As a result, it is a "local" training area for four—or, if one includes Taiwan, five—littoral navies. If we include the United States Seventh Fleet, these are waters where all parties routinely operate their navies. These waters are also of enormous economic import for China. Commercial traffic must traverse the East China Sea and/or Yellow Sea to reach six of China's 10 largest ports.

Finally, the East China and Yellow seas served for several decades as the maritime buffer between "Red China" and Washington's offshore allies of South Korea, Japan, and Taiwan. While U.S. strategic thinking no longer revolves around notions of containing Asian continental powers, China understands that historically these waters were the routes that the West crossed to attack China. Beijing considers them "near seas," and has embarked upon a military program to ensure that it can establish sea control over this "first island chain" maritime basin.

The South China Sea (SCS) is another of China's near seas. It poses a complex policy problem for US policy makers because of an overlapping set of issues. Sovereignty disputes in the SCS involve six countries: China, Taiwan, Vietnam, the Philippines, Malaysia, and Brunei. China and Taiwan claim all of the islands, rocks, and shoals in the SCS. Vietnam claims the Spratly and Paracel groups. Five of the countries (all but Brunei) occupy some of the islands with military or paramilitary forces. The SCS picture is further muddled because China also makes claims based on assertions of "historic waters" delimited by a vague, un-demarcated line on maps, known as the "U" shaped or "nine-dashed" line, which covers virtually the entire sea. This line is the cause of significant confusion, because Beijing has so far refused to define what it thinks this line means legally, and because the line overlaps the legitimate EEZ and continental shelf claims of the other SCS coastal states.

Despite protestations of neutrality regarding sovereignty issues in the SCS the United States has willingly become more deeply involved than ever before. In a departure from past U.S. policies of neutrality and semi-alooftness, in the summer of 2010 the Obama administration clearly began to signal, through a combination of diplomacy and enhanced military presence, that the United States does consider rule-based stability in the SCS to be an important U.S. national objective. As a result the SCS has become an implicit test case of "post-rebalance" U.S. credibility as a stabilizing power in Asia. Having become more directly involved by trying to foster a "collaborative" solution to the disputes in the SCS during the 2010 ASEAN Regional Forum meeting in Hanoi, the United States now has strategic "skin in the game." Secretary Clinton's intervention was a departure from traditional U.S. policy, which assiduously tried to avoid becoming embroiled in sovereignty disputes that did not involve U.S. equities. It was China's assertive behavior in 2009, in 2010, and again in 2012 that was the major contributing factor to this new U.S. "normal" in the SCS.

While Washington is now more involved diplomatically, it has little leverage in actually reaching the desired non-coercive rules-based outcome. While the United States has substantially improved security relations with all the ASEAN claimants to features in the SCS it has little to no direct leverage in resolving



the SCS sovereignty disputes, the legal standing of the nine-dashed line or the contentious fishing issues. This creates tough policy questions for Washington. What should or can it do to reduce tension and foster a code of behavior that is based on international law and not raw power without taking a position on sovereignty claims.

Finally, in both the ECS and the SCS, there is a major disagreement between Washington and Beijing over “freedom of navigation”. The United States argues that China is trying to obstruct it. The disagreement concerns what military activities are permitted in the EEZ of China, which, based on China’s claims, could potentially encompass most of the ECS and the SCS. Washington argues that the United Nations Convention on the Law of the Sea (UNCLOS) permits nations to exercise “high seas freedoms” in the EEZs of coastal states.<sup>1</sup> These “freedoms” include the right to conduct peaceful military activities, which include, inter alia, surveillance and military surveys. China disagrees. This disagreement over U.S. surveillance activities has already caused two serious incidents: the 2001 mid-air collision between a U.S. Navy surveillance aircraft (EP-3) and an intercepting Chinese navy fighter, and the 2009 harassment by Chinese fishermen and paramilitary ships of USNS *Impeccable*, which was conducting underwater surveillance. It remains another possible crisis point.

In conclusion, there is no easy or quick resolution to either dispute. I believe that China is satisfied that its current approach has strengthened its claims, and as a result is unlikely to dramatically change its proactive approach toward creating a new, favorable, status-quo in these waters.

### **Responses to questions**

**How does China demonstrate and enforce its maritime territorial claims? What role does the PLA Navy play in China’s approach to its maritime conflicts? How does that differ from the role of Chinese maritime law enforcement agencies?**

So far the PLA Navy has not played a direct role in the disputes in the East and South China Seas dispute. They have remained an “over the horizon force,” demonstrating presence through training exercises, routine operations and transits in the East China Sea (ECS) and training, exercising and conducting resupply missions to Chinese garrisons in the Spratly Islands in the South China Sea (SCS). China’s civil maritime enforcement agencies have been in the lead because it has kept encounters below the warship threshold, and importantly because it is their assigned mission, for example, protection of China’s EEZs in the case of China Maritime Surveillance (CMS), and fisheries law enforcement in the case Fisheries Law enforcement Command (FLEC). While the PLA Navy has not been an active participant it has made certain that its nearby presence has been noted.

More generally, the primary maritime players in sovereignty and maritime issues have been a mix of fishing vessels, oil companies, and national maritime law enforcement agencies. China uses these actors along with diplomacy to compete to assert and defend its claims. Neither the SCS nor the ECS disputes have been militarized by China. In the SCS, this is different from 1988 to 1995 period when a major armed

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<sup>1</sup> Which the United States has yet to ratify, but nonetheless observes.

clash occurred between China and Vietnam in March 1988 in which 64 Vietnamese were killed. At the time there was a scramble among claimants to “plant the flag” on previously unoccupied features. Vietnam, the Philippines and Malaysia occupied a total of 22 contested Spratly features; China occupied seven.<sup>2</sup> Tensions began to subside after Chinese foreign minister Qian Qichen attended the 1995 ASEAN Regional Forum and pledged that China would seek to settle the various disputes according to international law, including UNLCOS.<sup>3</sup> As is evident, it has not worked out the way everyone hoped 18 years ago.

**How has China’s approach to the East and South China Seas disputes changed in recent years? When did that change in approach take place, and why did it take place? How, if at all, has it changed since the “Fifth Generation” of Chinese leaders assumed power?**

In mid-June 2011, China explored a more moderate approach to managing its claims in the South China Sea after it realized that its behavior in the previous two years had backfired. The purpose of this shift was to ensure that the disputes in the South China Sea did not harm China’s broader foreign policy objectives, especially its ties with regional states. China’s turn toward moderation did not last long. It unraveled during and after the standoff with the Philippines over Scarborough Shoal in April 2012.<sup>4</sup> Since then, China has returned its previous approach of taking unilateral action. While no one knows for certain why this reversal took place; in my judgment it was because Chinese leadership concluded a turn to moderation made no appreciable difference in the behavior of the Philippines and Vietnam.<sup>5</sup> At the same time growing tensions with Japan amid plans by Tokyo’s governor to purchase three of the Senkaku Islands in the ECS may also have caused China’s leadership to adopt a consistent approach toward China’s maritime claims everywhere.

China scholar Bonnie Glaser captured China’s return to assertiveness in a statement before the House Foreign Affairs Committee Hearing on “Beijing as an Emerging Power in the South China Sea.” She wrote:

China’s behavior in the South China Sea is deliberate and systematic: its actions are not the unintentional result of bureaucratic politics and poor coordination. In fact, the spate of actions by China in recent months suggests exemplary interagency coordination, civil-military control and harmonization of its political, economic and military objectives. The clear pattern of bullying and intimidation of the other

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<sup>2</sup> M. Taylor Fravel, *Strong Borders, Secure Nation: Cooperation and Conflict in China's Territorial Disputes* (Princeton: Princeton University Press, 2008), 295.

<sup>3</sup> “Qian Qichen Explains China’s ‘Clear-Cut’ Position on Spratlys Issue,” Xinhua, August 1, 1995.

<sup>4</sup> See Taylor Fravel, “All Quiet in the South China Sea.”

<sup>5</sup> From Beijing’s perspective, despite a more moderate tone, the Philippines conducted very active and public diplomacy regarding its claims including pushing for proposals that China viewed as harming its claims at the East Asian Summit, attempting to persuade ASEAN in April 2012 to negotiate a code of conduct without China and seeking international attention and support during the standoff at Scarborough Shoal. (2) Several Vietnamese actions in June 2012 probably strengthened the argument in China for a return to a more unilateral approach, including Vietnam’s first patrol of the islands with advanced Su-27 Flanker fighter aircraft flying as low as 500m over disputed features and the National Assembly’s passage of a Maritime Law that affirmed Vietnam’s claims over the Paracels and Spratlys.

claimants is evidence of a top leadership decision to escalate China's coercive diplomacy. This has implications not only for the Philippines and Vietnam, the primary targets of China's coercive efforts, but also has broader regional and global implications.<sup>6</sup>

In her statement, she also pointed out that China's claims, policies, ambitions, behavior, and capabilities are significantly different from those of other claimants:

Beijing refuses to engage in multilateral discussions on the territorial and maritime disputes in the region, preferring bilateral mechanisms where it can apply leverage over smaller, weaker parties. China rejects a role for the International Court of Justice (ICJ) or the International Tribunal on the Law of the Sea (ITLOS) in resolving the territorial and maritime disputes in the South China Sea. Although Beijing has agreed to eventually enter into negotiations to reach a Code of Conduct for the South China Sea, Chinese officials have recently stated that discussions can only take place "when conditions are ripe."<sup>7</sup>

In short, China is offering a choice. States that take actions directly challenging Chinese claims will be faced with demonstrations of Chinese power in all its various guises; if however, states pursue moderate policies or actually acquiesce to Chinese claims, they will reap mutually beneficial economic and political rewards.<sup>8</sup>

I judge that the leadership in Beijing is pleased with how things have turned out since adopting a more aggressive posture in 2012. It has successfully changed the status-quo in its favor in both Scarborough Shoal and the Senkaku's (whether Tokyo is willing to admit it or not, Beijing has demonstrated that Japan's sovereignty is NOT indisputable.)

They have highlighted the split in ASEAN between those states that border China, where the PLA can walk or drive to the frontier, and those ASEAN states that have the advantage of water or distance to separate them from China. This split over what position to take on the SCS suggests that the leadership in Beijing could conclude that ASEAN is unlikely to ever become a cohesive anti-China block. In fact, that perception is reinforced by the actions of almost all of the ASEAN states. Each works carefully to hedge its relationships between Beijing and Washington.

In sum, there is no question that Beijing has paid a political price for being assertive, in that it facilitated greater US involvement with the Philippines and Vietnam. It has made most of its neighbors very apprehensive that its current behavior is a preview of how a "fully risen" China will behave.

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<sup>6</sup> Bonnie Glaser, Statement before the House Foreign Affairs Committee, "Beijing as an Emerging Power in the South China Sea," September 12, 2012, <http://csis.org/testimony/beijing-emerging-power-south-china-sea>.

<sup>7</sup> Ibid.

<sup>8</sup> This interpretation is based upon Robert Sutter and Chin-hao Hunag, "China Muscles Opponents on South China Sea," *Comparative Connections: A Triannual E-Journal on East Asian Bilateral Relations* 14, no. 2 (September 2012), Pacific Forum CSIS, pp. 62-63. See <http://csis.org/program/comparative-connections>.

Nonetheless, I believe that Beijing believes it can manage these apprehensions because of the important trade and economic linkages it has with all of its neighbors. Beijing also realizes that its neighbors are quite aware of the fact that China is always going to be a very powerful near neighbor with a strong sense of grievance and willingness to play “hard ball” with weaker powers when its sense it is being crossed. In short, Chinese leadership recognizes that these countries are always going to live in the shadow of China, and will ultimately have to come to terms with that reality. As a result I do not anticipate any significant change in its uncompromising view of sovereignty questions.

### **How does China’s approach to the East China Sea dispute differ from its approach to the South China Sea dispute?**

At first glance, the disputes China had with the Philippines over Scarborough Shoal in the SCS, and with Japan over the Senkaku/Diaoyu in the ECS appear similar because the most visible element of Chinese involvement has been its civil maritime forces. But beyond that, the two situations are very different.

In the case of Scarborough Shoal the Philippines did not have undisputed “administrative control” of the shoal. Second, the US is not directly involved in the Scarborough Shoal because the mutual defense treaty with the Philippines does not obligate Washington to take sides over the sovereignty question of Scarborough Shoal. But, the treaty does include language related to attacks on “its [the Philippines’] armed forces, public vessels or aircraft in the Pacific.”<sup>9</sup> If China were to attack a Philippine naval or coast guard ship, Washington could find itself in a difficult position regarding its willingness to live up to treaty obligations and its perceived reliability as a security provider in East Asia. Third, China used blatant economic leverage against Philippine exports to China, fourth, China has effectively “occupied” Scarborough Shoal and has taken measures to prohibit Philippine fishermen from entering the lagoon and finally, the Philippines are essentially defenseless at sea.

In the case of the Senkaku’s, the situation is different. In the first place, the stakes are much higher because Asia’s three great powers—China, Japan and the United States are all directly involved. The Japanese do have Administrative control, a situation China is trying to change. Japan has a very capable navy and air force. On the other hand, the Senkaku’s are within easy range of the PLA’s land-based air power. The US is directly involved because the U.S.-Japan Security Alliance covers territory under Japanese administrative control—as these islands are. If China elected to use force against Japan over these islands, there is a very real possibility that the United States could become directly involved.

The ECS is much more “militarized,” than the SCS. The East China Sea is essentially home waters for the navies of China, Japan, and South Korea. As a result, it is a “local” training area for three—or, if one includes Taiwan, four—littoral navies. If one includes the United States Seventh Fleet, these are waters where all parties routinely operate their navies. This means that there encounters between the naval ships of these countries takes place routinely.

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<sup>9</sup> Mutual Defense Treaty between the United States and the Republic of the Philippines; August 30, 1951, [http://avalon.law.yale.edu/20th\\_century/phil001.asp](http://avalon.law.yale.edu/20th_century/phil001.asp).

Taiwan and the Senkaku/Diaoyu islands are at the southern portion of the East China Sea. This fact alone imbues the ECS with very important strategic significance because these are the two areas in East Asia where important Chinese interests and America's security obligations to Taiwan and Japan overlap. As a result, they are potential flashpoints that could lead to conflict between Washington and China.

All these factors, have led China to be very careful about how it elects to escalate in its efforts to force Japan to acknowledge that its claims are not in fact "indisputable." China has been the *provocateur* in the sense that it is continually testing Japanese resolve with civil aircraft overflight, and civil maritime incursions into the territorial waters of the Senkaku's. It is my impression these have been carefully calibrated to keep the pressure on Tokyo, without going too far and triggering a conflict. Beijing is clearly playing a risky game, and presumably believes it has the ability to control escalation and not let the situation lead to accidental conflict. One wonders if they are taking lessons from Pyongyang.

In this regard, I believe that the incident of a Chinese warship, "locking-up" a Japanese warship, which did not take place in the immediate vicinity of the Senkaku's, was not a Beijing directed escalation. I suspect it was an action taken independently by a nervous ships commanding officer. While China continues to deny the incident ever happened, I would not be surprised to learn that it punctured a bit of hubris in Beijing, suggesting to the leadership that perhaps its ability to control the situation was not absolute.

### **What role (if any) does Taiwan play in China's maritime disputes?**

Taiwan's claims are identical to China's. Taiwan occupies the single best piece of real estate in the Spratly's—Itu Aba Island—a former Japanese submarine base during WWII. Taiwan is also legally involved in the Senkaku/ Diaoyutai dispute. This is an issue of great personal interest to President Ma Ying Jeou, he was one of the student leaders protesting the inclusion of these islets when Washington and Tokyo signed the Okinawa reversion treaty in June 1971. He subsequently wrote his thesis at Harvard on the topic. I can attest to his continued personal involvement to this day; as a member of a delegation visiting Taipei I was able to ask him about the issue and received an impromptu explanation, in great detail, of the all the issues involved.

Stepping back from the Senkaku/Diaoyutai question, arguably, Taiwan constitutes China's biggest and most important maritime dispute. It is appropriate to remind ourselves that America's relationship with China is unique and is very different from any other bilateral relationship that Washington maintains. On many different levels—political, economic, trade, academic, personal relationships—the Sino-US relationship is normal; sometimes difficult, sometimes cordial, but overall, mutually productive and central to the peaceful development of Asia and the economic health of the world. But, the black cloud of war, because of Taiwan, hovers in the background of the relationship. Fortunately, the prospect of

war over Taiwan seems very low today, and arguably, the relationship between Taipei and Beijing is as good as it has ever been.

But, as long as Beijing insists on keeping the use of force against Taiwan as one of the central tenants of its declaratory policy toward Taiwan—keeping its finger on the trigger so to speak— the possibility of conflict cannot be ruled out. By doing so, a dynamic is generated which introduces a decisive influence on the security relationship between Beijing and Washington. Both defense establishments are actively planning, exercising, and war gaming in order to determine how best to defeat one another in case the use of force is introduced to finally resolve the relationship between Taiwan and China.

As a result, the issue of Taiwan directly affects the military posture of the US in East Asia, because of the need to maintain a deterrent capability. Long range planning that informs military modernization and future concept development in both Beijing and Washington is based on the possibility of direct conflict in case China elects to use force, the US intervenes to stop it.

**How do the defense strategies and capabilities of the other claimants (particularly Taiwan, Japan, Vietnam, and the Philippines) affect China's approach to its maritime disputes? What are the prospects for a resolution of the East China Sea and South China Sea conflicts? Discuss possible roles for international institutions, such as the UN, and regional institutions, such as ASEAN.**

Other than Japan, the defense strategies and capabilities of Taiwan, Vietnam and the Philippines, as they relate to maritime disputes are negligible when compared to the PLA Navy. The episodic US history of attempting to help the Philippine military improve its air and naval capabilities suggests underwriting a Philippine military and a naval modernization program adequate to deter Chinese assertiveness would be difficult. It would probably be a generational effort with a mixed prospect of success. That does not mean the United States should not attempt to do so, but the approach should not be a short term incremental one such as providing two 40 odd year old former US Coast Guard cutters that will be very difficult to maintain; it must be a sustained effort that is adequately funded and be based on a long term plan.

Given what appears to be the legally questionable basis for the Philippines' claims in the Spratlys, agreeing that the U.S.-Philippines Mutual Defense Treaty embraces territory claimed by the Philippines in the SCS would be a very risky attempt at deterrence.

Vietnam, on the other hand, has already begun an effort, largely supplied by Russia, to defend its maritime approaches and territory. Perhaps U.S. assistance in organizing its command and control of its new capabilities would be useful, as would U.S.-supplied real-time surveillance of its maritime areas of interests. If Vietnamese plans all reach fruition, and the country is able to knit its new capabilities together and combine them with effective maritime surveillance, then in few years Vietnam could have in place an effective way to deter a replay in the Spratlys of Beijing's seizure of the Paracel Islands in 1975.

The Philippines have also been forward leaning legally. On 22 January 2013, the Philippines officially

notified China that it had instituted arbitral proceedings against China under Annex VII of the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The legal challenge is focused primarily on China's claim to rights and jurisdiction in the maritime space inside the infamous nine-dash line on Chinese maps of the South China Sea. The International Tribunal for Law of the Sea (ITLOS) in Hamburg, Germany is preparing to conduct the proceedings.

This is significant because even if China refuses to participate, as it has so far, the tribunal will go forward. If the tribunal issues a finding it will be legally binding on both China and the Philippines. The issue of sovereignty will not be resolved because determinations of sovereignty is beyond the legal writ of UNCLOS, but the Philippines could achieve a major legal victory if the Tribunal rules that China cannot make claims to maritime space based on history and the nine-dash line.<sup>10</sup>

### **What roles should the U.S. play in the SCS in reaching resolutions?**

In terms of US involvement, when it comes to U.S. policy choices, clearly, the range of options for Washington is not infinite; only four policy approaches seem possible. They could be generally divided into the categories below, which are not necessarily mutually exclusive:

1. *Make the situation better.* The United States could work to reduce the risk of conflict escalation. This could involve direct U.S. mediation—for example, active involvement in trying to reconcile the competing claims of the Philippines, Vietnam, and Malaysia. By negotiating a resolution to these differences, the United States would set a positive example for subsequent resolution with China, make it easier for ASEAN to speak with one voice to China, and create useful legal precedents that could more broadly apply to other maritime disputes in East Asia.
2. *Wash our hands of the entire problem.* Washington could try to turn the SCS matter over to a regional power such as Indonesia, and indicate to Beijing that the Sino-U.S. relationship is more important to Washington, over the long run, than becoming involved in SCS territorial disputes. At the same time, Washington could make it clear that such a policy would not be offering a “green light” for Beijing to use force but is merely a statement of the obvious fact that United has no important interests at stake so long as high seas freedoms are respected.
3. *Take a much more assertive posture with China.* The United States could take sides, especially by improving its own capabilities and other claimants' military postures. In so doing, it would adopt a posture clearly aimed at deterring Chinese attempts to coerce. This policy would risk turning the Sino-U.S. relationship into one of confrontation that

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<sup>10</sup> Robert Beckman, “The Philippines v. China Case and the the South China Sea Disputes,” <http://cil.nus.edu.sg/programmes-and-activities/cil-members-activities/director-beckmans-paper-from-asia-society-conference-on-south-china-sea/>

would make East Asia less stable and force many countries in the region into difficult choices that might not be resolved in favor of the United States.

4. *Enhance the status quo.* While undertaking no change in official U.S. policy, Washington could become more explicit about its views. For example, the State Department could issue a White Paper that spelled out what the U.S. consider to be claims in the SCS that are beyond the writ of UNCLOS and general international law. Such a paper would address in very explicit terms what baselines are considered excessive, what islands or islets qualify for an EEZ, and what the United States means by “freedom of navigation.” Even though the United States has not ratified UNCLOS, it can still read and interpret international maritime law.

**What are the most volatile factors in East and South China Sea security situations that could lead to conflict or military contingencies? What roles would the U.S. play in those scenarios? Describe possible Chinese strategies in East or South China Sea military contingencies.**

In terms of volatility, Taiwan clearly remains at the center of the PLA-DOD contingency planning universe. Worries about US military intervention created the demand signal for China’s “counter intervention” capability build-up; this is what DOD refers to as anti-access/area-denial (A2/AD), which in turn has led to DOD’s riposte, Air-Sea Battle (ASB). But as mentioned the security situation across the Taiwan Strait remains calm, and seems likely to remain that way at through the end of President Ma’s term in 2016.

The Senkaku situation is the biggest concern at the moment. It is unlikely that the US will ever acknowledge Japanese sovereignty over the Senkaku’s, although Tokyo certainly hopes we will. The islets were returned to Japanese control via the Okinawa Reversion Agreement. During ratification of the Agreement in the US Senate, the United States specified that the Reversion Agreement did not affect the determination of ultimate sovereignty over “disputed islands.”

So while the U.S. does not have a policy position on ultimate sovereignty, Washington has concluded that so long as they are under Japanese administrative control they are part of Japanese territory that the United States is treaty bound to defend. Any ambiguity regarding the U.S. position was removed in October of 2010 when Secretary of State Clinton publically affirmed that in fact the Senkaku’s were covered under article 5 of the US-Japan Security Treaty.

This means that Washington has committed itself to possible conflict with China in defense of the islands. While this was an important step in reassuring Japan, as well as deter Chinese impetuosity, while indirectly reassuring other US allies in Asia that Washington would not abandon its friends when they faced Chinese pressure; it has created another potential Sino-US flashpoint in addition to Taiwan.



Could this lead to a kinetic exchange between the US and China--perhaps. During his recent visit to Washington, Japan's Prime Minister Abe, in response to a question following a presentation at a Washington based think-tank, indicated that Japan would defend the Senkaku's. He said, "On the Senkaku's, our intention is not to ask the US to say or do this or that. We intend to protect our own territory now and in the future."<sup>11</sup>

I hope that is the message the White House communicated; make it clear that the US expects Japan to take the lead in defense of its own territory while the US will provide essential back-up support, such as surveillance, logistics, and technical advice. Washington should try very hard to avoid getting into a direct shooting war with the PLA over uninhabited islets that have no indigenous population, no geo-strategic value, and no intrinsic value in and of themselves.

Would insisting that Japan take the lead in the defense of its islets harm US credibility as a reliable ally and as a counter balance to China? Possibly, but the reality is that the countries who live in the shadow of China have no other realistic choices except the United States if they don't want to become Chinese "tribute states." The point Washington could make, is that a commitment of US blood and treasure to a direct conflict with China will only be undertaken to repel outright aggression, in the case of Japan, against Japan's occupied home islands.

This would not be dissimilar to America's long standing position regarding the prospect of conflict on the Korean peninsula. US troops are present to deter an invasion, or if that fails to fight to repel the invasion. For decades, Washington has not been willing to risk escalation to general war by striking back when North Korea commits an outrageous provocation. This is why it was so nervous about the Blue Houses' "proactive deterrent" policy (an avowed willingness to respond in kind) in the wake of the North Korean shelling of Yeonpyeong Island in November 2010.

Obviously, conflict in the vicinity of the Senkaku's could also happen if the PLA starts shooting at US ships or airplanes. Given the relatively constrained water and air space surrounding the Senkaku's the possibility of "buck fever" by PLA and/or MSDF participants who have not been in a shooting war in many decades cannot be overlooked. Given this possibility I would hope that the US imposes relatively tight Rules of Engagement (ROE) on US forces in the vicinity.

Finally, an incident involving US surveillance by either aircraft or surface ship take place in China's EEZ, either in the ECS or the SCS, that could lead to a military confrontation.

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<sup>11</sup> Quoted in Chris Nelson, "The Nelson Report for February 23, 2013"

**OPENING STATEMENT OF DR. MICHAEL SWAINE  
SENIOR ASSOCIATE, ASIA PROGRAM  
CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE**

DR. SWAINE: Thank you very much. Good morning.

Other than the Taiwan issue and possibly a North Korean meltdown scenario, maritime disputes involving China pose the greatest potential for triggering severe crises and conflict in East Asia.

There's a nasty combination of factors that make this the case. Many of these involve nationalism and historical memories. They also involve a greater attention by the publics involved among all the claimants for a variety of reasons. They obviously involve sovereignty issues, which sets up a kind of zero-sum mindset that makes compromise very difficult.

They include resource questions, and potentially great resource discoveries, particularly in the South China Sea. They also include the growing capacity of the claimants to act, which is a big factor as well; the absence of binding rules for conflict resolution or dispute resolution; deep-seated suspicions of motives and goals on all sides, including, of course, towards the United States, in some cases, particularly from China; uncertainty about U.S. staying power, and also allied desires in this context to deepen American support for them in these territorial disputes; and then finally the pattern of crisis behavior that the claimants are involved in, particularly on the Chinese side.

China, in dealing with many of these types of crises, not just these maritime sovereignty disputes, takes a certain approach that can at times be very escalatory and can be viewed as excessive on the part of outsiders who look at this. They strongly prize the show of resolve and taking advantage of opportunities, and this can be compounded as a difficulty because of the possibility of poor coordination over some local actors who are involved, and there are many of them on the Chinese side.

Second point I'd like to make is that increased assertiveness among all the major claimants that occurred, basically since 2007, has been generally triggered by increased efforts to explore resources and the deployment of greater numbers of ships and also fishing vessels in the area.

Although usually responding to the actions of others, Beijing has taken very strong and, as I said, at times excessive, I would say, measures, especially in recent years. Four examples are particularly notable: the cutting of a towed array cable that the Vietnamese were pulling in May 2011; of course, the seizure of Scarborough Shoal and the dispute that erupted in April of 2012; the announcement of exploration blocks in June 2012 that were within the EEZ of Vietnam by China; and the initiation of regular incursions by China into the Senkaku/Diaoyu islands region beginning in October 2012 in the most recent and current crisis.

The motives here on the Chinese side appear to be to increase deterrence capacity and in some cases to establish a more favorable new status quo

in response to a perceived effort by others to alter the old status quo or to violate an existing understanding.

Now, Xi Jinping and the new leadership are certainly no less tough in their approach to dealing with these issues than previous leaders and possibly more so. And it is possible that Xi Jinping is directly involved in these activities because of his placement on two critical organizations that are responsible for overseeing maritime disputes or issues related to maritime disputes.

Beijing is also clearly using its growing economic strength to increase its physical presence and its monitoring and response capacity in these areas, acting from an existing relatively weak position. It did not hold and does not hold most of the islands in the Spratlys area, and it did not have any administrative presence or any other presence around the Senkaku/Diaoyu islands, of course, before this crisis occurred.

Third, none of the claimants have a strong incentive, in my view, to resort to military force to dislodge others or prevent entrance into disputed areas. China tries to keep a clear line between civilian and military instruments in dealing with these disputes and not to be the first to use military force.

But it is very much strengthening its civilian capabilities to use force if necessary, and it's prepared to employ its military, I would argue, if necessary, but almost certainly in response to what it would perceive to be as a use of the military by other claimants.

Beijing's strategy remains to seek a negotiation-based approach that preserves regional peace and development. At the same time, it seeks to maintain what it regards as a necessary and resolute defense against perceived attempts by others to undermine China's diplomatic, legal, political, economic, and military position.

Now, these twin goals are really, of course, in tension with each other, and they can create a major challenge for Beijing. On the one part, they don't want to have a use of force emerge or an escalating arms race over this issue. On the other hand, they definitely want to defend against and respond with energy to what they perceive to be as others' actions that violate the status quo or threaten their underlying interests or their stance and the condition in these areas.

Now, Beijing has put negotiation of a binding code of conduct in the South China Sea--although it has said it supports this, it's really put it on hold for a variety of different reasons, and we can discuss those in the question and answer, if you'd like, but I think I'm going to run out of time if I go into them now. There are several of them.

Now, getting on to the U.S., there are several U.S. interests engaged in this issue, of course, including the maintenance of a peaceful security environment in Asia, the encouragement of rule of law, the resolution of interstate disputes through negotiation, and the maintenance of freedom of navigation.

In protecting these interests, the U.S. also has an interest in supporting its allies while avoiding actions that serve to exacerbate security competition and promote the emergence of a zero-sum security relationship with the Chinese.

Advancing all of these interests simultaneously poses a significant challenge, especially during a period when Washington's capacity to influence events could be declining. Washington should do its utmost, in my view, to encourage and support the existing efforts to develop a binding code of conduct upon which all parties can agree. It needs to work with all sides to develop a process whereby China's reservations and ASEAN's differences toward this effort can be addressed and resolved step-by-step.

It needs to guard against the natural tendency of its allies to use its involvement in these disputes to elicit the kind of support that could exacerbate tensions or further polarization.

Washington should also encourage, in my view, the joint development of resources in disputed areas, possibly through the establishment of new entities and processes.

Washington should also strive to separate as much as possible, in my view, these disputes from the larger question of its evolving strategic relationship with China. Now, it's inevitable that there is connection here, and that the actions in these areas can have an impact on the larger strategic environment, but I don't think the United States should go in with an assumption that what we're dealing with here is a basic issue of strategic balance of power within Asia as a whole.

All of this requires sustained diplomacy through close personal interactions with all parties as opposed to occasional statements and meetings conducted on a selective basis.

In general, however, I would say that Washington should strive to keep as low a profile publicly as possible while working energetically on the private level.

Thank you very much.

PREPARED STATEMENT OF DR. MICHAEL SWAINE  
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## CHINA'S MARITIME DISPUTES IN THE EAST AND SOUTH CHINA SEAS

Testimony by **Dr. Michael D. Swaine**  
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U.S.-China Economic and Security Review Commission  
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## Introduction

China's disputes with other states over territorial sovereignty and resource claims in the East and South China Seas constitute one of three related but distinct categories of maritime disputes or sets of concerns between Beijing and other nations.

Aside from the Taiwan issue (which is arguably a maritime dispute of sorts, but not the focus of this hearing), maritime sovereignty and resource disputes center on (a) the Sino-Japanese imbroglio concerning both overlapping maritime resource claims and sovereign control over the Senkaku/Diaoyu islands northeast of Taiwan, and (b) the complex web of disputes between Beijing and several Southeast Asian entities (Vietnam, the Philippines, Malaysia, Brunei, and Taiwan) over many islands, atolls, reefs, and shoals in the South China Sea.

A second set of disputes centers on the activities of naval military operations within China's Exclusive Economic Zone (EEZ) and non-demarcated "near seas" (*jinhai*), including U.S. Navy ISR operations and exercises along China's coastline, allied concerns over PLAN naval transits and the growing PLAN presence in sensitive waters near other states, and contending interpretations of the rights of foreign navies to operate in EEZs, as defined by the UN Convention on the Law of the Sea (UNCLOS).

On the broadest level, a third set of concerns (they have not yet risen to the level of an active dispute, constituting instead an intensifying competition) is more strategic in nature, affecting the entire area of the so-called "first island chain" stretching from Japan to Southeast Asia. They derive from the contradiction between a long-standing American assumption of the need to maintain military supremacy across the Western Pacific and the recently emerging Chinese capability to challenge certain elements of that supremacy, largely through the deployment of increasingly capable "counter-intervention" or anti-access, area-denial (A2/AD)-type weapons systems along China's maritime periphery.

This contradiction to some extent underlies and sharpens the above two categories of disputes by placing them in a larger strategic context involving the shifting balance of power in the Western Pacific. That is, maritime disputes in the other two narrower areas take on a degree of potential strategic significance because many observers view them as possible indicators of this shifting military balance. In particular, the increasing capabilities and resolve that Beijing is displaying in its disputes with the U.S. and other nations over the above two sets of maritime issues are viewed as an indirect challenge to the overall maritime status quo as defined largely by Washington.

Taken as a whole, these maritime issues are vitally important because they constitute the single most likely and significant potential source of instability, and even military conflict, with China over both the near and at least the medium (if not the long) term. Moreover, such dangers—and especially those associated with the disputes in the East and South China Seas—are particularly acute as a result of the involvement of strong (and apparently rising) nationalist emotions on all sides, and the overall zero-sum nature of the sovereignty issues involved, which inclines claimants to adopt absolutist stances and in many instances overreact to perceived challenges to one's position.

As the dominant maritime power in the Western Pacific, with a strong commitment to maintaining peace and stability in the region, and as an Asian power with specific political, economic, and security relations with two regional allies involved in the above disputes (Japan and the Philippines), the United States is fated to play a major role in managing these volatile issues. Indeed, in recent years, Washington has taken a much more

active and direct role in the maritime disputes in the South and East China Seas.

In order to contribute to the effective management of these disputes, and of China's role in particular, it is vitally important for Washington to understand clearly their origins and drivers, especially in the case of China, as well as the limits, strengths, and dangers of various types of possible future U.S. responses. The following sections will address these issues, and specifically answer several of the questions posed by the Commission.

### **General Origins and Drivers**

As suggested above, many factors are acting to intensify the maritime disputes in the East and South China Seas. While some of these are directly associated with China, others are not. The most China-centric drivers include: Beijing's overall increasing regional power and influence on one hand; and arguably intensifying levels of Chinese nationalism and the related impact of social media—such as blogs and messaging via smart phones—among the Chinese populace on the other hand.

Regarding the former, in recent years, Beijing has significantly increased its capacity to operate both military and non-military (or para-military) naval and air assets along its littoral, thereby enhancing its ability to assert its long-standing and largely unchanged claims, through a greater overall maritime presence and an increased ability to police disputed areas and respond to the actions of others. Although other claimants are also striving to increase their capacities in a similar manner, Beijing has thus far arguably been the most successful, in large part due to its growing economic capacity.

The latter driver of Chinese behavior (i.e., social media) has served to intensify and expand the public's awareness, in real time, of apparent challenges or behavior by other states to Chinese sovereignty claims, thereby placing greater pressure on the Chinese leadership to respond quickly and resolutely. Chinese citizens hear about sovereignty-related incidents soon after they occur, exchange responses with one another through social media in ways that often escalate exponentially in very rapid fashion, and often make excessive and sometimes ridiculous demands of the PRC government. Although Beijing is by no means a passive recipient of such pressures, it is arguably fearful of appearing weak or inactive in the face of such strong public sentiment.

The intensity of the Chinese response to sovereignty-related challenges or issues is reinforced by the emotional association of those issues with the violations of China's sovereignty that occurred during China's so-called "Century of Humiliation" at the hands of foreigners (extending from the mid-19<sup>th</sup> to the mid-20<sup>th</sup> centuries), and the fact that China's collective leadership in general is arguably more concerned today with image concerns and public pressures than in the past. Add to this the increasing level of strategic distrust existing between Washington and Beijing, which fuel Chinese suspicions of U.S. manipulation of these disputes, and the result is an acute level of concern and a tendency toward over-reaction on the part of both Chinese leaders and general public. Of course, nationalism, social media, and historical experiences also affect the behavior of other claimants. But Chinese pride and resentment, and the sheer size of China's population, makes China's behavior especially notable and intense.

Other factors that are contributing to the growing intensity of maritime sovereignty disputes include an overall trend among regional states in general to pay greater attention to the actual or potential resource benefits existing within contested maritime areas, the greater economic and hence military and para-military capacity of the participants, and the overall greater attention paid to external (as opposed to domestic) security challenges by

many claimants. All this suggests that the changing nature of East Asia societies and economies to some extent drives the growing activism of *all* claimants.

Finally, another set of factors that drive both assertive behavior and fearful concerns among the claimants in maritime disputes is the uncertainty created by America's current economic and political problems. For many Asians, the possibility of an America in decline leads to a questioning of the sustainability and effectiveness of U.S. military power in the Western Pacific and perhaps, in the case of China, an effort to push back more energetically against what is perceived as a growing American attempt to contain Beijing, in part through Washington's greater involvement in maritime disputes.

This uncertainty, along with Washington's avowed desire to pay greater attention to the Asia-Pacific region, also increases incentives among those Asian nations contending with China in maritime disputes to draw the U.S. more actively into those disputes on their side. This is inevitable to some extent, at least with regard to the U.S. allies involved. But such a dynamic can also worsen the situation if improperly handled.

### **How Does China's Behavior Differ?**

As the above suggests, the increasing pattern of assertiveness witnessed in maritime disputes occurring in the East and South China Seas is part of a competitive dynamic among *all* the states involved. Vietnam, the Philippines, Japan, Taiwan, and China have all engaged in highly assertive behavior in recent years, either independently of actions taken by others, or in apparent response to perceived "provocations." These actions include the passage of new domestic laws and regulations of relevance, the establishment of new administrative entities, the public submission of more clearly defined claims (usually in response to international bodies), increased attempts to explore for or extract both oceanic and energy resources in disputed waters, the increased detainment of fishermen, provocative statements by officials, apparent attempts to alter the legal status or depiction of disputed territories, and overall increases in the scope and/or frequency of patrols. Many of these activities are listed in the table below, supplied by Taylor Fravel.

These and other actions have at times led to an increased reliance on coercion, intimidation, and the use of force, along with more absolutist, inflammatory, and provocative rhetoric by some of the claimants. In recent years, China in particular has engaged in some forms of both types of behavior. Of course, from Beijing's perspective, much of its behavior has been in response to what it views as clearly provocative actions taken by others, either to alter the status quo or to depart from previously agreed upon ways of managing a long-standing dispute.

This might indeed be true in several cases. Moreover, there is little evidence that China has altered either its basic national security strategy in Asia or its core policy toward maritime disputes. It remains supportive of a strategy designed to ensure regional peace and development, requiring efforts to limit and control disputes through negotiation, sustain or deepen various forms of cooperation with neighbors, and generally avoid conflict. At the same time, it seeks to maintain what it regards as a necessary and resolute defense against perceived attempts by others to undermine China's diplomatic, legal, political, economic, and military position involving maritime and other sovereignty disputes.

These twin objectives obviously exist in some tension with one another (i.e., the latter goal can often require, from Beijing's perspective, actions that undermine the former goal). Indeed, while usually professing a desire to avoid confrontation and conflict, Beijing often resorts to language and behavior toward maritime disputes that is overly emotional and escalatory. This has been particularly evident in the current crisis with Japan over



the Senkaku/Diaoyu islands, where Beijing at times employs inflammatory language and is clearly engaged in an effort to compel Japan to acknowledge the existence of a dispute over the issue and accept in some way China's assertion of administrative authority over the islands.

In such efforts, Beijing seems to adopt the view that it must “make up lost ground” or “end unacceptable practices once and for all” in order to prevent an erosion of its position. In general, this viewpoint apparently results in efforts to defend against future challenges to its claims and strengthen its basic position by generally increasing its overall ability to patrol and operate in disputed areas. All of this might be viewed by Beijing as defensive and precautionary, but many others view it differently.

Indeed, China has a greater capacity, and perhaps a greater willingness than other claimants, to engage in escalatory or provocative actions, for several reasons. Some have already been mentioned, such as a strong and growing economy and a particular form of nationalism tinged with bitter historical memories. Others include a tendency to regard sovereignty disputes in moralistic terms—as issues of simple right and wrong, good and bad behavior—requiring an uncompromising stance. Yet others include a crisis management approach that emphasizes signaling strong resolve, creating inexorable momentum, responding in a rigid “tit-for-tat” manner, and in some cases acting before a window of opportunity closes or a window of vulnerability opens.

All of these features, reinforced by the possibility of uncertain control over a multitude of local actors (e.g., oil companies, fishermen, scientists, maritime law enforcement agencies, local governments, and the military) can explain to a great extent why Beijing, among many assertive actors, seems prone to a particularly strong form of assertive and at times unpredictable behavior. That said, it is important to keep in mind that Beijing makes a strong distinction between civilian and military instruments in addressing territorial disputes. Although the military usually serves as a (often distant) backstop for the actions of civilian maritime agencies, China's “gray-hulled” naval ships do not become directly involved in disputes. For the Chinese, such involvement stands as a *de facto* red line for all sides involved.

**How does China demonstrate and enforce its maritime territorial claims? What role does the PLA Navy play in China's approach to its maritime conflicts? How does that differ from the role of Chinese maritime law enforcement agencies?**

To enforce its claims, Beijing primarily employs a growing number of non-military naval ships and some aircraft variously attached to its so-called Five Dragons. These include the Border Control Department's China Maritime Police, the Maritime Safety Administration, the Fisheries Law Enforcement Command or FLEC (under the Fisheries Administration Bureau), and the General Administration of Customs and the State Oceanic Administration (particularly its China Maritime Surveillance agency, or CMS). Among these entities, the FLEC and CMS possess the most vessels, with around forty over 1,000 tons. A small minority of these vessels are apparently armed with heavy machine guns. However, both agencies have also reportedly received a few decommissioned warships, with uncertain (if any) armament. Overall, the CMS, the most capable enforcement entity regarding maritime issues, intends to add 36 new ships in the 600-, 1,000-, and 1,500-ton category by 2015.

These ships undertake a variety of operations, including patrolling, exercising, escorting fishing fleets, and responding to perceived violations of claimed territories and waters under Chinese authority.

In addition, China's large fleet of fishing vessels often serves to demonstrate China's claim to maritime areas by operating in disputed waters. These fishing vessels for the most part operate seasonally and apparently not always under the control of a coordinating agency.

The PLA Navy (PLAN) does not take a direct role in enforcing China's maritime territorial claims. As indicated above, Beijing draws a strong line between civilian and military entities in managing such claims, with the former "white-hulled" vessels of the CMS and FLEC playing the lead role. PLAN warships at times provide "stand-off" support during actions that could escalate. However, the overall intent is to avoid militarizing disputes, unless of course an opponent employs military assets. In such a case, Beijing will almost certainly respond similarly, in a classic "tit-for-tat" manner.

Some PLAN vessels have been involved in joint civilian-military maritime exercises in the vicinity of disputed areas, although these activities often focus on non-belligerent missions such as salvage or search and rescue.

**How has China's approach to the East and South China Seas disputes changed in recent years? When did that change in approach take place, and why did it take place? How, if at all, has it changed since the "Fifth Generation" of Chinese leaders assumed power?**

Since approximately 2007, Beijing has undertaken a variety of greater actions to reinforce and assert its claims, including increases in the numbers of vessels and frequency of patrols and training exercises, the creation of new administrative entities and the elevation of existing entities, the announcement of parcels for development in disputed waters, the cutting of seismic towed arrays by another claimant, efforts to create a new status quo in specific cases by taking control of one land feature (Scarborough Shoal) and undertaking sustained incursions into the nearby airspace and waters of a disputed group of islands (Senkaku/Diaoyu islands), and a variety of diplomatic and not-so-diplomatic actions, from demarches to the submission of formal explanations or claims to international bodies and the leveling of threats or warnings against foreign oil companies.

This general pattern of increased activity has occurred in ebbs and flows, with particularly intense periods in 2008, spring 2011, spring/summer 2012, and at present, over the Senkaku/Diaoyu islands.

The primary cause of most (but not all) of China's increased activity has been the actions of other claimants, combined with Beijing's increased overall capacity to place assets in disputed areas. As Taylor Fravel, myself, and other analysts have pointed out, China's more assertive actions have been largely part of an interactive dynamic among several claimants (including most notably Vietnam, the Philippines, and Japan, in addition to China).

For example, Fravel states:

[China's] diplomatic demarches to foreign oil companies in 2006 and 2007....responded to increased Vietnamese exploration in waters that China claims. Likewise, the dramatic increase in the detention of Vietnamese fishing boats in 2009 coincides with an increased presence of Vietnamese ships in the waters around the Paracels, often within the territorial seas that China claims around these islands. The June 2012 announcement by CNOOC of new blocks in disputed parts of the South China Sea was likely a response to Vietnam's maritime law. The June 2012 bureaucratic elevation of "Sansha" from county to a prefectural-level city was also likely a response to what China viewed as Philippine and Vietnamese efforts to strengthen their own claims.

Source: Taylor Fravel, “Growing Competition in the South China Sea,” unpublished paper.

The attached table, listing the major actions taken by China, Vietnam, and the Philippines in the South China Sea in the past few years, confirms the interactivity of territorial disputes and the reactive nature of assertive policies by claimant states.

Although usually intended as a kind of “tit-for-tat” response, as indicated above, in some instances Beijing has responded in a deliberately escalatory manner, seeking to create a new status quo in its favor or to undertake a more muscular or aggressive action in order to convey resolve and deter further escalations by others. Examples of such behavior include the cable cutting incident in May 2011, the seizure of Scarborough Shoal in April 2012, the announcement of exploration blocks in June 2012, and the initiation of regular incursions into the Senkaku/Diaoyu islands region in October 2012.

Some analysts believe that these and other actions are part of an overall deliberate Chinese strategy to utilize perceived provocations in order to justify pre-planned actions to change the status quo. This suggests that Beijing might even create incidents to strengthen its claims. However, this interpretation of Beijing’s behavior lacks conclusive evidence at present and thus remains a hypothesis at best. An equally plausible alternative explanation is that China largely reacts to perceived attempts by others (e.g., Manila and Tokyo) to alter the status quo by itself establishing a new status quo.

In any event, it is important to keep in mind that, at least in the South China Sea, as Fravel observes, “...the level of tension...has not yet reached the instability that the region witnessed from 1988 to 1995. ... In particular, the dispute has not yet been militarized. Claimants have not resorted to the use of force and the threat of force has usually been indirect.”

Speculation abounds concerning the impact of Xi Jinping and the new leadership on the above dynamic. It is possible that Xi has exerted a major influence on China’s handling thus far of both the Scarborough Shoal and Senkaku/Diaoyu islands incidents. Since at least mid-2012, he apparently has served as the major senior member of two oversight bodies, one formed to deal with maritime security issues in general and the other the Senkaku/Diaoyu islands crisis in particular. According to some analysts, Xi personally approved a step-by-step plan to intensify pressure on Japan, thereby rejecting a more moderate approach advocated by some in the Ministry of Foreign Affairs. Others point to Xi’s past experience with the PLA, his famous PLA wife (a well-known singer of patriotic songs), his espousal of the “China Dream” concept that allegedly envisions a strong nation with a strong military, and his high-profile visits to military facilities to support the notion that the new leadership will employ a far more muscular, military-oriented foreign policy under his leadership, especially toward maritime and other sovereignty disputes. At present, however, this general conclusion is largely speculative, another interesting hypothesis that awaits more conclusive evidence.

### **How does China’s approach to the East China Sea dispute differ from its approach to the South China Sea dispute?**

As indicated above, in both the Scarborough Shoal and Senkaku/Diaoyu islands incidents, Beijing responded to a perceived effort to violate an existing status quo by establishing a new status quo. In the former, the Philippines was seen to be altering its past approach by dispatching a naval warship to the area and by apparently arresting Chinese fishermen inside the shoal. China’s leaders likely viewed such actions as part of a broader pattern of escalatory behavior undertaken by Manila since at least mid-2011 (see below table). In the latter,

Tokyo was perceived as altering the sovereignty status of the islands by purchasing three of them from private owners. In addition, China's overall stance toward claimed territories in both areas has been broadly similar, involving "indisputable" assertions of sovereign authority. Also, in enforcing its claim, China has employed primarily civilian assets in both cases, as described above.

That said, in the case of its East China Sea dispute with Japan, Beijing obviously is dealing with a more formidable opponent that enjoys very close political and military ties with Washington, including the nearby presence of U.S. forces. In the case of the South China Sea disputes, Beijing is facing several opponents with vastly weaker capabilities and somewhat differing approaches. One might think that these differences would lead Beijing to display greater caution in its approach to Tokyo. To some extent, this is probably the case. For example, it is highly unlikely that Beijing will attempt to forcibly seize the Senkaku/Diaoyu islands absent a major perceived provocation by Tokyo (and even then, the likelihood of such an action is not guaranteed). Moreover, Beijing has apparently closely controlled its incursions into disputed waters and airspace in recent months and avoided the most provocative behavior, such as an attempt to place personnel on any of the islands.

At the same time, Beijing's "restraint" is counterbalanced, in the case of the Senkaku/Diaoyu islands crisis, by the depth of nationalist antipathy toward Japan felt by many Chinese. This arguably inclines Beijing toward a level of inflammatory rhetoric and other "tough" verbal postures generally not evident in the case of South China Sea disputes. This also presents a greater possibility of Beijing falling into a more dangerous "commitment trap" vis-à-vis Japan in which it issues warnings or takes a stance from which it is loath to retreat.

**What are the prospects for a resolution of the East China Sea and South China Sea conflicts? Discuss possible roles for international institutions, such as the UN, and regional institutions, such as ASEAN.**

The prospects over the short- to medium- term are not good. The combination of absolutist stances on sovereignty, intense nationalism, high public awareness, potentially major economic incentives, increasing civilian and military capabilities among the claimants, strategic calculations, and the absence of either clear and binding legal or other procedures or a supra-national authority to arbitrate or enforce disputes combine to prevent any significant movement toward any "resolution." That said, a more stable basis for mediating and hence controlling disputes among the claimants is conceivably possible. All of the actors involved have an incentive to prevent an intense arms race or escalating pattern of confrontation and conflict over disputed maritime territories. In the case of China, such outcomes would threaten its overall "peace and development" strategy and reinforce the notion that it is unwilling to develop or utilize legal procedures or norms to resolve differences with its neighbors.

International institutions such as the UN or ASEAN might play a greater role in encouraging a binding code of conduct or similar set of procedures or confidence building measures. However, this would require significant agreement among all the claimants to utilize such an approach. Unfortunately, such unanimity does not exist, either within the ASEAN membership or between China and other claimants. Although committed to a bilateral approach in negotiating any resolution of the conflicting territorial claims, Beijing is apparently willing to develop at some point a binding code of conduct to maintain stability until a resolution is possible. Little progress has occurred in this effort, however, largely because of differences within ASEAN and, more importantly, due to Beijing's insistence that conditions for a binding code are "not ripe," for a variety of reasons. Unless Beijing becomes convinced that moving toward a binding code of conduct is preferable to the unstable status quo, progress will remain unlikely.

### **What roles should the U.S. play in reaching resolutions?**

Several U.S. interests are engaged on this issue, including the preservation of a peaceful security environment in Asia, the encouragement of rule of law and the resolution of interstate disputes through negotiation, and the maintenance of freedom of navigation. In protecting these interests, the U.S. also has an interest in supporting its allies while avoiding actions that serve to exacerbate security competition and promote the emergence of a zero-sum security relationship with China. Advancing all of these interests simultaneously poses a significant challenge, especially during a period when Washington's capacity to influence events could be declining.

Obviously, Washington should do its utmost to encourage and support the existing effort to develop a binding code of conduct upon which all parties can agree. To do this, it needs to work with all sides to develop a process whereby China's reservations and ASEAN's differences can be addressed and resolved step by step. In this effort, it should avoid taking positions that appear to place it on one side or the other, as it has sometimes done in the past. In particular, attempts to encourage ASEAN states to develop greater unity should be undertaken simultaneously with any interactions with China, in order to avoid the impression that Washington is focused on strengthening ASEAN's ability to confront Beijing as a bloc. Washington must also guard against the natural tendency of its allies to use its involvement in these disputes to elicit the kind of support that could exacerbate tensions or further polarization. U.S. officials are aware of these issues, but awareness and behavior are not the same thing.

All of this will require sustained diplomacy through close, personal interactions with all parties, as opposed to occasional statements and meetings conducted on a selective basis. In general, Washington should strive to keep a low public profile while working energetically on the private level.

In addition to efforts aimed at avoiding future incidents, Washington should also encourage the joint development of resources in disputed areas, possibly through the establishment of new entities and processes. For example, it should consider supporting the formation of a type of multi-national joint venture with both legal and commercial elements, as recently advocated by Parag Khanna and John Gilman. As they state:

This special purpose vehicle would adjudicate the exploration rights of ships registered and recognized by it in order to continue to guarantee freedom of navigation and passage for shipping, while also respecting environmental concerns with respect to economic development. Existing occupations of territories would not be forcibly overturned, but the sovereignty question would be shelved for the time being without recognizing or dismissing the claims of the current parties to the dispute.

Source: Parag Khanna and John Gilman, CNN Opinion, November 13, 2012, on <http://www.cnn.com/2012/11/13/opinion/khanna-south-china-sea-dispute>

There is no quick fix or silver bullet for resolving these complex and long-standing maritime disputes. It will require patience, restraint, sustained effort, and a very deft hand on the part of the United States. Moreover, in all of its efforts, Washington should strive to separate as much as possible these disputes from the larger question of its evolving strategic relationship with China. Many members of the media and outside analysts make such connections on a regular basis, by viewing each American or Chinese action with regard to the disputes as an indicator of alleged U.S. containment of China, Beijing's presumed search for regional preeminence, or an effort to create exclusionary spheres of influence. While the manner in which both Washington and Beijing address the disputes can certainly have an effect on their larger strategic relationship, each maritime incident or action should

not be regarded as a measure of the above larger strategic issues. Ultimately, these disputes are about Asian nationalism and historical memories, not geostrategy, which should instill considerable caution among U.S. policymakers.

### **Major Actions in the South China Sea (Supplied by Taylor Fravel)**

- 2006-2007: Vietnam increases offshore petroleum exploration projects in waters claimed by China.
- 2006: The State Oceanographic Administration's Marine Surveillance force begins regular patrols in the South China Sea.
- 2007-2008: China's Ministry of Foreign Affairs issues demarches and threats against foreign oil companies investing in Vietnam.
- January 2007: The Fourth Plenum of the Vietnam Communist Party's Central Committee adopts a resolution mandating the development of a national 'Maritime Strategy Towards the Year 2020.' The strategy envisions that maritime industries, especially fishing and petroleum, would account for 55 percent of GDP in 2020, up from 48 percent in 2005.
- April 2007: Vietnam establishes one township and two communes in the Truong Sa (Spratly Island) District that administers the Spratly Islands
- November 2007: The Philippine legislature begins debate on an archipelagic baselines law, which includes 53 features from the Spratlys as part of the Philippine archipelago.
- 2008-2009: The number of Vietnamese fishing boats operating near the Paracels increases significantly. China's Bureau of Fisheries Administration detains Vietnamese fishermen operating near the Paracel Islands.
- June 2008: China's 2004 joint seismic survey agreement with the Philippines and Vietnam expires and is not renewed.
- Nov 2008: A task force from the PLAN's South Sea Fleet conducts circumnavigation exercise in the South China Sea.
- February 2009: The Philippine legislature passes an archipelagic baseline law, which included claims to some of the Spratlys. The bill is signed into law in March 2009.
- March 2009: Malaysian Prime Minister Badawi makes a public visit to Swallow Reef, a feature in the South China Sea occupied by Malaysia.
- May 2009: Vietnam independently and with Malaysia submit claims to the UN Commission on the Limits of the Continental Shelf for extended continental shelves in the South China Sea
- May 2009: The Philippines objects to China's claims to the UN
- May 2009: China's submits a map with the "nine-dashed line" to the UN Commission on Limits of the Continental Shelf.
- May 2009: China expands the duration of its annual fishing ban about 12 degrees north in the South China Sea. China links patrols by the Bureau of Fisheries Administration with its claims in the South China Sea.
- November 2009: Vietnam's Foreign Ministry convenes a large international academic conference on the South China Sea to launch its campaign to "internationalize" the dispute.
- January 2010: Vietnam assumes the rotating chairmanship of ASEAN and begins a public effort to build consensus within ASEAN on the South China Sea and to engage the major powers, especially the United States.
- March 2010: The Vietnamese Prime Minister makes a public visit to one of the Vietnamese-held Spratly Islands.
- March 2010: A task Force from the PLAN's North Sea Fleet conducts training exercises in the South China Sea
- April 2010: Approximately 20 Vietnamese fishing and coast guard vessels surround a Chinese Bureau of Fisheries Administration patrol vessel.
- July 2010: The PLAN conducts an exercise held in the northern portion of the South China Sea with

vessels from each of the three fleets in the Chinese navy.

- November 2010: Vietnam's Foreign Ministry convenes a second international academic conference on the South China Sea
- November 2010: The PLAN's South Sea Fleet conducts an amphibious assault exercise in the northern part of the South China Sea
- February 2011: The Philippines begins a seismic survey in the waters near Reed Bank.
- March 2011: MSF boats maneuver aggressively around Philippine seismic survey vessel operating at Reed Bank.
- March 2011: Vietnam begins seismic surveys in waters claimed by China.
- April 2011: The Philippines submits a *note verbale* to the UN contesting in detail China's claims to territorial sovereignty and maritime jurisdiction.
- May 2011: A MSF vessel severs the towed cable of a Vietnamese seismic survey boat off the coast of central Vietnam in waters China claims
- June 2011: A Chinese fishing boat becomes entangled in the towed cable of a Vietnamese seismic survey vessel
- June 2011: Vietnam holds a live-fire naval exercise in the South China Sea.
- June 2011: Five legislators from the Philippines make high profile visit to Thitu Island held by the Philippines in the Spratly Islands.
- June 2011: Philippines unveils new plan to resolve disputes in the South China, known as a Zone of Peace, Freedom, Friendship and Cooperation. (ZoPFFC), that would limit claims to maritime jurisdiction from contested islands.
- June 2011: Calls grow in the Philippines for inclusion of contested land features in the 1951 Mutual Defense Treaty with the United States
- June 2011: The Philippines names the South China Sea as the West Philippine Sea.
- November 2011: Vietnam's Foreign Ministry hosts a third international academic conference on the South China Sea.
- November 2011: Philippines pushes at its ZoPFFC at the East Asian Summit
- February 2012: The Philippine pushes for ASEAN to negotiate a code of conduct before entering into any talks with China.
  - March 2012: The Philippines and Vietnam reach an agreement to hold joint patrols in a portion of the Spratly Island.
- April 2012: The Philippines moves to arrest Chinese fishermen in Scarborough. China dispatches MSF and Fisheries Administration vessels to the shoal and quarantines fruit imports from the Philippines.
- June 2012: Vietnam begins to use advanced Su-27 fighter aircraft to patrol the skies over the South China Sea.
- June 2012: Vietnam's National Legislature passes a Maritime Law that reiterates its claims to sovereignty over the Paracel and Spratly Islands.
- June 2012: China's State Council upgrades the administrative status of the Paracels and Spratlys from county to prefectural-level city named Sansha.
- June 2012: CNOOC invites bids for exploration blocks located within Vietnam's 200nm EEZ.
- June 2012: China's Ministry of Defense announces that China has already established a "combat-ready" patrol system in the South China Sea.
- June 2012: Four MSF ships conduct patrol in the Spratlys
- July 2012: A large fishing fleet from Hainan conducts a high profile trip to the Spratly Islands.



- July 2012: The Sansha military garrison is established in Sansha city.

## PANEL I: QUESTION AND ANSWER

HEARING CO-CHAIR BROOKES: Thank you.

We'll start questions now. I'm going, as the co-chair, I'm going to take the prerogative of asking the first question. I have a lot of them, but I'll just start with this one, and we'll hopefully get to a second round.

Thank you very much for your enlightening and informed and thoughtful testimony. What should we expect from China's new leader Xi? I mean more of the same? Do you expect to see any changes in terms of his policies towards these issues?

Thank you.

DR. SWAINE: It's very hard to say. There's been an enormous amount of speculation about what Xi Jinping and the new leadership means for China's policies in this area. People refer to Xi Jinping's supposed connections with the military, his wife who's a military singer of patriotic songs, his background in having some contact with the military, and his presence on these committees that I mentioned before, these groups.

My general sense from Xi Jinping's statements is that he is certainly prepared to take a tough stance on these issues in the sense that he's not likely to be too receptive to the idea of moderating the stance that China has taken, for example, during the Senkaku/Diaoyu conflict or crisis, unless he sees certain changes occurring on the Japanese side. I think he's made that fairly clear.

Now, at the same time, he has stated to interlocutors who have come to Beijing and met with him that he's very interested in trying to reach some kind of understanding on this issue. I don't believe he's committed to the use of military force. I don't believe he's committed to an inevitable escalation process, and that the solution to this issue is to, for example, seize the Senkaku or Diaoyu Islands. I would be quite surprised if the Chinese would put any personnel on those islands unless the Japanese were to do something that, in their view, would clearly provoke them to make them take that decision.

So, in short, I think he's probably pretty tough-minded about it, but I'm not sure if that tough-mindedness is qualitatively different from previous Chinese leaders. I think we'll have to wait and see.

HEARING CO-CHAIR BROOKES: Okay. Tough but not tougher.

RADM McDEVITT: A quick thought on this, there is one other aspect to, not only Xi, but anybody who really is in charge in China right now. It's the growth of public opinion, the combination of netizens and a lot of the "retireds" and "formers," who are willing to write op-eds and what have you to urge China to not be pushed around, to be tougher, to argue "these are our rocks and shoals, and we shouldn't allow anybody else to take advantage of it." You read articles about the Vietnamese having been pumping oil out of the South China Sea for a decade now with numbers around the hundreds of thousands of barrels that they have essentially stolen from China. The point is that there is a very aggressive

drumbeat going on in the background.

HEARING CO-CHAIR BROOKES: Commissioner Wessel.

COMMISSIONER WESSEL: Thank you, both, for being here today, and Admiral, for your return appearance. Always good to see you.

As you're both talking, I'm concerned about a couple of things. One, Dr. Swaine, it seems to me from looking at a number of issues, that diplomacy by China is often used as a deterrence or a delay tactic as they seek to expand or achieve their goals. Certainly that's true in the trade area. Here I'd say that they are promoting diplomacy while they engage in corrosive expansion of their activities or their interests by promoting power, et cetera.

Number one, I'd like both of you to respond to that, and number two, we're dealing with all of this against, as you pointed out, the pivot towards Asia that the Obama administration started articulating several years ago. Now, we're faced with a sequester that is calling into question the utilization of U.S. assets to promote and engage, whatever you want to call it, U.S. interests.

For both of you, but clearly, Admiral, your prior service, where do you think our naval assets stand at this point in terms of being able to ensure the proper projection of U.S. power and interests? Are we being penny wise and pound foolish and depleting the resources we may need? So please for both of those questions I'd like to hear from both of you.

DR. SWAINE: On this issue of diplomacy, I think the Chinese have a genuine interest in trying to establish a basis for a stable situation in the South China Sea and in the East China Sea. It certainly doesn't serve their interests to have growing levels of confrontation, the absence of rules of the road in dealing with this situation. So I think they are supportive of diplomatic means to try and stabilize the situation in a genuine way.

Now, that said, I think the Chinese are also very much desiring to establish a situation, particularly in the South China Sea, where their greater presence over time through civilian means, by and large, establishes a greater and greater level of leverage, if you will, in their diplomacy and in other areas.

Now, this is a delicate game. I mean other countries are involved in aspects of this as well. The Chinese are not unique in many of these areas in terms of their behavior, but they're more significant because they're bigger, because they have more capacity.

So I think over time, the big challenge is going to be how to deal with a situation where you don't have clear rules of the road and the advantage in terms of presence, particularly civilian presence through civilian vessels associated with their maritime agencies, is going to increase to significant levels that will overshadow those exercised by others or possessed by other claimants in the area.

And how do you manage those two different dynamics there: the absence of the rules of the road and the greater level of presence that's going to grow? The only way to deal with that is diplomacy and conflict avoidance measures that make sure greater presence doesn't lead to miscalculation and error. But ultimately I don't think that the Chinese look at diplomacy as a way of simply

a delaying tactic until we get enough strength to seize the islands.

COMMISSIONER WESSEL: Admiral.

RADM McDEVITT: Just one thought on diplomacy. At least so far, China, in practical terms, has been willing to talk about everything except sovereignty. While they claim sovereignty, they're willing to talk about resource sharing, peaceful approaches, and what have you, but it's always with the underlying assumption that the disputed features are really ours.

In terms of the pivot in U.S. presence to the region--actually I prefer rebalance to pivot-- there are two ways to look at this. There's the near-term problem with the sequester. It doesn't provide any flexibility to any of the services or the Pentagon in terms of how to take the dollars. So you have, it has to be current fiscal year dollars, too, and so when you're dealing with current fiscal year dollars, you're mainly talking about operations and readiness, the money to pay for gasoline and fuel and what have you.

And so you have to take hits there, and you have to do current maintenance, as opposed to if you're building a ship or an airplane that you pay for over time. And so the sequester has a real impact on the ability of ships and airplanes to get underway or fly because you may have your fuel budget crunched.

For example, I'm sure you're all aware the USS Harry S. Truman's deployment from Norfolk to the Northern Arabian Sea was canceled because of the sequester impact on operating funds.

Now, the longer term, remember, on the rebalance, there was not a huge military build-up associated with the rebalance as announced. We're talking about four littoral combat ships or, as I like to think of them, frigates that are going to eventually wind up being rotationally stationed in Singapore.

But other than that, what we were talking about is a gradual transition of the weight of the U.S. Navy from its current 55 percent of the fleet being in the Pacific Fleet, not the Seventh Fleet, but the entire Pacific Fleet, to 60 percent of the Navy being in the Pacific by the year 2020. And if you look at Navy shipbuilding aspirations, the Navy hopes to have 300 ships by 2020, so 60 percent of that would mean there would be 180 ships in the U.S. Pacific Fleet.

Well, today, there are about 157 or 158 in the U.S. Pacific Fleet. So what we're talking about is a potential increase of only 22 ships, so that's not a huge build-up. The rebalance has never suggested that there was going to be a massive build-up of military power in the Western Pacific.

COMMISSIONER WESSEL: Thank you.

DR. SWAINE: Could I just say one word about this issue?

COMMISSIONER WESSEL: Please.

DR. SWAINE: It's my view, and I've written about this and spoken about it in other places, that longer term, now, we're talking 20 years probably plus, I think the United States has a significant problem in the Western Pacific. If the United States assumes that one of the major ways that it can best deal with issues such as these disputes--assuming they're not resolved, and this includes the Taiwan issue--through the maintenance of a clearly predominant superior level of

maritime capability in that area of the world, I think it's engaging in wishful thinking.

I think it's very possible that the Chinese will acquire, as long as the Chinese economy continues to grow—now, that's a big assumption, but it's one that I think many economists share--that they will acquire the capability to significantly challenge the capacity of the United States to prevail in the Western Pacific within what you call the "first island chain."

Now, what does that mean? Well, it doesn't mean that the Chinese are therefore going to start, you know, goose-stepping in all the areas in the Western Pacific and take them over and throw their weight around, but it means that they will be able to challenge the capacity, as perceived by others, of the United States to operate the way the U.S. has operated in the past.

And so the U.S. needs to think clearly about what that means over time and how likely this is to occur. And if it is going to occur, what is the best response? Right now you have a variety of different arguments that are going around in Washington and elsewhere. You've got the concept of AirSea Battle. You've got the concept of offshore control. You've got the concept of mutual denial. These are all different strategic postures involving the military that have very different assumptions about military capabilities and about escalation and escalation control in a crisis. All of those things need to be thought through much more clearly, in my view, than they are currently being in Washington. Thank you.

COMMISSIONER WESSEL: Thank you.

RADM McDEVITT: Could I have one more "PS" on that? I'm sorry. It's important to keep in the back of our minds that if China wants to, there is no way we'll ever be able to amass enough naval power in the Western Pacific to keep pace with them.

For example, in 1941, before World War II started, the Imperial Japanese Navy, which was a regional navy--remember, it was not a global navy--it had ten battleships, ten aircraft carriers, 35 cruisers, 135 destroyers, and 65 submarines. So a very large regional navy is something that we have seen before.

COMMISSIONER WESSEL: Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Shea.

VICE CHAIRMAN SHEA: Okay. Thank you. I think I appreciate both of your testimonies. I think I might have an opportunity to do a "PPS" because I think my question sort of follows the train of thought here.

Admiral McDevitt, you mentioned that China has a different conception of the appropriate use of military vessels within its Exclusive Economic Zone, and, Dr. Swaine, you just mentioned that China's military power is growing and will challenge the United States.

And now we're talking about East China Sea and South China Sea, and then the backdrop is the concept of potential confrontation between--engagement between U.S. and Chinese forces, which none of us want to see. But there has been an engagement, and it's been in recent years, between a Chinese military

vessel or plane and a U.S. military asset, another plane, in the EEZ of China, and I'm wondering do you think the United States should maintain or reduce its military surveillance activities in the EEZ of China?

Do you think China will continue to allow this as their military capability gets stronger? What do you see the prospects for continuation of surveillance activities within the EEZ?

RADM McDEVITT: To be perfectly honest, I have no idea how much surveillance we are doing today or have done in our current surveillance posture, but clearly whatever we're doing, China is keeping track of it, and since 2009, has not created an incident. I think China realized after the mid-air with the EP-3 that they couldn't have their intercepting or trailing fighters doing flat-hatting, messing around, trying to see how daring they could be as fighter pilots.

As you know, for example, when the Russians fly, periodically penetrate the ADIZes around Alaska, we send up fighters to intercept them and escort them, so this is not something that is unusual. If you're conducting surveillance near the coast of another country, oftentimes you do anticipate that you might be intercepted and trailed, but the key issue for the United States that we've been talking to the Chinese about is you have to do this safely.

There are ways for you to surveil the surveillers, if you want to put it that way, without creating an accident that will potentially kill people and/or lead to a crisis between our two countries.

Now, clearly, China doesn't like it. We believe that we have the right to do this based upon our interpretation of the Law of the Sea, yet China disagrees. So we have agreed to disagree, but as long as they continue to surveil the surveillers safely, I don't think that it will lead to an incident, nor do I think that they will ever have the ability or take the opportunity, if they have the capability, to try to stop us from doing that by trying to shoot down, as the Russians, or the Soviets, did during the Cold War.

You know, they shot down an awful lot of surveillance aircraft during the Cold War that were operating near the Soviet Union. I don't see that happening.

VICE CHAIRMAN SHEA: Thank you.

Dr. Swaine.

DR. SWAINE: Just two points. The Chinese are not the only country that has the position they have on the EEZ and foreign militaries. In fact, many coastal states have a very similar position to that of the Chinese. Brazil does, and to a certain extent Malaysia does. They don't want foreign militaries operating in their EEZ without permission.

But on that score--and the Chinese are definitely in a group that is not regarded as the predominant viewpoint within UNCLOS--then many of the members of the UNCLOS, as I understand it, haven't taken a clear position on this one way or the other.

The second thing I would say is that the level, the tempo, the amount of U.S. surveillance within the physical area of China's maritime periphery should

be very much dependent upon a notion of how critically essential that intelligence gathering is for certain types of preparation and missions and contingency planning as opposed to other forms of intelligence gathering and how critical they are.

To the extent possible, I would argue that the United States should try to minimize that effort as much as it can because it serves as one of the critical irritants for the Chinese, particularly the Chinese military, in their interactions with the United States.

If the U.S. can minimize it to the extent possible, I think that would help enormously. A lot of this kind of issue turns on classified information that we don't have access to, I don't have access to, so it's very hard to make a judgment as to how much is enough, but, in general, my inclination is to say to minimize it as much as possible.

VICE CHAIRMAN SHEA: As a quick follow up: do the militaries of Japan and other militaries in the area notice what we're doing in terms of military surveillance in the Chinese EEZ? And if we were to dramatically reduce it, would that send a signal to them that they may not want to receive? Or what kind of signaling would that result in?

RADM McDEVITT: Well, clearly, as long as we're flying airplanes and operating ships in the East China Sea, South China Sea, and what have you, given the ability of surveillance systems, at least the Japanese, probably the South Koreans, and for sure the Chinese, are aware of what's going on in general terms, if not in specific terms.

Whether they're keeping a scorecard, and then as soon as they see a diminution, say "ah-ha," I'm not sure about that because a diminution could occur, as Michael suggests, because we can get the information better from another intelligence source and more efficiently and safely than conducting surveillance missions.

So I don't think that other militaries would read, except perhaps the PLA, would read too much into a ramp-down or a ramp-up unless it was associated with an ongoing crisis or something like that, and then they would probably expect us to ramp that up.

VICE CHAIRMAN SHEA: Thank you.

DR. SWAINE: Just very briefly. It's interesting, if you look at a country like Japan--as I understand it, they are not too vociferous in coming out and making strong statements in line with the United States about freedom of operation of foreign militaries in an EEZ. Why? Because there are straits within the Japanese archipelago where the Chinese transit, that they can legally transit, that are regarded as international, if you will, through the Miyako Strait and areas like that, and the Japanese protest.

They don't protest; rather, they insist that the Chinese tell them about this or make them aware of it in some way that has implications for operations along China's EEZ. So there are differing calculations that operate on all sides here. They're not all, by any means, lined up in a similar way to that of the United States on this issue.

VICE CHAIRMAN SHEA: Thank you very much.

HEARING CO-CHAIR TOBIN: Dr. Swaine, you mentioned the absence of rules of the road, and that China wants rules of the road, and yet from what I have seen, I don't see much really demonstrating that they're moving that ball forward at all. Do you see that as something they might do later? That's question one.

And the second question is what can be done by the various players, and I know we have UNCLOS, of course, but what do you see can be done now in the next year or two by any of the players to promote greater rules of the road acceptance?

DR. SWAINE: That's a really tough question. In the near term, just let me state a couple of things about why the Chinese are not enthusiastic about moving forward a binding code of conduct right now. They say they're supportive of it, but it's not the right time. And the reason why they do that--in part, I mean many people think, of course, they're just biding time and waiting until they're stronger. Then they can have a stronger case. I mean there could very well be that element of it.

But the Chinese believe that the Philippines and Vietnam have violated the 2002 Declaration on the Conduct of Parties in the South China Sea by pursuing what they regard as unilateral provocative actions, et cetera, exploration, et cetera. The Vietnamese, in some people's view, began a lot of the recent period, since 2006-2007, of escalation of this because they started doing active exploration of resources in disputed areas.

So the Chinese believe that that activity has violated what they call the self-restraint clause of the DOC, Declaration of Conduct. They also suspect that Manila and Hanoi are trying to harness ASEAN's agenda in pursuit of their own interests on this, so they want an ASEAN position here to be the basis for negotiation. And the Chinese have said, no, we want basically a parity basis of negotiation. In other words, we start from a position that reflects both our view and the view of the claimants within ASEAN, and we go from there.

So this really suggests that what the issue is, is that all the states have to develop a common incentive such that they understand that supporting movement towards a binding code of conduct requires restraint--significant restraint--on their part, to cease and desist in activities that are provoking one another continuously. Without doing that, you're not going to get any progress on the code of conduct.

Now, of course, the code of conduct itself claims to be a means of being able to regulate that kind of behavior, so it's kind of a Catch-22 situation to a certain degree. So the question really becomes how can you develop incentives on the part of the claimants to, in fact, cease and desist on this, which I don't have an easy answer for. I mean it's got to be a recognition that all sides understand that further action is going to lead them to compromising their interests because it's just going to lead to tougher actions on the part of other claimants.

RADM McDEVITT: There is one piece of the rules of the road that on



a more micro sense I think could be done, and that has to do with Japanese-Chinese interactions over the Senkaku/Diaoyu islands. This involves Japan and China agreeing to an Incidents at Sea regime similar to the one that the United States and the Soviets and, by the way, the Japanese and the Soviets agreed to during the Cold War. This regime would at least reduce the possibility that when the Japanese are launching F-15s to intercept a Chinese aircraft over the Senkakus, or when a PLA frigate apparently locks up a Japanese ship with its fire-control radar, you don't have an accident.

So if Tokyo and Beijing could agree to some sort of an Incidents at Sea agreement, that would be very, very helpful.

HEARING CO-CHAIR TOBIN: Thank you, both, very much. It's most helpful.

Dr. Wortzel.

COMMISSIONER WORTZEL: Thank you very much for being here. Your written testimony and your oral testimony have been great.

I have three questions. I'm going to ask two, and if we have time for another round, because the other one is kind of longer. So I'll ask two now.

Admiral, you point out, and, Dr. Swaine, in your written statement, you also discuss that Beijing seems to have modified its behavior in the South China Sea, realizing that its more aggressive behavior prior to 2011 was counterproductive. Now, Dr. Swaine, you call it a wax and wane.

So what in your view did any U.S. actions contribute to the Politburo's decision to change behavior? And what internal actors in China do you believe were most influential in bringing about a change in that policy?

And, then, a second. Admiral, in your written testimony, you suggest that one U.S. course of action might be to try to turn the matter over to a regional power such as Indonesia. But why would Indonesia, particularly Indonesia, take that on when it seems to be turning toward China as a military equipment supplier because of all that nasty old Soviet stuff it has laying around that needs refurbishment?

RADM McDEVITT: The Indonesia issue--what I laid out, I believe, were four potential courses of action for U.S. policy in the South China Sea. And I think I characterized the hypothetical Indonesian involvement if we decided we'd wash our hands of the whole matter, and let's see if we can get somebody--like we can pin the tail on Indonesia--to take charge of this.

Why would Indonesia want to do that? Well, I think Indonesia sees itself as the leading power in ASEAN. I think Indonesia is concerned about instability in the region. It does have some equities involved in the South China Sea, and this would be a good opportunity for Indonesia to step up and actually demonstrate that it could lead ASEAN in a productive way and hopefully heal the divisions that the South China Sea dispute has caused within ASEAN between the countries that essentially border China and then the maritime parts of ASEAN. It would heal that split and bring ASEAN together again.

So I don't think it's very likely that's going to happen, but I say that's

one potential course of action.

In terms of what triggered that eight- or nine-month period when Beijing tried a little more moderate approach, I think that their judgment was it wasn't working. Vietnam passed a domestic law, a maritime law, very similar to the one China passed a decade ago, reinforcing its claims. The Philippines were running around asserting its claims. Both Vietnam and the Philippines were trying to get the South China Sea on the agenda at the ARF meeting, and so I think that Beijing decided this smile-nice-and-be-more-relaxed approach is not working; let's revert to what we think has a higher probability of success.

Now, I'll let Michael try to address who might have made those decisions.

[Laughter.]

DR. SWAINE: I think, Larry, your question was actually also why did they moderate to begin with? It's impossible to know for sure, right, but I think probably the U.S. weighing in on this issue had a role here. The Chinese saw that the United States was taking a very serious interest in these questions. It was fearful that through that U.S. involvement, the ASEAN states themselves would perhaps become more unified in their dealing with this, and they were alarmed by what had happened prior, and so you had a dynamic there where the Chinese needed to shore up their position in ways that didn't involve muscling people.

So they began to really strive and stress this diplomatic effort. I think that does reflect a certain amount of potential contention that exists within the Chinese system as to how much emphasis to put on this or that approach in trying to defend what the Chinese see as their interests here.

It's really hard to say how, who took what position, what sort of decisions were made. We don't know much about that internal process. One thing we can say, I think, is that there are several different actors who influence it. It's very possible that elements of the Foreign Ministry, foreign affairs system, naturally emphasize greater efforts at diplomacy, less muscular policy, et cetera.

They can certainly be tough in their words when they need to be, but there is some evidence, for example, in the recent Senkaku/Diaoyu confrontation, that there were suggestions developed within the foreign ministry system to have a more moderate response to Japan's purchase of three of the islands--the Japanese government's purchase of three of the islands that provoked this whole crisis. And that clearly wasn't accepted.

And in the South China Sea, I think you definitely have a role that's played by the military. I mean they don't dictate the policy by any means, but I think they express very strong views on it, and in my estimation, the failure of China to thus far define clearly what their so-called "nine-dash line" means, the "cow's tongue" that extends all the way down around the South China Sea islands, their failure to accurately define exactly what those lines mean is reflective of internal differences over the willingness of China to stake out a position that could put them at a disadvantage in some way.

COMMISSIONER WORTZEL: Madam Chairman, if we have another

round, I'll have another one.

HEARING CO-CHAIR TOBIN: Commissioner Fiedler, please.

COMMISSIONER FIEDLER: Thank you.

I want to make a comment first on the question of popular opinion in China. I think it's necessary to point out that the Chinese government has a relatively easy time squelching popular opinion when it suits them so that the allowance of this dialogue to go on the Net is creation of a useful straw man routine.

I have one short question about--I think, Dr. Swaine, you said that the Chinese view of the Southeast Asian states is that they're violating the status quo, right? I just want to make sure I heard that right.

DR. SWAINE: Yeah, I don't think they have--they look at specific cases.

COMMISSIONER FIEDLER: Yeah, but I mean the Senkaku situation is certainly a violation of the status quo; isn't it?

DR. SWAINE: By the Chinese or by the Japanese?

COMMISSIONER FIEDLER: By the Chinese.

DR. SWAINE: Oh, sure.

COMMISSIONER FIEDLER: Okay.

DR. SWAINE: The Chinese are trying to change the status quo in response to what they see as an effort by Japan to change the status quo.

COMMISSIONER FIEDLER: Now, I have a U.S. policy question because all of these maritime disputes fit within our rebalancing policy. What's the difference between hedging and what used to be known as containment, and what I would in a slightly nuanced way say is more effectively a policy of restraining rather than containing?

What are we doing? You mentioned that Secretary Clinton interjected the United States into this dispute. That clearly was a conscious move. How does that fit within the rebalance, the whole containment fear that China has, and the hedging strategy that we say we have, as opposed to containment, which we very carefully don't want to use because it incites the Chinese, but we clearly are interested in restraining their activity.

Do you disagree with me on that?

RADM McDEVITT: I'll start.

DR. SWAINE: Go ahead.

RADM McDEVITT: In the lead-up to the actual rollout of the rebalance, I think the Obama administration, starting in 2009, was actively putting in place lots of markers that the rebalance was coming. If you think back during the 2008, 2009, 2010 period, there was a pervasive narrative running around Asia with many of the elites or diplomats that the U.S. was on the way out the door, and China was the one holding the door and pushing us out the door.

And so I think part of the reason that we interjected ourselves into the South China Sea was to try to stomp down that narrative, that the U.S. was a spent force in East Asia, and, in fact, we were not only a player, but we were going to

continue to be a player even before the rebalance strategy was rolled out. And so I think there is a strong element of reassurance to all of the other countries in Asia, those that live in the shadow of China, that the U.S. is going to be there, and we'll continue to try or continue to provide stability in the region.

So a rebalance has a huge amount of reassurance associated with it. I don't think people are now talking so much about hedging. You don't hear anybody in the government talking about hedging. What you do hear about is trying to shape Chinese behavior so that, in fact, it will essentially follow international law and not use coercive force. So--

COMMISSIONER FIEDLER: Let's not talk about what the government actually says. Let's rather talk about what it means.

RADM McDEVITT: Well, no, I don't think anybody would believe or agree with a containment policy.

COMMISSIONER FIEDLER: No, but that's why I used the term "restrain" because if we want to reassure China's neighbors, that contains within it that China will be restrained in its activities.

RADM McDEVITT: Yeah. Well, it all depends how you package it because none of China's neighbors want to be caught in the middle. None of China's neighbors want to have to choose between Washington and Beijing.

COMMISSIONER FIEDLER: Right.

RADM McDEVITT: All of China's neighbors want to have it both ways.

COMMISSIONER FIEDLER: Dr. Swaine.

DR. SWAINE: I agree with Mike. I think it's certainly not the case that the United States engaged in containment of China. I think it also is the case that the United States does want to dissuade or restrain certain types of behavior, not in general. I don't think it is opposed to China's emergence as a strong power by definition. It's very much opposed to China's emergence as a hostile power, of course, or one that could dominate the Western Pacific or the Asia Pacific area because of the uncertainties. By dominate, I mean militarily, politically, et cetera, because of the uncertainties that it could create.

It's really about uncertainty--whether or not China would use a dominant position in the region to the disadvantage of the United States. And the U.S. can't be absolutely confident about that.

So the question is how do you engage the Chinese, because you're obviously not in a Cold War situation; you're obviously not in a zero-sum situation. We're highly interdependent in many ways with the Chinese. We have to live with these guys. They're going to have a greater role to play in the Western Pacific. So restraining them becomes an issue of having to both restrain and reassure at the same time.

COMMISSIONER FIEDLER: Thank you.

HEARING CO-CHAIR TOBIN: Thank you.

Commissioner Bartholomew.

COMMISSIONER BARTHOLOMEW: Thanks very much, and thanks,

Dr. Swaine and Admiral McDevitt, for appearing. It's always interesting to hear what you have to say.

I'm having trouble reconciling a couple of different things that each of you said. Admiral McDevitt, you mentioned sovereignty, and did I understand correctly that you basically have said that one thing the Chinese won't give on is sovereignty?

RADM McDEVITT: That is correct, at least in the maritime domain. Now, they have made compromises, such as the land border when they were working with the Russians, but in terms of the maritime domain, there is no indication that they're willing to blink on sovereignty.

COMMISSIONER BARTHOLOMEW: So, essentially, though they claim sovereignty through the nine-dash line, although the borders are a little unclear and uncertain, are they claiming sovereignty?

RADM McDEVITT: That's unclear. We don't know for sure. For sure, they are claiming sovereignty over any feature, any land, reef, shoal, island in the South China Sea. It's unclear whether they're claiming sovereignty over the water. Their Foreign Ministry about a year ago today issued a statement saying, in effect, China and nobody else can claim the entire South China Sea, but that was a one-off, and we haven't heard much about that since. And so we don't know for sure what that nine-dash line implies.

COMMISSIONER BARTHOLOMEW: So, Dr. Swaine, when you talk about the rules of the road, are you talking about freedom of navigation or are you talking about rules of the road that encompass these land features, too?

DR. SWAINE: Well, I'm primarily talking about rules of the road that bind each of the claimants to certain types of behavior that will avoid getting into confrontations or escalating crises that could lead to conflict, military conflict.

So you have to have certain common understandings about how you proceed in defending your claims. You have to have certain common procedures in presenting your claims in terms internationally. There has been, at least nominally, an adherence to the desire to increase international law as the basis for the resolution of these conflicts over time.

Now, there is a contrast there because the Chinese basis for their claims is not just on the kind of international law based on territorial, continental mainland location, or continental shelf, et cetera, that you see among the other claimants. The Chinese base their claim on historical reasons; right?

COMMISSIONER BARTHOLOMEW: Right.

DR. SWAINE: It's not unprecedented. It's not ipso facto illegal in an international law sense, but it does pose a lot of problems for the Chinese because the preponderance, as I understand it--you'll hear from Peter Dutton later today, and he will be able to go into exquisite detail on this for you--but to me--and Peter will correct me if I'm wrong--the historical questions really are problematic for the Chinese.

COMMISSIONER BARTHOLOMEW: Well, they're problematic for the people who also believe they have claims to the territory--

DR. SWAINE: Oh, that's what I mean.

COMMISSIONER BARTHOLOMEW: Where I'm having difficulty reconciling this is you presume that the Chinese believe that they have sovereignty over the bulk of the territory that we're talking about--

DR. SWAINE: Correct.

COMMISSIONER BARTHOLOMEW: --why would they be willing to agree to some rules of the road that might disadvantage them? And similarly why would other parties in the region be willing to agree to rules of the road that would disadvantage them? I guess I'm having trouble seeing how anybody moves forward with rules of the road in a context like this.

DR. SWAINE: Well, this is why rules of the road are so hard to reach. Different countries are calculating things on a whole range of different areas. They have to recognize that rules of the road are going to get them more than open contention, using quasi-military, para-military force, diplomatic pressure, et cetera. They have to be able to accept that that's not ultimately going to resolve the problem for them.

So it's not clear that a rule of the road would be disadvantageous to one party as opposed to another. It depends entirely on how the thing is negotiated. The main reason people will want a rule of the road is because the alternative to that could lead to an escalating spiral of conflict and could spill over into many other areas that impact the national interests of the countries involved, including economic development. All these countries are involved with each other deeply economically.

And, of course, China has no incentive to get into a situation where the region is alarmed over its behavior; it's moving more towards the United States in a really rapid way. They are building up their militaries because they think the Chinese are going to threaten their most vital national interest. The Chinese don't have an incentive to get into that game.

COMMISSIONER BARTHOLOMEW: I guess in some ways I see things differently in that I think--probably no surprise, Dr. Swaine--but that some of what I believe that we have been seeing with Chinese behavior over the course of the past five or eight years is so they sort of push to see how far they can get away with something, come back a little bit, but never quite as far as where they came back to before they push.

It's sort of an incremental, we're going to test the boundaries and see what we can get away with. Once we've gotten away with this, then we can go a little bit further and a little bit further, which is sort of how I see their behavior playing out.

So for me as I look at this and I see China's assertiveness, and, frankly, sometimes I think it's flat-out bullying, it's not as though they are dealing with people who have an equal power base that they're doing this with. So do the Chinese really care if the Vietnamese are not happy with the ultimate outcome of this? I'm just using Vietnam as an example.

DR. SWAINE: When you say, do they really care, the answer has to

be, it depends. It depends on how the Vietnamese deal with the problem, to what degree the Vietnamese are going to use certain types of means, military and other, to try and defend themselves. Now, the Vietnamese are not pushovers.

COMMISSIONER BARTHOLOMEW: Absolutely.

DR. SWAINE: The Vietnamese are themselves very active, very assertive, and involved in building up their military in a variety of ways. The Vietnamese have fired on Chinese fishermen, have arrested Chinese fishermen, put them in detention, done a lot of the same things that the Chinese do. So from the Chinese perspective, there is an incentive to try to avoid getting into this kind of a game with the Vietnamese or others.

COMMISSIONER BARTHOLOMEW: So if we went around the region looking at those countries, some of them are not as assertive as the Vietnamese might be--I'll use that phrase. Do you think that you could make the same case for some of the other countries who might have the kind of posture that the Vietnamese are willing to have?

DR. SWAINE: Probably not, because they're relatively weaker. They are, in the case of the Philippines, of course, an ally of the United States. They would like the United States to be more involved, to pull the U.S. in, to take a very clear position on this. I think in some ways, the Japanese have a similar sentiment regarding the Senkaku issue. So the presence of the United States with them makes a big difference, of course. And the U.S. and Chinese have to take that into account obviously.

HEARING CO-CHAIR TOBIN: I think we have two more questions.

COMMISSIONER BARTHOLOMEW: And Senator Talent, I know you had a query.

COMMISSIONER TALENT: Thank you, Madam Chairman.

Dr. Swaine, I thought your response to Commissioner Fiedler put our policy about as well as I've heard it, which is the United States has an interest in preserving a political and power equilibrium in the region, and when we saw that being deranged by China's push in the 2009-10 time frame, we rebalanced it, and I think that "rebalancing" is a better term for it, so I really appreciate how you put that.

Two questions, one for each of you. Admiral McDevitt, you talked about the pivot in terms of actual naval presence and said, okay, if the United States' goal is to get to a 300-ship navy, and 60 percent of the Pacific, that will only mean 180 ships, which is really not that much more than we have now. Aren't you being really optimistic, almost unrealistically so, in talking about a 300-ship navy?

Before the sequester, the rate of naval shipbuilding was cut to about eight a year. So that would mean we are heading towards a 240, 250 ship Navy, something along those lines, and that's assuming the sequester does not result in a further cut. So, and in addition, of course, is, as you know, 180 ships devoted to the Pacific doesn't mean we have 180 ships in the Pacific all the time; it means we have about 60--right--or thereabouts? Maybe we can surge more when we need to.

I guess my question to you is if we continue on a path, as we're now scheduled, to be spending \$100 billion less in nominal dollars in 2020 on the department than we spend in 2010, how can that not affect the calculus of the Chinese and others, given that we're talking about balancing and maintaining arrangements of power, et cetera? Do you want to comment on that?

And I realize I've oversimplified it. I certainly agree with you that if we're going to cut, give them the authority to do it the way they want. It will at least be less bad.

Dr. Swaine, and both of you if you want to answer this, it seems to me that what you're saying, and the conclusion I'm drawing from this, is that the Chinese have ambitions in the region. We can argue the extent to which they're justified or not. And you mentioned that they want efforts to limit and control disputes through negotiation. But it seems to me that what they want is as much as they can get, short of a response that so destabilizes or brings conflict into the region that it might affect their long-term goal of economic growth.

If they can bully somebody out of something, like they did with the Philippines and the Scarborough Shoal, they'll do it. However, if they see a response that does hedge or contain--I'll use that forbidden word--or that suggests that it will so destabilize the region and affect their economy, they will then back away. If that is true, then does it mean that our policy should be not to provoke them but to be present in a big way or, as Teddy Roosevelt put it, "walk softly but carry a big stick"?

RADM McDEVITT: Senator, you're right, I may have been overly optimistic. The reason I was thinking or think that the 300-ship goal or near-term objective in 2020 is doable is all of those ships are actually under contract right now, and some are building now, and so--now, that doesn't mean that those can't be stopped.

But at least it's not just a paper aspiration; there have been monies appropriated, the contracts let, and what have you, for at least the numbers that would get us to that.

You're also right, though, that when you look at the 30-year shipbuilding plan, unless there are many more ships that are added to the inventory over the life of that plan, then the size of the U.S. Navy will continue to go down.

COMMISSIONER TALENT: Well, this is something I'm going to inquire into more because my understanding was that the second-term plan is to retire more ships than we're building. We may be building those ships, but we're going to be retiring others. But please go ahead. And that's a factual matter.

RADM McDEVITT: Honestly, that may be. If that's the case, then, obviously, if they're retiring them faster than you're commissioning them, you're not going to get to 300 in the next seven years. But--

COMMISSIONER TALENT: At least you'll have newer ones.

RADM McDEVITT: Exactly. Well, I mean, nothing bad about that.

The other piece of that, of course, is when you look at Asia--again, that's East Asia or Western Pacific; that's one region. We still have Navy



resources that have to be used somewhere else or that are available. So whether the administration will be able to hold to the promise that they were going to insulate force posture in the Western Pacific from further reductions--remember that was part of what Obama said in Australia--you have other resources to draw from on the east coast, ships there, et cetera.

So whether all of that comes to pass, I don't know. Certainly, it's not a happy time for Navy shipbuilding. I've always thought, though, that the country will get the size of the Navy it's willing to pay for. So when the country is willing to pay for it, it will get a bigger Navy or a smaller Navy.

DR. SWAINE: In response to your question about China's motive and if they're just basically pushing to get as much as they can--I guess I don't put this issue in that context. Ultimately, I can't read the mind of the Chinese leadership to know if this is what is driving them, but what I can do is I can look at what the actors involved do, and I can look at what they say about what they want to do and what their interests are.

And my general impression from doing that is that much of the activities that we see here are highly interactive. There's a lot of action-response. Now, the Chinese oftentimes will respond in particular situations in ways that really are based upon--at least seem to be based upon--the notion that this is getting out of control. We want to make sure that we have the predominant position here that deters others from escalating the situation further.

I think that's what's played out in the Scarborough Shoal. That's what played out in the Senkakus and in other areas, as well. Now, that's obviously prone to escalation. The Chinese are not unique in their desire to take strong and sometimes forceful stands on these kinds of issues.

But they also do recognize that the Western Pacific--if they're going to be in a stable situation and one that is generally advantageous to them or at least doesn't go against their interests, they can't be seen to be violating the desire of other countries to try and adopt--and I mean by other countries not just the claimants but others who look at this problem--to adopt legally-based or normatively-based approaches to dealing with this problem, when you can't resolve it through use of force, pure and simple.

As Mike said, in the past the Chinese have compromised on sovereignty issues. They have made deals with the Russians and others. Now, they've done that because they saw a strategic need to do so. I mean they wanted to pacify their relationship with the Soviet Union as much as possible because they had an emphasis on domestic economic development.

That general dynamic still exists within the Chinese mind-set, in my opinion. Now, the strategic imperative to reach a solution on these disputes in the maritime areas isn't there. They don't have a burning strategic need to resolve these problems because if we don't, "x" is going to happen. But they do have a need, in my opinion, to control the level of aggressiveness that occurs on all sides.

HEARING CO-CHAIR TOBIN: Commissioner Brookes. We'll start a second round.

HEARING CO-CHAIR BROOKES: I have a couple of technical questions. Admiral, I read your CNA studies on the East and South China Seas. They're quite good, and I commend them to others. Let me just get a clarification because there were two separate studies. Your belief is that it's more likely that there might be U.S.-China conflict over the East China Sea as opposed to the South China Sea.

Is the difference the Obama administration's declaratory policy about the Japanese administration of the Senkakus? Is that what you see as the fundamental difference?

The second question is--and this is a technical question, probably best for a geographer--but if either of the panelists happens to know, my understanding is that the Chinese do not claim the entirety of the South China Sea, or at least that's their current rhetoric, but they claim the islands. So if you claim all of the islands, how much is left of the South China Sea considering the EEZs?

In other words, what percentage does--if you claim all of those islands in the South China Sea, what's left that wouldn't fall under Chinese sovereignty or control of some sort?

And also, the Chinese at one point had said that the South China Sea was a "core interest." They seem to have walked back from that. Are they using that terminology or is there a new terminology coming out that explains their views in the East China Sea or the South China Sea? Is it the "China dream" or whatever? So those are just three quick technical questions. If the two of you could attack those, that would be great.

RADM McDEVITT: Thanks, Peter.

Why do I think the East China Sea is more dangerous? Because we have an implied security commitment to Taiwan to respond to the use of force with the use of force to try to keep the situation, the status quo of Taiwan, from being altered. That has triggered a military competition that has been going on for a number of years.

We are a treaty ally of Japan. Because we have interpreted the alliance obligation to come to the aid in the defense of Japan to include territories that are under the administrative control of Japan--i.e., the Senkakus, in this case--we would have an obligation to respond should China use force.

Now, when Prime Minister Abe was here just a couple weeks ago, in response to a question at CSIS, when somebody asked, what about the defense of the Senkakus, he said we will defend our territory. That's pretty much what we hope. We expect Japan to take the lead in defending their own territory, but our obligations have traditionally been characterized as a "shield and a spear." Japan provides the shield, and then we're the spear, i.e., we attack Japan's attackers.

And so I can see where the U.S. could become involved in at least providing indirect support, surveillance and what have you, to Japan in a Senkaku situation and perhaps actually joining in the shooting. So that's why I think it's more dangerous.

HEARING CO-CHAIR BROOKES: And the Mutual Defense Treaty

with the Philippines? That's what I'm comparing. I'm trying to--

RADM McDEVITT: Okay. I'm sorry. The Mutual Defense Treaty with the Philippines, first of all, was concluded in 1951, and the Philippine claim to the chunk of the Spratlys that they claim was not proffered until or did not essentially begin until about 1956. And I believe the U.S. approach has been that our obligation to the defense of the territory of the Philippines and government of the Philippines does not include their claims to the Spratly Islands.

Our obligation does include, though, if a Philippine government ship is attacked by the Chinese, for example, then we could become involved in support of the Philippines in that kind of a situation, but it wouldn't be over a land grab issue. It would be a matter if a PLA Navy ship starts shooting at a Philippine ship.

Now, the EEZ business and the islands, most of the islands in the Spratly group, and for that matter many in the Paracel group, would by a strict interpretation of UNCLOS not rate an economic zone because they are not able to support human habitation. However, there are some in the Spratlys, at least two or three--Taiwan has the best chunk of real estate, and the Philippines are sitting on the second-best, and the Vietnamese are sitting on the third-best. If you were to draw a 200-mile EEZ around those three islands, plus the ones that the Chinese are already in the Paracels, you pretty much cover most of the South China Sea with an EEZ.

There's a big donut hole in the middle, but otherwise there is--for most of that EEZ--now, the question would be you have to equidistance between the EEZs of the Philippines and Vietnam, and so those islets wouldn't get you all of 200 miles. At least by law, in theory, you should have to split the difference. But still it would cover a big chunk of the South China Sea.

HEARING CO-CHAIR BROOKES: And what about the "core interest" issue? Have they moved away from that?

DR. SWAINE: There is a lot of misunderstanding about this issue. In formal terms, in terms of public statements and official positions, the Chinese government has never stated that the South China Sea territorial question is a core interest of China.

The references to this almost all relate to a conversation that happened between U.S. officials and Chinese officials in private, and I've talked to the people involved, Jim Steinberg and Jeff Bader, about what went on there. Their recollection is that there was no specific statement to this effect by the Chinese.

Now, do the Chinese regard the South China Sea as a core interest? I think probably they do. But are they prepared to treat it the same way that they would treat Taiwan or Tibet? I'm not sure they are. In fact, I probably would argue that they wouldn't, which is one reason why they don't come out and publicly state it. They don't want to state it one way or the other. If they say it's not a core interest, they look weak and they get attacked domestically.

If they say it is a core interest, then everybody goes, wow, that's a core interest, it's just like Taiwan. So you have a problem there that the Chinese have, so they'd rather just not deal with it. So they don't talk about it as being a core

interest in those terms. That's the way it's been, and that's probably the way it's going to be for some time as well.

And on the islands and the EEZ, I think that's right. I agree with Mike on this. Nobody has done an actual specific, explicit delineation here. The claimants haven't made baseline claims on the South China Sea. Much of this remains highly ambiguous, but let's say that the Chinese controlled all of the South China Sea, all the islands there, Spratlys, and Paracels. They already control the Paracels; they control all the Spratlys. And reverse the situation that exists now. And they declared EEZs around all of them, around the ones that they could, which have to be habitable or have potential for habitation.

Then the question becomes what does that mean? I mean, to my view, it doesn't mean that the Chinese then make a statement and say any shipping through these areas has to go through our say-so. What the issue really is for the United States is military access. It's the access of the U.S. Navy.

HEARING CO-CHAIR BROOKES: Right.

DR. SWAINE: It's not about freedom of navigation as if merchant ships are going to be stopped, the Chinese are going to say you can't go across this area, et cetera. None of that is likely to happen.

But the access of U.S. warships in EEZs, if the Chinese were to control all of them, could become very problematic.

HEARING CO-CHAIR BROOKES: Yes, and that's my point. That's my point because the Chinese have not said--without having to alarm people by saying they're claiming the entirety of the South China Sea, if they're able to get de facto sovereignty over these islands and claim EEZs, they essentially do control the South China Sea for military access.

RADM McDEVITT: Well, it would be the same as it is now--control in the sense of they argue that you have to get permission, and we haven't yet.

HEARING CO-CHAIR BROOKES: Right.

RADM McDEVITT: So I mean we would still--

HEARING CO-CHAIR BROOKES: Not physical control.

RADM McDEVITT: It would be perpetuation of today's circumstances.

HEARING CO-CHAIR BROOKES: Yes. And that's the importance of freedom of navigation exercises and other things, to ensure, because the Chinese have an excessive claim under UNCLOS. It's a minority view, although there are other countries that see things the same way.

Go ahead. No, please.

DR. SWAINE: It really is a problem long term. The United States is committed to the idea of freedom of navigation because it's a global maritime power, and it has power projection capabilities, and it wants to have the ability to exercise those capabilities wherever it wants as long as it's not within a 12-mile limit. So it wants to be able to exercise that right up to China's 12-mile limit if that's necessary.

My view is the Chinese increasingly are probably going to become less and less tolerant of that, and frankly I don't blame them. If I were Chinese, I would

have the same view. I'm not saying that they're right from an American perspective, given American interests. However, it does pose the fundamental problem that the United States has to really think hard about to what degree it is going to go to exercise what it regards as general freedom of navigation to support a broader principle off China's coast.

And people often say, well, you know if the Chinese came and steamed up and down our coast, we wouldn't care. I think that's baloney because we say we wouldn't care right now because the Chinese are weak. If the Chinese were strong in the way we're strong in dealing with them, we'd care even if it was outside the 12-mile limit. Now, that's my view. Others may disagree. But we have to understand here that we are in China's backyard.

RADM McDEVITT: We would care. We would do what we did during the Cold War, which was we would surveil the surveillers, but we would do it safely.

HEARING CO-CHAIR BROOKES: Thank you, both.

HEARING CO-CHAIR TOBIN: Thank you, indeed.

Senator Goodwin, please.

COMMISSIONER GOODWIN: Gentlemen, thank you all for being here this morning.

Dr. Swaine, I have a quick question for you. You had suggested earlier that you felt the lack of precision and specificity in the nine-dashed line and what it means and what claims it encompasses may be the product of some internal disagreement in China. I'm curious as to whether you think it might also be some deliberate vagueness?

And I suppose my question is, has that lack of precision and that lack of specificity in what the nine-dash line represents and what claims it covers, has that not enured to China's benefit in some of these territorial disputes in the seas?

DR. SWAINE: You can argue that both ways. It's possible that it has provided a certain level of deterrent capacity because the Chinese are not entirely clear about what this means and what this doesn't mean. Are they open to negotiate this or negotiate that? But it may be that they want all of this, so you have to be starting from a high position of negotiation, and they may be willing to compromise on it. That may be an advantage for them in some sense.

But it's also the case that by not defining this clearly, and by making these references to historical claims, et cetera, they really do convey the impression that their ambition here is excessive, however you want to define excessive.

I think probably there are people within the Chinese system--I'd be surprised if there aren't--who say, look, we have to make a clearer definition here about exactly what it is that we're claiming. By not doing so, it just increases the level of uncertainty among countries involved, which makes them more scared and insecure.

I mean they're dealing in the South China Sea with smaller countries and relatively weak countries. To appear as if they are trying to bully and

intimidate these countries into submission, as I've said earlier, doesn't really serve their interests. So a nine-dash line that's vague, that may be a claim for everything, it just feeds the level of insecurity that's going on in the area.

And so I think that argument is probably there, but it doesn't win the day. And I think it doesn't win the day because there isn't an ability of any one leader to prevail on this question.

RADM McDEVITT: If I could, I know you asked Michael, but in conversations that I've had with Chinese interlocutors, both from the Foreign Ministry, the geographers, as well as others, they all privately recognize that the nine-dash line is politically or legally unsupportable and that it really would not stand the test of court.

But there is a big internal debate going on inside of China over historic rights. So far, they've been unwilling to reach a decision that potentially could compromise the historic rights to fishing grounds and potentially to the oil and what have you. So there's toing and froing going on inside of China now with how they define that nine-dash line.

Meanwhile, the Philippine court case, if it plays out over the next two years, hopefully will put the spotlight on how legally absurd the nine-dash line is.

COMMISSIONER GOODWIN: Well, that was going to be my follow-up question, and I know we're going to explore the jurisdictional parameters of that arbitration proceeding a little bit more in our second panel, but what's your sense of the prospects of that case? If it proceeds, if the panel exercises jurisdiction over the case, how do you see it shaking out?

RADM McDEVITT: ITLOS, the committee in Hamburg, as I understand it, does not have the authority under UNCLOS to weigh in on sovereignty because UNCLOS does not address sovereignty.

COMMISSIONER GOODWIN: Right.

RADM McDEVITT: But it does have the ability to at least call into question the legality, if you will, of the nine-dash line. I'll let Peter next session address that, but that's what I understand the play is. There is a prospect that if the panel does go forward, that sometime two years hence, that you'll get a reading from the ITLOS tribunal saying there is no legal basis for a nine-dash line.

COMMISSIONER GOODWIN: Thank you.

HEARING CO-CHAIR TOBIN: Dr. Wortzel, I know you said you had a long question, but we--

COMMISSIONER WORTZEL: No.

HEARING CO-CHAIR TOBIN: --just have a few minutes.

COMMISSIONER WORTZEL: It would have been long if it was three.

HEARING CO-CHAIR TOBIN: Okay.

COMMISSIONER WORTZEL: It's not. Michael, you raised escalation twice, and that prompts me to note that in a November 2012 Foreign Policy article, Admiral Greenert, as Chief of Naval Operations, discussed countering each link in the operational chain of events that would permit an enemy to launch an attack on a ship with a ballistic missile. Now, that's China.

And some of those links, of course, are in space, but others of those links are flat on the Chinese mainland, over-the-horizon radars, deep into the Chinese prepared missile launch sites. How do you do that without serious escalation? And how do you think China would react to that kind of action even if--

DR. SWAINE: This is a rhetorical question; isn't it, Larry?

[Laughter.]

DR. SWAINE: I don't think they'd react well. I mean this is the problem with this concept of AirSea Battle. Actually, the U.S. military recognizes this, as I read it, when the discussion of this thus far has--and I think--I'm not sure if it was Greenert or who--but they made a statement that we're talking about purely military operational capability, to be able to do what would be necessary to shut down an anti-ship ballistic missile system of the kind that the Chinese are well into the way of implementing.

We're not addressing the diplomatic, political, et cetera, aspects of this because it could be highly escalatory. I think they recognize this. And that's the problem with this AirSea Battle concept, is that it could require early on deep strikes--

COMMISSIONER WORTZEL: Preemptive.

DR. SWAINE: Preemption, yeah. So you're in a whole new ball game right away. And keep in mind that some of the sites that likely would be attacked could very well be strategic--that is to say, connected to China's nuclear force. So you're not looking just at a conventional threat from the Chinese perspective.

You're potentially looking at a strategic threat, and how you deal with that is a big problem, and this is one reason why people say this is not viable. It's one reason why this is not a viable concept, and you have to think of some other way that can have many more rungs on the escalation ladder and much greater caution as you move along.

Just one comment reminds me on this, on the whole question of the naval situation, and this relates to this. One big question mark that is raised by Chinese acquisition of anti-ship ballistic missile capabilities, if they're really competent in some ways, is the viability of a carrier-centered American presence in the Western Pacific.

Some Navy analysts have argued that carriers are just not the best way to spend money. They cost billions and billions of dollars per platform to maintain the U.S. interests in the Western Pacific, given the way the technologies are evolving. And that's a big challenge because you all know what the general view is about carrier-based operations.

RADM McDEVITT: Oh, no. I just want to have--

DR. SWAINE: But it is a problem in my view. It is an issue that we have to deal with.

RADM McDEVITT: If I might, just, first, on the carrier, I think there's a simple way to think about the utility of aircraft carriers: the thing that makes aircraft carriers important is aircraft. It's a moving airfield. And as long as

manned aircraft are essential to the American way of war, we're going to have aircraft carriers.

As soon as manned aircraft are no longer central to the way the U.S. chooses to fight, we'll run out of aircraft carriers. Until that time, we're going to have aircraft carriers because airplanes are important.

With regard to AirSea Battle, I personally have the belief that no president would ever authorize a penetrating bomber to go fly down downtown Beijing to take out a radar site. And so I would kind of hope that the Air Force would stop talking about a new long-range bomber specifically to penetrate Chinese airspace. I think that that's not very helpful.

But more broadly, the AirSea Battle also has aspects of it that make perfectly good sense. In terms of jamming, decoys, shooting down, all of those that are more inherently defensive, we need to proceed on this. So if we're concerned about AirSea Battle being escalatory, we have to also recognize that there are many parts of the concept there that are very important in terms of defending ourselves.

HEARING CO-CHAIR TOBIN: And I thought that was the last question, but I'm going to--Senator Talent will squeeze from our break. Take five minutes from that.

COMMISSIONER TALENT: Oh, wait a minute.

HEARING CO-CHAIR TOBIN: No?

COMMISSIONER TALENT: All right. Dr. Swaine, I thought about your comment regarding Chinese sensitivities about ships near their shores, and I actually very much agree with that.

But comment from the American point of view on what seems to me the underlying fundamental problem or challenge in this relationship: the Chinese want to be considered and to operate as part of the responsible international community because they understand how important that is to their economic growth, and they in turn understand how important that is to their national ambitions.

At the same time, they persist in a pattern of behavior that countries which really are responsible parts of the international community don't persist in. They self-restrain. And it's not just in the area we're talking about obviously--intellectual property, and a whole bunch of things.

This presents a challenge to the United States because they play both sides when they want to. So just a comment--and I'll desist, and I'm sorry for extending this--on how you deal with people--and I understand why they're doing it. I mean they're managing a very diverse and difficult country and trying to reassert their place in Asia, which I think is inevitable and understandable. But it presents challenges for us. So a comment.

DR. SWAINE: I agree.

COMMISSIONER TALENT: Thank you.

HEARING CO-CHAIR TOBIN: As you can see, gentlemen, you've really taken us far in our understanding today. This discussion has been very, very rich. Thank you.



HEARING CO-CHAIR BROOKES: We'll reconvene at 11 o'clock with the next panel.

[Whereupon, a short recess was taken.]

## **PANEL II INTRODUCTION BY COMMISSIONER PETER BROOKES**

HEARING CO-CHAIR BROOKES: Welcome to panel two. Our next panel examines two important drivers of the East and South China sea disputes: international and popular nationalism.

Mr. Peter Dutton, a professor at the Naval War College and Director of the China Maritime Studies Institute, joins us again today. Thank you for being here.

He's an expert on the legal landscape of China's maritime realm and will be discussing it today in light of the East and South China Seas situations.

Dr. Jessica Chen Weiss is an Assistant Professor of Political Science at Yale University. Welcome.

Her recent research on Chinese nationalism, social protests, and foreign policy forms the basis of an upcoming book. Thank you for providing your testimony.

Before we begin, a quick reminder. If we could keep your testimony to about seven minutes or so, so it gives maximum time for questions and answers.

Mr. Dutton--or ladies first, please. Dr. Weiss.

**OPENING STATEMENT OF DR. JESSICA CHEN WEISS  
ASSISTANT PROFESSOR OF POLITICAL SCIENCE, YALE UNIVERSITY**

DR. WEISS: Thank you, Commissioners, for the invitation to testify before you today on China's maritime disputes. It's a privilege to share with you some of my research, which was generously funded by the National Science Foundation.

I want to speak today about the role of domestic politics and popular nationalism in these disputes focusing mainly on the East China Sea dispute between China and Japan, but also briefly with regard to the South China Sea as well.

The Chinese government sees popular nationalism as both a liability and a source of strength. Nationalist sentiment in China is real, and it is often difficult for the government to control. Nationalism can easily turn against the government, but nationalism is also a source of legitimacy if the public sees the government staunchly defending the national interests in China's diplomatic and territorial disputes.

It is because nationalism is so volatile that the Chinese government has been judicious about when to allow nationalist protests and when to prevent it from spilling out into the streets. China has chosen to stifle or tolerate nationalist protests depending on whether it will help its diplomatic objectives.

The Chinese government has allowed nationalist street demonstrations when it wants to demonstrate resolve to signal that China will not budge on this issue. Just as the President can point to Congress and say his hands are tied, so can the Chinese leadership point to nationalist fervor and say that they can't compromise or else protesters will turn against them.

But the Chinese government has also prevented nationalist demonstrations when it wants to reassure others that popular nationalism will not derail international cooperation.

China watchers often recall the times when large-scale nationalist protests occurred. Anti-American demonstrations took place after the accidental bombing of the Chinese embassy in Yugoslavia in 1999. Anti-Japanese protests took place in 2005 against Japan's bid for a permanent seat on the U.N. Security Council. And, as many recall, anti-Japanese protests took place in 2010 and last fall in 2012 over the disputed islands in the East China Sea.

Yet less attention has been paid to the "dogs that didn't bark," if you will. The Chinese government stifled anti-American protests after the 2001 EP-3 incident, seeking to prevent the crisis from escalating further. And China prevented anti-Japanese protests throughout the 1990s, including two crises over the Senkaku/Diaoyu islands.

In the interest of time, I won't go into detail here, but I refer you to my written testimony and book manuscript for more on these episodes.

It is critical to understand that the Chinese government pays a high domestic price for stifling popular nationalism. As protests become larger and

attract more attention and popular support, it becomes more and more difficult for the government to defy popular demands.

One of the greatest dangers in these maritime disputes is that leaders will underestimate each other's resolve and domestic constraints. Less than two weeks after Prime Minister Noda announced Japan's decision to nationalize these islands, he admitted to underestimating the strength of China's opposition.

Prime Minister Abe also appears to be skeptical of China's domestic constraints. Abe told the Washington Post recently that, "it is fully possible to have China change their policy" in the East China Sea once Beijing recognizes the economic harm to Japanese investment and unemployment in China. But his remarks do not acknowledge the steep legitimacy costs that China's leaders would face if they made unilateral concessions.

Abe also told the Washington Post that anti-Japanese sentiment in China is the product of patriotic education. This is correct, but it is only part of the story. Patriotic propaganda is partially responsible for the degree of nationalist sentiment in China, but popular anger is also rooted in the history of Japanese atrocities during World War II, and it is inflamed by the statements of right-wing politicians and textbook revisions in Japan that appear to contradict official government statements of remorse and apology.

What's important to remember is that popular nationalism in China is both real and volatile. It is partially state-led, but it is also fueled by sincere and often visceral feelings. China's leaders, in my view, cannot return to the old status quo in the East China Sea without something to show domestic audiences, some evidence of diplomatic success.

As for the South China Sea, popular nationalism, in my view, is relatively less destabilizing than in the East China Sea. In China, nationalist anger at Vietnam and the Philippines has been limited to online sentiments, not street protests.

And Chinese anger at these countries is not rooted in the same historical memories that drive anti-Japanese sentiment in China. Moreover, with the status quo favoring China in the Paracel Islands and over Scarborough Shoal, there is little reason to expect China to engage in public displays of resolve vis-a-vis Vietnam and the Philippines.

Yet China may also underestimate the domestic constraints on leaders in Vietnam, Japan, and the Philippines. It is true that anti-China protests in Japan and the Philippines were fairly short-lived, and Vietnam has arrested many liberal activists who took part in anti-China demonstrations.

But resentment and fears of China in the region are rising, and China would be wise to look for opportunities to demonstrate restraint as well as resolve in its maritime disputes. De-escalation will depend not only on foreign recognition of China's domestic constraints, it will also depend on China's ability to reassure foreign governments that gestures of goodwill and diplomatic concessions will be reciprocated, not exploited.

Thank you very much.

**PREPARED STATEMENT OF DR. JESSICA CHEN WEISS  
ASSISTANT PROFESSOR OF POLITICAL SCIENCE, YALE UNIVERSITY**

Hearing on “China's Maritime Disputes in the East and South China Seas”

Dr. Jessica Chen Weiss  
Assistant Professor  
Department of Political Science  
Yale University

Testimony before the U.S.-China Economic and Security Review Commission  
April 4, 2013

## INTRODUCTION

Popular nationalism is both a liability and a potential advantage in Chinese diplomacy. Just as the President can point to Congress and say his hands are tied in diplomatic negotiations, so can Chinese leaders point to nationalist sentiment and popular protests. As Deng Xiaoping told Japanese officials in 1987, “In regard to China-Japan relations, reactions among youths, especially students, are strong. If difficult problems were to appear still further, it will become impossible to explain them to the people. It will become impossible to control them [the people]. I want you to understand this position which we are in.”<sup>1</sup> Two years later, the government faced its gravest crisis of legitimacy. Protests against Japan in the fall of 1985 had given way to accusations of government corruption and calls for democracy in 1986 and 1989. For the Chinese leadership, nationalism is both a vulnerability and a source of strength: undermining the government’s legitimacy if seen as weak against foreign insults and provocations, and strengthening its legitimacy if seen as a staunch defender of the nation’s interests.

## DIPLOMACY AND DOMESTIC CONSTRAINTS

Popular nationalism, particularly in the form of anti-foreign street protests, constrains China’s foreign policy options. Yet demonstrations of popular anger can also be helpful when the leadership seeks to signal resolve and demonstrate its commitment to defending China’s sovereignty and national interests. After U.S. planes mistakenly bombed the Chinese embassy in Kosovo during NATO airstrikes in 1999, anti-American demonstrations across China conveyed domestic outrage and the government’s determination to stand up to the United States. Although the government stepped in to control the demonstrations on the second day, on the first night the American embassy was nearly overrun and the consul general’s residence in Chengdu set afire.

Domestic constraints make international cooperation more difficult but can also improve the government’s negotiating leverage. Popular anger enables the government to play “good cop” to the often xenophobic and racist voices in the street and on the internet. When Japan’s bid for a permanent seat on the UN Security Council gained momentum in 2005, anti-Japanese demonstrations showcased

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<sup>1</sup> *Cankao Xiaoxi*, June 30, 1987, cited in Whiting, Allen Suess, *China eyes Japan* (Berkeley: University of California Press, 1989), 164.

popular anger over Prime Minister Koizumi's repeated visits to Yasukuni Shrine, which commemorates 14 A-class war criminals among Japanese war dead, helping China make a principled case against Japan's candidacy.

## REPRESSION AND REASSURANCE

But popular nationalism has not always forced the Chinese leadership to escalate when unwanted. China has repeatedly stifled popular nationalism when street protests would have jeopardized the government's efforts to improve diplomatic relations. During two crises over the Senkaku/Diaoyu islands in the East China Sea in the 1990s, China repressed anti-Japanese demonstrations. Although China launched a patriotic education campaign to bolster the regime's diminished legitimacy, nationalist propaganda did not translate into permission for anti-Japanese protests. Determined to court Japanese assistance in breaking out of China's post-Tiananmen isolation, the government prevented anti-Japanese protests when Japanese activists constructed a lighthouse on the disputed islands in 1990. During a second lighthouse controversy in 1996, China again repressed protests, seeking to assuage Japanese concerns and mitigate the fallout of the 1995-96 Taiwan Strait crisis on the eve of revised U.S.-Japan defense guidelines.

Repressing nationalist sentiment and anti-foreign demonstrations is costly for the Chinese government, which has often been accused of being both unpatriotic and undemocratic in suppressing nationalist sentiment. After the 2001 EP-3 incident, when a Chinese fighter jet and American reconnaissance plane collided over the South China Sea, China prevented anti-American street demonstrations. Seeking to contain the damage to China's fragile rapport with the new Bush administration, Chinese authorities instructed students to stay on campus and told the media to tone down its coverage of the crisis. These efforts helped China send a signal of reassurance to the Bush administration as both sides negotiated a face-saving compromise over the release of the EP-3 crew. As John Keefe, special assistant to Ambassador Prueher, later recounted: "University students wanted to hold demonstrations to vent their anger. The government forbade them from taking such action [and] repeatedly stressed...that this event should not be seen as a major affair in U.S.-China relations."<sup>2</sup>

Japanese observers similarly acknowledged China's restraint in quelling anti-Japanese demonstrations during the 1990s, agreeing in two lighthouse controversies to return to the status quo ante. The Japanese government declined to recognize the lighthouses as official navigation markers and discouraged Japanese right-wing associations from further activities. However, mutual restraint of nationalist activities was imperfect, with a Japanese legislator landing on the islands and Chinese activists staging a small unauthorized demonstration during Prime Minister Hashimoto's visit to northeast China in 1997. In the Koizumi era (2001-2006), the internet provided new platforms for nationalist sentiment and anti-Japanese activism in China, including signature campaigns against the use of Japanese high-speed rail technology and compensation for Chinese victims of chemical weapons left by the Japanese Army in World War II. Although Prime Minister Koizumi claimed to desire good relations with Beijing, his administration undertook a series of actions that angered China and other neighbors, including revisions to Japanese history textbooks and yearly visits to Yasukuni.

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<sup>2</sup> Keefe, John, *Anatomy of the EP-3 Incident, April 2001* (Alexandria, VA: CNA Corporation, 2001), 10.

## NATIONALISM, ESCALATION, AND RESTRAINT IN THE EAST CHINA SEA

After the Japanese government leased three of the Senkaku/Diaoyu islands from their private owners in 2002, China began taking a more permissive stance toward grassroots “protect the Diaoyu Islands” (*baodiao*) activities, including attempted protest voyages and plans to develop tourist cruises. In August 2003, Japanese activists landed on the islands despite Tokyo’s claim that the leasing decision was meant to prevent “the illegal landing of third parties.”<sup>3</sup>

The surprise landing of seven Chinese activists in March 2004 prompted a potential crisis, as neither government had advance warning of the landing attempt. Japan arrested the Chinese activists for violating domestic immigration laws, and a senior Japanese foreign ministry official indicated that the government would follow the law in handling the matter and would “refrain from actions taken out of consideration for China.”<sup>4</sup>

Chinese authorities allowed small demonstrations outside the Japanese embassy in Beijing for three days. Up to 90 protesters participated in Beijing. Smaller protests took place in Guangzhou and Shanghai. In contrast, anti-Japanese protests over the islands and chemical weapons victims the year before had been limited to no more than ten participants. As the Japanese ambassador noted, “I cannot remember flag burning ever having happened in front of the embassy in the presence of Chinese police.” The crisis was defused when Japan deported the Chinese activists on the third day. Koizumi said he had “instructed government officials to consider how to handle the issue from a comprehensive view so as not to hurt the bilateral relationship with China.”<sup>5</sup>

Despite the quick resolution of the 2004 landing incident, both governments continued to take unilateral actions in the East China Sea, including surveys by Chinese and Japanese research vessels for natural gas resources. In early 2005, Japan for the first time announced that it would officially recognize and manage a lighthouse on the disputed islands. While preventing activists from continuing with plans for tourist cruises and sea voyages, Chinese authorities again allowed small protests in front of the Japanese embassy in February.

Large-scale anti-Japanese demonstrations broke out across China in March and April 2005, spearheaded by an online signature campaign against Japan’s UN Security Council bid. Organized by a collaboration of domestic and overseas Chinese activists, the internet petition was soon picked up by China’s major net portals, signaling state support. Public security authorities in China’s major cities knew of protest plans in advance but did not act to prevent them. Chinese security authorities warned Japanese diplomats to move their vehicles, instructed key nationalist activists to stay at home, and provided security cordons and guidance for protest routes, anticipating (correctly) that protests might be difficult to control.

China managed to curtail anti-Japanese protests after three weeks, preventing rumored protests over the

<sup>3</sup> “Japan’s Lease of Disputed Senkaku Islands Fuels ‘Ire’ from China, Taiwan,” *Mainichi Shimbum*, January 3, 2003.

<sup>4</sup> Japan deported Chinese protesters under political pressure, Japan Economic Newswire, April 1, 2004.

<sup>5</sup> Ibid.

May holiday. Yet repressing anti-Japanese sentiment would have been far more difficult had China not alleviated popular pressure by taking a tougher stance against Japan's bid and claiming diplomatic success. Koizumi apologized for Japan's wartime actions at the Asia-Africa Bandung summit. International support for swift action on Security Council reform waned, and the reform proposal never made it to a General Assembly vote.<sup>6</sup> Subsequent Japanese prime ministers refrained from visiting Yasukuni Shrine, including Shinzo Abe in his first term as prime minister (2006-2007).

As both governments sought to repair relations, the Chinese government tamped down anti-Japanese sentiment. Former diplomats and senior analysts were dispatched to university campuses to explain the importance of the overall context in Sino-Japanese relations. Protests outside the Japanese embassy in Beijing were confined to small demonstrations on important war anniversaries and occasional incidents, such as the detention of a Chinese man at the Tokyo airport for throwing a water bottle at former Taiwan president Lee Teng-hui. During important state visits by Prime Minister Abe in October 2006 and Prime Minister Fukuda in 2007, Chinese authorities kept nationalist activists under strict surveillance and censored discussions on nationalist forums. An online petition to declare a "Diaoyudao" national holiday was forced to close in 2006. In October 2007, mainland activists set sail for the islands from Fujian province but were repelled by the Japanese Coast Guard. On their return, Chinese security authorities interrogated the activists and required them to sign papers promising not to try again.<sup>7</sup>

When China and Japan reached a consensus on joint development of East China Sea resources in 2008, nationalist protest was limited to a dozen activists, carefully monitored by police in front of the Japanese embassy. After activists posted an open letter to the Central Military Commission and National People's Congress, accusing the government of sacrificing the interests of Chinese on both sides of the Taiwan Strait, the website was told to delete the letter or be shut down.<sup>8</sup> Authorities halted attempts to organize protest voyages to the islands in 2009.<sup>9</sup>

## CHINA'S EVOLVING MANAGEMENT OF ANTI-JAPANESE PROTESTS

In the fall of 2010, anti-Japanese demonstrations again broke out in cities across China, the first time thousands of Chinese citizens had staged protests over the Senkaku/Diaoyu islands.<sup>10</sup> Two dozen cities witnessed anti-Japanese demonstrations after a Chinese fishing boat and two Japanese Coast Guard vessels collided near the islands on Sept. 7, 2010. Accusing the Chinese captain of reckless and aggressive behavior, Japanese Coast Guard officials arrested him on charges of obstructing official duties and indicated that the case would be handled in accordance with domestic law. Chinese officials reacted forcefully to this break with precedent, summoning the Japanese ambassador several times, including once at midnight.

<sup>6</sup> The "G4" proposal also included Brazil, Germany, and India as well as Japan as prospective permanent members.

<sup>7</sup> Kenji Minemura, "Activists in China find it harder to stage anti-Japan protests," *Asahi Shimbun*, December 13, 2007.

<sup>8</sup> Li Nan, "Bao Diao lianhehui luntan zui hou yi tie," CFDD.org.cn, June 26, 2008, last accessed July 21, 2008, reposted at <http://www.cfdd.org.cn/bbs/viewthread.php?tid=55307>.

<sup>9</sup> Reinhard Drifte, "Territorial Conflicts in the East China Sea - From Missed Opportunities to Negotiation Stalemate," *The Asia-Pacific Journal*, Vol 22-3-09, June 1, 2009.

<sup>10</sup> The islands were not a major theme of the 2005 anti-Japanese demonstrations.



Yet Chinese authorities only allowed small-scale anti-Japanese demonstrations during the initial phase of the fishing boat crisis, tamping down large-scale demonstrations that were rumored for September 18, the anniversary of Japan's invasion of Manchuria in 1931. The web forum of the China Federation for Defending the Diaoyu Islands, where multiple threads had been started for protests in various cities, including Beijing, Nanjing, Xiamen, Shenzhen, Shenyang and Zhengzhou, was shuttered during the anniversary.<sup>11</sup> Activists were invited to "drink tea" with police officers and reported that many of their QQ chat groups were also shut down.<sup>12</sup> Online comments by popular figures such as Ai Weiwei and Han Han also fed government fears that anti-Japanese protests might be used to air grievances over other issues, including forced evictions and land disputes.<sup>13</sup>

Despite China's efforts to stifle nationalist protests, the crisis escalated the next day, when Japanese authorities extended the Chinese trawler captain's detention. China responded with a tougher stance, postponing talks on joint development of gas resources and cultural exchanges, while warning that Japan would face "further steps" and countermeasures if Japan did not immediately and unconditionally release the captain. On September 23, Secretary of State Hillary Clinton assured Foreign Minister Maehara that the US-Japan alliance covered the islands. The same day, news media reported that China had effectively halted the export of rare earths to Japan. On September 24, China arrested four Japanese Fujita employees on charges of illegally entering military zones in China.

China's coercive tactics—particularly the stoppage of rare earth exports and the arrest of Japanese employees—succeeded in conveying China's resolve and forcing the captain's release on September 24. The Kan administration denied political involvement in the captain's release, but the local prosecutor's office cited the impact on China-Japan relations in its public remarks. However, the ruling Democratic Party of Japan (DPJ) paid a high domestic price for appearing to back down, made worse by images of the Chinese captain signing "V" for victory on television and China's repeated demands for an apology and compensation. Opposition Liberal Democratic Party (LDP) members berated the DPJ for its handling of the incident, calling it "our nation's biggest foreign policy blunder since the end of World War II."<sup>14</sup> Prime Minister Kan apologized to the Japanese public, criticized China's behavior, and reaffirmed Japanese sovereignty over the islands. Amidst growing pressure to release the Coast Guard video of the collision, Foreign Minister Maehara stated that the footage clearly demonstrated that the Chinese trawler had been at fault. In Tokyo, a few thousand protesters staged anti-China demonstrations.

Between October 16 and 26, anti-Japanese protests took place in roughly two dozen second- and third-tier Chinese cities, including Chengdu, Xi'an, Zhengzhou, Wuhan, Mianyang, Lanzhou, and Deyang.<sup>15</sup> In images broadcast on Japanese television, some protest banners called for multiparty competition and criticized high housing costs.<sup>16</sup> It remains unclear to what extent the government authorized these

<sup>11</sup> For example, <http://www.cfdd.org.cn/bbs/forum-90-44.html>, <http://www.cfdd.org.cn/bbs/redirect.php?fid=90&tid=72164&goto=nextoldset>; "China breaks up anti-Japan protests." *Al Jazeera*, September 18, 2010.

<sup>12</sup> For example, <http://www.cfdd.org.cn/bbs/redirect.php?fid=90&tid=72170&goto=nextoldset>.

<sup>13</sup> "Police snuff out anti-Japanese protests," *South China Morning Post*, September 18, 2010.

<sup>14</sup> "Parties unite in demanding Senkaku video," *Japan Times*, October 1, 2010.

<sup>15</sup> "Postmortem: Official OK to anti-Japan rallies backfired in China," *Asahi Shimbun*, October 23, 2010.

<sup>16</sup> <http://www.csmonitor.com/World/Asia-Pacific/2010/1026/Beijing-now-worried-anti-Japan-protests-could-backfire>, last

protests, although Shi Yinong, a prominent expert on Sino-Japanese relations in Beijing, pointed out: “If the government very consciously opposed or didn't want these demonstrations, if they resolutely didn't want them, then there would be nothing.”<sup>17</sup> No protests attempts were reported in Beijing, where leaders gathered for an annual plenum of the CCP Central Committee.<sup>18</sup> Although thousands were allowed to protest in Chongqing for two hours before authorities dispersed the demonstration,<sup>19</sup> police prevented demonstrations in Shenzhen, Changsha, and Nanjing by detaining activists and stationing heavy security along planned protest routes. In Changsha, where calls for protests outside a Japanese clothing store had circulated, school authorities required students to attend extra classes over the weekend to prevent them from participating in protests.<sup>20</sup>

#### DANGERS OF MISPERCEPTION: UNDERESTIMATING CHINA'S RESPONSE IN 2012?

The uneven timing and local handling of anti-Japanese protests in 2010 has left considerable room for diverging interpretations. Many observers speculate that the Chinese government has tolerated nationalist protests in order to let citizens blow off steam. An editorial in the *Yomiuri Shimbun* noted that “leaders of the Chinese Communist Party are apparently most afraid that young people's frustrations, which are now taking the form of anti-Japan protests, could transform into antigovernment movements demanding democracy. That is why some observers suspect Chinese security authorities are maneuvering anti-Japan demonstrations to alleviate young people's discontent.”<sup>21</sup>

But diverting domestic grievances toward foreign policy issues does not strengthen the government's legitimacy if it cannot claim diplomatic victory or point to tough countermeasures that the government has taken to protect the nation's interest. In today's porous and pluralistic information environment, including access to overseas websites and news media, the government cannot erase domestic criticism by “brainwashing” citizens with positive propaganda. Citizens and activists may restrain their actions, understanding that the window of opportunity for protest has closed. But their criticism cannot be completely silenced online and in private, as evidenced by domestic opposition to the 2008 agreement on joint development in the East China Sea.

Nationalism helps prop up the Chinese regime but may also be its downfall. Popular nationalism is not just the product of state-led patriotic propaganda but is also deeply rooted in society. Indeed, the last two Chinese regimes, the Qing Dynasty and Kuomintang, fell to popular movements that accused them of being weak-kneed in defending the national interest. The government does not have perfect control over anti-foreign street protests, which can easily stray off message. During the 2012 anti-Japanese protests, some participants attacked government offices and demanded unpaid wages. Many protesters carried portraits of Mao, leading to speculation that some demonstrators sought to show support for the disgraced leader Bo Xilai, who had featured Maoist paraphernalia in his public campaigns. Given limited channels for political mobilization, citizens may seize the opportunity to advance other

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accessed October 27, 2010.

<sup>17</sup> Associated Press, October 18, 2010.

<sup>18</sup> “China-Japan row simmers as protests enter third day.” *Agence France Presse*, October 18, 2010.

<sup>19</sup> “Thousands join anti-Japan protests in China's Chongqing,” *Xinhua*, October 26, 2010.

<sup>20</sup> “More anti-Japan protests in China,” *The Japan Times*, October 24, 2010.

<sup>21</sup> “Chinese leaders must calm anti-Japan rallies,” *The Daily Yomiuri*, October 19, 2010.

objectives.

Visible efforts to reduce the risk that protests get out of hand—such as police guidance and passive presence—may also undermine the perceived sincerity and spontaneity of popular demonstrations. After the embassy bombing in 1999, many anti-American protests arose spontaneously.<sup>22</sup> As protests nearly got out of hand on the first day, Chinese authorities sent buses and orchestrated protest routes in an effort to maintain control. As a senior diplomat in the U.S. Embassy recalled:

This thing got out of control. The government and the Foreign Ministry did not realize how determined and angry these people were.... at the United States, but also, as it went on, partially directed at the Chinese government. That's when I think the government decided that the better part of wisdom was to join the students and try to bus them over there to the American embassy. Because who knows? They might have stopped in Tiananmen and said bad things about the government.<sup>23</sup>

The increasingly viral mobilization of protests via social media requires greater government effort to prevent large-scale protests. Local variation in protest size, level of violence, and security measures makes it increasingly difficult to discern China's intentions. A concerted effort to prevent large-scale protests can still succeed, as the anniversary of September 18<sup>th</sup>, 2010 demonstrated. The Japanese government was aware of Chinese attempts to restrain nationalist sentiment in September 2010. As Foreign Minister Maehara stated in an interview, "Japan received credible assurances through diplomatic channels that the Chinese government was working to cool off these protests as soon as they began cropping up."<sup>24</sup>

Yet China's efforts to limit the size of anti-Japanese protests during the 2010 crisis may have unwittingly led Japan to underestimate Chinese resolve in 2012. The Japanese government announced a plan to buy the islands from private Japanese owners, indicating that nationalizing the islands would be less offensive than allowing the rightwing Tokyo governor to purchase and develop them.<sup>25</sup> Japanese officials apparently anticipated that protests would occur if Japan nationalized the islands but also expected Chinese authorities to take measures to contain the demonstrations before too much damage was done, particularly on the eve of planned activities to commemorate the 40<sup>th</sup> anniversary of Sino-Japanese normalization. Given the international backlash against Chinese restrictions on rare earth exports in 2010, including a WTO investigation, the Japanese government appears to have misjudged

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<sup>22</sup> Zhao, Dingxin, "Nationalism and Authoritarianism: Student-Government Conflicts during the 1999 Beijing Student Protests after the Belgrade Embassy Bombing," *Asian Perspective* 27, no. 1 (2003).

<sup>23</sup> Author's interview with senior U.S. diplomat, Washington, D.C., March 11, 2009.

<sup>24</sup> Translated from "Kongo mo Nippon no genri gensoku o mamoru," *Chūō Kōron*, December 2010, pp. 106–11, accessed at <http://www.japanchweb.jp/jew0403/>.

<sup>25</sup> Foreign Minister of Japan Koichiro Genba, "Japan-China relations at a crossroads," *International Herald Tribune*, November 21, 2012.

China's willingness to risk international criticism and respond forcefully to Japan's nationalization of the islands.

More than two hundred Chinese cities witnessed anti-Japanese demonstrations in the fall of 2012. After activists from Hong Kong and Japan landed on the islands in mid-August, nearly sixty anti-Japanese demonstrations took place in cities across China. Despite the protests and high-level Chinese warnings not to proceed with the purchase, including President Hu Jintao's conversation with Prime Minister Noda on September 9, the Japanese government announced its decision to proceed with the purchase on September 10. Viewing Japan's decision as a change to the status quo and a violation of a tacit agreement to "shelve" the territorial issue, China demanded that Japan "correct its mistakes" and took a series of countermeasures to demonstrate resolve and assert Chinese sovereignty over the islands, including drawing baselines around the islands, increasing maritime patrols, and allowing further protests. Although demonstrations in Beijing and Shanghai were relatively orderly, many protests in second and third tier cities became violent and destructive. In Qingdao, a Panasonic factory was set on fire and a Toyota dealership destroyed.<sup>26</sup> On September 18, anti-Japanese demonstrations took place in more than 125 cities across China.

One of the greatest dangers is that foreign governments will underestimate the extent to which popular nationalism constrains China's diplomatic options. Less than two weeks after announcing Japan's decision to nationalize the islands, Prime Minister Noda admitted to underestimating the strength of China's opposition, stating: "I understand the nationalization would bring reactions and tensions to some extent, but the scale is broader than expected."<sup>27</sup> Statements by Prime Minister Abe have suggested that his government may discount the genuine sentiment that drives popular nationalism in China as well as years of patriotic education. In an interview with the *Washington Post*, Abe acknowledged that China's tough measures against Japan are "resulting in strong support from the people of China, who have been brought up through this educational system that attaches emphasis on patriotism."<sup>28</sup> Abe stated that "it is fully possible to have China to change their policy" once Beijing recognizes the economic harm that the standoff is having on Japanese investment and employment in China—but without acknowledging the steep legitimacy costs that China's leaders would pay for making unilateral concessions.

## CONCLUSION: NATIONALISM IN CHINA'S MARITIME DISPUTES

Although leadership transitions in China and Japan are now complete, the situation in the East China Sea remains tense and unstable. With both sides actively patrolling the waters and skies surrounding the islands, the risk of an accident and inadvertent military conflict is high. One of the chief dangers is that

<sup>26</sup> Ian Johnson and Thom Shanker, "Beijing mixes messages over anti-Japan protests," *New York Times*, September 16, 2012.

<sup>27</sup> "Japanese Prime Minister Noda admits 'miscalculation' over Diaoyus," *South China Morning Post*, September 21, 2012.

<sup>28</sup> "Transcript of interview with Japanese Prime Minister Shinzo Abe," *Washington Post*, February 20, 2013, available at [http://www.washingtonpost.com/world/transcript-of-interview-with-japanese-prime-minister-shinzo-abe/2013/02/20/e7518d54-7b1c-11e2-82e8-61a46c2cde3d\\_print.html](http://www.washingtonpost.com/world/transcript-of-interview-with-japanese-prime-minister-shinzo-abe/2013/02/20/e7518d54-7b1c-11e2-82e8-61a46c2cde3d_print.html).

government leaders will underestimate the degree to which their counterparts are constrained by domestic politics and nationalist sentiment. Just as leaders in Japan and the United States have no interest in appearing to concede before Chinese “coercion,” as Prime Minister Abe put it, neither can China’s leaders return to the status quo ante without evidence of diplomatic success to show domestic audiences. Although both sides have demonstrated their willingness to restrain nationalist activities and shelve the territorial issue in the past, doing so has a domestic price—a price that may become too high if restraint is not reciprocated.

When nationalist protests take place, the likelihood of conflict escalation is greatest if popular sentiments are sincere yet foreign observers dismiss them as a cover for domestic grievances rather than a genuine constraint. Skepticism concerning the sincerity of nationalist sentiment is likely to persist, particularly in light of Chinese efforts to guide online opinion and hire internet commentators. A more open airing of views in China would give greater credibility to the sentiments that are expressed. When citizens, netizens and intellectuals feel safe in expressing their opinions without fear of reprisal from government censors or “human flesh search engines,” external audiences are more likely to believe that these sentiments are genuine rather than deference to the party line.

The prospects for de-escalation in the East China Sea will depend on a number of factors, including whether the Japanese government can be persuaded that diplomatic compromise will bolster a moderate Chinese leadership and help restore stability to bilateral relations, and whether the Chinese government can credibly demonstrate its willingness to reciprocate rather than exploit Japanese goodwill. Neither government wants war, but both sides appear to believe that the other side cannot afford the economic fallout of political tensions. Such statements suggest that neither party is prepared to back down in the absence of creative diplomacy and credible assurances that good faith actions will be returned.

Popular nationalism is more likely to jeopardize efforts to stabilize the East China Sea than the South China Sea. In China, nationalist anger at Vietnam and the Philippines has been limited to online sentiments, not street protests. Nor is anger at these countries rooted in the same historical memories that drive anti-Japanese sentiment in China. With the status quo in the Paracel Islands and Scarborough Shoal favoring China, there is little reason to expect China to engage in public displays of resolve vis-à-vis Vietnam and the Philippines. Even the relatively nationalist *Global Times* has cautioned that “indulging anger and fantasizing confrontation” is not the right way to manage disputes in the South China Sea, including pressure from Chinese netizens calling for the government to “teach Vietnam a lesson.”<sup>29</sup> Fortunately for Beijing, anti-China protests in the Philippines were short-lived, and Vietnam has arrested many liberal activists who participated in demonstrations over China’s actions in the Paracel and Spratly Islands. Yet China may also underestimate the domestic constraints that leaders in Vietnam and the Philippines face regarding their respective territorial claims. In 2011, some Chinese scholars remarked that anti-China nationalism was also a “double-edged sword” for Vietnam and the

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<sup>29</sup> “Fen Nu Bushi Chuli Nanhai Wenti De Zhengdao,” June 9, 2011, *Huanqiu Shibao*, <http://opinion.huanqiu.com/roll/2011-06/1744966.html>, last accessed May 9, 2012.

Philippines and could get out of control. But they also warned that these smaller countries were more economically dependent on China and would be injured more severely if tensions continued to rise.<sup>30</sup> Xinhua went further, describing most of the anti-China protests in Manila as instigated by a handful of “pro-American” organizations that had obtained U.S. assistance.<sup>31</sup>

Despite temptations to downplay the domestic constraints facing its counterparts, Beijing would be wise to look for opportunities to demonstrate restraint in the East and South China Seas, given the damage to China’s image in Asia in recent years. If China’s leadership wants to prevent a counterbalancing coalition of states from forming against China’s rise, it will need to temper demonstrations of resolve with credible reassurances. Just as Henry Kissinger notes that “a prudent American leadership should balance the risks of stoking Chinese nationalism against the gains from short-term pressures,”<sup>32</sup> so should a prudent Chinese leadership balance the risks of stoking anti-China sentiment against the desire for short term gains.

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<sup>30</sup> “Xuezhe Cheng Yunan He Feilvbin Fangren Fanhua Qingxu Jiang Rang Ziji Shoushang,” June 24, 2011, *Huanqiu Shibao*, <http://mil.news.sina.com.cn/2011-06-24/0806653716.html>, last accessed March 26, 2013.

<sup>31</sup> “Feilvbin De QinMei FanHua Jiyin, Wenhua Shou Mei Lao Yin, Wai Zhang Shou Mei Jiaoyu,” Xinhua, October 28, 2011, [http://news.xinhuanet.com/mil/2011-10/28/c\\_122208416.htm](http://news.xinhuanet.com/mil/2011-10/28/c_122208416.htm), last accessed March 26, 2013.

<sup>32</sup> Kissinger, Henry, *Does America need a foreign policy? Towards a diplomacy for the 21st century* (New York: Simon & Schuster, 2001).

**OPENING STATEMENT OF PETER DUTTON  
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MR. DUTTON: Thank you, again, Commissioners, for inviting me to come testify before you today.

I'd like to start by talking a little bit about the framework of how China thinks about the legal issues in the South China Sea in the context of its other activities, international activities.

My colleague, Nan Li, calls China's Near Seas Strategy a combination of, quote, "non-militarized assertiveness" and, quote, "non-assertive militarization."

I like this formula although I believe a better term is "non-militarized coercion," which I'll discuss in some detail in just a few minutes.

One thing I think we should avoid is describing China as aggressive in pursuing its claims. Indeed, we have seen a period of Chinese aggression in the past. This was the period between approximately 1970 to 1995 in which the Chinese did, in fact, militarize their disputes.

So today's strategic approach is significantly different. China's current strategy for promoting its maritime claims will be easier to understand, though, if we consider five basic approaches to international dispute resolution as a spectrum of strategic options. It is worth noting that states generally employ a combination of these approaches simultaneously, and China is no exception.

So while each strategy will have a central focus in one of these five options, it will retain characteristics of the others as well. The spectrum begins with three diplomatic, or institutional, options. The first of these, of course, is direct bilateral negotiation between the disputing parties.

The second is multilateral negotiations, either through appropriate institutions or direct ad hoc.

And the third is to submit the disputes to arbitration or litigation through an international legal institution.

The fourth and fifth approaches are power based. Non-militarized coercion, of course, is one, the fourth approach, and the fifth, of course, is armed conflict. Of these five approaches, China prefers bilateral negotiations to resolve the conflict, but these negotiations, especially in the South China Sea, have gone nowhere over the past two decades, in part because China demands more than its negotiating partners are willing to give up.

China has participated in multilateral negotiations, but to limit the pressure those negotiations impose, the Chinese have actively sought in recent years to divide ASEAN, to forestall any meaningful collective pressure on China from that direction.

Likewise, the Chinese have refused to submit to international arbitration or litigation because, although they sincerely believe their claims are

just and appropriate, I think they know that international law does not support many of their assertions, especially their more expansive claims.

China has also been deterred from using the fifth approach, armed conflict, to resolve these disputes. Thus, since 2008, China's strategic emphasis has settled into the gap between armed conflict and political institutional approaches. In this gap lies the power-based approach of non-militarized coercion.

The first, and perhaps most obvious, attribute of China's comprehensive coercive strategy is tremendous investment in and expansion of its civilian maritime agencies. As China's white-hulled capacity has grown, so has China's presence in the disputed waters. These vessels provide an intimidating presence and de facto control over much of the disputed space.

The second attribute is integration of the enormous civilian maritime capacity, including its fishing fleet.

Third, the Chinese also leverage superior economic power to extend or withhold benefits to affect a rival's national policy.

Fourth, China's domestic laws and institutions also serve to rationalize, organize, and direct the efforts of China's considerable domestic agencies. Beijing also applies public and psychological pressure on its neighbors by stirring up the Chinese nationalist fervor that has just been discussed by my colleague.

Fifth, although its role remains indirect, the PLA has an important component of this strategy. PLA naval vessels are never far from the site of any dispute, and these Chinese naval forces serve as a deterrent reminder that China could manage any escalatory action its opponents might be tempted to try.

This combination of economic leverage, civilian maritime power and military deterrent power has enabled a Chinese strategy in which there is little or no consequences for the employment of this type of escalation, short of militarized armed conflict. Indeed, China's strategy allows it to apply non-militarized pressure and then to threaten actions in national self-defense if others were to respond militarily.

This is a key component of the strategy's success: it puts other claimants in a bind. To be insufficiently assertive in defending their claims is eventually to succumb to Chinese non-military pressure. On the other hand, becoming assertive invites the escalation that they are ill-equipped to handle, especially the smaller states. So far, this has proved to be a low risk, high reward strategy for China. That was, at least, until the Philippines decided to open a new front in the contest.

For the past several years, China's non-military coercive strategy has left other claimants grappling to find effective ways to respond. The Philippines seized the initiative and shifted the battleground, and I think shook up decades of stagnation in discussions with their negotiations with China over their disputes in the South China Sea by initiating international arbitration through UNCLOS.

A very important outcome of this case could be that China is faced with the embarrassment of the formal international rejection of its claims and a



clear reinforcement of the rules and norms and rights and obligations at sea that UNCLOS has established.

To date, the United States has carved out two supporting roles regarding East Asian maritime disputes. First and most importantly, American partnerships and the maintenance of a strong American military power resident in East Asia have so far taken military conflict, the fifth approach discussed in my framework above, off the table as a method of dispute resolution.

Second, the U.S. uses its persuasive power, the reinforcement of international law norms, and diplomatic efforts to encourage the parties, disputing parties, to resolve their conflicts through peaceful means. Those are the first three approaches discussed in the framework above.

But the U.S. has played a very limited role in affecting Beijing's calculation about the fourth framework option, that of pursuing non-military coercive strategies.

What might be a stronger American posture? The single-most important role for the United States in East Asia is to keep conflict as a means of dispute resolution off the table. To the extent that American deterrent power has eroded or will erode, that needs to be reversed with concrete visible steps. The U.S. also needs to continue to bring its diplomatic power to bear to persuade and encourage parties to encourage non-coercive measures.

American persuasive power would be strengthened by the reassertion of the American leadership role over the development of the international law of the sea. Since UNCLOS provides this basis, the U.S. should ratify the Convention in order to more effectively exercise this leadership, because America has a vital interest in the strength of the UNCLOS framework.

Finally, the U.S. should consider ways to support the ability of regional states to withstand China's non-military coercive pressure. Such efforts across the spectrum of international dispute resolution mechanisms will support just and lasting solutions to East Asia's maritime disputes.

Thank you.

**PREPARED STATEMENT OF PETER DUTTON  
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**April 4, 2013  
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Testimony before the U.S.-China Economic and Security Review Committee  
Hearing on  
China's Maritime Disputes in the East and South China Seas**

This testimony reflects the personal views of the author and not the official views of the U.S.  
Navy or any other entity of the U.S. Government.

**Questions presented:** What are the origins of China's territorial claims in the East and South China Seas. Upon what historical, geographic, or other bases does China justify them? What is China's strategy for promoting its "9-dash line" claim? How does China address skepticism to this claim and how sustainable is this strategy? What impact will the Philippines' initiation of South China Sea boundary arbitration proceedings have on the outlook for the resolution of other maritime boundary disputes in the region? What is the impact of China's decision not to participate in the proceedings? How will the maritime boundary dispute in East Asia be resolved, if at all? What avenues have the greatest promise to yield an enduring solution? Discuss possible roles for international institutions, such as the United Nations (UN), and regional institutions, such as the Association of Southeast Asian Nations (ASEAN). What should be the role of the US in achieving resolution and ensuring the resolution endures?

**The Origin of China's Maritime Claims in the East and South China Seas.** China's maritime claims in the East and South China Seas flow from several overarching interests and objectives.<sup>1</sup> These include enhancing China's sense of national security, acquiring control over the region's living and non-living maritime resources, and restoring China's place of pre-eminence in the East Asian regional order. Thus, China's maritime claims serve important security, economic, and external political objectives. Additionally, consolidating Chinese state power over the offshore islands and regional seas serves the Communist Party's interest in maintaining internal political credibility by delivering to the Chinese people what they believe is rightfully their own.

Perhaps China's pre-eminent objective is expansion of its national security perimeter. There is evidence that as early as the 1930's Chinese leaders were already looking forward to a period of restored Chinese sovereignty and power and many of today's specific claims stem from this period.<sup>2</sup> Emphasizing this continuity of strategic thinking about how China thinks about security, regardless of the polity that provides governance there, a spokesman for China's Ministry of Foreign Affairs scolded Japanese Prime Minister Noda as the Senkaku-Diaoyu Islands dispute heated up in late August 2012, and added that the disputed islands "have been an

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<sup>1</sup> For more on this issue, please see, Dutton, Peter, "Three Disputes and Three Objectives: China and the South China Sea," *Naval War College Review*, Volume 64, No. 4, Autumn 2011, p. 42.

<sup>2</sup> See, Dutton, Peter A., "Through a Chinese Lens," *USNI Proceedings*, April 2010, p. 24.

inherent territory of China since ancient times ... [and were] within China's *maritime defense sphere* since the Ming Dynasty."<sup>3</sup> What is interesting about this statement—and fully representative of Chinese views—is the weaving of history, security, and territorial claims with attempts to correct the behavior and attitudes of leaders of neighboring states. Additionally, while the statement by the spokesman for the Ministry of Foreign Affairs appears to be the first and only public use of that specific term, the concept behind it is not at all new. A 2007 article in *China Military Science*, for instance, calls these waters “the overlay area of China’s national sovereignty, an important strategic protective screen, and an energy source base.”<sup>4</sup> Similarly, People’s Liberation Army Major General Peng Guangqian stated “China’s sea area is the initial strategic barrier for homeland security ... a channel and strategic pivot for the country to move outward ... [and] a treasure trove of the strategic resources necessary for the country’s survival and development.”<sup>5</sup> Thus, there are close connections between China’s claim to sovereignty over the islands in the East and South China Seas, Beijing’s expansive jurisdictional assertions over the region’s water space, and China’s sense of national security, resource security, and regional credibility.

Concerning the Senkaku-Diaoyu dispute, there is a direct correlation between China’s heated rhetoric surrounding the September 2012 purchase by the Japanese government of some of the islands from their private owner and China’s most intense period of internal politics in many years. China’s escalation of the incident throughout the autumn of 2012 certainly served to externalize the internal political instability and thereby created space for the Chinese Communist Party (CCP) leaders to resolve the political struggle with less internal or external political pressure. In my view, however, it would be wrong to conclude that since Xi Jinping has now consolidated his political position the purpose of escalation has been achieved and the dispute will return to some form of status quo stability. That line of reasoning overlooks the fundamental point, that in addition to the temporary political objectives of escalation, China has fundamental and long term vital objectives regarding national defense and resource security that will not fade. Additionally, influential Chinese thought-leaders believe that regional power dynamics currently favor China, but they are anxious that ten years from now that may no longer be the case. Thus, it is my view that any easing of tensions over the Senkaku-Diaoyu dispute will be temporary and for the next several years at least China will retain most of the strategic initiative to dial up or dial back the tensions as it deems the circumstances require.

**China’s Strategy for Promoting its “9-Dashed Line” Claim.** It will be easier to understand China’s strategy and to assess the United States’ best response to it if we lay out the framework of five basic approaches to international dispute resolution. The spectrum begins with three diplomatic or institutional options. The first of these is direct, *bilateral negotiations* between the disputing parties. The second is *multilateral negotiations*, either through an appropriate institution, such as ASEAN or the UN, or undertaken on an ad hoc basis among the various disputing parties. The third is to submit the dispute to arbitration or litigation through an appropriate *international legal institution*. The fourth and fifth approaches are power based—*non-militarized coercion* and *armed conflict*. Of these five approaches, China prefers bilateral negotiations to resolve the conflict, but these negotiations have gone nowhere over the past two decades because China demands more than its negotiating partners are willing to give up. China has participated in multilateral negotiations in the past—the period between 1995 and 2008 in particular—and this led to some successes, including the Declaration on the Conduct of Parties in the South China Sea. When ASEAN was unified against China, as it was in the aftermath of the 1995 Mischief

<sup>3</sup> Chen Jie, “China Strongly Displeased at Japan’s Remark on Diaoyu Islands,” *Xinhua*, August 25, 2012

<sup>4</sup> Wang Shumei, Shi Jiazhong, and Xu Mingshun, “Carry Out the Historic Mission of the Army and Establish the Scientific Concept of Sea Rights,” *China Military Science*, February 1, 2007, pp.

<sup>5</sup> Peng Guangqian, “China’s Maritime Rights and Interests,” in Dutton, Peter (ed.), *Military Activities in the EEZ: A U.S.-China Dialogue on Security and International Law in the Maritime Commons*, China Maritime Studies Number 7, Naval War College December 2010, p. 15.

Reef Incident, this pressure gave China incentive to work productively with ASEAN, but by 2008 the Chinese had concluded that only they were negotiating in good faith and that the other disputing parties were taking advantage of Chinese restraint to seize control of valuable hydrocarbon resources. The Chinese thereafter actively sought to divide ASEAN to forestall any meaningful collective pressure from that direction. Likewise, the Chinese have so far refused to submit to international arbitration or litigation because, although they sincerely believe their claims are just and appropriate, they know that international law does not support many of their assertions, especially their more expansive claims—such as jurisdiction over the waters of the South China Sea based on the 9-dashed line and their East China Sea continental shelf claim. Finally, China has been deterred over the past few decades from using armed conflict to resolve the disputes—an approach it had used successfully in 1974 in the Paracel Islands and in 1988 at Fiery Cross Reef. Thus, since 2008 China’s strategic emphasis has settled into the gap between armed conflict—from which it has been deterred—and institutional approaches, which it found ineffective to advance its interests. In the gap between these strategies lies the power-based approach of non-militarized coercion.

A good example of how China employs non-militarized coercion to consolidate its near seas claims can be seen in the 2012 Scarborough Reef Incident and the interactions between the Chinese and Philippine governments in the weeks before it. On February 27, 2012, the Philippine Secretary of Energy announced plans to develop hydrocarbon 15 blocks in the Reed Bank area, which forms part of the continental shelf of the Philippine’s Palawan Island. This area is, however, also within China’s 9-dashed line, which has resulted in agitation between the two countries for years. A couple of days after the announcement, the Chinese warned the Philippines

Any exploration and development projects in these areas without China’s consent cannot be successful. China is firmly determined to safeguard its sovereignty, and will take *all possible measures* to solve such problems when necessary.<sup>6</sup>

The next incident occurred about a month later when, in the same disputed waters, the Philippine Navy seized a Chinese fishing vessel and 35 wooden, motorized dinghies it was towing under a law that authorizes the Philippine Navy to seize foreign vessels engaged in illegal fishing in Philippine waters. The Chinese Ministry of Foreign Affairs responded that these waters have been China’s “traditional fishing grounds for generations” and reiterated that “China has indisputable sovereignty” over these islands and waters.<sup>7</sup> Thus, even before the Scarborough Reef Incident began, China and the Philippines were actively sparring over resource rights in the waters near the coast of the Philippines and the situation was poised to escalate.

Scarborough Reef is a coral feature sitting atop a shallow shoal in the eastern part of the South China Sea. It is not part of the Spratly Islands. The feature is, however, disputed between China and the Philippines, but had been actively used and occasionally patrolled by both parties for decades. When a single Philippine Navy frigate on a fisheries law enforcement patrol showed up at Scarborough Reef on April 8, 2012 to stop Chinese fishermen from harvesting endangered species there, the Chinese quickly deployed civilian law enforcement vessels from China’s Maritime Surveillance Service.<sup>8</sup> They were joined by a small armada of Chinese fishing vessels and together this flotilla of Chinese government and civilian craft overwhelmed the Philippine presence. A standoff on the water began, supported by the nearby presence of Chinese Navy vessels serving to remind the Philippines that any temptation to escalate the situation could and would be met by highly capable naval power.

<sup>6</sup> “Philippines Must Learn Self-Restraint in South China Sea Disputes,” *People’s Daily*, March 1, 2012. Emphasis added.

<sup>7</sup> Ina Reformina, “DOJ Against Release of Chinese Fishing Vessels,” *ABS-CBN News*, April 4, 2012.

<sup>8</sup> “Second Philippine Ship Sent in China Standoff,” *Agence France-Presse*, Thursday, April 12, 2012.

Bilateral diplomacy took over, resulting in what appeared to be an agreement for both sides to withdraw and for the situation to return to the status quo ante. The Philippines complied, removing their few government and civilian vessels from the reef. The Chinese did not. In fact, after the Philippine ships departed the Chinese placed a physical barrier across the reef's narrow entrance and posted a Chinese law enforcement vessel to prevent any Philippine attempts to return. The Philippines was outmaneuvered at Scarborough Reef and lost access to the resources in its sheltered harbor and lost the ability to protect the reef's fragile ecosystem.

These incidents demonstrate some of the key attributes of China's comprehensive coercive strategy for advancing its interests within the 9-dash line. First, and perhaps most obvious, is China's tremendous investment and *expansion of its various civilian maritime agencies*. As China's white-hulled capacity grew, so did China's now continuous presence in the disputed waters. These vessels outnumber even the collective capacity of other disputants and provide an intimidating presence and de facto control over much of the disputed water space. The second attribute is *integration of the enormous civilian maritime capacity* China has developed over the past two decades in a new sort of people's war. China's fishing fleet reportedly receives financial incentives and logistical support to operate in the southern waters of the South China Sea and can help flood a hot spot in support of government action in a way that overwhelms the law enforcement capacity of China's rivals—especially in the South China Sea. Third, the Chinese also *leverage superior economic power* through targeted commercial engagement by state-owned enterprises, infrastructure projects, and official gifts, grants, and favorable loans. These can be extended or withheld to affect national policy—an example of which can be seen in the stoppage of rare earth shipments to Japan during the 2010 crisis and the cancellation of banana imports from the Philippines in 2012. Fourth, China has developed *domestic laws and institutions* to rationalize and manage the spaces it is increasingly controlling. These laws serve to organize and direct the efforts of China's considerable domestic agencies, but they also serve to raise the stakes for their opponents. As China incorporates more closely islands and waters in the South China Sea, it simultaneously deters action against it by treating these gains as new triggers for action in national self-defense. Likewise, Beijing applies *public and psychological pressure* on its neighbors by stirring up Chinese nationalist fervor surrounding the disputes and also through media campaigns, such as its very well publicized deployment in early 2012 of a deep-water drilling capacity. Fifth, although its role remains indirect, the PLA still has an important component of this strategy. Just as they were during the Scarborough Reef Incident, PLA Navy vessels are never far from the site of any dispute and these *Chinese naval forces serve as a deterrent* reminder that China could manage any escalatory action its opponents might be tempted to try. This combination of economic leverage, civilian maritime power, and military deterrence power has enabled a Chinese strategy in which there are *little or no consequences for the employment of escalation*, short of militarized armed conflict. Thus, operationalization of the strategy includes the use of low-level force—such as cutting the cables of Vietnamese survey vessels, arresting or firing upon Vietnamese fishermen, and intimidating Philippine exploration vessels. It has indeed proved to be a low risk, high reward strategy. That was, at least, until the Philippines decided to open up a new front in the conflict.

**Impact of the Philippine Arbitration in the South China Sea.** For the past several years, China's coercive strategy for consolidating its hold over the islands and water space within the 9-dash line has left other claimants grappling to find effective ways to respond with the more—sometimes much more—limited means at their disposal. On January 22, 2013, however, *the Philippines seized the initiative*, shifted the battleground, and shook up decades of stagnation in discussions with China over their maritime disputes in the South China Sea – known as the West Philippine Sea in Manila – by initiating an international arbitration process under the United Nations Convention on the Law of the Sea (UNCLOS).<sup>9</sup> So far, China has rejected participation in the process, even

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<sup>9</sup> Much of the material in this section is taken from Dutton, Peter A., “The Sino-Philippine Maritime Row: International Arbitration and the South China Sea,” *East and South China Seas Bulletin #10*, Center for a New American Security, March

though arbitration will continue without them. This is because arbitration of disputes over the interpretation of UNCLOS is mandatory for states party, except for four key issues touching on the vital sovereign interests of any state: sovereignty over disputed territory, maritime jurisdictional boundaries, military activities at sea, and historic title over water space. The normal process for assembling the five-member arbitral panel is for each party to choose an arbitrator of its own and then through negotiation and agreement the parties choose three more arbitrators together. When a party refuses to participate in the process, the rules require the Chief Judge of the International Tribunal for the Law of the Sea to independently appoint the remaining four arbitrators. In this case, they will be appointed by Japanese Judge Shunji Yanai.

This process, therefore, presents China with several challenges. First, China's continuing failure to reach a negotiated settlement with any of its neighbors has exposed China to the risk of international litigation of the issues. If the Philippines is successful, other states will either join in the process or initiate arbitration of their own. Thus, one impact of the arbitration is that Beijing has, at least temporarily, *lost the strategic initiative* it so painstakingly developed through the combined strategy of diplomatic stalling and non-militarized coercion at sea. Second, if the arbitration goes forward—and this is a significant “if” that I will explain further below—Beijing will be at a serious disadvantage because it is doubtful that several Chinese assertions about their South China Sea rights will survive the scrutiny of international law. Thus, another impact is that *Beijing could lose even the mere fig leaf of credibility* for some of its important maritime claims. Thus, a very important outcome of this case could be that China is faced with the embarrassment of the formal international rejection of its claims and a clear reinforcement of the rules and norms concerning rights and obligations at sea that UNCLOS establishes. It should be noted that on at least one occasion in the past—in the period from 1995 to 2008, Beijing was influenced to pursue non-coercive measures by unified international opinion against its behavior.

Failure by China to participate in the process or, worse, a decision to ignore unfavorable results, would be a signal from Beijing that no amount of international disapproval will sway it. Thus, a third impact could be to encourage others in the region and beyond to enhance coercive capacity and *engage in accelerated balancing activities* in order to reinforce their claim strength and their overall security in the face of a more powerful China. A fourth impact could be that China's leaders may have to face *domestic political concerns*, since the avid Chinese nationalism that Beijing sometimes uses as a weapon against its neighbors could in this case be turned against the leadership. Indeed, there is likely to be especial sensitivity to the perception that China's government lost control of a high profile issue to a small Southeast Asian state and a Japanese judge. At a time when a new Chinese leadership is in the process of establishing its authority, asserting its policy preferences, and developing its credibility as defender of China's interests, nationalist outcries could easily become an unwelcome and complicating distraction.

There is one big hurdle yet to cross before China has to fear any of these consequences. The arbitral panel must be formed and it must decide whether it has jurisdiction over the case. This much, at least, will proceed even without Chinese participation. The issue of jurisdiction is not a simple one. The Philippine *Notification and Statement of Claims* asks the Arbitral Panel to determine that China's nine-dashed line claim in the South China Sea is contrary to UNCLOS and therefore invalid. While the Chinese government has never openly stated its policy on the meaning of this line, there is some evidence in the public domain in that China officially submitted a picture of the 9-dashed line to the UN in 2009 in opposing a joint claim by Vietnam and Malaysia to continental shelf rights in the South China Sea. However, since UNCLOS specifically allows countries to exclude claims to historic title from compulsory arbitration—and China is on record as asserting its right to exclude such cases—the tribunal may choose the path of least risk and decide it has no authority to review Beijing's claim over or activities within the 9-dashed line. This is why the question of jurisdiction is really at the heart of the matter. If

the tribunal decides it has jurisdiction, it is because it found that China's 9-dashed line claim is indefensible as a zone of historic title. This would be a severe blow to China, one that it may be unwilling to risk. Accordingly, perhaps the single biggest impact of the Philippine arbitration is that it *incentivizes China to re-open the avenue of bilateral negotiations* on terms that are more realistically acceptable to the Philippines.

**Avenues for Resolving Maritime Disputes in East Asia.** Even as bilateral negotiations will likely be reinvigorated in light of the arbitral process, Beijing will undoubtedly continue to engage in at least some of its coercive activities to ensure its maximum leverage at the bargaining table. Since the Philippines has few tools with which to coerce China in return, Manila will pursue maximum leverage by continuing to press the legal claims, since they are aimed precisely at China's greatest weakness. In addition, if other claimant states were also to initiate compulsory dispute resolution under UNCLOS, it would be possible for the Southeast Asian claimants to achieve a measure of multilateralism even without ASEAN unity. In this way, *all three non-coercive dispute resolution mechanisms could be simultaneously employed* to bring Beijing into a meaningful bargaining process. It must be acknowledged, however, that Vietnam, Malaysia, and Brunei have some incentive to wait for the current arbitral panel to decide whether it has jurisdiction. If they initiate arbitration now, they would undoubtedly have to face stepped up coercive pressure from Beijing. On the other hand, it is perhaps now—before a decision on jurisdiction is rendered—that multilateral pressure would have its most effect. The risk to Beijing of an unfavorable decision may be enough to change China's current calculus about engaging in real negotiations across the region.

Thus, it cannot be emphasized how critical the decision on jurisdiction will be for maintaining the availability of peaceful mechanisms to resolve the disputes. Without the ability to bring China into compulsory arbitration, the smaller claimant states will have no source of leverage to settle on terms other than those dictated by Beijing. They are overpowered in bilateral negotiation, undercut in multilateral negotiation, ineffective at withstanding coercion, and unable to match Beijing's military power.

**The Role of the United States in Supporting Resolution of East Asian Maritime Disputes.** To date, the United States has carved out two roles for itself in supporting peaceful resolution of East Asian maritime disputes. First and most importantly, American alliances, security partnerships, and security guarantees, in combination with the maintenance of strong American military power resident in East Asia, have so far taken military conflict—the fifth approach discussed in the framework above—off the table as a method of dispute resolution. Since 1988, Beijing has not used military force to improve its position in the East and South China Seas. Second, the US uses its persuasive power, the reinforcement of international law norms, and diplomatic efforts to encourage the disputing parties to resolve their conflicts through peaceful means—that is, the first three approaches discussed in the framework above. This appears to have been especially helpful in supporting Beijing's approach between 1995 and 2008, sometimes called the period of China's "charm offensive." But the US has played a very limited role in affecting Beijing's calculations about the fourth framework option, that of pursuing a non-military coercive strategy. American tools in the region are almost entirely military, meant for prevention or winning of war. We have no similar regional "white hulls" and to use the US Navy to counter action by China's civilian law enforcement vessels would be escalatory. Thus, in a very real sense, the existing American strategy has incentivized China to take non-military coercive measures.

What might be a stronger American posture? The single most important role for the United States in East Asia is to keep conflict as a means of dispute resolution off the table. To the extent that American deterrent power has eroded, that needs to be reversed with concrete, visible steps. No other measure will ensure that framework option five—armed conflict—remains off the dispute resolution table. This is the single biggest contribution

America, and America alone, can make. If we do nothing else, we must focus on achieving this. Additionally, by focusing on military deterrence, we may be able to allow regional states to focus scarce resources on developing coast guard and other capabilities necessary to withstand Chinese coercive pressure at sea.

The US also needs to continue to bring its diplomatic power to bear to persuade and encourage parties to pursue non-coercive measures. American persuasive power would be strengthened by a reassertion of the American leadership role over the development of international law of the sea. Since UNCLOS is the basis of modern international law of the sea, the U.S. should ratify the Convention in order to more effectively exercise this leadership from within the ranks, not just from outside them. It is my view that the American policy of neutrality on the outcome of sovereignty disputes is a good one, as long as the dispute is resolved without coercion of any kind. However, the US should not be neutral about disputes over how to divide water space and the resources in them. The US, indeed all countries, have a vital interest in the strength of the methods of UNCLOS for allocating coastal state rights to resource zones. Not history, not power, but international law must be the guide.

Finally, the US should consider ways to support the ability of regional states to withstand China's non-military coercive pressure. Perhaps focused aid to develop coast guard capacity would be appropriate. Assisting states in achieving economic diversification is another path that should be considered. Only through such cooperative efforts *across* the spectrum of international dispute resolution mechanisms will the East Asian playing field be leveled sufficiently to guarantee a just and lasting solution to East Asia's maritime disputes.



## PANEL II: QUESTION AND ANSWER

COMMISSIONER FIEDLER: Dr. Weiss, the nationalism, the manipulation of nationalism, seems to me to be a very dangerous thing for the Chinese government. I want to get into what you didn't talk about, and that is the danger--the real concern that the Chinese government has of open displays of nationalism getting out of control and leading into expressions of concerns about other issues that the leadership doesn't want popular opinion to coalesce around, i.e., all kinds of corruption, for instance. So that the measurement that they have of the distance between anti-Japanese sentiment and sentiment moving from that to something else, if allowance is given to extensive public displays of anti-Japanese posture.

DR. WEISS: You've hit on exactly the point, which is that the government fears that these will, in fact, get out of control.

COMMISSIONER FIEDLER: But not because they fear that the Senkaku issue is going to get out of control, but that the people are going to get out of control.

DR. WEISS: Absolutely. These demonstrations are among the few opportunities that citizens have to participate in street demonstrations. Where other types of issues are quickly stifled, these nationalist demonstrations may provide the opportunity for others who are concerned about corruption, real estate costs, unpaid back wages, all of these grievances, to seize this opportunity to also voice their grievances. And this is one of the ways in which nationalist sentiment could get out of hand and turn against the government regardless of what happens on the issue of the Senkaku or Diaoyu islands.

COMMISSIONER FIEDLER: And do you think that anti-Japanese sentiment is more or less important to folks in China than corruption or other things?

DR. WEISS: I can't speak for all 1.3 billion people, but--

COMMISSIONER FIEDLER: Oh, no, no, no. But in lighting a fire, a prairie fire, as they used to call it.

DR. WEISS: Yes.

COMMISSIONER FIEDLER: Yeah.

DR. WEISS: Many people suggest that these protests are a way to distract people from their actual grievances. I think that there is a lot of deep-rooted anti-Japanese sentiment to which these other concerns may play second-fiddle--to the extent that nationalist sentiments are aroused.

So that some people may feel like this is--they feel great in the midst of participating in a demonstration against Japan, that they are less concerned about their day-to-day grievances. So in this way, some might say that the Chinese government has staked their legitimacy on diverting attention, but I think often the conclusion that comes from that hypothesis about diverting sentiment is that it's not then a real constraint on the Chinese government, that once you've taken

people's attention and moved it externally to the islands dispute, these people are still angry. Now they're angry over these particular issues, and the government feels, rightly so, that it needs to deliver.

COMMISSIONER FIEDLER: Or that people become angry at the government.

DR. WEISS: Yes.

COMMISSIONER FIEDLER: But the real question that I'm going to try to get at is: if the Chinese government's current claim of legitimacy is because they no longer believe in Communism and they no longer believe in anything else, and that legitimacy is increasingly based on nationalism, doesn't that augur ill for resolution of the disputes?

In other words, are they more likely than not to get into a situation that escalates into a conflict when their legitimacy is based on nationalism instead of something else?

DR. WEISS: I think that's absolutely correct. And the decision to allow protests is a very risky one, but it also demonstrates how seriously China feels about defending its claims to these islands, which means that the government is, in fact, determined to do so.

COMMISSIONER FIEDLER: Well, I think I meant that their claims were exaggerated because of the dependence on the nationalism. In other words, that the claims might be legally insufficient internationally, but they don't care because the legitimacy of nationalism is so important to them; right?

DR. WEISS: Right.

COMMISSIONER FIEDLER: So they will make strategic mistakes vis-a-vis other states or the people. We don't know how the decision-making process is made so that those calmer voices will be less important than the decision-making voices if stability is at issue.

DR. WEISS: I tend to agree, but I also think that the government in China still, by and large, retains the upper hand in crafting foreign policy in a manner that it sees fit. The government is not 100 percent beholden to the pressures of public opinion. When it sees an opportunity to improve diplomatic relations, it has taken those opportunities and stifles popular nationalism.

So there is an element in which the government is pressured by the forces of nationalist opinion, but this is not always the case, and the degree to which it is constrained depends on how much the government has allowed popular mobilization to take place both online but especially in the streets.

COMMISSIONER FIEDLER: Thank you very much. I'm done.

HEARING CO-CHAIR BROOKES: Commissioner Wessel.

COMMISSIONER WESSEL: Thank you, both, for being here.

Let me ask a question, if I can, from both of you. What do you think the Chinese view as the U.S. goals in the region, not just as they relates to the South and East China Seas, but, you know, we've seen expanded interest in a Trans-Pacific Partnership, for example, and some view that as a containment strategy. We've had during our election last year, as you know, heightened interest

within both presidential campaigns about U.S.-China economic relations.

How do the Chinese view these issues, whether the U.S. is a strategic competitor in all the various approaches to the terminology relating to the bilateral relationship? How does the South China Sea fit in that? Do they view us as a competitor, as a challenge? How is all this viewed by the Chinese government and the Chinese people and what role do all these issues play, in less than five minutes, of course?

[Laughter.]

MR. DUTTON: That's a dissertation. I think one of the best ways of putting this is to focus on the question of containment. The Chinese talk about American goals in the region as containing China. I think really what they mean by that is that, first, they view the American desire as being to maintain a position of hegemony in the region, and that the United States is unwilling to share power with China in any kind of meaningful way, is a fairly common approach among many Chinese.

It's really hard to say what China thinks, right? It's a very difficult thing because there is truly a plurality of perspectives on all of these issues.

COMMISSIONER WESSEL: But just also to follow the discussion earlier with Ms. Weiss, how is this facilitated then among the public--Dr. Weiss, excuse me--in terms of what you say, there's no consistent view? You can't say "China thinks." How do they manage public opinion as it relates to American hegemony?

MR. DUTTON: Me? Oh, I'm sorry.

COMMISSIONER WESSEL: You first. Yes, I'm sorry.

MR. DUTTON: Oh, I beg your pardon. I think they view the American role in the region as sort of sewing together all of the various elements of friction that China faces, instigating many of these frictions, and they see a sort of invisible American hand behind a lot of these things, which, you know, in almost all cases I think is probably not accurate.

But I think that sense is rather pervasive, and I think that also applies in the South China Sea. Certainly I think many Chinese believe that the United States instigated the Philippine litigation. I only, I suppose, wish it were true because I frankly admire what the Philippines have been able to accomplish.

So I think they see the United States behind pretty much every friction and every action, and then how does this relate to some of the nationalism? I think in truth the sort of anger, the nationalist anger that the Chinese have for the Japanese, does not translate into similar nationalist anger towards the United States. In a sense, perhaps even admiration for the United States would be sort of the dominant approach that many of the Chinese have. This is not entirely ubiquitous, but it's a dominant approach I would say.

COMMISSIONER WESSEL: Dr. Weiss.

DR. WEISS: I'd like to echo what Mr. Dutton said about anti-Americanism in China not being nearly so deeply-rooted as anti-Japanese sentiment. I think that, by and large, China still would like to see good relations

with the United States, but China is skeptical of American intentions, just as Americans are skeptical of Chinese intentions, particularly over the issue of U.S. alliances in Asia. There are concerns that the United States is emboldening allies, like Japan, or others, like Vietnam and the Philippines.

But I am also concerned about the management of public discourse on foreign policy in China. I think that there's a disproportionate punishment or silencing of liberal views or those views that contradict official policy, whether it's over North Korea or the representation of history. The fact that there isn't-- despite the fact that there is an increasingly pluralistic debate inside China, it is still not a fully free one, and as a result, I think this often feeds into skepticism about what public opinion in China really is and what it is that China wants us to see.

COMMISSIONER WESSEL: Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Tobin.

HEARING CO-CHAIR TOBIN: Thank you.

I have a question for each of you, and let me start with Professor Dutton. Your testimony, which I read, pointed to the various ways that everything, from escalation to conflict, and also non-militarized force can play out. Is there any precedent in world or history where we've seen that strong of a non-militarized force, which is almost full military? And so can you see any comparisons that would be useful for us to understand?

MR. DUTTON: Well, I'm not sure that I can give you an exact comparison or analogy, but it is the kind of tool that is used by powerful states a lot. The United States, in fact, I think uses non-militarized coercion to attempt to shape the behavior of other states, certainly, by undertaking sanctions, for instance.

Perhaps the international pressure put on South Africa to change its behaviors over a period of time would be a good example: a lot of that non-coercive or rather non-militarized coercive approach to try to change the apartheid regime in South Africa. It took many years, but it was an effective way to put pressure, international pressure, on that regime to make a change. So, quickly, that's the one that comes to mind most readily.

HEARING CO-CHAIR TOBIN: And what do you think the United States' current thinking is, related to that substantial increased force?

MR. DUTTON: In the South China Sea with--

HEARING CO-CHAIR TOBIN: Yes.

MR. DUTTON: --or in the East China Sea with the Chinese? Well, what I've observed is that the United States is challenged to find effective tools to deal with it. It really is a gap in which the regional states have to deal almost on their own with these issues because it's the regional states that have to deal with the Coast Guard elements and the fishing elements.

For the United States to engage, the tools that we have in the region are largely either diplomatic and political or military. So it's that gap in between where a real presence in the region that is non-militarized is a tool that we don't

have. So I think the United States recognizes that for us to use our tools would be to militarize the situation in ways that we don't want.

For us to intervene, for instance, between the two Coast Guard elements of China and Japan in the Senkaku dispute with a Navy vessel would be to militarize an otherwise non-militarized situation and therefore to escalate it. So I think we in the United States are having a very difficult time sorting out ways to respond to this, and part of the problem is that we have to structure the problem correctly. We have to understand the structure of the problem and then realize that our tools so far are limited to fix this particular gap.

HEARING CO-CHAIR TOBIN: That was very useful to me as a non-military person to understand how it has been used in other settings. Thank you.

Professor Weiss, as I read your testimony and started to see this popular nationalism that you describe, and it sounded as if you could dial it up, dial it back, it sounded quite controlled, but as I looked at it and thought about history, I have a question, which is what's the difference between what you call Chinese popular nationalism and 19th century jingoistic imperialism from a political science perspective, or from your observation of the situation there?

DR. WEISS: I'd like to thank you for your questions. You're right to be concerned about the volatility of this nationalism. On the one hand, the Chinese government has been able to dial up or down nationalism, but it's also important to think of it in terms of to what degree do they take the hand off, do they let this out? There's something there that would be explosive if the government let it be fully spontaneous.

There are a wide variety of nationalisms inside of Chinese nationalism, and one of those strands has a jingoistic, anti-foreign, xenophobic, and even often racist element. But there is also nationalism in China that is of a more benign sort, the type that sees a stronger China as something that is in their civilizational history, and is, in fact, sometimes pro-democratic and pro-populist. So to characterize Chinese nationalism as only containing this one thread is mistaken, just as it's hard to say what all 1.3 billion Chinese people think. There's a variety of views contained here.

And in this one issue, they may be united, but as far as what their domestic agenda would be or the degree of ethnic and religious tolerance, all of those things, it's quite messy inside.

HEARING CO-CHAIR TOBIN: Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Wortzel.

COMMISSIONER WORTZEL: Thank you both for being here and your written and oral testimony.

Peter, I'm going to make your life miserable here.

MR. DUTTON: Okay.

[Laughter.]

COMMISSIONER WORTZEL: I got to thinking about this Senkakus issue, and the last panel made it very clear that they see it as potentially the most volatile of the disputes and the one that could really involve the U.S. because of

the treaty with Japan. And it struck me that from 1624 to 1662, Formosa was a Dutch colony, and even for a period of time during that, the Spanish also colonized part of the island.

If it was part of Formosa colonized by the Dutch, and Dutch maps reflected some sovereignty or control over the Diaoyu islands or Senkakus, would that change the character of the dispute, because nobody seems to have raised that?

MR. DUTTON: Well, I don't think it would actually change the character of the dispute. The basic question of sovereignty, each side, I think, has some challenges that it will have to deal with in terms of articulating a legitimate claim to sovereignty over the Senkaku/Diaoyu Islands.

The Chinese have two problems. The first problem is can they actually demonstrate that as of 1895, they had sovereignty over those islands as the law of sovereignty existed at the time, and it has remained? It's relatively unchanged in the period since then

The Chinese often point to the activities of Chinese citizens on those islands, but that's not enough. What they have to demonstrate is the government's imposition of its sovereign authority over those islands sufficient to exclude others from doing the same. There's a very limited amount of public information on that so far.

So the second problem that the Chinese have is that after the period of 1945, between 1945 and 1972, and the Okinawa reversion, there was not a specific public objection by either the Republic of China or the People's Republic of China to American occupation of the Senkaku/Diaoyu islands; right?

So there are there're two problems. The first was did they ever have sovereignty over it? The second is even if they did have sovereignty over it, did they let it go at some point; right? So those are the two problems that they're going to deal with.

The second, of course, with the Japanese is they have maintained effective administration and control over the Senkakus since 1895, either directly or through the United States' administration over those islands. But now the Chinese have actually begun to contest the facts on the ground, whether they have full occupation or administration, and then, of course, the Japanese will have to deal with whether they properly put into the public domain their claim of sovereignty in 1895.

COMMISSIONER WORTZEL: And we apparently used it as a bombing range from Okinawa. Does that affect the Japanese claim?

MR. DUTTON: No, I don't think it does. I mean we certainly used it for a period of time while we were the occupying power over the Ryukyu Islands, and that included the Senkakus.

There is a publication by the East West Center that came out recently that suggests that we, the United States, still retain rights to do that to a couple of the islands. I don't actually know whether that's true or not, but apparently that may be in play.

COMMISSIONER WORTZEL: Thank you.

HEARING CO-CHAIR BROOKES: Actually, my turn. Dr. Weiss, how do you think that the new government, the new leader, Xi, will use nationalism in the future? That's an important thing. Obviously, we've looked at how they've used it/employed it in the past.

Mr. Dutton, perhaps I misunderstand, but the non-military coercion, militarized coercion, seems to be a little bit at variance with what we've seen this year in terms of Chinese incidents, and perhaps you could address that.

In fact, I had the staff put together for all of us up here the last three major incidents in 2000--or the three incidents in 2003. One involved Japan, Vietnam, and then Malaysia. And in January, it was a PLA Navy frigate that supposedly locked on to a JMSDF helicopter and a destroyer. So that would seem quite militarized to me.

I'm not questioning. I would like your views on this. In March, Vietnam alleged that a PLA Navy fired two flares at four Vietnamese fishing boats. And then just, I guess it was recently, the Chinese went to the James Shoal, which is disputed with Malaysia, which is the farthest point of their nine-dash line, with another PLA Navy vessel, and, in fact, they had a ceremonial oath-taking by sailors pledging South China Sea is defense-worthy.

But so the last three incidents, and perhaps I missed one and perhaps the staff missed one, but it seems to me that they were all involved in the PLAN, which seems quite militarized to me. So maybe we're just having a difference of definitions here, or are we seeing a new trend, where I know in the past we've seen civilian vessels involved in these sorts of incidences, but just in this year, we've seen that? So I'd be interested in your comments on that.

My third question is, is regarding ITLOS, the Chinese refuse to participate, as I recall. They had an opportunity to pick one of the arbitrators or judges, not being that familiar with the system myself. What do you expect, if we ever do see an answer out of ITLOS, if the Chinese lose this case, how do you expect the Chinese will react? That will be it.

Thank you.

DR. WEISS: Thank you, Commissioner.

There's been a lot of talk about Xi's emphasis on nationalism and the so-called "China dream" and the revitalization of the Chinese nation. But I think it's a little too early to see or to say whether this is simply old wine in new bottles. In my view, there is more continuity across recent leadership transitions than has often been speculated, and, in fact, I think that too much emphasis on the leadership transition can and may have even led to miscalculation over the disputed islands.

According to some reports, the Japanese government hoped to complete the purchase before the Chinese leadership transition fearing that a new and weak leadership would be more tempted to lash out. They may have also hoped that in a lead-up to the leadership transition, the Chinese government would be less likely to allow large-scale demonstrations, and on both counts, these expectations were wrong.

As David Shambaugh recently wrote, we mustn't miss the forest for the trees in our analysis of Chinese leadership. It matters who the new leaders are and what policies they pursue, but many of the challenges are larger than individual leaders and are systemic in nature.

I would point out that the escalation of the East China Sea began throughout the 2000s, long before Xi Jinping took over, and although there are new labels being applied, these may be a new emphasis on existing policies.

MR. DUTTON: Well, sir, the three incidents as you've described them did certainly occur. What I am trying to articulate, however, is the center of Chinese policy is in the non-militarized coercion, and that is how they actually attempt to achieve the change on the ground, in specific, for instance, at Scarborough Reef, and it is the center of the approach that the Chinese are using in the Senkakus as well.

There is, however, clearly a militarized component. It is largely, however, an indirect component. I believe the Chinese want very much to avoid escalation into militarization of these disputes. They're attempting to change things on the ground, so to speak, or in the water, without having to resort to military power to do it. But the military plays an important role and generally an indirect role, and that's how I would characterize each of these events that you have described.

In fact, the second event, the flare event, I believe was not even a military event at all. That was a Fisheries Law Enforcement Command vessel or a Maritime Surveillance Service vessel. I don't remember which.

Concerning ITLOS, the Chinese have indeed refused to participate in the arbitral process, and there are really two possible outcomes we need to think about, two gates really.

The first is the question of jurisdiction, and this is a really very big and important question because once the panel is assembled, and there will be five people, five judges brought together to be part of the panel, four of whom will be chosen by the president of ITLOS, currently a Japanese judge. And once the panel is assembled, those five, they have to decide whether they have jurisdiction to hear the case.

There are four things that countries can exclude from jurisdiction: sovereignty question--physical territory; boundary making--that's easy--boundaries, et cetera; military activities; and then historic title, questions of historic title.

So what the panel will have to decide is, is what the Philippines is asking the panel to do essentially about China's claim to historic title? Lots of problems with even that question because we don't know exactly what China's claim is. So also they have to interpret just how expansive the concept of historic title is under international law.

My--I don't have a prediction on what the panel will decide, but I would suspect that they will decide that they do, in fact, have jurisdiction over the case. If they do, that's a big loss for China because essentially it's an international



statement that historic claims are not viable for China in this particular place.

So this may not be an issue where we have to wait, in fact, two years before we get any kind of sense of whether the Chinese will win or lose this case. It may be as soon as the panel is assembled and ready to decide on the question of jurisdiction.

So what will the Chinese do? They really have to either engage directly in negotiations, which if I were advising the Chinese government, is what I would advise them to do. So negotiate for the Philippines to remove the case before a jurisdiction decision is even made. It's the Chinese best option, frankly, I think.

And so what I think the benefit of this approach has done is to put something on the table over which the Chinese now can negotiate with the Philippines, and the Philippines can negotiate as equal partners with the Chinese. That's the most, I would say, likely outcome, most rational outcome, at least.

Another possible outcome, of course, is that the Chinese will just ignore any negative decision and press on beyond it. That would be unfortunate. I think there would be unhappy consequences for China if they did.

HEARING CO-CHAIR BROOKES: Thank you.

Commissioner Slane.

COMMISSIONER SLANE: Thanks for your testimony. It's very helpful.

I'm trying to understand what is driving the Chinese and why they are doing this. I don't know whether it's being driven by oil and fish or other reasons, but it's hard for me to understand why they would take on the Japanese who are such a critical component to their economy.

And I can understand the Philippines and Vietnam, and there is very low risk there, but it's hard to try to solve the problem if you don't really understand what their motive is, and it just seems like they're risking an awful lot from an economic point of view if this thing does become volatile like the previous panel had testified.

I'd be interested in what is driving them to do this. You know, when you put aside the oil and the fish, these islands are really insignificant.

Thank you.

MR. DUTTON: I guess I'll take that one. I think that there are two categories of key drivers in China. The first category--I will hope any mistakes I make will be corrected by my colleague here--but it has to do with externalizing internal domestic instability. I was in China in September. I traveled in Dalian, China, Beijing and Chengdu, and I was astonished during that time period where there was a rapid escalation of the tensions between Japan and China to see every single newspaper I observed in those three cities above the fold was entirely about the Senkaku/Diaoyu dispute.

This is at a time--that same period that I was there for ten days--when Gu Kailai's trial occurred. Right. So it was also a period which we've come to learn that there was a tremendous amount of political infighting between Xi

Jinping and the Jiang Zemin side and Hu Jintao and his side. There was a lot of political dynamics going on during that period of time.

So what I have concluded from that is that the Chinese had significant domestic political problems that they wanted to ensure that they had the space to resolve without public pressure being put on them. And the way to ensure that they would be able to create that space would be to escalate this issue over the Senkakus because there is such a significant element of anti-Japanese sentiment that they knew they could be effective in crowding out the domestic political instability from public discourse.

The other series of categories--oh, and by the way, I would say this particular category just as Xi Jinping now has assumed all three roles at the head of the government, and this particular driver will decrease over time, and I think we're already beginning to see a little bit of that beginning to play out.

The other three, or the other category of drivers are threefold. China actually has significant regional strategic objectives. Some of them are national security related. China has three enduring national security problems: they have to secure their land perimeter; they have to secure their maritime perimeter; and they have to hold it all together, so to speak. They have to spend a lot of national security resources in keeping the Chinese state together.

So one of the key components driving China in the East and South China Seas is to expand their maritime defense perimeter. This is a very significant driver for them that will not go away.

A second is there's a lot of resource anxiety in China. This strategic objective is also long term. It has many different factors related to it, but the Chinese see sea space not only in terms of national military security but also in human security terms, and the ability to use that space to provide protein for the population, and also hydrocarbon resources are important as well.

The third particular strategic objective in this group is, I think, China's using these disputes to begin to try to reassume position of political centrality in East Asia, and these disputes are helping them to achieve that.

COMMISSIONER SLANE: That's really helpful. It just sounds to me that it's going to be extremely difficult to solve this problem because the Chinese don't want to solve the problem except to their benefit.

And your comments about using this to try to balance their instability, that's very dangerous in the sense of it easily getting out of control.

MR. DUTTON: I think it is entirely possible that any of these reasons could lead to issues that get out of control. I do think there is an internal brake at the top of the leadership at the very least which recognizes that it is not in China's interests to allow these to get out of control. That is to say to move from the first four approaches into the fifth: the militarized approach.

I think there is that internal brake because they know it would be ultimately disastrous to their economic development.

HEARING CO-CHAIR BROOKES: Commissioner Shea.

VICE CHAIRMAN SHEA: Thank you.

I have two questions. I want to follow up on Commissioner Brookes' question and sort of try to poke a little hole in your non-militarized coercion construct. You say China is flexing its white-hulled capacity. We went to the Philippines last year. We went on a Philippine Coast Guard vessel, just docked at port, and it wasn't very significant.

The first ship that showed up on the Philippines side of the Scarborough Shoal was the del Pilar, which was a Philippine naval vessel, which formerly had been a U.S. Coast Guard cutter.

With respect to what we've been reading about Chinese consolidating the Five Dragons, in our briefing book, I've read I think somewhere--correct me if I'm wrong--that Chinese have decommissioned some naval vessels and are putting them into one of the Five Dragons or into this reorganized Coast Guard.

So isn't it a little bit, I mean I would imagine that the firepower of the white-hulled fleet that the Chinese present is somewhat much more significant than the white-hulled capacity of the other claimants in the region. So it just seems a little facile, the construct, and I would hope you could respond to that.

My second question: we've taken a little walk down memory lane of the 17th century and the 16th century, and I was wondering if we could look a little forward. Are there people in China thinking strategically about how if we can multilateralize discussions in the South China Sea about resource extraction, that might be used as a way to leverage Chinese access to resources in the Arctic and in other areas? I mean that's a little bit of a strange question, but if you want to take that on.

Thank you.

MR. DUTTON: Well, I guess I have to accept right away that we can characterize the same events in different ways, but the way I look at it is that each of these activities that you've mentioned are circumstances in which the Chinese have not used their navy or other military power to directly change the circumstances.

I want to make clear two things. One is that, as I said earlier, there is always a military component. It is just indirect; right? It's a significant component, but it is not the direct tool that the Chinese are using to change the circumstances on the ground.

The second is that non-military does not mean non-coercive. The Chinese are being very coercive. They're just not using the navy to do it.

Third is that this issue of consolidating the Five Dragons, I think we have to be a little careful because, yes, they are, in fact, reorganizing their coast guards, plural, into one force, and that will give them a lot more, frankly, a lot more ability to organize their activities, and then that bodes ill if you're the Philippines or Vietnam, for instance. But they, the Chinese coast guards, not all of them are even armed at all. For instances, the Fisheries Law Enforcement Command vessels are not armed, period, and most of those that have any armaments are very small light arms; right.

So, yes, they are bringing significant coercive capacity to bear, and

coercive capacity is very significant in terms of the pressure it applies, but it is a choice not to use the military to do it but to use other coercive capacities to achieve their objectives because the Chinese have this internal brake, the knowledge that the senior leaders have that if they do militarize the dispute, that opens the door for what the United States has in the region. That is military power to be applied directly against them in ways that could be escalatory and ways in which they have much less ability to control the outcome.

VICE CHAIRMAN SHEA: Okay. I understand. How about the Arctic question?

MR. DUTTON: Oh, the Arctic. Right. The Chinese did respond in 1995 to-- I will say briefly, there are four periods of Chinese approach to the South China Sea problem.

Up until 1970, the Chinese had revolutionary issues to deal with, and the sea issues got no attention at all. Between '74 and '95, they were, in fact, militarized. The Chinese used the navy to change the circumstances in the Paracels, at Mischief Reef, and at Fiery Cross Reef, all three. And then between '95 and 2008, they used this charm offensive, which was the period of most multilateral engagement, where the Chinese engaged with ASEAN, they engaged broadly within the region, did as much as they could to work together with the other countries, and that resulted in the DOC, the Declaration of Conduct of Parties in the South China Sea.

And so there was a period of multilateralism there that the Chinese believed about 2008 that they were the only ones who were losing from this multilateralism. Whether that's true or not isn't the point. The Chinese believed it to be true, and they withdrew from multilateralism because they think that they could not achieve anything effective in the South China Sea with it, and then they developed a more coercive policy after that.

So what the Chinese have learned about multilateralism is that it's a way for others to put pressure against China, especially in the South China Sea, so I don't see that the Chinese will be in any big hurry to reinvigorate a period of multilateralism unless there is some sort of significant pressure put on China to do so, which is, for instance, one reason why I think other countries in the region should also bring the legal tool to bear against China because that puts more pressure on China to agree to other sort of diplomatic multilateral approaches.

Whether that would apply to the Arctic, it's a bit of a different paradigm. China is on the outside.

VICE CHAIRMAN SHEA: Right. They're on the outside. They want observer status on the Arctic Council.

MR. DUTTON: They do indeed.

VICE CHAIRMAN SHEA: They see some potential interests there-- Chinese interests there.

MR. DUTTON: They do.

VICE CHAIRMAN SHEA: But their claims are weak.

MR. DUTTON: They have no claims.

VICE CHAIRMAN SHEA: Right.

MR. DUTTON: Well, really what they are asserting is that there is a period, is there is a zone in the middle of the Arctic Ocean that is beyond the national jurisdiction of any country, therefore, the common heritage of mankind. Once the time comes that this zone is free of ice, the Chinese hope to take whatever resources they can there. This is a part of that resource anxiety I talked about earlier.

So the Chinese see an interest in the region, and they want to engage because there is a very effective multilateral political organization, the Arctic Council, in the region, and the Chinese know that really the only way in the door is through that Council.

VICE CHAIRMAN SHEA: Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Goodwin.

COMMISSIONER GOODWIN: Mr. Dutton, let's return to the jurisdictional parameters for this arbitration, not to belabor the point, but you write that any signatory has the right to exclude from this proceeding claims to historic title. And I'm just wondering, the nine-dash line, as perhaps misguided and ill-defined and ultimately unsupportable as it may be, if it's anything, is it not a claim to historic title? So my question--you had testified earlier that you thought the panel would take jurisdiction, would exercise jurisdiction, and therefore ultimately issue a ruling favorable to the Philippines. I'd just like to walk through that again.

MR. DUTTON: Sure.

COMMISSIONER GOODWIN: How, given that ability of signatories to exclude those sorts of cases, does the panel exercise jurisdiction?

MR. DUTTON: So there are at least three different, at least three, and probably four or five, different Chinese theories about what the nine-dash line means. The Chinese government has remained unclear and ambiguous about it. I think it serves policy objectives to do so.

However, among officials and scholars in China, the main three are that it's a claim to sovereignty over the islands and whatever water space comes with that.

The second is that it's something called historic rights--different from historic title. Historic rights in the Chinese articulation is jurisdictional as opposed to sovereign. Jurisdiction being state authority over specified activities like in the Exclusive Economic Zone, state authority over resources only or resources and only a few other things. Here, so the second group in China is that it is a question of historic rights.

The third group in China is the historic title group, and this is essentially that China has sovereignty. Historic title is historically a legal tool where coastal states can claim full sovereignty over water space. But it's very narrow and very limited right to do so, and it's been used for internal waters, not some broad expanse of 80 percent of the sea to do so.

So given the range of approaches that the Chinese have taken to what

the nine-dash line means, and the fact that they're not going to show up and tell the arbitral panel what the nine-dash line means, the panel is going to have to look at those different approaches and say, well, if it's a question of just the islands, then we have jurisdiction. If it's a question of historic rights, then we probably have jurisdiction. If it's a question of historic title, then we wouldn't have jurisdiction; we wouldn't have prima facie jurisdiction unless we find that it is so far outside of what the law would allow historic title to claim that it cannot be a legitimate historic title claim at all.

So my view is that the court will want, were I sitting on the arbitral panel, I would want to add some clarity to this problem in the interest of all parties being able to move forward more effectively.

COMMISSIONER GOODWIN: So there is some legal examination of the sufficiency of that assertion. A state can't simply say this is a claim to historic title, we're not participating, and we won't be bound.

MR. DUTTON: That's right.

COMMISSIONER GOODWIN: Perfect. Okay.

A follow-up question for both of you. Dr. Weiss, I thought you made a very insightful point in your written testimony when you talked about the disputes in these seas and how they have served to externalize some internal tensions and how the Chinese government has harnessed some of this nationalistic fervor to direct attention elsewhere.

But the point you made was it only works in the end if these external disputes end well and if the Chinese government ends up saving face.

So returning to this arbitration proceeding, what happens if they exercise jurisdiction and issue a favorable ruling to the Philippines? What would be the response among the Chinese population? And not all 1.3 billion either. Just the--

[Laughter.]

DR. WEISS: I think there is no question that the Chinese government would denounce such a ruling, but as I pointed out earlier, I think that it would be unlikely that we would see large-scale anti-Philippine demonstrations over such an issue. It would remain at the level of diplomatic protests, if you will.

I'm much more concerned about China saving face in the East China Sea, and particularly whether or not Japan can be brought to a point of acknowledging that at least China believes that there is a dispute even if Japan is not willing to recognize that a dispute exists.

Thank you.

COMMISSIONER GOODWIN: Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Reinsch.

CHAIRMAN REINSCH: Thank you.

I just had one question. I wanted to take Mr. Dutton back to his last response to Commissioner Brookes' question, which I thought ended one paragraph too soon. You had talked about--this is about the case with the Philippines, and you said if the Chinese simply ignored it or dismissed it, there would be unhappy

consequences. What are those unhappy consequences or what might they be?

MR. DUTTON: Well, I think the first would be that the Chinese are likely to--will have to deal with the fact that an international panel has expressed disapproval over a Chinese historic claim. That's number one. Dealing with that fact internally, as well as externally, I think, is going to cause some friction for China.

That friction could include some problems with the nationalism at home, and, then, externally, it's going to shut the door for China to continue to make that argument.

Second, and I think probably most important, is that China will be seen to be less than a full partner in being a responsible state, as we talked about in the previous panel, in the international sphere, and there's a political cost for that, particularly with China's neighbors.

Third, I think China will have to deal with the likelihood that since it's clear that the Chinese are going to be pursuing power-based approaches to dispute resolution, the other parties will be incentivized to accrue power, whether that means through direct enhancement of their military capabilities. We're already seeing some of that. That means also that they will probably want to interact more collectively to gang up against China if necessary.

So there's likely to be more balancing and more collective action by other partners against China. All of these are likely consequences, I think, of a Chinese decision to ignore the results that are unfavorable to them.

CHAIRMAN REINSCH: The latter strikes me as simply a continuation or acceleration of a trend that's already happening anyway, that this would presumably validate.

Going back to the first one, maybe you could elaborate just a bit. I'm having trouble seeing the connection with, if you will, or maybe Dr. Weiss wants to weigh in, a nationalist reaction. This is a scenario where basically the Chinese have taken a nationalist position, if you will, and an international body has essentially rejected it. Now how will the Chinese population react in that circumstance, assuming they pay any attention at all?

MR. DUTTON: I'll let Dr. Weiss go on that one.

CHAIRMAN REINSCH: "Aah," chicken.

[Laughter.]

MR. DUTTON: I'll come back.

DR. WEISS: To add to what I said a moment ago, I think that Professor Dutton points out usefully that having a ruling that does not favor China and is presided over by a Japanese judge could be more inflammatory than simply a straightforward provocation by the Philippine side, or what is perceived to be a provocation, such that international ganging up on China, if it is seen as such, could have spillover consequences for China and its willingness to settle things in the East China Sea.

CHAIRMAN REINSCH: Would it have significance for UNCLOS and their continuing participation?

DR. WEISS: Quite possibly.

MR. DUTTON: I don't think it would. I've actually talked to Chinese friends about this particular issue, and the Chinese are heavily invested in UNCLOS in lots of different ways, and it suits their interests frankly to be so because they can try to push and move the norms in directions that they find favorable, and they know that it's a space that we have ceded to them to do it.

Concerning how this might actually provide a domestic backlash, however, in China, it gets to the question earlier about the double-edge of the nationalism sword. I mean obviously it's a tool that they can use against the international partners, but it's also they have to be seen to deliver results. And were an international court to tell China that its policies are wrong, or to foreclose policy options for China that it would prefer to pursue, this is failing to deliver a result that the Chinese government seems to prefer.

So I think whereas I don't think it's the end of the world for the Chinese government if it has to pursue this policy of ignoring the international decision, I think it would tend to demonstrate a certain amount of weakness, particularly at a time when a new administration in China is attempting to demonstrate it's not weak; it can be strong and appropriate rulers of China.

CHAIRMAN REINSCH: Dr. Weiss, did you want to finish or are you done?

DR. WEISS: I would just add that one way that China can save face if foreign partners are "not cooperating," so to speak, is by taking what China calls "countermeasures," and that's what we've seen in the East China Sea, and I'm not sure what those would look like in the South China Sea, but we might expect those if China is seen to be weak before a domestic audience.

CHAIRMAN REINSCH: Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Talent.

COMMISSIONER TALENT: Two quick questions. And I think you just answered one in your response to Commissioner Reinsch, or the Chairman. The United States has said that the solution to the South China Sea ought to be multilateral. How do you think the Chinese would react if the United States proposed some specific arbitration mechanism, some standing arbitration board, or something maybe the U.N. created that would gather all these claims together and resolve them one by one?

From what you just said, it seems to me they would reject that and would almost have to reject it because it would look like they were agreeing to international control of China.

The second is, Mr. Dutton, you've said that the Chinese are pursuing this in a coercive, but non-military, way, which I think is a really apt way of describing it. What sequence of events should we be concerned about that might cause them to escalate this into a military type endeavor? What is it we should be worried about happening out there? And I imagine it would probably involve displays of nationalism at home, so include that in your answer if you think it appropriate.



MR. DUTTON: Okay. So the first question concerning imposing a multilateral approach, obviously, the United States can't impose a solution, but we can actually promote two different approaches.

One would be, I actually think that if the Southeast Asian partners, you know, Vietnam, the other claimants, Vietnam, Malaysia, Brunei, and the Philippines, were able to get together and agree among themselves what the boundaries should be, that this would put a lot of pressure on China to either participate in that process or to at least conform with that process in some way because it demonstrates the power of law to solve the problem, and it does so in a multilateral, legitimate way. And it puts China on the wrong side of those two things.

The second approach I think could, in fact, be quite useful, would be a regional forum. If the Chinese and perhaps others in Asia are uncomfortable bringing suits to the International Court of Justice or the International Tribunal for the Law of the Sea, then there is nothing that prevents them from establishing a regional forum of Chinese, Vietnamese, Filipino, and Malaysian arbitrators or judges and resolving the disputes through an Asian process. There is nothing that prevents that from occurring, and, in fact, that could be quite productive.

The sequence of events that could cause escalation, there are two obviously that come immediately to mind. One is if I'm right that the Chinese in times of great domestic political pressure attempt to provide space to resolve that pressure by externalizing the disputes, then I'm worried about periods of great domestic political pressure inside China, and the possibility of escalation that that could cause.

The second, of course, is I believe myself that the PLA naval commanders are well under civilian control, but that once ships at sea begin interacting, you know, armed ships at sea begin interacting, and commanding officers have to make split decisions on imperfect information, and have to defend not only their unit but their national interests and pride, that's a very difficult mix in which to ensure that good decisions are made.

Once an event or a poor decision is made or an improper decision is made that triggers the use of force, the ability to stop escalation, given the fact that these issues are so deeply symbolic on both the parts of the Japanese and the parts of the Chinese, that really worries me.

HEARING CO-CHAIR BROOKES: Commissioner Fiedler.

COMMISSIONER FIEDLER: I have a couple of questions. Let me point out some facts that haven't been pointed out today. You talked about Chinese resource anxiety. What's Japan's resource anxiety? Don't they have no oil virtually? And they're dependent on international markets to get that stuff and free navigation of the seas. Aren't they also a country probably with the highest per capita population per square mile on the face of the earth? But they don't seem to be demonstrating a great deal of resource anxiety, number one.

Number two, let's pull into this the current North Korea crisis, and forget the fact that they may not be able to deliver on their rhetoric, but it's

concerning to the United States, and the United States is the umbrella, the defense umbrella, for Japan, and they probably are satisfied with that.

But, in my mind, there's a greater ambiguity about whether or not we will defend all of Japan's interests that are marginal to us, and what the dynamic of North Korea and Chinese non-coercive or non-military coercive activity and Japanese nationalism in the equation of let me call it rearmament, but really mean going nuclear, to change the whole dynamic in East Asia. I mean what risk do the Chinese run of overdoing their anti-Japanese nationalism in a very serious strategic sense?

MR. DUTTON: Okay. So the resource anxiety question, I see the two as completely different. In China there are three factors that add to significant amount of resource anxiety there that the Japanese just don't have.

First of all, there are 1.3 billion people that they have to feed.

The second is a rapid process, I'll say steady, at least, process of desertification, and loss of traditional water sources from the Tibetan plateau, very rapid in terms of their ability to promote the kind of agriculture that they've had in the past. That's already diminishing.

The third factor is climate change is aggravating this factor so the Chinese have both water problems and people problems that the Japanese don't have.

Now, why is it so different for the Japanese? The Japanese are fully connected to the global system in every way. The Japanese rely on global trade and commerce--

COMMISSIONER FIEDLER: Until there's a coercive military reaction on the delivery of oil to Japan by the Chinese.

MR. DUTTON: That would be a problem, but the Japanese also have a lot of friends, quite frankly, and so I think the Japanese because they can rely on a stable global economic system and are invested fully in the stability of the global economic system, they need to fear less about resources.

COMMISSIONER FIEDLER: Wait, wait a second.

MR. DUTTON: Sure.

COMMISSIONER FIEDLER: Why can't the Chinese depend on the international global system to deliver its energy resources? Okay. We've heard lots of testimony that buying up energy at the source is ridiculous. The Chinese think otherwise.

By the way, they border Russia, have access to gas with agreements that they don't have. They have potential pipelines coming in from other land-based countries, Kazakhstan, Iran, this, that, and the other thing. They have all these. The question really in my mind is the Japanese are adults about it, and the Chinese don't seem to be adult about it.

You talked about water. Water has not much to do with oil.

MR. DUTTON: No, it certainly doesn't, but it has to do with whether you can feed 1.3 billion people.

COMMISSIONER FIEDLER: Well, I mean if you're worried about

feeding 1.3 billion people and clean oil, why are you so environmentally degrading your country?

MR. DUTTON: Yes, I would love to help rationalize the Chinese policies. But I agree with you completely that the Chinese should invest and commit fully to the global system. The truth of the matter is they have not, at least to the maritime portion of it.

The rule sets of the global system and the stability of the global system require access for military power. I listened to the last panel, and one of the things I think is very important to understand is that the Chinese have not fully committed to the rule sets that allow full access and support for the stability of the global system.

So they have not fully committed to it, at least in the maritime domain, and the resources, by the way, that they're able to glean from continental sources are insufficient, and that includes both food and the hydrocarbon resources. So there is a dependency by China on maritime trade that--and so, yes, I believe that they will have to, in the end, commit more fully to the global--

COMMISSIONER FIEDLER: You're also making an argument that potentially goes for expansionism in nearby territories in order to get food and water.

MR. DUTTON: I'm not making that argument.

COMMISSIONER FIEDLER: It's a logical extension.

MR. DUTTON: You know, might there be a world in which that could occur? Sure. But I don't think it's likely.

DR. WEISS: On your question of whether or not China is overdoing it vis-a-vis Japan by allowing this sentiment to spill out into the streets, I think that there is a real concern here that although in the short term China is able to ratchet up pressure and use nationalism as an asset, over the long term it does pose a strategic liability. As in the classic security dilemma, political scientists like to talk about actions that one side takes to strengthen it, which actually in the long term undermine it as the other side takes countermeasures.

So I'm particularly concerned about perhaps not necessarily Japan going nuclear, but the revision of the Peace Constitution. There are those in China that worry a lot about this outcome. And to some degree, this provides some reason to think that China does, in fact, want to solve this problem, and certainly doesn't want to see military conflict in which China is not particularly prepared to face Japan and the United States. And China doesn't particularly want to see a multilateral coalition of states bandwagoning against China or balancing against China's rise.

So to the extent that China looks to the long term--and I think that there are those in China that do so and lament the kind of escalatory tactics that have been taken thus far--I think that there is room for a change in Chinese policy toward one that seeks to settle rather than consolidate the current quasi-militarized situation, although not using military ships, in the East China Sea.

COMMISSIONER FIEDLER: Thank you.

DR. WEISS: Thank you.

COMMISSIONER FIEDLER: I have a third when there are other rounds.

HEARING CO-CHAIR BROOKES: We'll go to Commissioner Wortzel. Commissioner Wortzel.

COMMISSIONER WORTZEL: Well, it's not Commissioner Wortzel. Commissioner Bartholomew had to step out but asked me to pose a question. Given the tendency by China to use forms of leverage to influence outcomes in international bodies, what indirect actions do you think China could take on panelists from other states in the international tribunal, should it come about, to influence the outcomes?

In other words, could they influence tribunal members or the states to which those tribunal members belong over the outcome?

MR. DUTTON: Well, certainly, the Chinese could try to do that. I would like to think that the panelists would be impervious to that kind of influence, and I think they have, I think they would behave as best they could in that way. We're all human, but I think that they would behave in as impartial a manner as they possibly could.

So other indirect actions, I actually think that the Chinese would be more likely to try through some form of strategic communications campaign to either influence the process from the outside of the process to inform the arbitral panel members of the Chinese views and arguments in the case that they would like to present were they present, from outside the process, in hoping that those arguments would influence the process itself and the discussions itself.

Additionally, I think they would apply a strategic communication campaign to try to buffer any results or any negative consequence from the results.

HEARING CO-CHAIR BROOKES: I think we have time for one more question. Commissioner Fiedler.

COMMISSIONER FIEDLER: I want to get back to the non-military coercive concept. I forget what exactly precipitated it. So the Chinese refused to sell rare earth minerals to Japan for awhile. There was a sort of domestic boycott of Chinese products. Their business has been kicked really hard internally. You could argue that's populism reacting.

They used non-coercive, I mean non-military coercive, strategies in a lot of different ways. U.S. business people are fearful of retaliation on a daily basis. Every time there is a burp in the relationship between the United States and China, they threaten not to buy Boeing aircraft.

Have you got any examples of the United States using non-military coercive means vis-a-vis China when they steal our intellectual property or violate this, that or the other thing, or don't do this or don't do that?

MR. DUTTON: To be honest, I study Chinese actions and Chinese behaviors more than I study our own. So I don't have an example of how we put pressure on China, but I do agree that this is a category of normal state behavior. This is, it's not an unusual or only a Chinese approach to problem solving, and we

certainly put coercive non-military measures against other states all the time.

COMMISSIONER FIEDLER: I know.

MR. DUTTON: Through the United Nations, at the very least, in terms of sanctions.

COMMISSIONER FIEDLER: But I'm just--I know we do that. I'm questioning whether we do that vis-a-vis China at all, whereas China seems to do it against us on a regular basis.

MR. DUTTON: I think you have the--I regret to say I think you have to ask the government officials. I just don't, I don't follow our policies as carefully as might be helpful.

COMMISSIONER FIEDLER: Dr. Weiss.

DR. WEISS: I spoke with a delegation from China on Tuesday, and they quite pointedly raised the question of the treatment of Chinese investments here in the United States. Specifically, they cited Huawei, Unocal, and other measures that the United States has taken, say through the WTO and others, in fact, against China's stoppage of rare earths.

So these are some of the--perhaps to fill in.

COMMISSIONER FIEDLER: Are those non-coercive in the sense of--

DR. WEISS: Those are coercive but not military.

COMMISSIONER FIEDLER: No, no, no. We never said no to buying Unocal, number one, and there is sort of no reciprocity in that relationship. That's one of the--we can't buy a Chinese oil company. Okay. So for them to claim, aah, it's terrible, we can't buy a U.S. oil company when they won't sell us theirs is sort of an empty thing.

The Huawei thing is a national security issue, and that is different from retaliating against somebody who makes shoes, okay, or threatening to do something in response to a U.S. government action against a private actor.

DR. WEISS: I didn't mean to defend their claims. I simply wanted to relate what some of them have said.

COMMISSIONER FIEDLER: I don't think there are many examples is why I asked the question. But I agree that, I mean I understand, Mr. Dutton, that's not your area of expertise.

MR. DUTTON: I will just mention briefly that I would make sure we separate commercial interests from state action to coerce; right. So those would be two. I'm agreeing with you in that sense.

And then, second, I would call WTO litigation, that's not one of the non-militarized non-coercive.

COMMISSIONER FIEDLER: No.

MR. DUTTON: That's institutional.

COMMISSIONER FIEDLER: That's institutional.

MR. DUTTON: Yeah.

HEARING CO-CHAIR BROOKES: We have one more question. I'm sorry. My co-chair had a question, and I went out of turn actually. Go ahead, Commissioner Tobin.

HEARING CO-CHAIR TOBIN: Dr. Weiss, you focused on popular nationalism in China, and to pull back to the Senkaku islands, what about Japan, which has had in its own history ups and downs with nationalism? What does the Commission need to know at this time as we look at these maritime disputes about nationalism playing out in Japan, if at all?

DR. WEISS: I'm not an expert on Japanese politics, but I certainly note the rise of what looked like demonstrations of nationalism in Japan, including anti-China protests and including other actions like the revision of textbooks that seem to downplay the extent of Japanese atrocities in World War II.

This is something that Chinese nationalists pay a lot of attention to, and as somebody once said, the echo chamber of nationalism, not only in China, but around the region. So with some of these activities that Japanese politicians have undertaken or statements that they have made, I worry that these are needless provocations that make the resolution of territorial issues even harder because they inflame the domestic sentiments on both sides.

So to the extent that we can caution, to the extent that governments can caution and restrain the activities of nationalists on both sides, I think that's the way forward if we are not to see this continue to escalate.

HEARING CO-CHAIR TOBIN: And your thoughts on the best compromise related to the Senkakus from Japan's side and from China's side would be what?

DR. WEISS: The missed compromise. In particular, the decision to go forward with nationalization; is that what you're referring to?

HEARING CO-CHAIR TOBIN: In your testimony, you spoke about that you felt that there should be some diplomatic compromise occurring.

DR. WEISS: In particular, I think that a reasonable diplomatic compromise would involve the Japanese side acknowledging that at least China believes that there is a dispute even if Japan is not willing to recognize the existence of a territorial dispute itself.

HEARING CO-CHAIR TOBIN: And on the other side?

DR. WEISS: On the Chinese side, I think it would involve a pulling back and returning to the old status quo in which both sides agreed to reshelve the dispute rather than sending these near daily patrols and other things that seek to challenge the administrative control that Japan has over the islands.

HEARING CO-CHAIR TOBIN: Thank you. Thank you.

HEARING CO-CHAIR BROOKES: Thank you. Thank you for your thoughtful testimony, for entertaining our questions, and for your graciousness with your time.

With that, we'll close this panel, and I'll guess we'll reconvene at 1:30 for panel three. Thank you.

MR. DUTTON: Thank you.

[Whereupon, at 12:33 p.m., the hearing recessed, to reconvene at 1:30 p.m., this same day.]

**PANEL III INTRODUCTION BY COMMISSIONER PETER BROOKES**

HEARING CO-CHAIR BROOKES: Welcome. Welcome back, everybody, for panel number three on Resources and Economic Drivers. Our final panel today discusses the role of resources and economic drivers in China's maritime disputes.

Before introducing our guests on the panel, I'd like to remind witnesses if they would just stick to seven minutes in their testimony, we have your written testimony, and obviously that will be submitted for the record so we have the maximum amount of time for questions and answers.

Dr. Steven Lewis is a Fellow and Professor at the Baker Institute for Public Policy at Rice University. His work includes research on China's energy policies, national oil companies and international energy relations.

Mr. Lloyd Thrall is a Research Associate at RAND focusing on natural resource security, sea lane security, and naval modernization. Did I say your last name correctly?

MR. THRALL: Thrall.

HEARING CO-CHAIR BROOKES: Thrall. Okay. I did. Thank you both for being here. Dr. Lewis, if you'd like to start that would be great.

**OPENING STATEMENT OF DR. STEVEN LEWIS  
FELLOW AND PROFESSOR  
BAKER INSTITUTE FOR PUBLIC POLICY, RICE UNIVERSITY**

DR. LEWIS: Thank you.

Mr. Chairman, Commissioner Brookes, Commissioner Tobin, and members of the Commission, it's my great pleasure to provide testimony to you on the subject of China's maritime disputes in the East China and South China Seas.

My colleagues and I on the Energy Forum of the Baker Institute for Public Policy have been studying the development of China's energy economy since 1998, including hosting international research conferences in Houston, Beijing, Shanghai and Tokyo that bring together academic, government, and corporate analysts from many different disciplines and many countries to examine the potential for cooperation and coordination in energy policies between the United States, China and Japan.

I'm happy to share the results of this collective research here in the hopes it will help explain some of the energy drivers of the maritime disputes in the East China Sea and the South China Sea.

I would argue to begin with we should step back and look at the larger question, which must surely affect the strategic calculations of China, its neighbors in Northeast and Southeast Asia and the United States, and that is: what potential roles do the South China Sea and the East China Sea play in China's long-term economic development?

China has enjoyed annual growth in the seven to ten percent range for more than 30 years, creating a population that is now more than 50 percent urban, an urban middle class numbering in the hundreds of millions, and an economy that is increasingly tied to international trade in the global economy.

How important are the South China Sea and the East China Sea to keeping this economy growing at the rapid pace to which the Chinese people and the government have become accustomed?

First, we must consider that the East China Sea and the South China Sea are critically important energy corridors for China, Japan, South Korea and Taiwan. The United States Energy Information Administration estimates that in 2011, some one-third of global oil trade, or about 14 million barrels of oil per day, pass through the South China Sea, just over five million going to China, three million to Japan, and two million to South Korea.

Approximately 15 percent of what passes through the South China Sea then goes on to pass through the East China Sea, moving on to South Korea and Taiwan. Since oil is mainly used for transportation, a conflict that disrupts oil tanker flows in the South China Sea would cripple transportation in three East Asian economies, and Taiwan, about equally.

But a conflict in the East China Sea that blocked troop carrier flows would disproportionately disrupt the South Korean and Taiwanese transportation systems, even if it did not affect as much China and Japan.



In contrast, a conflict in the South China Sea today that stopped the flow of natural gas on ships would quickly cripple much of the Japanese economy, especially after the Fukushima nuclear accident in 2011, which shut down almost all of Japan's nuclear reactors, providing some 40 gigawatts of power, and forcing it to fall back on natural gas for power production.

Natural gas is the main fuel for power generation that supports both industry and residential life in most countries. The EIA estimates that in 2011, over six trillion cubic feet passed through the South China Sea daily, over half of the global LNG trade, with most of it going to Japan, small amounts to South Korea, and a very small amount, about ten percent, to China and Taiwan each.

A conflict in the South China Sea today would not significantly disrupt the coastal cities in China, even as it greatly disrupted Japan, South Korea and Taiwan. A conflict that was restricted to the East China Sea today would still affect the flow of gas to South Korea and Taiwan but might not affect Japan's economy. So simply looking at the global flow of oil and gas resources, then we can see why China and Japan may be more free to engage in belligerent acts over disputed territories in the East China Sea than those in the South China Sea.

There is much less potential harm to either of the Japanese or Chinese economies if the conflict is restricted to the East China Sea.

Left out of much of the public debate in popular media in the United States, but also in Asia, as well, is the fact that much of China's economy is concentrated in the coastal cities of the east and the south coasts, and that these cities are far away from the very large coalfields in northern China or from the natural gas pipelines that will in the coming years be bringing more and more natural gas from Russia and Central Asia.

Left out of the debate is also the fact that most Chinese coastal cities have their own energy security plans that are independent of the central government's. Moreover, these cities have their own resources. Their economies are on the scale of small countries, hundreds of billions of dollars in GDP, and so they can devote their own resources completely independent of the central government.

The structure of China's oil and gas industries and the geological placement within China of its domestic oil and gas resources means that in 20 to 25 years, coastal China will be importing many times more liquified natural gas across the South China Sea and East China Sea in order to maintain the high goals of economic growth to which they are accustomed. That is the fuel that South China and East China are dependent upon.

Best geological estimates of the recoverable oil and gas resources in the East China Sea and South China Sea indicate that they are actually quite small for the East China Sea and quite substantial for the South China Sea. Even if China adopted an imperial strategy of colonizing its neighbors along the South China Sea coast, it could at most buy itself a few years of oil imports and a decade or more of gas imports.

Baker Institute global gas trade models reveal that even if China were

to slow down its economic growth, or to rapidly develop substantial shale gas and other unconventional gas resources, such as coalbed methane, by 2040, it would still require many times more LNG imports from Malaysia, Indonesia, Australia, Qatar, and the other major exporters, including potentially the United States.

China's energy security strategists in Beijing may not have made the same calculations and arrived at the same conclusions we have, but the future is very clear. China will not benefit from any potential shale gas revolution the same way the United States has. The shale gas revolution in the United States has meant that the plans to develop LNG regasification reception terminals across the Gulf Coast have been shelved.

Even if China becomes a major producer of shale gas, however, it will still need much more LNG from the Middle East, Australia, Malaysia, and Indonesia several decades from now in order to keep its coastal cities growing.

So, in conclusion, given China's long-term energy needs and the relative inadequacy of oil and gas resources in both the East China Sea and the South China Sea, China has very strong incentives to work with its neighbors to cooperate in the joint development of these ocean resources. Any potential conflict in these seas would disproportionately harm the coastal engines of the Chinese economy, especially in the long term.

Thank you.

**PREPARED STATEMENT OF DR. STEVEN LEWIS  
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BAKER INSTITUTE FOR PUBLIC POLICY, RICE UNIVERSITY**

Testimony Before the US-China Economic Security Review Commission

“China’s Maritime Disputes in the East and South China Seas”

April 4, 2013

By

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<sup>1</sup> This testimony would not be possible without the assistance of many, especially colleagues Ken Medlock, Peter Hartley , Joe Barnes and Ron Soligo of the Baker Institute, Amy Myers Jaffe of UC Davis, Meghan O’Sullivan of Harvard’s Belfer Center, and particularly Al Troner of APEC Energy Consulting. Invaluable help was provided by research assistants Ying Zhang, Devin Glick, Benjamin Chou, Yuanzhuo Wang, Neeraj Salhotra, Andy Wang, Julian Yao, Simon Wu, Ran Chen, Jay Yusheng Chen and David Liou,

Commissioners Brookes and Tobin, and other commissioners, it is my great pleasure to provide testimony to the US-China Economic Security Commission on the subject of China's maritime disputes in the East China and SCSs. My name is Steven Lewis, and I am the C.V. Starr Transnational China Fellow in the Baker Institute for Public Policy, and professor in the practice and associate director of the Chao Center for Asian Studies, at Rice University. My colleagues and I in the Energy Forum of the Baker Institute have been studying the development of China's energy economy since 1998, including hosting international research conferences in Houston, Beijing, Shanghai and Tokyo that bring together academic, government and corporate analysts from many disciplines and many countries to examine the potential for cooperation and coordination in energy policies between the United States, China and Japan. I am happy to share the results of this collective research here in the hopes it will help reveal the energy drivers of the maritime disputes in the East China Sea (ECS) and South China Sea (SCS).

The commission has posed important questions: (1) What roles do oil, gas, minerals, and fisheries play in the development and outcome of the East and SCS disputes? (2) Overall, how closely has China adhered to its long-held policy of "shelving disputes and jointly developing" natural resources? (3) What are the prospects for joint development of resources in the ECS, particularly following the failed outcome of the 2008 China-Japan joint exploration consensus of ECS gas fields? (4) To what extent could joint development of energy resources in the ECS and SCS serve as a cooperative measure? (5) Given the uncertainty of available resources and the potential economic unfeasibility of extraction, could resources be overemphasized as a driver of maritime disputes in East Asia?

In order to adequately answer these questions we must first try to answer the much larger question: what potential roles do the SCS and the ECS play in China's long-term economic development? China has enjoyed annual growth in the 7 to 10 percent range for more than 30 years, creating a population that is now more than 50 percent urban, an urban middle class numbering in the hundreds of millions, and an economy that is increasingly international and global. How important are the SCS and ECS to keeping this economy growing at the rapid pace to which the Chinese people and government have become accustomed? I argue here that SCS and ECS play critical roles in the transportation of oil and gas imports to China's economically vibrant localities along the Southern and Eastern China coasts. I also argue that the structure of China's oil and gas industries, and the geological placement within China of its domestic oil and gas resources, means that in 20 to 25 years it will be importing many times more LNG across the SCS and ECS in order to maintain economic growth in these same localities. Best geological estimates of the recoverable oil and gas resources in the ECS and SCS indicate that they are very small for the ECS and quite substantial for the SCS. Even if China adopted an "imperial" strategy of colonizing its neighbors along the SCS coasts it could at most buy itself a few years of oil imports and a decade or more of gas imports. Baker Institute global gas trade models reveal that even if China were to slow down its economic growth, or to rapidly develop substantial shale gas and other unconventional gas resources (coalbed methane), in 2040 it would still require many times more LNG imports from Malaysia, Indonesia, Australia, Qatar and other major producers. Given China's long-term energy needs, and the relative inadequacy of oil and gas resources in ECS and SCS, China has very strong incentives to work with its neighbors to cooperate in the joint development of SCS and ECS resources.

**East China and South China Seas as Energy Corridors.** Here, we should first distinguish between the seas as locations for transportation of trade and as locations for the provision of resources. Both seas

play a critical transportation role in the development of China and other Asian economies, especially in the transportation of oil and gas. The United States Energy Information Administration estimates that in 2011 some one-third of global oil trade, totaling some 14 million barrels of oil per day, passed through the SCS, with just over 5.4 million going to China, 3.2 million to Japan and 2.4 to South Korea.<sup>2</sup> Approximately 15 percent of the oil moving through the SCS goes on to pass through the ECS, particularly oil destined for South Korea and Taiwan. Since oil is mainly used for transportation, a conflict that disrupts oil tanker flows in the SCS would cripple transportation in three East Asian economies (and Taiwan) equally, but a conflict in the ECS that blocked crude carrier flows would disproportionately disrupt the South Korean and Taiwanese transportation systems, although as a International Energy Agency member country South Korea could call on Japan and other Organization for Economic Cooperation and Development (OECD) and International Energy Agency (IEA) members to release crude and product to help alleviate the shortages there. It is worth noting that as OECD and IEA members, South Korea and Japan are required to maintain crude stockpiles equal to 90 days worth of imports, whereas China currently maintains only some 40 days worth of crude imports. Or in other words, a conflict in the SCS would cause long lines for gas much earlier in China than in South Korea or Japan, and it is possible that a conflict in the ECS would not have a rapid or drastic impact on gas lines in China or Japan. Japan and other OECD countries' capacity to assist South Korea in the case of a conflict in the ECS is limited, as South Korea consumes a large amount of crude.

In contrast, a conflict in the SCS that stopped the flow of natural gas on ships would quickly cripple much of the Japanese economy, especially after the Fukushima nuclear accident in 2011, which shut down almost all of Japan's nuclear reactors (providing some 40 gigawatts of power) and forced it to fall back on natural gas for power production. The EIA estimates that in 2011 over 6 trillion cubic feet (Tcf) of liquefied natural gas (LNG) passed through the SCS daily, comprising more than half of the global LNG trade, with 3.4 Tcf (56 percent) going to Japan, 1.4 Tcf (24 percent) to South Korea, and .6 Tcf and .6 Tcf (9.5 percent each) going to China and Taiwan. A conflict in the ECS would disrupt the flow of natural gas to South Korea, Taiwan and East and Northeast China's coastal cities. Unlike oil, the capacity for long-term storage of gas in the Northeast Asian economies is very limited, and there are no collective response mechanisms set up to deal with gas shortages among IEA members, as there is with oil. A disruption in the SCS mainly shuts down transportation in South and East China, as they rely most on imported oil, and then in South Korea, Taiwan and Japan, which are wholly dependent on imported crude. In the case of gas, disruption in the SCS alone rapidly affects power generation for both home and factory in all of Japan, Korea, Taiwan and certain cities in coastal Southern, Eastern and Northeastern China. A disruption in the ECS alone is less problematic for Japan, even as it also hurts a few localities in North and East China, and all of Taiwan and South Korea, as its LNG supplies need not pass through the ECS.

Simply looking at the global flow of oil and gas resources, then, we can see why China and Japan may be more free to engage in belligerent acts over disputed territories in the ECS than in the SCS. A maritime conflict that shut down the ECS creates enormous problems for South Korea, from transportation to factory and home, especially in the winter heating months, and on a smaller scale for Taiwan. A maritime conflict in the ECS would harm a significant part of China's oil imports, mainly

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<sup>2</sup> [<http://www.eia.gov/countries/regions-topics.cfm?fips=SCS>] (Accessed 3/28/2013)

creating transportation disruption in South and East China, but only a portion of its gas imports would be affected, and those would be to cities which have the potential to fall back on coal and other energy sources. Japan could potentially largely be unaffected in its energy imports by a maritime conflict that was restricted to the ECS. And if its nuclear power plants came back online – at enormous domestic political cost for any Japanese government – Japan could reduce its dependence on LNG imports, but only enough to give it more flexibility and surplus capacity to deal with normal fluctuations in supply and demand, not enough to be free of dependence on sea lanes. Japan has recently announced it has successfully developed offshore methane hydrates, a sign that it is aggressively seeking energy supplies closer to home, as the seas to the south and east of Japan are estimated to contain enormous stores of methane hydrates. The development of these resources will likely take decades.

The long-term energy supply picture for Northeast Asia changes dramatically. In the long-term the critical importance of stability in the SCS and ECS increasingly threatens the import of fuels to power the engines of the Chinese economy, not so much the Japanese and South Korean economies, whose energy demand will grow much more slowly than China's over the next two decades. Japan's energy needs in 2035 are projected to be very little more than they are today. To see this, consider the long-term forecasts of the IEA, which project China's oil imports rising from the current 50 percent of demand to more than 80 percent in 2035, and gas imports rising from less than 20 percent of demand to more than 40 percent.<sup>3</sup> Then look at the structure of China's oil and gas import system – through its three national oil companies, CNPC, Sinopec and CNOOC – and we can see that the bulk of China's energy imports will come through the SCS and the ECS. China's onshore oil exploration is largely winding down, with most of its aging fields in the Northeast (Daqing, Shengli) and the Northwest (Tarim) declining rapidly in production. Only with massive investments in new technologies are CNPC and Sinopec capable of keeping domestic onshore production from falling even more rapidly. China's opportunities for pipeline imports of oil are also very limited, although in a few years it will be importing oil by pipeline from three of its neighbors: Kazakhstan, Russia and Myanmar. Russia and Kazakhstan today provide only some 12 percent of China's crude imports.

China's rapidly growing personal automobile population will thus demand many millions of barrels of oil more per day from the Middle East, Southeast Asia and Africa: all passing through the SCS and the ECS. This very dire picture for oil imports helps explain the emphasis in the 12<sup>th</sup> Five Year Plan (2011-2015) on public transportation, including high-speed rail connections between all cities of more than 1 million population, as well as Chinese central government strategic investments in alternative fuel vehicles. Interviews with Shanghai municipal government strategic energy plan advisers in recent years reveal they are pushing for electric and perhaps natural gas vehicles in order to decrease their dependence on foreign oil. The municipal government of Beijing is also considering making strategic investments in alternative fuel vehicles in order to cut down on the rapidly threatening ozone pollution, which added to the pollution from coal-fired power plants in nearby provinces is creating a choking smog that is scores of times more hazardous to individual health than the pollution permitted in European, Japanese or American cities. Both cities have adopted license plate auction systems in recent years in order to restrict the registration of new automobiles to several thousand each month, seeing the mere registration of a new vehicle cost nearly US \$15,000.

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<sup>3</sup> [<http://www.worldenergyoutlook.org/>] (Accessed 3/28/2013)

If the forecast of rapidly rising oil imports by sea is dire enough for China's energy security planners, the gas import picture is, in the long-run, even more bleak and alarming. Most Chinese officials, from those in the thousands of small cities that invest in new coal-fired power plants every day to those working in strategic energy planning in the capital, may not have a clear picture of their rapidly increasing LNG dependency, and thus the critical importance of South China and ECS sea lanes in the decades to come. This ignorance is not hard to explain. In response to crippling urban power shortages in the 1980s, China's localities, especially those in the export-driven economies of South and Eastern coastal China, made huge local investments in coal mining, local railways and long-distance coal trucks in order to avoid the shortages caused by an over-reliance upon the central government's Ministry of Railways and its ability to move coal from the very large deposits of coal in the North to the power-hungry localities on the coast, many hundreds of miles away. At the time these localities did not have the capital or permission of the central government to invest in LNG imports. This situation turned the majority of China's local energy planners – those who make the vast bulk of investments in power generation in China – in to experts on coal and coal power plants.<sup>4</sup> The Chinese central government wants localities to switch to natural gas, and very large and relatively wealthy municipalities on the coast themselves also want to move power generation over to natural gas in order to decrease their dependency on domestic coal transportation disruptions, as well as to diversify their energy fuels in general, and to reduce harmful emissions. The average Chinese energy official today, however, is still focused on coal.

**China's Economic LNG Imperative.** China will need much more natural gas in the decades to come. According to the Energy Information Administration, China's total energy consumption in recent years has been heavily dependent on fossil fuels: coal (70%), oil (19%), hydroelectric (6%), natural gas (4%), nuclear (1%), and other renewables (.3%).<sup>5</sup> China's government leaders are actively working both to diversify the sources of energy and to find cleaner sources of energy. The 12<sup>th</sup> Five-Year Plan (FYP) (2011 to 2015) is the first in which China's central and local economic planners have confronted climate change, establishing national goals and metrics to shift from fossil fuels to renewable sources of energy, and among fossil fuels to transition from coal and oil to natural gas.<sup>6</sup> The 12<sup>th</sup> FYP calls for the reduction of energy consumption per unit of GDP by 16%, and the cutting of CO<sub>2</sub> emissions per unit of GDP by 17%. Non-fossil fuels (currently around seven percent) should account for 11.4% of total primary energy consumption by 2015. The central government also plans to set local energy conservation targets which must be met by local governments: "The central government will create energy control requirements for province-level governments and hold them accountable for fulfilling the requirements."<sup>7</sup> During the 11<sup>th</sup> FYP, the central government implemented the 1,000-Enterprise Plan, in

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<sup>4</sup> See Steven W. Lewis, "China and Energy Security in Asia," published by the Korean Economic Institute Policy Forum, May 2008, at [[bakerinstitute.org/publications/ASIA-EnergySecurity-050608.pdf](http://bakerinstitute.org/publications/ASIA-EnergySecurity-050608.pdf)]

<sup>5</sup> <http://www.eia.gov/countries/cab.cfm?fips=CH> (Accessed 3/28/2013).

<sup>6</sup> For English summary see [http://news.xinhuanet.com/english2010/china/2011-03/05/c\\_13762230.htm](http://news.xinhuanet.com/english2010/china/2011-03/05/c_13762230.htm) (Accessed 3/28/2013) and for Chinese full text see [http://news.xinhuanet.com/politics/2011-03/16/c\\_121193916.htm](http://news.xinhuanet.com/politics/2011-03/16/c_121193916.htm) (Accessed 3/28/2013).

<sup>7</sup> [http://news.xinhuanet.com/english/china/2013-01/24/c\\_132125842.htm](http://news.xinhuanet.com/english/china/2013-01/24/c_132125842.htm) (Accessed 3/28/2013) and for a useful analysis see "Energy and Climate Goals of China's 12<sup>th</sup> Five-Year Plan" by Joanna Lewis of C2ES at <http://www.c2es.org/international/key-country-policies/china/energy-climate-goals-twelfth-five-year-plan> (Accessed 3/28/2013).

which central government authorities were largely successful in forcing the largest energy intensive industrial users to sign energy efficiency contracts – most likely because many of these enterprises were owned directly by the central government -- and under the current FYP it plans to carry the program forward to the lower levels and crack down on local government enterprises that waste energy resources.

The central government has more than sticks to wield, however, as it has a track record of offering carrots to local enterprises and local government leaders who can help it achieve a strategic global advantage in manufacturing and technology. The 12<sup>th</sup> FYP and supporting documents and policies further detail strategic investments to be made by central and local governments to support “emerging strategic industries”: new-generation information technology, energy-saving and environmental protection, new energy, biology, high-end equipment manufacturing, new materials and new-energy cars. Beijing plans to not only open up its coffers to support enterprises that can clean up its cities and conserve energy, it hopes to turn them in to central state enterprises that can go out and become global leaders, perhaps stealing a march on their slower Western competitors, as was the case with solar panel manufacturers.<sup>8</sup> This demonstrated capacity for the central government to support strategically, and even potentially raise to the level of central ownership, enterprises that succeed in global markets is a unique feature of China’s decentralized planned economy, one that makes up for the inability of China’s still-developing stock markets to direct domestic capital toward state enterprises that are competitive in international markets.

Finally, in the months since the release of the 12<sup>th</sup> FYP, China’s central leaders have made it clear they will continue to support the “going abroad” strategy of its large central owned state enterprises, including the three central national oil companies (NOCs), China National Petroleum Corporation (CNPC), Sinopec and China National Offshore Oil Corporation (CNOOC), to obtain the necessary fossil fuels and the technology and management practices to produce and market them within China and abroad. Top Communist Party leaders reshuffled the top leaders of the three NOCs in 2011, largely to insure the Politburo retained control over these immensely powerful organizational actors in China’s energy economy, including their ability to use the NOCs to forge strategically important gas pipeline ties to Central Asian states, Myanmar and Russia, and equally important LNG ties to Australia, Indonesia, Malaysia, Yemen, Iran, Trinidad, Nigeria and Russia.<sup>9</sup> With increasingly interdependent trade and financial ties between China and the United States in recent years, all three Chinese NOCs have even made their way past American political opposition to become partners in natural gas and shale gas projects in the American South and Midwest. Far from being the dinosaurs of the planned economy era, these very large central owned enterprises have proven adept at adaptation and innovation, largely

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<sup>8</sup> See Edward Steinfeld’s *Playing Our Game: Why China's Rise Doesn't Threaten the West* (Oxford, 2010).

<sup>9</sup> On the 2011 reshuffle see Erica Downs and Michael Meidan’s “Business Politics in China: The Oil Executive Reshuffle of 2011,” in *China Security*, 2011, Issue 19, pp. 3-21, at [http://www.chinasecurity.us/index.php?option=com\\_content&view=article&id=489&Itemid=8](http://www.chinasecurity.us/index.php?option=com_content&view=article&id=489&Itemid=8) (Accessed 3/28/2013) and for a history of the NOCs see Steven W. Lewis, “Chinese NOCs and World Energy Markets: CNPC, Sinopec and CNOOC,” Baker Institute Energy Forum, 2007, at [http://www.bakerinstitute.org/programs/energy-forum/publications/energy-studies/docs/NOCs/Papers/NOC\\_CNOOC\\_Lewis.pdf](http://www.bakerinstitute.org/programs/energy-forum/publications/energy-studies/docs/NOCs/Papers/NOC_CNOOC_Lewis.pdf) (Accessed 3/28/2013) and for an analysis of the current political role of the NOCs see Steven W. Lewis, “Carbon Management in China: The Effects of Decentralization and Privatization,” Baker Institute Energy Forum, December 2011, at [www.bakerinstitute.org/publications/EF-pub-RiseOfChinaLewis-120211-WEB.pdf](http://www.bakerinstitute.org/publications/EF-pub-RiseOfChinaLewis-120211-WEB.pdf) (accessed 3/28/2013).



through experiments created by through subsidiaries, and there is little call publicly in China to continue privatization and make them majority private entities.

Although currently providing only four percent of China's primary energy consumption, natural gas is tipped to become the fuel of choice for China's localities, growing from the current consumption of around five Tcf/y at five percent per year to reach nearly 12 Tcf/y by 2035, according to the EIA.<sup>10</sup> Historically, China's gas sector grew much as its petroleum sector grew: according to local geological and economic factors, and by the state-owned petroleum and gas enterprises. Except for the Sichuan Oilfield Administration in Southwest China, which created an extensive local ring of pipelines in the 1950s to supply gas to local enterprises and cities, most of China's gas infrastructure was initially developed to handle associated gas in the major petroleum producing centers of Northeast China (Daqing, Shengli, Liaohe Oilfields). And when it became apparent in the late 1990s that the increasing cost to the central government of moving coal by train and boat from the North to the resource-poor and yet economically prosperous South and Eastern provinces could imperil these export engine localities, these areas and CNPC began to build the first cross-country pipelines, connecting the gas fields of Western China's Xinjiang Autonomous Region (and later Kazakhstan and Turkmenistan and Uzbekistan) to Shanghai and some ten provinces in between. The second West-East Gas pipeline opened in 2011, work on the third has started, and is expected to be completed in 2015, with plans to run from West China to South and Southeast China and the areas around Hong Kong, Guangdong and Fujian. The first West-East pipeline carries 430 Bcf/y, the second 1.1 Tcf/y, and the third is designed to carry 1.1 Tcf/y. The third line, which is partially financed by private investors, finds an East China market for the Central Asia Gas Pipeline (CAGP) network that China has built connecting neighboring Kazakhstan, Turkmenistan and Uzbekistan. The pipeline has capacity of 1.4 Tcf/y and some 530 Bcf/y came through in 2011, with China signing deals with Turkmenistan to expand to 1.1 Tcf/y, and through additional extensions, an extra 360 Bcf/y each from Kazakhstan and Uzbekistan to enter China after 2015.<sup>11</sup> Overall, China is expected to double its 27,000 miles of gas pipelines to 51,000 miles in 2015, and there are plans to increase notoriously low storage capacity of 70 Bcf to 1,010 Bcf by the end of the 12<sup>th</sup> FYP. CNPC owns most of the cross-country trunk pipelines, with Sinopec recently adding one from Southwestern Sichuan to Shanghai in the East, and local distribution companies own the transmission lines in urban areas.<sup>12</sup>

Meanwhile, gas from Myanmar will soon tie in to Southwest China's Yunnan Province through a 1,100-mile 430 Bcf/y pipeline, and Russian Far East gas is expected to enter China through either the Northwest Xinjiang region and a 1 to 1.4 Tcf/y pipeline, or following oil pipelines from Siberia in to the rust-belt economies of the Northeast through a 1.1 to 1.4 Tcf/y pipeline that connects China to gas from Eastern Siberia and Sakhalin Island. China gets little gas from offshore. A small amount of gas flows from offshore in to Shanghai, and from the SCS in to Hainan Province, necessitating the planned siting of both nuclear power plants and LNG terminals and gas power plants in the thriving coastal areas of South, East and Northeast China. China became a net importer of natural gas only in 2007, with LNG, and pipelines in the Northwest, rapidly expanding imports today. There are currently five LNG

<sup>10</sup> <http://www.eia.gov/countries/cab.cfm?fips=CH> (Accessed 3/28/2013)

<sup>11</sup> See <http://www.eia.gov/countries/cab.cfm?fips=CH> (Accessed 3/28/2013).

<sup>12</sup> See <http://www.eia.gov/countries/cab.cfm?fips=CH> (Accessed 3/28/2013).

regasification terminals operating in coastal China, joint-ventures between CNPC and CNOOC and such foreign partners as BP, QatarGas, Malaysia's Petronas, Australia and Iran, in which some 586 Bcf/y comprised half of China's gas imports in 2011. Four more terminals are under construction, and six more are planned, with the next regasification capacity doubling from 1 Tcf/y today to 2 Tcf/y by 2015.<sup>13</sup> Overall, China does indeed have a large gas pipeline and LNG terminal infrastructure, but it is designed to feed Chinese coastal cities directly from overseas, with only a few longer pipelines connecting the far West and Central Asia to the East, and smaller denser webs of pipelines in the Northern areas around Beijing, and then a more developed ring network in the Sichuan basin of Southwest China.

Worth noting is that the first West-East gas pipeline took more than a decade to build, requiring the creation of an informal "leadership small group" at the highest levels of the Communist Party to coordinate and eliminate obstacles for its development, with the first LNG regasification terminals necessitating similar extraordinary organizational measures. More recent pipelines and terminals have still faced considerable red tape problems in their development, but China appears to have worked out a political and organizational model to coordinate the at-time competing interests of central government, central enterprise (NOCs), local governments and local enterprises, and then in recent years to bring on board domestic private investors as well. It is telling that many cities, provinces and counties in China's shale gas regions, for example, are forming "shale gas economic development leadership small groups," a sure sign that they are mobilizing senior cadres in to ad hoc groups capable of overcoming bureaucratic and political obstacles to develop this potentially important fuel.

Most recently China's central planners have turned their eyes toward developing unconventional gas. Pointing to an estimated 10.2 Tcf of proven coal bed methane (CBM) reserves in 2011, with an estimated 350 Tcf of recoverable CBM reserves, the central government sanctioned the formation of China United Coalbed Methane Corporate (CUCMC) in 1996 by CNPC and China Coal Energy Corporation to develop reserves in the North, Southwest and West, China's major coal-producing areas. According to the IEA and FACTS Global Energy, CBM production was estimated to be 315 Bcf/y in 2010, and the Chinese government expects that to rise to 1,060 Bcf/y by the end of the 12<sup>th</sup> FYP in 2015.<sup>14</sup> There is currently one CBM pipeline that connects the Qinshui Basin in North China to the West-East Gas Pipeline, and the company and local governments are building several more. In a move presaging later actions to accelerate the development of shale gas, the National Energy Administration in Beijing in 2007 opened up CUCMC's monopoly on the formation of technical joint ventures with foreign partners, ushering in to the field CNPC working on its own, Sinopec and most recently CNOOC. It also began to provide the company with production subsidies. CUCMC, now half-owned by CNOOC, in 2012 signed an agreement with CNOOC to spend US \$1.56 billion developing CBM over the next 30

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<sup>13</sup> See <http://www.eia.gov/countries/cab.cfm?fips=CH> (Accessed 3/28/2013) for US data and analysis, and for Japanese data and analysis see Yoshikazu Kobayashi of IEEJ's "Natural Gas Situation and LNG Supply/Demand Trends in Asia Pacific and Atlantic Markets," 2010, at <http://www.eneken.ieej.or.jp/data/2940.pdf> (Accessed 3/28/2013).

<sup>14</sup> For IEA see <http://www.eia.gov/countries/cab.cfm?fips=CH> (Accessed 3/28/2013) and for FACTS Global Energy see Alexis Aik and Christopher Gascoyne, "Unconventional Gas and Implications for the Global LNG Market," at National Bureau of Asian Research 2011 Pacific Energy Summit, [http://nbr.org/downloads/pdfs/eta/PES\\_2011\\_Facts\\_Global\\_Energy.pdf](http://nbr.org/downloads/pdfs/eta/PES_2011_Facts_Global_Energy.pdf) (Accessed 3/28/2013).

years.<sup>15</sup> Most CBM in China is liquefied and sent by truck to local areas for residential use, but FACTS Global Energy estimates that with more pipelines being built by CNPC's PetroChina it will increasingly be used for power and may rise to 2 Tcf/y by 2020.

Shale gas is widely expected to be even more influential than CBM in China's future gas economy. The recent US DOE sponsored assessment of global shale gas by ARI (2011) places China's technically recoverable shale gas resource at over 1,200 Tcf. China's Ministry of Land and Resources puts domestic shale gas resources at 917 Tcf, and is targeting the development of 10 to 15 "experimental shale development regions" by 2015.<sup>16</sup> Facing initial "foot dragging" by the NOCs, whom interviews with reveal consider shale gas to be yet another potentially costly burden that cuts in to their profits -- much as their recent efforts to invest in costly pipelines to Central Asia and long-term contracts and terminals for LNG -- the central government has once again goaded the NOCs by letting more competitors come sit around the policy-making table. With the development of the 15 experimental shale gas development zones, the central government raises the possibility that it will directly step in to appoint local leaders in shale producing regions, and with its declaration in 2011 that shale gas will be priced separately from oil and conventional gas, and that it will support it with price subsidies, the central planners are essentially daring the NOCs to ignore a potential resource that has not just economic value, but political value for energy industry cadres. Historically, whenever the central government makes a major investment in an energy project it raises the nomenklatura ranking within the Communist Party of its leaders. CNPC and Sinopec in particular thus understand the political threat implicit in Beijing's creation of shale gas development zones: the future leaders of such zones may have competitive Party ranking to the leaders of their own major oilfields and refineries, potentially giving them less comparative Party clout in central government policy-making. Shale gas is thus far a union of central planners who are attracted to its energy security implications, and ambitious local leaders who see it as a potential "helicopter ride" to Beijing.

Shale gas is still an unexplored resource in China, and regardless of the assessment of *technically* recoverable resource, there is tremendous uncertainty around the *economically* recoverable shale resource. But even as China's mega-firms are moving somewhat slowly on shale investment, the National Energy Administration incorporated shale gas into its "National Energy Strategies Toward 2030," assigning targets for shale gas development in the 12<sup>th</sup> FYP, and its parent National Reform and Development Commission indicated that it saw price reform as an ultimate necessity.<sup>17</sup> To promote rapid development of shale gas, domestic prices must be structured to incentivize large investments. China's shale resources are thought to be relatively expensive to develop compared to the US and other regions. There are also several other barriers besides pricing to rapid development that must be overcome. These include long distances between shale rich regions and major end-use markets and a lack of existing pipeline infrastructure, in addition to water constraints in some many potentially prolific areas.

<sup>15</sup> See Reuters, "CNOOC Signs 1.56 bln Domestic Coalbed Methane Deal," August 5, 2012, at <http://www.reuters.com/article/2012/08/06/cnooc-coalseam-idUSL4E8J603Q20120806> (Accessed 3/28/2013).

<sup>16</sup> For the ARI report, "World Shale Gas Resources: An Initial Assessment of 14 Regions Outside the United States," see <http://www.eia.gov/analysis/studies/worldshalegas/> (Accessed 3/28/2013)

<sup>17</sup> See National Energy Administration website and "页岩气发展规划(2011-2015年)" at <http://www.nea.gov.cn/zwhd/wszb20120316/index.htm> (Accessed 3/28/2013)

American and European companies are also trying to engage in the development of unconventional gas in China. For the most part, Chevron has been focusing on its Chuangdongbei project, the first large-volume sour gas development in China, although it is interested in shale opportunities in China. While first commercial output from Chuangdongbei has been delayed by complex geography, Chevron has found recoverable and proved gas reserves of 6.2 Tcf, which will yield about 4.0 Tcf of marketable gas. Initial output is planned at 740 mmcf/d from two large-scale cleaning plants, but will only be achieved late in 2012. A second phase would double output by 2016, but timing and volume will be dependent upon the operating experience gained in initial sustained production. The US firm has considerable experience in handling gas with large volumes of inerts as well as hydrogen sulfide, a gas that is both corrosive and explosive. Chevron hopes to be the partner of choice for developing technically challenging gas finds. Shell has pledged \$5 billion to explore the Jingqui and Fushun-Yangchuan shale blocks with CNPC. BP, Statoil, Hess and ExxonMobil also pursuing opportunities in Chinese shale.

So in the long-term can China utilize unconventional gas to become “gas import free” as the United States is set to become in future years? The research of the Baker Institute’s Energy Forum and its partners all around the world in the Rice World Gas Trade Model (RWGTM) suggests that this is very unlikely. A 2011 report by the Baker Institute estimates that in order to continue even moderate levels of economic growth, and to continue using coal resources, China will need to steadily increase its gas use over the next 25 years to some 20 Tcf/y. According to a “status quo” scenario in which China has continued high growth to 2040, and it has relative success in developing shale gas resources (to 3.5 Tcf) and pursues conventional gas (1.5 Tcf) and international pipeline gas (4 Tcf), its LNG imports will still rise from the current .6 Tcf/y to around 11 Tcf. Even in a “high shale gas” scenario, in which China produces domestically some 14 Tcf/y from unconventional gas, it will still need some 3 Tcf/y of LNG (with 2 Tcf/y from pipelines) by 2040. This is so because shale gas – which will be likely be more costly to develop and produce than in the US because it is commonly twice as deep as US shale deposits, and because most Chinese shale plays will require imports of water for hydro-fracturing – will still not be found near the major consumption centers of coastal South and East China. LNG from the rest of the world will often be the most economical fuel for industrial and residential power in these vibrant local economies.<sup>18</sup>

Contrary to the dreams of China’s energy-security-conscious energy planners in Beijing, if China experiences a shale gas revolution similar to America’s, in which nearly half of all gas consumption comes from shale and other unconventional gas production, it is unlikely to obtain the ability to be free of either pipeline gas or LNG from overseas. America’s vast gas pipeline network allows most localities to switch at low cost between domestic shale, conventional gas and imported LNG and piped gas sources across its regions. China’s underdeveloped network means that North, Northeast, Central and Western China benefit disproportionately from any boom in shale gas production. The future economic

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<sup>18</sup> See Kenneth B. Medlock III and Peter R. Hartley, “Quantitative Analysis of Scenarios for Chinese Domestic Unconventional Gas Resources and their Role in Global LNG Markets,” paper presented at *The Rise of China and Its Energy Implications*, Baker Institute Energy Forum, December 2, 2011, at <http://www.bakerinstitute.org/programs/energy-forum/publications/energy-studies/the-rise-of-china-and-its-energy-implications> [Accessed 3/28/2013]. Scholars from the Baker Institute Energy Forum and the Belfer Center at Harvard University have applied the model to explaining global gas trade under a wide range of scenarios, with the results of this research to be released in September 2013.

growth of China's most prosperous cities and provinces is one heavily tied to massive fleets of LNG carriers (with four or five times the number of vessels used today) sailing toward them across the SCS and the ECS. Or, in other words, the long-term economic growth of China's most developed local economies is unquestionably dependent on the safe flow of LNG across the two bodies of water.

**East China and South China Seas as Energy Supplies.** Given that there is an economic LNG imperative that will in the long-term drive China to make very large LNG imports through the SCS and the ECS, can the discovery and production of energy resources underneath the ECS and SCS themselves make China more energy independent? In stories too numerous to cite, the state media of China, and occasionally Western media as well, routinely cite estimates that the SCS in particular contains enormous stores of petroleum and natural gas. The problem with these unattributed and unexplained statistics is that they do not delineate the boundaries of the SCS. Chinese media reports typically assume the energy resources of the SCS include all of those of the countries and regions bordering the SCS: Taiwan, Philippines, Malaysia, Brunei, Indonesia, Vietnam and Thailand. Most Western energy analysts, however, distinguish between the near-offshore resources and the far-offshore resources. Here, the SCS can be said to have the energy resources of a “donut”: much on the periphery, with no proven resources in the middle.<sup>19</sup> Map A in the appendix uses US State Department and EIA data to map out the competing claims among these countries, many of which belong to the Association of South East Asian Nations (ASEAN).<sup>20</sup> Looking more closely, USGS estimates of undiscovered oil and gas resources in SCS map out much of these sections of the “donut”, estimating oil and gas resources for nine basins. The Pearl River Basin just offshore South China is estimated to hold 608 million barrels of oil (MMBO) and 9,035 billion cubic feet of gas (BCFG), or about four month's imports of oil, and four-year's imports of gas.<sup>21</sup> If China can manage to persuade or intimidate Taiwan, Philippines, Malaysia and Vietnam to give up their occupation of the Spratley Islands it might be said to hold the entire claim to the basin known to USGS as South China Sea Platform, which is estimated to contain 2,522 MMBO of oil and 25,519 BCFG. Or, in other words, if China can retain control of the Pearl River Delta Basin and also exert itself diplomatically and militarily to control the South China Sea Platform it could potentially develop several year's worth of current oil imports and a dozen year's gas import needs. This is the most that an aggressive China could hope to achieve without seizing large islands that are part of its Southern neighbors.

But what if China were to turn imperial and take the entire SCS donut, including the shorelines that sit above the basins that run offshore? The largest parts of the donut would be those controlled by Malaysia and Brunei, and the smallest parts would be those controlled by Taiwan, Philippines and Vietnam. To take the parts of offshore and onshore basin facing the SCS currently held by Malaysia and Brunei (the Greater Sarawak Basin and Baram Delta/Brunei-Sabah Basin) would gain approximately 4,921 MMBO and 64,448 BCFG. Even these rich assets would only provide China with enough oil to offset several years of current oil imports, and perhaps 15 years of current gas imports. The Philippines controlled

<sup>19</sup> I am indebted to Al Troner of Apec Energy Consulting for this analogy.

<sup>20</sup> US Energy Information Administration, using State Department data: <http://www.eia.gov/countries/regions-topics.cfm?fips=SCS> [Accessed 3/28/2013].

<sup>21</sup> See USGS, “Assessment of Undiscovered Oil and Gas Resources of Southeast Asia, 2010,” at [pubs.usgs.gov/fs/2012/3042/fs2012-3042.pdf](http://pubs.usgs.gov/fs/2012/3042/fs2012-3042.pdf) (Accessed 3/28/2013).



Palawan Shelf Basin might yield 270 MMBO and 1,408 BCFG. The Vietnamese controlled Song Hong Basin running along its northern shore, and the Phu Khanh Basin running along its southeastern shore, would together yield 427 MMBO but 25,306 BCFG. If Vietnam were to also control the Cuu Long Basin and Nam Con Son Basins along its southwest shore, and out in to sea close to Malaysia's, Thailand's and Indonesia's claims just beyond the western boundaries of the SCS, then Vietnam could also control an additional 2,420 MMBO and 18,997 BCFG.<sup>22</sup> If China were to seize control of these basins, all of which lie within several hundred miles of Vietnamese shore, it could possibly gain itself another two year's worth of oil imports and a decade of gas imports. A new imperial China that was capable of seizing control of the oil and gas resources of its southern neighbors would still only gain a few years of oil imports, but several decades of potential gas imports, assuming it had the technical ability to develop these.

The East China Sea has far fewer estimated resources than the SCS. The EIA and CNOOC estimates are that there are perhaps 18 million barrels of oil there, and 1 to 2 TCF of natural gas, most of it in a geologically difficult trench claimed by both China and Japan, and capable of being explored through a joint production agreement never put in to operation. Politics in the form of nationalist protests over the Diaoyu/Senkaku Islands has intervened, but economics is also harsh, considering the small amounts and the high cost to construct lengthy pipelines to Chinese and Japanese gas markets. Interviews with both Chinese and Japanese company officials suggest that even if there were no political disputes there would be not much incentive to develop these projects. Nevertheless, it is likely that if protests diminish the Chinese and Japanese companies will resume, as both have been told to jointly develop projects with each other.

A full accounting of resources in the SCS and ECS would include fisheries and methane hydrates. I leave the fisheries to relevant experts to detail, and note that any potential commercial exploration and production of methane hydrates is likely to occur decades from now, and it would certainly first proceed onshore before moving offshore, especially to contested waters.

**Conclusions and the Potential for Cooperation and Conflict in ECS and SCS.** How important are the SCS and ECS to keeping this economy growing at the rapid pace to which the Chinese people and government have become accustomed? I argue here that SCS and ECS play critical roles in the transportation of oil and gas imports to China's economically vibrant localities along the Southern and Eastern China coasts. I also argue that the structure of China's oil and gas industries, and the geological placement within China of its domestic oil and gas resources, means that in 20 to 25 years it will be importing many times more LNG across the SCS and ECS in order to maintain economic growth in these same localities. Best geological estimates of the recoverable oil and gas resources in the ECS and SCS indicate that they are very small for the ECS and quite substantial for the SCS. Even if China adopted an "imperial" strategy of colonizing its neighbors along the SCS coasts it could at most buy itself a few years of oil imports and a decade or more of gas imports. Baker Institute global gas trade models reveal that even if China were to slow down its economic growth, or to rapidly develop

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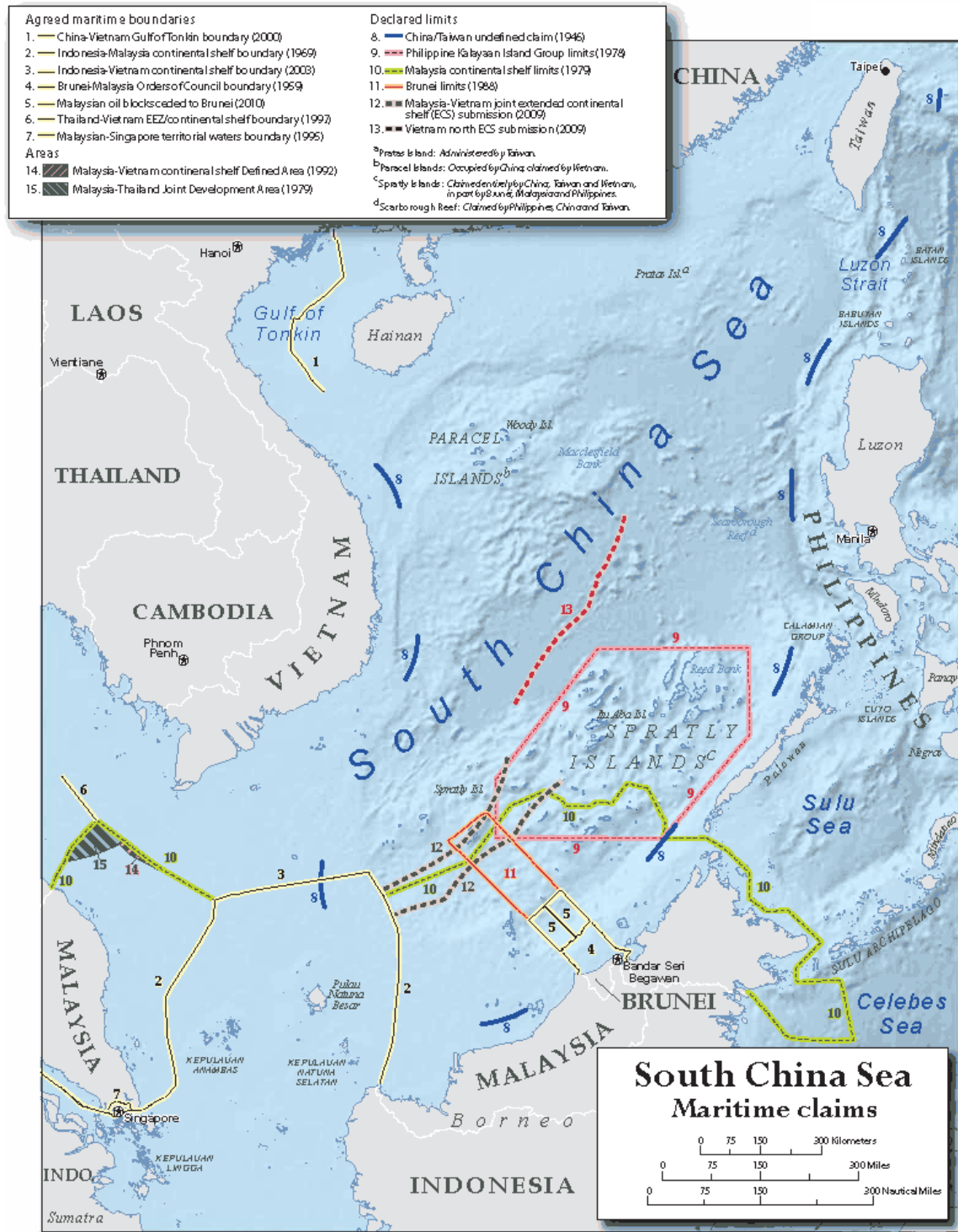
<sup>22</sup> See USGS, "Assessment of Undiscovered Oil and Gas Resources of Southeast Asia, 2010," at [pubs.usgs.gov/fs/2012/3042/fs2012-3042.pdf](http://pubs.usgs.gov/fs/2012/3042/fs2012-3042.pdf) (Accessed 3/28/2013).

substantial shale gas and other unconventional gas resources (coalbed methane), in 2040 it would still require many times more LNG imports from Malaysia, Indonesia, Australia, Qatar and other major producers. Given China's long-term energy needs, and the relative inadequacy of oil and gas resources in ECS and SCS, China has very strong incentives to work with its neighbors to cooperate in the joint development of SCS and ECS resources, or risk serious harm to its economy. Interviews with Chinese international security advisers to the central government suggest that they will seek to find ways to bring the United States, and the OECD nations, in to broader negotiations over the full range of "ocean commons", linking SCS discussions with Polar Sea discussions, for example. Here, the work of American and Chinese scholars looking at building umbrella treaties and organizations to deal with maritime resources and transportation disputes might be useful."<sup>23</sup> Discussions with Chinese officials also suggest that bilateral US-Chinese discussions on other "commons", such as cyberspace, space, and the terrestrial atmosphere, might also be welcome.

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<sup>23</sup> See a summary of these and the idea of a "global maritime partnership" in Andy Wang, "Calming the Seas: China, The United States and Transforming Maritime Rivalries in to Partnerships," *The Rice Cultivator*, Vol. 3, 2012, pp. 62-87, <http://www.bisf.rice.edu/research/currentandpastissues/> (Accessed 3/28/2013).

Map A





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**OPENING STATEMENT OF LLOYD THRALL  
PROJECT ASSOCIATE, RAND CORPORATION**

MR. THRALL: Mr. Chairman, Commissioner Brookes, Commissioner Tobin, members of the Commission, it's an honor and privilege to appear before you today, and I look forward to the discussion.

I'd like to pursue three topics in my oral testimony. First, I'd like to highlight that the role of natural resources as a conflict driver has been generally overstated. Second, I'd like to present that more accurately resources reflect and amplify the existing political drivers of tension. And, then, finally, I'd like to highlight some future trends that I think are worthy of your attention regarding the role of resources, and this will touch on joint development and escalation.

On the first point, to answer your question about how resources serve as drivers, what I tried to do with the written testimony was compare the relative political value and relative economic value of the contested resource areas.

This is necessary because media and policy sources on both sides of the Pacific commonly cite these disputes as resource conflicts. As Dr. Lewis has highlighted, this is misleading, and I won't repeat his points, but to highlight a few issues from the written piece, the hydrocarbon potential of the disputed South and East China Seas remains highly speculative.

Should any resources be located, a host of technical, economic and logistic factors call into question the viability and significance of ensuing hydrocarbon development. In sum, and particularly with respect to oil, the resources are likely dwarfed by both regional energy demand growth and the proven reserves of the Middle Eastern suppliers. This makes them of questionable energy security value.

To be clear, I'm not saying that the resource potential is nonexistent. There is some potential, particularly gas, in the South China Sea, for reserves in the contested coastal areas. This more moderate potential, however, is not commensurate with the primary driver of observed security competition.

It's worth remembering that neither dispute is new, nor is the South China Sea conflict approaching the peak levels of violence seen between 1988 and 1995 despite pronounced growth in resource demand. During most of this period of heightened tensions, China was an oil exporter and believed it would continue to be energy self-sufficient.

Further and more importantly, resources are not zero-sum. There are plenty of established options for dividing the resources, dividing the territory, developing jointly or disagreeing, and neighbors historically find these options. What is lacking in these seas is the political will to do so.

This brings me to my second point: how resources interact with Chinese nationalism, political legitimacy and perceptions of maritime control. China's maritime disputes compete with some of Beijing's top-tier foreign policy concerns: regional and Sino-American relations; the risk of a truly disastrous

regional conflict with exceptional escalatory potential; and China's image of a peaceful rise.

We should expect persistent top-tier activity to be generated by top-tier interests, and I would argue that in this case it is, not by the resources themselves, but by how these resources touch and amplify the existing political pressures driving the dispute. What emerges is not a resource conflict, but very much a political conflict in which resources play a secondary role.

I would argue that within this, resources have three primary roles: as symbols; as instruments; and as flashpoints. As symbols, perceived success in regional maritime disputes and perceived control over China's maritime periphery activates popular Chinese nationalism and Beijing's core anxieties about political legitimacy.

Rather falsely, Chinese media has portrayed the entire area as Chinese "historic waters." This interacts with narratives about China's resurgence, as this resurgence implies regaining China's rightful place as understood in current historical memory.

Fisheries, in particular, generate a level of vitriol within Chinese media. In this context, Chinese local and national leaders likely see maritime rights issues as a potential threat to legitimacy and stability if mishandled and a potential diversionary force for public anger if calibrated correctly.

Second, resource issues serve as instruments in Beijing's slow strategy of manifesting greater control of its maritime periphery. Fishing grounds and oil blocks demonstrate and demarcate jurisdiction. It is worth noting the hydrocarbon potential of these blocks can be quite low. Given this symbolic and jurisdictional value, it's not surprising resource issues can serve as potent flashpoints for conflict even if that conflict is actually driven by underlying interests.

To conclude, the written testimony raises several trends I think are worth thinking about, but I'd like to highlight three here. First, the capacity for joint development. Given that the key drivers of these disputes are not in the resource realm, it is doubtful that a comprehensive remedy can be found there either.

And this explains why throughout the history of these conflicts, meaningful large-scale joint development has never ameliorated tensions to a great degree. China is likely reticent to pursue very meaningful joint development, at least in part because its current strategy of consistent low level pressure is doing an adequate job of increasing Beijing's jurisdiction over the maritime periphery.

Similarly, we should not expect survey work suggesting low hydrocarbon potential in the contested areas or the development of onshore resources like shale gas would greatly diminish the maritime and territorial disputes.

Joint development can probably provide some tactical level victories in managing flashpoints. And this is valuable. In particular, with respect to fisheries, China has done a commendable job of increasing regulation and establishing some cooperation. However, these initiatives ultimately treat

symptoms rather than addressing root causes and are unlikely to provide a more comprehensive settlement mechanism.

Second, I'd like to address regional energy firms. Continued capability growth in regional oil companies could lessen their current dependence on international oil companies for deepwater operations. Increasing technical capability, particularly in China's CNOOC, could lessen or remove the international firms' comparative conservatism as a brake on assertive activity.

China's first deepwater drilling platform, CNOOC 981, is a sign of emerging capabilities, and 981's activities may be a bellwether of CNOOC's strategic direction in this regard. For context, it should be made clear China's energy firms are not simple political pawns of Beijing's foreign policy wishes. A large body of research attests to how Chinese firms balance their profit and political motives and how the firms are generally the more proactive elements of Chinese oil policy.

However, holding all variables equal, regional oil companies are more beholden to parent governments than international ones, and growth in their capabilities could add to the relative politicization of oil survey activities.

To finish, I'd like to highlight the increasing importance of regional sea lanes. The real center of Asian energy security, as Dr. Lewis pointed out, will not be in speculative deepwater disputes but increasingly in the sea lanes that connect Asia to the rest of the world.

The South China Sea has arguably the world's densest in value and volume. As regional states' oil import and trade dependence continues to grow, the criticality of these maritime sea lanes will increase. This occurs in the context of regional naval modernization and a continued relative growth in Chinese naval power.

The combination of increasing sea lane dependence and expanding Chinese naval power is foreboding to neighbors, particularly Vietnam and an island nation like the Philippines. For China, an increasing percentage of oil consumption will be carried at sea, and LNG, as Dr. Lewis points out. This will further underscore China's insecurities about its maritime sea lanes and its "Malacca dilemma."

This raises issues about the degree to which the United States can and should consider holding China's sea lanes at risk, and I'm happy to elaborate on that point.

Thank you.

**PREPARED STATEMENT OF LLOYD THRALL  
PROJECT ASSOCIATE, RAND CORPORATION**

Testimony

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# The Relationship between Natural Resources and Tensions in China's Maritime Periphery

Lloyd Thrall

RAND Office of External Affairs

CT-385

April 2013

Testimony presented before the U.S.-China Economic and Security Review Commission on April 4, 2013

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**Lloyd Thrall<sup>1</sup>**  
**The Rand Corporation**

***The Relationship between Natural Resources and Tensions in China's Maritime  
Periphery<sup>2</sup>***

**Before the U.S.-China Economic and Security Review Commission**

**April 4, 2013**

Mr. Chairman, Commissioner Brookes, Commissioner Tobin, and Members of the Commission: It is an honor and privilege to appear before you today. Thank you for the invitation, and I look forward to discussing with you the relationship between natural resources and China's maritime disputes.

This afternoon I would like to try to distinguish between the political and economic dimensions of natural resources in China's maritime disputes. By gaining a better understanding of these dimensions, I hope to clarify the extent to which resources serve as drivers of tension. Additionally, such an understanding may help address your questions about how China uses resource issues in a broader context and the potential for meaningful joint development. I will focus on hydrocarbon development and fisheries as the most significant and most contested maritime resources.

Following the executive summary below, I will address three issues. To counter persistent misconceptions about the region's offshore resource base, the testimony will begin by reviewing the maritime energy and fishing resources in both the South China and East China Seas in the context of predicted regional demand. The focus here will be on the economic value of these resources and the extent to which the region is witnessing a "resource conflict." The second issue the testimony will address is how resource issues reflect and amplify more fundamental and intractable concerns of nationalism, political legitimacy, and maritime jurisdiction. I will also discuss how resource issues function as political instruments therein. Finally, I will conclude by highlighting some potential changes in natural resource dynamics that may affect the future direction of regional maritime tensions.

## **Executive Summary**

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<sup>1</sup> The opinions and conclusions expressed in this testimony are the author's alone and should not be interpreted as representing those of RAND or any of the sponsors of its research. This product is part of the RAND Corporation testimony series. RAND testimonies record testimony presented by RAND associates to federal, state, or local legislative committees; government-appointed commissions and panels; and private review and oversight bodies. The RAND Corporation is a nonprofit research organization providing objective analysis and effective solutions that address the challenges facing the public and private sectors around the world. RAND's publications do not necessarily reflect the opinions of its research clients and sponsors.

<sup>2</sup> This testimony is available for free download at <http://www.rand.org/pubs/testimonies/CT385.html>.

Media and policy sources frequently cite natural resources as a primary driver of tensions in the South and East China Seas. In reality, the region's hydrocarbon potential is moderate, with speculative reserves most likely dwarfed by expected regional energy demand growth and by the capacity of traditional hydrocarbon producers. Rather than functioning as fundamental drivers themselves, resource issues function primarily as focal points for more powerful underlying drivers of domestic political legitimacy, popular nationalism, and regional order. Further, fisheries and hydrocarbon blocks serve as political instruments of a wider strategy that involves establishing presence and precedent in disputed sea space. As such, while joint development potential will continue to vary from project to project and may tactically alleviate some tensions, fundamental concerns over who owns and controls above-surface features make joint development unlikely to more comprehensively ameliorate tensions. Several factors suggest that the role for resource issues will likely grow over time: sharply rising energy demand and plateauing supply; increasing capabilities of state-owned energy firms to conduct offshore operations; increasing demand for fish and concordant pressure to fish further from shore; and increases in the volume of maritime traffic and proximity. These issues could lead to both increased domestic political pressure and increased opportunities for accidents and miscalculation.

### **Putting Regional Hydrocarbon Potential in Perspective**

Implicitly or explicitly, media and policy sources commonly cite tensions in China's maritime periphery as examples of "resource conflict." Similarly, nontechnical sources provide a wide range of estimates about the potential value of resources in both the South and East China Seas, as well as different understandings of the significance of these estimates. However, much of the nontechnical data and analysis is misleading, and many of the terms are conflated, with a tendency to overstate both the amount of resources and their significance. This section reviews the most likely estimates of hydrocarbon potential within the context of projected regional energy demand.

The general inflation of South and East China Sea hydrocarbon potential occurs in a wider context of growing energy security anxiety in Asia. Regional resource tensions are being driven by the growing divergence between energy demand and local supply, a divergence created by the sharply increasing demand of Asian economies and the plateauing production of most East Asian and Southeast Asian hydrocarbon fields. China's demand for oil imports is expected to grow from 5.1 million barrels per day (bpd) in 2012 to around 13 million bpd by 2035, with imports counting for 75 percent of oil consumption.<sup>3</sup> China's natural gas consumption is expected to nearly triple to 11 trillion cubic feet (Tcf) per year over the same period, with a similarly heavy reliance on imports.<sup>4</sup> ASEAN oil imports are predicted to

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<sup>3</sup> *China Country Analysis Brief*. U.S. Energy Information Administration. 4 Sept. 2012. Web. 29 Mar. 2013. <<http://www.eia.gov/countries/analysisbriefs/China/china.pdf>>

<sup>4</sup> *China Country Analysis Brief*. U.S. Energy Information Administration. 4 Sept. 2012. Web. 29 Mar. 2013. <<http://www.eia.gov/countries/analysisbriefs/China/china.pdf>>



quadruple by 2030, and Vietnam may become a net oil importer as early as 2015.<sup>5</sup> While Asia's energy demand growth is considerable, reliable energy projections expect ample global hydrocarbon supply from both conventional sources (principally in the Middle East) and unconventional sources (oil shale, oil sands, shale gas).<sup>6</sup> However, the increased demand and the plateauing of local fields in Asia naturally incentivize states and firms to expand existing domestic opportunities as an alternative to further reliance on import markets and/or foreign investment opportunities.

In the context of rising hydrocarbon demand, oil remains more valuable than gas, in both a monetary and energy security sense. Because oil is essentially the sole fuel for the transport sector, it is irreplaceable within a state's energy portfolio, and mainstream estimates expect this to remain true for the medium term.<sup>7</sup> In China's case, oil accounts for 19 percent of China's energy consumption, with absolute demand set to grow strongly. Natural gas currently makes up 4 percent of China's energy usage, of which China imported 22 percent in 2011. This consumption is somewhat concentrated in the industrial sector (34 percent in 2011), with the remainder distributed across power, utilities, and residential sectors; compared with the transportation sector, substitution for natural gas from coal, hydropower, and other fuels is comparatively more available.<sup>8</sup> China is planning a larger role for gas in its energy portfolio, hoping to reach 10 percent of consumption by 2020.<sup>9</sup>

### What Is the South China Sea's Hydrocarbon Potential?

When we consider the hydrocarbon potential of the South China Sea, it is helpful to envision the maritime geography in three zones: (1) **uncontested coastal areas** that are currently producing hydrocarbons and that contain the majority of proven reserves; (2) **contested coastal areas** where disputes over new bidding on blocks typically take place; and (3) **more distant, contested deepwater areas** where hydrocarbon potential remains more theoretical. Media sources commonly confuse reserve estimates for the entire South China Sea with those in the contested areas, thus implying a higher resource potential for those contested areas. For the deepwater areas, regional oil companies are becoming stronger at operating in progressively deeper water (particularly CNOOC and Malaysia's PETRONAS), but still depend

<sup>5</sup> Hong, Zhao. "Energy Security Concerns: The View from China and Southeast Asia." In Schofield, Clive, ed. *Maritime Energy Resources in Asia: Energy and Geopolitics*. Special Report no. 35. Seattle: The National Bureau of Asian Research, Dec. 2011. pg 35-59.

<sup>6</sup> World Energy Outlook 2012: Paris: International Energy Agency, 2012; BP Statistical Review of World Energy 2012 ([http://www.bp.com/assets/bp\\_internet/globalbp/globalbp\\_uk\\_english/reports\\_and\\_publications/statistical\\_energy\\_review\\_2011/STAGING/local\\_assets/pdf/statistical\\_review\\_of\\_world\\_energy\\_full\\_report\\_2012.pdf](http://www.bp.com/assets/bp_internet/globalbp/globalbp_uk_english/reports_and_publications/statistical_energy_review_2011/STAGING/local_assets/pdf/statistical_review_of_world_energy_full_report_2012.pdf)); EIA EIA, "World Proved Reserves of Oil and Natural Gas, Most Recent Estimates," <http://www.eia.doe.gov/emeu/international/reserves.html>

<sup>7</sup> World Energy Outlook 2012: Paris: International Energy Agency, 2012; BP Statistical Review of World Energy 2012

<sup>8</sup> All the data from this paragraph comes from China Country Analysis Brief. U.S. Energy Information Administration. 4 Sept. 2012. Web. 29 Mar. 2013.

<sup>9</sup> *China Country Analysis Brief*. U.S. Energy Information Administration. 4 Sept. 2012. Web. 29 Mar. 2013. <<http://www.eia.gov/countries/analysisbriefs/China/china.pdf>>

on partnering with Western international firms for advanced survey and deepwater operations—a reality that drives the large number of offshore joint ventures.

It is impossible to confidently estimate the resource potential of the two contested zones, particularly the deepwater areas, because disputes over maritime Exclusive Economic Zones (EEZs) have deterred the necessary surveys and exploration. Chinese sources have characteristically predicted “another Saudi Arabia” of over 200 billion barrels in the contested South China Sea, and such numbers have unfortunately been cited in western media coverage, thus portraying the area as a competition for globally significant hydrocarbon resources. China, however, has a history of making similar claims in Xinjiang and the East China Sea, claims that the energy industry regards with skepticism.<sup>10</sup> Further, nontechnical sources on both sides of the Pacific tend to conflate the terms “resource base” (the expected volume of oil present in the ground) with “reserves” (the amount of oil that is technically and economically recoverable, which is generally around 10 percent of the estimated resource base in the case of frontier deepwater).<sup>11</sup> The conflation of the two terms and the ensuing discussion of elevated resource potential further spread the conception of Asia’s maritime periphery as a potential “silver bullet” for regional hydrocarbon demand.

However, mainstream industry estimates of the amount of recoverable hydrocarbons from the South China Sea are far more circumspect. The EIA predicts that the uncontested coastal zone holds 11.2 billion barrels of oil and 190 Tcf of gas; this area is currently producing 1.2 million bpd and 3.4 Tcf, divided among seven states.<sup>12</sup> The existence of these resources around the coastal rim has encouraged exploration in the contested coastal areas, as well as fed speculation that there may be undiscovered reserves in the central deepwater areas. However, there may be little to no economically recoverable deepwater hydrocarbons, and the central areas of the South China Sea remain relatively unattractive from an energy development standpoint. While estimates are speculative given the lack of survey data, the National Bureau of Asian Research compiled the best available estimates and industry forecasting methods to produce a “best guess” of recoverable reserves in the contested zone of 1.6–6 billion barrels, delivering approximately 650,000 bpd for ten years before declining sharply along standard deepwater depletion curves.<sup>13</sup> This volume of supply is dwarfed by both regional demand and the available Middle Eastern resource base; as context, China’s domestic proven reserves have grown by 4 billion barrels of oil and 27 Tcf of gas over the last

<sup>10</sup> Owen, Nick. “Oil Disputes in the South China Sea in Context” in Schofield, Clive, et al. *From Disputed Waters to Seas of Opportunity: Overcoming Barriers to Maritime Cooperation in East and Southeast Asia*. Special Report no. 30. Seattle: The National Bureau of Asian Research, July. 2011.

<sup>11</sup> Owen, Nick. “Oil Disputes in the South China Sea in Context” in Schofield, Clive, et al. *From Disputed Waters to Seas of Opportunity: Overcoming Barriers to Maritime Cooperation in East and Southeast Asia*. Special Report no. 30. Seattle: The National Bureau of Asian Research, July. 2011.

<sup>12</sup> *South China Sea Analysis Brief*. U.S. Energy Information Administration. 7 Feb. 2013. Web. 29 Mar. 2013. <<http://www.eia.gov/countries/regions-topics.cfm?fips=SCS>>.

<sup>13</sup> Owen, Nick. “Oil Disputes in the South China Sea in Context” in Schofield, Clive, et al. *From Disputed Waters to Seas of Opportunity: Overcoming Barriers to Maritime Cooperation in East and Southeast Asia*. Special Report no. 30. Seattle: The National Bureau of Asian Research, July. 2011.

three years, with little effect on China's energy security equation.<sup>14</sup>

A host of other geographic and economic factors further call into question the contested areas' energy potential. In addition to the political challenges associated with the maritime disputes and their role in deterring investment and surveys, natural gas is more likely to be prevalent than oil across the South China Sea, which will yield less monetary and energy security benefit. The deepwater nature of the areas adds further logistical challenges and costs, as does the absence of infrastructure and the long distance to gas processing facilities. These logistical challenges are further amplified by the region's unusually strong undersea currents and tropical storms. Developing any resources identified, particularly in the South China Sea, would require substantial time and risk. Even if the political obstacles could be overcome, it would require years to develop the necessary surveys, testing, exploratory drilling, building of wells, and logistical networks—all with the potential for little or no significant hydrocarbon production. As such, development of the contested deepwater regions remains speculative and distant. The most promising development potential for the medium term lies in uncontested areas, and on the margins in the coastal and contested zone, with firms hoping to push out from existing fields with shorter distances and relatively shallower water.

### **What Is the East China Sea's Hydrocarbon Potential?**

Similar to the South China Sea, the ultimate potential of the contested area of the East China Sea is relatively unknown as the political disputes discourage adequate surveying and exploration. However, reliable sources assess a more moderate resource base than in the South China Sea, focused again more heavily on natural gas than oil. While Chinese sources predict as high as 160 billion barrels of oil and 250 Tcf of gas, the EIA estimates between 60 and 100 *million* barrels of proven/probable oil reserves, and currently 1–2 Tcf of natural gas with some potential for further gas discoveries.<sup>15</sup> Unlike the South China Sea, from a Chinese perspective, the East China Sea does not have the deepwater and logistical distance issues, making the development of any hydrocarbon resources discovered more likely. However, from a Japanese perspective, significant logistical hurdles exist for development; having to build gas pipeline infrastructure to cross the Okinawa Trough would be expensive and difficult, with the gas more likely to be pumped to mainland China for processing.<sup>16</sup>

It should be emphasized that the South and East China Seas cannot be directly equated in terms of either energy potential or the context of China's foreign relations. From the Chinese perspective, the South China Sea dispute is party to a host of smaller nations with less robust ties to the United States, more concrete sea lane and security concerns, a much larger and

<sup>14</sup> *China Country Analysis Brief*. U.S. Energy Information Administration. 4 Sept. 2012. Web. 29 Mar. 2013. <<http://www.eia.gov/countries/analysisbriefs/China/china.pdf>>

<sup>15</sup> *East China Sea Analysis Brief*. U.S. Energy Information Administration. 25 Feb. 2012. Web. 29 Mar. 2013. <<http://www.eia.gov/countries/regions-topics.cfm?fips=ECS>>.

<sup>16</sup> Disputed Claims in the East China Sea: An Interview with James Manicom. National Bureau of Asian Research. 25 July 2011. <http://www.nbr.org/research/activity.aspx?id=159>

more distant sea space, and better potential upside for natural resources. In contrast, the East China Sea features Japan, a country that is a major power and trading partner with robust ties to the United States. The East China Sea dispute, as it involves Japan, has a shorter trigger for nationalist sentiment, making it potentially more difficult for Beijing to ignore or manage domestically.

### **What Are the Likely South and East Sea Contributions to Chinese Energy Security?**

Potential South and East China Sea contributions to Chinese energy security are deeply speculative. Given the region's hydrocarbon demand growth, Asia is almost certain to see continued growth in its dependence on Middle Eastern oil and regional sea lanes. China's expected hydrocarbon demand growth far exceeds even optimistic mainstream projections of South and East China Sea deposits, meaning that development would likely only marginally decrease import reliance and contribute little to energy security. As such, the center of regional energy security will not be located in disputed, speculative, and technically difficult deepwater offshore claims; rather, regional energy security will increasingly rely on the sea lanes that provide Asia with access to key producing areas. Although the potential for significant resources in the areas cannot be wholly dismissed, this potential, particularly for oil, is generally overstated and not commensurate with the level of security competition observed. As I explore in greater detail below, the interaction of moderate hydrocarbon potential with more powerful political factors better explains the intransigence and volatility of disputes over maritime exploration rights.

### **Evaluating Regional Fisheries as Drivers of Resource Conflict**

As is the case for energy resources, reliable data are difficult to ascertain for regional fisheries and fish-related confrontations. Most data come either from national governments or national media, which in addition to biases face their own data collection challenges.<sup>17</sup> China alone reports over 1 million fishing vessels.<sup>18</sup> It is worth pointing out there is a long and geographically wide context for Asian fishing disputes: Such disputes have occurred from the Russia in the north to Sri Lanka in the southwest, and many of these disputes do not of course involve China. China's role is defined by its large coastline and massive population and by its rising incomes and growing protein consumption, the combination of which have cemented China's status as the world's largest fishing nation.<sup>19</sup>

As is true with hydrocarbons, there is increasing anxiety in regional fisheries between sharply increasing demand and anxiety over local stocks. This divergence has amplified competition over fishing rights. Demand continues to grow as a function of regional population growth,

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<sup>17</sup> Fravel, M. Taylor. "Maritime Security in the South China Sea and the Competition over Maritime Rights," in Cronin, Patrick, M., et al. *Cooperation from Strength: The United States, China and the South China Sea*. Center for a New American Security, Jan. 2012. <<http://www.cnas.org/southchinasea>>.

<sup>18</sup> Goldstein, Lyle. "Chinese Fisheries Enforcement: Environmental and Strategic Implications" in *Marine Policy*, Volume 40, July 2013, pg 187–193

<sup>19</sup> Goldstein, Lyle. "Chinese Fisheries Enforcement: Environmental and Strategic Implications" in *Marine Policy*, Volume 40, July 2013.

economic development, and preference for fish consumption. China's population is predicted to peak in 2030 at 1.46 billion, and Vietnam's is expected to grow by up to 25 percent to 2050, reaching around 110 million.<sup>20</sup> Vietnam depends heavily on its maritime economy for energy, fish, and trade; the Vietnamese government is seeking to further exploit maritime resources, calling for the maritime economy's share of GDP to increase from 48 to 55 percent by 2020.<sup>21</sup> The South China Sea is among the world's richest fisheries resources; it supplies potentially 10 percent of global consumption, despite dramatic stock declines between the 1960s and late 1990s. Fisheries represent a multi-billion-dollar industry and a significant source of employment for the areas surrounding the South China Sea. Despite significant Chinese conservation efforts since the late 1990s, overfishing (including illegal and unreported fishing), pollution, and climate change issues continue to threaten fishery stocks.

However, although fisheries are important regional economic and social issues, they too can be overvalued as a resource driver that is directly contributing to conflict. Despite some literature attempting to directly link food security concerns and regional tensions, the economic and social value of stocks is not commensurate with the amount of regional tension and top-tier political issues that fishing issues have generated. Of course, fisheries jurisdiction issues are not unique to Asia. Most of the world's coastal countries, some of which have far more pronounced food security issues, have to manage fisheries issues with neighbors. This is typically accomplished without significant conflict.

At the risk of simplification, from an economic perspective, fisheries provide two primary benefits to regional states: a source of protein and a source of economic gain (reduced imports, increased exports, and employment). These are serious considerations given the demographic pressures covered above, and diminished fishing activity can create political pressure from sensitive constituencies. However, in both cases, the benefits are relatively fungible: There are substitute sources of protein and employment, and states can import fish from global markets. Further undermining a direct link between food security and Chinese vehemence in fishing disputes, the majority of seafood produced in China is farmed, and China exports around half its yearly global catch.<sup>22</sup>

I do not wish to undervalue regional fisheries, and I argue below such fisheries have more significant value when amplified through their ties to national self-image and political legitimacy. However, assessing its role as a potential economic driver of the observed level of regional conflict—independent of any political concerns—the value of fisheries should be seen as a secondary consideration, particularly given the impending risks and costs associated with

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<sup>20</sup> Owen, Nick. "Oil Disputes in the South China Sea in Context" in Schofield, Clive, ed. *Maritime Energy Resources in Asia: Energy and Geopolitics*. Special Report no. 35. Seattle: The National Bureau of Asian Research, Dec. 2011 pp 31–35.

<sup>21</sup> Fravel, M. Taylor. "Maritime Security in the South China Sea and the Competition over Maritime Rights," in Cronin, Patrick, M., et al. *Cooperation from Strength: The United States, China and the South China Sea*. Center for a New American Security, Jan. 2012. <<http://www.cnas.org/southchinasea>>.

<sup>22</sup> *Aquaculture in China and Asia: Fact Sheet*. United Nations Food and Agriculture Organization. May 2007. <http://www.fao.org/Newsroom/common/ecg/1000565/en/factsheet.pdf>. Also UN FAO Database: [http://www.fao.org/fishery/countrysector/FI-CP\\_CN/en](http://www.fao.org/fishery/countrysector/FI-CP_CN/en)

such conflict.

### Resource Issues as Indirect Drivers and Political Instruments

In sum, at first glance, natural resources appear to be competing with some of China's top-tier foreign policy interests (potential conflict, regional and Sino-American relations, China's international reputation). However, a better understanding of the potential value of these resources suggests that their economic weight is significantly overstated as a primary driver of regional disputes. For example, consider China risking conflict with Japan—an economic calamity of the first order, with the potential for exceptional military and economic escalation—for the primary purpose of securing the rights to explore for speculative hydrocarbon deposits that partially facilitate economic development. Further, neither maritime dispute is new, nor is the South China Sea conflict approaching the peak levels seen between 1988 and 1995, despite pronounced growth in resource demand. During most of the period of heightened tensions, China was an oil exporter and believed it would continue to be energy self-sufficient.<sup>23</sup> Finally, disputed resources alone do not historically create the “winner take all” atmosphere that has typified recent Chinese energy behavior in the South and East China Seas. As a body of resource security research has suggested, resource disputes rarely create conflict where tensions do not already exist, suggesting that resource issues tend to exacerbate existing geopolitical tensions rather than create them independently.<sup>24</sup> Resources are typically divisible, not zero-sum. There are plenty of established options for dividing the resources, dividing the territory, jointly developing, or disagreeing—options that do not involve militarization—and neighbors historically find these options. Such developments usually result in producing resources for regional economies rather than keeping them under water while heightening tensions.

Given this, an overemphasis on “resource drivers” is likely obscuring the fundamental strategic interests guiding China's behavior in its maritime periphery. I assess that Beijing's fundamental goals are to establish increasing jurisdiction over maritime territory through a coordinated, long-term campaign involving all elements of statecraft (diplomatic, legal, economic, and military). Beijing is motivated to do so by a consistent sense of maritime insecurity, a desire to assuage and satisfy domestic nationalism and buoy political legitimacy, and (as a distant third) a desire for the area's potential natural resources. As maritime disputes receive more public

<sup>23</sup> Downs, Erica. “China” The Brookings Foreign Policy Studies: Energy Security Series. Washington D.C the Brookings Institution, December 2006. Pg 1.

<sup>24</sup> There is a large academic literature exploring the correlation between natural resources and conflict, and the potential role of resources as conflict drivers. See Victor, David. “What Resource Wars?” The National Interest, November 12, 2007, <http://nationalinterest.org/article/what-resource-wars-1851>; See also Tertrais, Bruno. “The Demise of Ares” pg 7-22 <http://csis.org/files/publication/twq12SummerTertrais.pdf> The Washington Quarterly Summer 2012. For a recent discussion of this dynamic as applied to the South China Sea, see Rogers, Will. “The Role of Natural Resources in the South China Sea.” In Cronin, Patrick, M., et al. *Cooperation from Strength: The United States, China and the South China Sea*. Center for a New American Security, Jan. 2012. <<http://www.cnas.org/southchinasea>>.

attention, particularly within China, the link between resource issues, popular nationalism, and political legitimacy increases. Several other top-tier interests balance Chinese assertiveness: Beijing's attention to regional relations, Sino-American relations, public diplomacy and its efforts to cultivate an image of a "peaceful rise," and the need to deter conflict in the "strategic window of opportunity" for China's economic development.

My colleague Andrew Scobell's concept of China as being in a learning process of "Slow Intensity Conflict" describes the activity well: China is calibrating a constant, low-level campaign of establishing presence and precedent, opposing rival abilities to do the same, taking advantage of opportunities when they arise, and ensuring that tensions do not deeply damage ties with neighbors or draw in the United States.<sup>25</sup> These moves include all instruments of statecraft (diplomatic, legal, economic, and military) and also incorporate both positive and negative incentives. China's recent escalatory operations in the East China Sea fit well with the concept of "Slow Intensity Conflict," as China likely saw an opportunity for expansion during the transition of islands from private to Japanese public ownership. Over the next few months, China will likely attempt to dial back tensions, having established a new baseline that it will continue to reinforce with less dramatic incursions.

Within this broader framework of interests and strategy, resource issues function in China's maritime disputes in two fundamental ways. First, hydrocarbon rights and particularly fishing disputes serve as increasing focal points for issues of popular nationalism and are, thus, directly connected to core Chinese Communist Party (CCP) concerns over political legitimacy. Second, resource issues can be used as political instruments to demonstrate jurisdiction over disputed sea space. These roles are described in more detail in the sections below.

### **How Do Natural Resource Disputes Serve as Focal Points for Nationalism and Political Legitimacy?**

Perceived control over China's maritime periphery and, thus, perceived success in regional maritime disputes exist in a broader context of popular nationalism and Beijing's continued concerns about political legitimacy. As such, energy and fisheries issues activate popular nationalism, functioning as focal points and amplifiers for domestic nationalist discourse. A review of the Chinese media and blogosphere reveals the depth and vehemence of these feelings; fishery disputes are often front-page national news, and the level of vitriol is rather shocking. From a political and social stability perspective, local and national CCP leaders are, of course, sensitive to these sentiments and aware that they exist in a wider context of public anger over corruption, land grabs, and other well-publicized reasons for Chinese popular discontent. In this context, Chinese leaders likely see maritime rights issues as a potential threat to legitimacy and stability if mishandled and as a potential "diversionary force" for public anger if calibrated correctly. That calibration is difficult and risky, in particular when government actors have less than perfect control over maritime actors, such as fishermen and maritime law enforcement. There is also a temporal dimension to nationalist rhetoric; the

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<sup>25</sup> Scobell, Andres "Slow Intensity Conflict in the South China Sea," FPRI E-Note, Philadelphia, PA: Foreign Policy Research Institute, August 16, 2000. <http://www.u.arizona.edu/~volgy/china1%20slow.htm>

longer and more publicly tensions exist, the greater the relative political cost of retreating or compromising.

Public perceptions and control of key symbols are naturally central to managing popular nationalism, and these perceptions shape the resource dispute discourse. With respect to fisheries, fishermen in East and Southeast Asia are potent national symbols, somewhat like farmers in the American political context. To have fishermen denied their livelihood in areas perceived as historical fishing grounds or, worse yet, detained or facing violence can strike deeply discordant notes. As such, it is not surprising that confrontations involving Chinese fishermen receive scant coverage in Chinese media, because the CCP is understandably worried that such detentions could leave the party open to charges of lax protection.<sup>26</sup>

While fisheries may serve less as a direct economic driver for conflict than speculative oil and gas potential do, they are arguably more important as focal points of nationalism and potential conflict escalation. Compared to energy actors, fishermen are in routine operations, often in proximity with other states' maritime actors, with fewer operational restraints, and they are pursuing resources that are being exploited now rather than explored for potential future benefit. Oil firms are comparatively sparser, future-oriented, and operating to uncover unknown resources. Regional fishing areas can also be exceptionally crowded, particularly between the northern Vietnamese coast and Hainan Island. Proximity remains a very real issue, and the United States should resist the urge to summarily conclude that collisions in the densest areas are orchestrated or intentional.

With respect to energy, China's energy perceptions are shaped by persistent and widespread conventional wisdom about "peak oil," the inevitability of resource conflict, China's sea lane vulnerability and "Malacca dilemma,"<sup>27</sup> a distrust of international markets and economic organizations, and a presumption of malevolent American intentions. All this leads to the further politicization and securitization of hydrocarbon issues. China's mistrust is amplified by the fact that western powers and Middle Eastern producers dominate in the energy domain, with the United States having well-established and technically advanced firms and longstanding commercial and political relations with key producers. China's state-owned firms are still comparative neophytes in this area.<sup>28</sup> The perceptions of energy insecurity and lack of deep commercial, political, and institutional links to the core energy producing states tends to amplify the dispute's resource dimension and the sense of zero-sum stakes that pervade the

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<sup>26</sup> Fravel, M. Taylor. "Maritime Security in the South China Sea and the Competition over Maritime Rights," in Patrick M. Cronin, ed., *Cooperation from Strength*, p. 35.

<sup>27</sup> The "Malacca Dilemma" refers to anxieties over the security of China's seaborne oil imports, particularly at the narrow Strait of Malacca, a strategic chokepoint on the extreme southwest of the South China Sea. Over 80 percent of China's oil imports transit the Strait by tanker, which China's senior leadership has identified as a potential strategic vulnerability.

<sup>28</sup> Downs, Erica. "Picking Apart Nationalist Rhetoric Around China's New Oil Rig." Interviewed by Tom Orlik for the Wall Street Journal's website on May 11, 2012. <http://blogs.wsj.com/chinarealtime/2012/05/11/picking-apart-nationalist-rhetoric-around-chinas-newoil-rig/>



dispute.

### How Do Natural Resource Issues Serve as Policy Instruments?

In addition to their relationship with nationalist politics, resource issues serve as tools in building a case for legal jurisdiction or for opposing similar claims from rivals. Within contested waters, the presence of Chinese fisherman and the detaining of rival fishermen demonstrate a precedent of jurisdiction. Oil blocks or surveys can function in similar ways: Offering blocks or conducting surveys on the fringes of disputed sea space can reinforce a case for ownership. It is worth noting the hydrocarbon potential of these blocks can be quite low, and the terms of development onerous for international oil companies (IOCs).<sup>29</sup> The June 2012 announcement by the Chinese National Offshore Oil Company of nine blocks near the central and southern Vietnamese coast, the most assertive blocks announced to date, are almost certainly an example of political value trumping energy development potential.<sup>30</sup> China has also interfered with opposing Vietnamese and Philippine efforts at conducting energy surveys, either by pressuring firms by threatening to curtail their other business in China or, in the most extreme cases, by intimidation or cable cutting of seismic survey vehicles.<sup>31</sup> As for rival claimants' resource activities, Beijing often gets to strategically choose when it is "offended" by an oil block or fishing issue. Malaysia, for example, has proffered blocks in contested areas in the South China Sea, and there was no appreciable reaction from China. Because these jurisdictional flashpoints involve fisheries and hydrocarbon activities, they further contribute to popular conceptions of a "resource conflict," despite often functioning more accurately as tools for establishing jurisdiction.

### Implications for U.S. Policymakers

Several issues in the resource domain are worthy of policymaker attention in the near to medium term. Individually or in sum, these issues could both increase the domestic political pressures surrounding resource issues and present increased opportunities for accidents and miscalculation:

- Potential for Meaningful Joint Development: Given that the roots and key drivers of the disputes are not in the resource realm, it is doubtful that an enduring remedy can be found there either; focusing on resources likely deals with symptoms rather than addressing root causes. China is likely reticent to negotiate or pursue meaningful joint ventures, partly because its current strategy of consistent, low-level pressure is doing

<sup>29</sup> Schofield, Clive. "A Code of Conduct for the South China Sea?" *Janes Intelligence Review*. 25 October 2000.

<http://community.middlebury.edu/~scs/docs/A%20Code%20of%20Conduct%20for%20the%20South%20China%20Sea%20-%20Jane's%20Intelligence.htm>

<sup>30</sup> Poling, Gregory. CNOOC Pulls Back the Curtain. Center for Strategic and International Studies. The South China Sea Frame by Frame. 17 August 2012. <http://csis.org/publication/cnooc-pulls-back-curtain>

<sup>31</sup> International Institute for Strategic Studies. "Behind Recent Gunboat Diplomacy in the South China Sea." *Strategic Comments*, Volume 17. August 2011. <http://www.iiss.org/publications/strategiccomments/past-issues/volume-17-2011/august/behind-recent-gunboat-diplomacy-in-the-south-chinasea/>

an adequate job of meeting its objective of increased control of its maritime periphery. Fundamental concerns over who controls above-surface features will continue to make joint development unlikely to ameliorate the disputes in a more comprehensive manner. It is worth noting that China received a good deal of domestic criticism over exploring joint development with the Japanese in 2008; both sides have ample examples of functioning joint development zones, but the Chinese particularly lack the political will to pursue them.<sup>32</sup> While China has offered some joint projects, critical details have often been prohibitively one-sided. Fundamental questions of whose legal code, whose tax code, whose oversight mechanism, and particular aspects of maritime geography delineate between genuine offers of joint development and public relations ploys. Joint development potential will continue to vary from block to block and may alleviate some tensions tactically. The value of this should not be understated—tactical successes in joint development can help alleviate short-term tensions and open doors for dialogue on the more foundational issues. However, joint development, efforts to de-link territorial disputes and maritime jurisdictional claims, and codes of conduct remain starting points in much more difficult, often domestic, dialogues about power and place in the context of popular nationalism.

- Potential for Hydrocarbon Survey to Alleviate Tensions: For similar reasons, meaningful future survey work that suggests a lack of significant hydrocarbon potential is unlikely to greatly ease disputes over maritime jurisdiction. It is worth noting that the Paracel Islands have little to no energy potential, yet continue to be a focal point of dispute. Meaningful surveys are unlikely to take place, and in any case, it is unrealistic to survey the entire area. Thus, the perception of energy potential may prove quite enduring. Further still, enduring perceptions of resource potential may be useful to Beijing as a more palatable public reason for asserting maritime control. Potential unconventional energy dynamics, such as Chinese shale gas development, probably hold similarly little potential to lessen maritime tensions.
- Technological Capability of Regional Oil Firms: With respect to contested deepwater areas, continued growth in the competence of regional national oil companies (NOCs) could lessen their relative need to partner with IOCs for deepwater survey and development. Currently, to meaningfully conduct exploration and production of potential deepwater blocks in the South China Sea, regional firms must partner with more technologically advanced and less politically driven IOCs. Development of more advanced capabilities within regional state-owned firms, particularly China's CNOOC, could lessen or remove IOCs' comparative conservatism as a brake on assertive activity. China's first deepwater drilling platform, CNOOC's 981, is a sign of emerging capabilities, and 981's activities may be a bellwether of CNOOC's strategy in this regard. At its launch in May 2012, CNOOC's CEO described 981 as "mobile national territory and a strategic weapon" (战略利器).<sup>33</sup> From 2003 to 2011 CNOOC was typically

<sup>32</sup> Disputed Claims in the East China Sea: An Interview with James Manicom. National Bureau of Asian Research. 25 July 2011. <http://www.nbr.org/research/activity.aspx?id=159>

<sup>33</sup> Spegele, Brian and Ma, Wayne. "For China Boss, Deep-Water rigs are a Strategic Weapon." Wall Street Journal Online, 29 August 2012.

less interested in the contested areas of the South China Sea, but CNOOC's new CEO appears to have a more assertive stance. The effect of NOC development can be overstated: Regional NOCs have found willing foreign investment partners in some of their riskier projects (although not takers in others), deepwater vessels are not required for initial survey ventures, and China's NOCs are not simply political pawns of Beijing's foreign policy wishes.<sup>34</sup> Moreover, China does not require deepwater exploration capability to announce assertive blocks. However, holding all other variables equal, regional NOCs are more beholden to parent governments than IOCs, and growth in their capabilities could add to the relative politicization of oil survey and drilling activities.

- Increasing Importance of Regional Sea Lanes: As regional states' oil import and trade dependence continues to grow, the criticality of maritime sea lanes will likewise increase.<sup>35</sup> This will mean more vessels, in closer contact, and more national value contained within sea lanes. This will further underscore China's insecurities about its maritime sea lanes and its "Malacca dilemma." Increased regional reliance on sea lanes also occurs within a context of regional naval modernization and a continued relative growth in Chinese naval power. Dependence on sea lanes and expanding regional Chinese naval power is likely foreboding to Vietnam and particularly to an island nation like the Philippines, where maritime commerce is largely concentrated at Manila Bay. Increasing sea lane dependence also raises issues about the degree to which the United States can, and should, consider holding China's sea lanes at risk.
- Potential for Depleting Fish Stocks: With regard to fisheries, regional demand growth may complicate efforts both to protect sustainable stocks and delineate respective jurisdiction. Regional stocks cannot be considered stable.<sup>36</sup> If regional stocks become further depleted, two dynamics can take place that increase escalatory pressure: recrimination on other coastal states for the blame of low fish returns, and increased pressure to fish further offshore or in new areas. A "tragedy of the commons" dynamic is also possible: If the parties cannot agree to and enforce a scaling back of fishing activity to allow stocks to replenish, depleting stocks could encourage actors to take what they can, while they can, causing a feedback loop rather than conservation. China has done a great deal to encourage conservation since the late 1990s in reaction to severely depleted stocks. These efforts include summer fishing bans in selected waters, protected areas, and a cap on total fishing capacity. These efforts are important and

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<http://online.wsj.com/article/SB10000872396390444233104577592890738740290.html>. CNOOC statement on 981 (in Chinese): <http://energy.people.com.cn/GB/17848393.html>

<sup>34</sup> Downs, Erica. "Business Interest Groups in Chinese Politics: The Case of the Oil Companies." In *China's Changing Political Landscape: Prospects for Democracy*. Li Cheng, ed. August 2008 pg121-142.

<sup>35</sup> Erickson, Andrew and Collins, Gabriel. "China's Oil Security Pipe Dream; The Reality, and Strategic Consequences, of Seaborne Imports." *Naval War College Review*, Spring 2010. Pg 89-112. [http://www.andrewerickson.com/wp-content/uploads/2010/03/China-Pipeline-Sealane\\_NWCR\\_2010-Spring.pdf](http://www.andrewerickson.com/wp-content/uploads/2010/03/China-Pipeline-Sealane_NWCR_2010-Spring.pdf)

<sup>36</sup> Goldstein, Lyle. "Chinese Fisheries Enforcement: Environmental and Strategic Implications" in *Marine Policy*, Volume 40, July 2013.38 Nguyen Dan Thang. *China's Fishing Ban in the South China Sea: Implications for Territorial Disputes*. S. Rajaratnam School of International Studies Report. 9 June 2011. <http://www.rsis.edu.sg/publications/Perspective/RSIS0892011.pdf>

should be applauded; however, it remains to be seen if they will endure in the face of rising demand and competition for resources. Vietnamese fisherman are taking advantage of China's summer fishing bans, which both undercuts resource replenishment and raises tensions.<sup>37</sup> Strengthening regional fisheries governance, both multilaterally and bilaterally, can help minimize flashpoints.

Thank you again for the opportunity to testify, and I look forward to your questions.

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<sup>37</sup> Nguyen Dan Thang. *China's Fishing Ban in the South China Sea: Implications for Territorial Disputes*. S. Rajaratnam School of International Studies Report. 9 June 2011.  
<http://www.rsis.edu.sg/publications/Perspective/RSIS0892011.pdf>

### PANEL III: QUESTION AND ANSWER

COMMISSIONER WESSEL: Thank you, both, for being here today and I appreciate your testimony.

Both of you talked about joint development, and I'd like to ask a couple of questions about that. When one looks at Chinese energy and resource acquisition around the world, it seems to be more focused on owning assets at the wellhead or the mine head, joint development only to the extent that there are sovereign interests--Iran, et cetera, has been I think where they've moved--but is one looks to the South China Sea, they're not interested in the joint development. They are interested in the sole development because of how they have traditionally been looking at this.

Can you tell me whether I'm right, wrong? What are your thoughts on these issues?

DR. LEWIS: I can add a little bit to that, I think, in that I definitely agree that the Chinese national oil companies in their going-abroad strategy, which the central government has been very supportive of, has been focused on trying to put as many Chinese workers and engineers and technicians overseas, and part of that is, I think, is definitely right, that the political leaders who support this really do envision that they have more stable supplies if they actually have their people over there actually controlling it in some way.

That's certainly the perception. If you talk, though, to the people in the national oil companies, though, the people at the level in strategy or international issues and everything, they recognize that most of what China produces overseas goes into the world market. So what Sudan produces, for example, for PetroChina and CNPC mainly goes to Europe, you know, into the European market.

COMMISSIONER WESSEL: So it is going into the spot market. It is not being done just under contract and shipped back home?

DR. LEWIS: Yeah. Yeah. Very little. And I think they do understand that the whole history of--we like to point out to them that, for example, that you should trust the international markets rather than these personal relationships, and think back to the relationship of the 1970s when France hosted, you know, Ayatollah Khomeini, and look what it got them, you know. When push came to shove, they didn't get any oil. And that's just the way that oil producers tend to work in the long term.

COMMISSIONER WESSEL: But then looking in the proximity, are they likely to want to do joint development, or is this, their current approach, a desire to have the ownership--understanding, as you said, Sudan or elsewhere--in terms of spot markets and flipping assets over, or are they going to be covetous, if you will, of those resources?

DR. LEWIS: I would say that when it comes to--it depends on which area we're talking about. I think when it comes to the East China Sea, they look at it very realistically and say that any gas--there's not much oil--but any gas that

comes out of the East China Sea is only economically going to go to the Chinese market. It's going to go to the Wenzhou area because that's the only place the pipelines can economically take it to. And Japan knows that. And the Japanese partners know that as well.

In the South China Sea, all of the partners in the RIM are going to need more and more gas themselves. There's not as much oil, but Vietnam, of course, will need a lot more gas in the future, even Malaysia, and the Philippines. So they have their own energy needs, as well, as time goes by. I think China very credibly looks at the part that's closest, the Pearl River Basin, and says we're going to develop this and nobody really seems to be bothering us on that.

But the parts, getting farther across the South China Sea, or, as I refer to it in the written testimony, on the other side of the donut, where the meatiest resources are, Brunei and Malaysia and that area, there's the part around the Spratly Islands that is closer towards the middle that is believed to have resources. The problem with that is it now already has navies and soldiers from Vietnam, from China, from Malaysia, from Taiwan, and from the Philippines.

And so they must recognize that this would involve some type of conflict to try to develop that, but I do agree with what Lloyd was saying, that they want to, as well, involve CNOOC and try to develop its deep offshore capability.

The only thing I can also add to this, too, is that historically CNOOC has really discounted both the East China Sea and the South China Sea, and it's only in recent years in their strategic reports that they've even bothered to put all of the South China Sea on their maps.

They've been required to do so more recently for the same reason that Chinese passports now have, you know, the South China Sea listing on it causing friction with both Vietnam and with India because these are disputed border areas.

But CNOOC historically has always looked at that as saying it's--even if there is something there, we don't necessarily have the capability, and we think the cost for that is going to be very high so why not just get LNG from other parts of Malaysia, you know, or Qatar or Western Australia? It seems to make more sense.

COMMISSIONER WESSEL: Understand.

MR. THRALL: I think that does an excellent job. The only thing I could add to that, I think with regards to equity resources, it's worth pointing out China's state-owned energy firms are still, despite being large, quite neophyte. So going out and paying too much and drawing upon ample currency reserves to go out, claim space, develop expertise, has value independent of its direct contribution to energy security.

And to some regard, the offshore oil can function in a very similar way. It's not entirely clear actually, and Steve, correct me if I'm wrong because you would know better than I, but my read is it's not entirely clear where gas from the southern South China Sea would go from a Chinese perspective. You're not going to build a pipeline north across the Sea and make landfall in China. The

costs are astronomical and there are unbelievable engineering problems with that.

So you need to make landfall on one of these countries, or you claim the field in the sense of profit sharing: "We're going to have some amount of profit when you develop these waters." It's hard to square that with a direct contribution to energy security. That sounds much more like maritime control and a sort of contested maritime space than it sounds like energy security.

The only thing I'd point out on joint development is it can be a Chinese PR gig in terms of how we offer a joint development project---under whose legal regime, whose taxes, whose oversight, and where the specific maritime space is located—that I know you won't accept--"we" being China. China knows this is not acceptable, but then says, "Hey, we've tried, we've tried joint development and it hasn't worked."

COMMISSIONER WESSEL: Thank you.

HEARING CO-CHAIR BROOKES: Now, if I understood Mr. Thrall correctly, he said that the South China Sea and East China Sea were of a questionable energy security value. Is that China's view as well? Or is that your view of the situation?

MR. THRALL: Sir, I think that's the million dollar question--but I might put it slightly differently. I think there's two competing theories. One is, as the other Commissioner pointed out, China does have a different conception of energy security than the West.

HEARING CO-CHAIR BROOKES: How do they differ?

MR. THRALL: Well, in this idea of ownership of assets, looking at economics and strategic economics more broadly, China has much less faith in the market-based system than the West does, but that makes sense. The U.S. built the pillars of the international system. It is in very powerful positions within it, and its firms are old, particularly with regards to oil, and have deeply established relationships.

China has none of that, and coming out of its state-controlled past, it has a much more reflexive need to control assets. You see that much further, that's not just contained in the energy field.

So one might draw a parallel then between these equity assets that they're acquiring in Africa and South America and elsewhere that don't make a great deal of sense from an energy security perspective: you're paying much more than the market rate, but you feel better because you own oil.

Does the South and East China Sea function in this way in Chinese planning? I don't think so. Because what that would imply is that Chinese senior leaders have a very poor conception of the energy security value of their own immediate periphery. Now, I don't know the answer to that question, but I would find that hard to believe.

One other data point that supports that is given the fragmentation and low performance of China's energy bureaucracy, they've typically relied on the firms for energy intelligence and energy advice. CNOOC for years until 2011 at the changeover of a new CEO, who appears far more in line with nationalist

thinking, was very cold on the South China Sea and cold on the East China Sea. I would be shocked, although I don't have any specific data, if they didn't advise Beijing quite correctly on the potential.

So there are two theories. I would think Beijing probably knows the energy security equation pretty well. But that's my opinion.

HEARING CO-CHAIR BROOKES: Dr. Lewis, your thoughts?

DR. LEWIS: Yeah. I think I can definitely add to that. If we're looking at Chinese national oil companies and why they go overseas, they do go abroad--I agree with Lloyd--to try and tie down assets wherever they can.

Like I said, I think it also has a lot to do with the fact that they're trying to keep people employed. In fact, if we look at the actual history of the Sudan, the longest, most successful case, the Mufti of Sudan went to Beijing, I believe, in '89 and asked for help in developing his oil resources since they were being blocked by the West.

And the Beijing government said no. He went to CNPC and said, you know, can you help develop the resources, and they said no. But several years ago, the Zhongyuan Oilfield, one oilfield within China, sent people there to develop this. And if you look at the history of it, the Zhongyuan Oilfield is in the middle of China. They thought that they were going to have an enormous expansion within China so they ramped up the number of their petroleum engineers, their technicians, their oil rigs, all of that, at the same time that they ended up finding that domestic production ended up going down.

So they had all of these very highly talented people that they wanted to keep employed, and they managed to persuade the central government to look the other way while they went overseas. So it's very entrepreneurial subsidiaries, which I think is why it makes it very hard to track what the Chinese national oil companies are thinking.

Historically, the subsidiaries have had an awful lot of influence. I think they've managed to centralize control, especially in the last couple of years, for the reasons that Lloyd mentioned. By shifting around the leaders of the three national oil companies in just the last couple of years, they've tried to reaffirm the actual control of what's going on.

But there's the other reason as well, and that is just that the three national oil companies are like other central state-owned enterprises. They want to move as many resources overseas as possible to keep them from being taxed by the central government, and creating foreign bank accounts and things like that, and everything from being able to send people overseas.

The Beijing government historically has viewed these three national oil companies as piggybanks for any type of large projects. So the Beijing Olympics comes around and they are a billion yuan short. Hello, CNPC, you know, Sinopec, and the same thing with the Expo in Shanghai. They typically provide 30 to 40 percent of the revenue that comes from central state enterprises to the central government. So they're the largest cash cows. They're sitting there.

Their funds are move them or lose them, as well, and they know that if



they keep them in China, they could potentially be taken by Beijing. So it's a good explanation, I think, for why they overbid when they go overseas.

HEARING CO-CHAIR BROOKES: Yes.

MR. THRALL: Sir, the only thing I wanted to add to that was that it also occurs within a greater East Asian context of the politicization of economics in terms of the development of national champions. You see this in Korea, you see it in Japan, and you see it now emerging in China.

There is a gain to having, there is a prestige gain to having companies like this that hold these kinds of assets and can compete at that level.

HEARING CO-CHAIR BROOKES: Thank you.

Commissioner Slane.

COMMISSIONER SLANE: Thank you, both, for taking the time to come. It's been very helpful.

Dr. Lewis, I don't know whether I heard you right, but you seem to imply the gas supplies in China or the potential gas supplies in China were not that great. I remember reading that they were projecting that their Marcellus Shale gas supplies were three times larger than the U.S., and notwithstanding the fact that their gas is four times ours, and that they don't have any infrastructure. Can you help me with that?

DR. LEWIS: Yeah. Actually the same people who estimate the U.S. shale have come up with estimates. ARI, for example, the main survey, estimates that China has more shale, a good bit more shale than the United States.

But it's also true, though, that all of this is completely unknown as to how productive that shale is going to be. We know looking back at U.S. shale that some areas are much more productive than we thought, and some areas just much, much less so. It's also true that each one of them is very, very different.

Marcellus is different from Barnett, and they require technicians and people with years of experience to figure out how to get the most out of each one of those. So it's not just untested; it's going to take a long time for us to figure out just what is the potential in China.

Our model is estimating, though. It's not that there isn't a lot of potential for shale gas. Just looking at the amount of shale that's there, it does look like there is enormous potential. The problem is that even the shale is not near the coastal areas; it's not where the economies are. So in our model, we look at what it costs to bring it up from underground, and typically shale in China that could be bearing either gas or oil is typically twice as deep as it is in the United States.

It's from some regions which, right now some estimates are that it might be somewhat overcooked geologically as well. There are massive water constraints. China has more fault lines in many areas, including the areas that have this. Because there are fault lines, as well, there are more earthquakes in those regions, and so people there are likely to be more sensitive.

I was talking about this with Lloyd as well. In the middle of China is Sichuan Province, which has a very old, actually 30, 40-year-old, fairly well-

developed, conventional natural gas network. The company that's been developing that have long had to deal with the fact that peasants fight them over taking the natural gas out of the ground because natural gas in Chinese is "tian ran qi," and "qi" is the same word as "qi" as in body life force. So peasants literally think that when you take natural gas out of the ground, you're taking the energy out of plants, and perhaps out of the people then who depend upon it.

Oil they don't care about. That's a different word, but they literally think that the natural gas is robbing the earth of energy--people in the rural areas in China. So there's a lot of obstacles to actually developing shale gas in China.

There are several projects that are underway and they are actually producing small amounts. The central government in Beijing is hoping that by 2015, it will be producing a good amount. They're not going to hit that. The central government also realizes that the three national oil companies are not big on shale. They're not big on shale because the central government nudged them into building enormous pipelines from Kazakhstan, now from Russia, or LNG terminals to bring it in. These are huge investments, and the central government is not letting them be free in the prices.

So the people in those localities who are benefiting from this gas from Central Asia or from overseas, they're not paying world market prices. So the NOCs don't want to have yet one more form of natural gas that is going to be higher than costs. While the central government is talking about renegotiating and they're experimenting with natural gas price reform in the southern parts of China, they are nudging all the local governments and any foreign actors, and including private investors. They're saying that if you do bring up shale gas, it's going to be priced at a price that's not oil and not gas. Okay. And also we might create special economic development zones that are set up around that, which is a way of saying that the central government could be appointing the local Party secretaries who could be in charge of that.

So they've created as much competition as they can for the national oil companies, and the national oil companies see that it could be quite useful on down the road. They've all made big investments in the United States in shale gas, as well, to figure out how it actually works in the United States.

But even then, it's still viewed as being quite a long ways off. Our model tries to factor that all in. So we estimate that even if shale gas really booms like it did in the United States, it's still going to be fairly far away from all those coastal areas. For them economically it's LNG that is the best way; this is the same way that they get gasoline and coal, not from northern China, but from world markets, from Australia or from the United States because it's cheaper for them to get it from far overseas than it is from northern China.

COMMISSIONER SLANE: Do you see China as an export market for U.S. natural gas?

DR. LEWIS: Absolutely.

MR. THRALL: Yes. The only thing I might highlight from that is, and it goes back to a point that Commissioner Fiedler made during the previous panel,

the relationship between water and energy and the Chinese context. China is facing great desertification, and it's a very serious issue, not just economically but for social stability. Within that, there are tremendous coal and water conflicts. You need water in order to develop coal, but you need water in order to develop your agricultural sector, and you're in conflict.

Shale is exactly the same way. You need tremendous amounts of water to create the shale. So this highlights sort of the LNG solution that also avoids this domestic conflict.

HEARING CO-CHAIR BROOKES: Commissioner Wortzel.

COMMISSIONER WORTZEL: Mr. Thrall, in your implications section, you seem to suggest that China might be concerned about maritime control of sea lines of communication and U.S. denial of China's ability to use those sea lines of communication.

You talk about China's insecurities of the "Malacca dilemma," but it strikes me that that is exactly the opposite of U.S. policy and strategy. That U.S. policy and strategy has always been to keep those sea lines of communication open for freedom of navigation and particularly because our biggest ally up there, Japan, but Korea, too, depends on those same sea lines of communication.

So it seems to me that the single naval operational plan that would affect that would be if we really were at war. In such a case we would try and ensure that things go around and get up to Japan and Korea but don't get to China-- a pretty unlikely scenario--one obviously that happened with Japan in World War II and prior to World War II.

But it seems to undermine part of your thesis here, that if China begins to increase its Navy with the purpose of solving its Malacca dilemma, it really creates greater insecurity around the whole region and especially in Northeast Asia. This puts China at more potential to be in conflict with the United States, whereas from your description, their better course of action would be to band with the United States to ensure freedom of navigation.

I just look for your reaction to that.

MR. THRALL: Sir, I can talk at length about blockades so please cut me off. I agree with everything you've said, but I take a slightly different conclusion from the picture.

We have had a traditional commitment to freedom of navigation. We also have a longstanding and celebrated traditional commitment to peace in this area. If those two strategic directions come at loggerheads and we're actually at the point where we're considering direct kinetic conflict with China, I would point out two things:

First, a caveat, we and the Chinese have failed to avoid what is a catastrophe, and we've both failed in our policies in that regard. But, in that world, the blockade may be a more palatable option than a direct military conflict given the development of China's A2/AD capabilities.

I want to heavily caveat that statement because a blockade is an act of war. There are all kinds of problems for unintended second-order effects, and for

economically weak first-order effects in China. I think we read this situation as a midpoint between economic harsh language and economic punitive actions and kinetic warfare. I think the Chinese will read that as you are threatening economic stability on the way to social stability which directly threatens our legitimacy and rule. That will be exceptionally escalatory and will likely precipitate a kinetic conflict itself.

All of that being said, and there are major operational issues with a blockade in terms of how would you do it--and I can dive into those as you wish. What I would bring up is that I--Lloyd Thrall-- don't believe that there is a fundamental national conflict between America's demonstrated protection for freedom of navigation and that we have to guarantee trade and freedom of navigation during the course of a war in which China has taken, if we are in this world, exceptionally escalatory measures.

The only other thing I would highlight is there is a difference between the blockade course of action as an actual military course of action and the development of its deterrent potential. I believe there are things that we can do within the entire joint force and some commercial activities that force China to continue to deal with the ambiguity of whether or not their sea lanes are safe.

And I wouldn't suggest this except for one thing, and that's that I don't believe you will ever convince the Chinese that their sea lanes are safe. In the world of hedging and engagement, sea lanes unfortunately live in the world of hedging. As long as the U.S. Navy has such a power overmatch globally, not at the Strait of Malacca--we go west from there, and we can stop them. The U.S. Navy can stop them many places.

As long as that overmatch exists, the Chinese realize, if you have that military capability, the political winds can change very quickly, and you may use it. There's no guarantee that you can give me that will ever make me feel, as the Chinese, secure about my sea lanes. Given that, it lives in the world of hedging, and we should create that ambiguity and leverage it.

COMMISSIONER WORTZEL: So you're suggesting that the United States take advantage of the latent insecurity in China over the potential in a conflict for the blockade of sea lanes?

MR. THRALL: Yes.

COMMISSIONER WORTZEL: Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Fiedler.

COMMISSIONER FIEDLER: A couple of questions. Dr. Lewis, you said that the Chinese may not agree with your analysis of their energy security. What is their analysis? What is known about their analysis beyond their actions?

DR. LEWIS: Sure. Actually not much is known publicly about their analysis. I was speaking specifically about I think what the central planners in Beijing are thinking. Here I reinforce Dr. Thrall's point, that when we look at energy policy in China, you have to realize it is very decentralized, it's somewhat fractured, and it depends upon the sector, the fuels.

The national oil and gas companies, they themselves have far more

expertise and experts and resources than the central government does. In our studies at the Baker Institute, we've looked at who are the people who advise the central government in Beijing on energy issues. Most of them have ties to the national oil companies. They're trained in those, and that's just where they come from. But it's also true that China has set up a National Energy Commission in recent years, and it sounds like it's going to be on ranking with the National Development Reform Commission, the top economic and industrial policymaking body in China, a very powerful commission.

So in name, it sounds very, very impressive. But our analysis of the members of it shows that it's actually more focused on the consumption side rather than the supply side. It has the Minister of Foreign Affairs, the Minister of Commerce, and the Minister of Information Technology. It has almost nobody who actually specializes or has any personal knowledge of working in the oil and gas industry.

But that commission would report to the Politburo, the top layer of the Chinese Communist Party. And over the last ten or 15 years, it's especially the top 25 members or so of the Chinese Communist Party, there's always been two or three who used to work in the oil and gas industry. In the Standing Committee, the outgoing Politburo had a man named Zhou Yongkang, who rose up the ranks, working around the different refineries and oilfields and CNPC. Then they made him a high-ranking official in charge of security because the path to the top of a national oil company is the same as a path to the top of the Chinese Communist Party.

COMMISSIONER FIEDLER: Yeah.

DR. LEWIS: You work in different localities. You work your way to the top.

COMMISSIONER FIEDLER: Well, we've seen them go back and forth to governorships and stuff like that.

DR. LEWIS: Yeah.

COMMISSIONER FIEDLER: Right.

DR. LEWIS: So the companies actually have more knowledge.

COMMISSIONER FIEDLER: Well, what I concluded simplistically from what you said about the sort of not very attractive energy resources in either the East China Sea or the South China Sea, and what their motivation is, is more coastal defense and sort of power politics of our Navy versus their navy.

But, and then the description of their energy policy in the face-- actually you say that their oil company guys are sophisticated and they're selling in the international markets. But we see that everywhere, where they have a level of sophistication in people, but the policy is very different. The policy seems to be we want a higher percentage of self-sufficiency so we'll control the companies, we'll control the markets, we'll control this in defiance of a scale that nobody in history has been able to manage. I mean on a micro level for a government.

In other words, the market is insufficient, and we can't trust it, so we'll manipulate it. But in reality it doesn't have much to do with our decision-making.

That seems like a dangerous way to operate--in other words, we don't want to be so internationally interdependent. We actually want to be more self-sufficient than interdependent.

And that's a prescription for conflict on a lot of different levels. And, by the way, I suppose a gratuitous comment to the Chinese government would be that it's a prescription for instability. So your goal is not achievable the way you're trying to do it. You actually may have more stability on an international interdependent basis than you would a self-sufficient basis.

DR. LEWIS: Yeah.

COMMISSIONER FIEDLER: Am I--

DR. LEWIS: No, absolutely. We've argued for many years, going back to 2000 with high level meetings in Beijing, you know, explaining that you need to have strategic petroleum reserves. That you need to be working with Japan and South Korea and Taiwan on the Asian premium that all people in Northeast Asia pay for gas and oil from the Middle East.

There's a whole host of things--and refining standards because it affects the quality of pollution, and a whole host of things in Northeast Asia. And bit by bit, these things have been taken up.

But it's also true that I think China won't actually, it will take a long time for them to actually become eligible to join the OECD or the International Energy Agency. That level of transparency is something they're just not ready to do, not when they have one-Party control. So they like some of the collective security aspects of joining say the International Energy Agency, but they don't like the commitment side of being able to reveal all of the inner-workings of the economy and budgets and things like that.

That said, there is a movement towards more transparency at the local level. There are local governments that are putting their budgets out for the public to see.

COMMISSIONER FIEDLER: Yeah, we have a--

DR. LEWIS: How long it's going to take to get to Beijing is another question.

COMMISSIONER FIEDLER: They have a low threshold definition of transparency.

DR. LEWIS: Yeah.

COMMISSIONER FIEDLER: I agree with you. Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Bartholomew.

COMMISSIONER BARTHOLOMEW: Thanks very much, and thanks to both of our witnesses. I'm always pleased to see people who haven't testified before us, which is no reflection on the people who have testified before us, but it's great to hear some new ideas and some new voices. So thank you for making the effort to come and sharing your views.

Dr. Lewis, I have a question for you, which is a little bit off the topic, but you mentioned that in 1989, Sudan went to China to try to get them to--why did the Chinese say no?

DR. LEWIS: That's a good question. I asked the people from--this is actually a Sudanese scholar who told me this, and he said that they viewed it as that it was too confrontational potentially with the West. But also they weren't willing to accept the idea of their national oil company going overseas at that point. They were much more focused on it staying at home.

COMMISSIONER BARTHOLOMEW: I suspect it would have been more the latter than the former given that there was not yet really a human rights movement expressing concern--

DR. LEWIS: Sure.

COMMISSIONER BARTHOLOMEW: And do you have any idea of the timing? Did it have anything to do with the timing of Tiananmen Square?

DR. LEWIS: That I don't know.

COMMISSIONER BARTHOLOMEW: Okay. Mr. Thrall, I know you have some Africa expertise, too. Any thoughts on this?

MR. THRALL: The only thing I would add, like so many things in the Chinese energy domain, it is a mystery, especially at the strategic level.

China was not an oil importer until 1993 and didn't believe that it was going to be permanently an oil importer for a few years after that. So this occurs in a markedly different context than what it feels to sit in Beijing as an energy planner today or in the late '90s.

COMMISSIONER BARTHOLOMEW: Thank you very much.

HEARING CO-CHAIR BROOKES: Commissioner Tobin.

HEARING CO-CHAIR TOBIN: Thank you, gentlemen.

We talked before we convened, just privately, about China and its energy needs in the areas of the continental land. Clearly on the maritime area, you said it's not practical; it may not be anything but a tertiary driver. What do we, the Commission, need to know about energy, oil and gas, related to the whole country? Are they very clear, as you listen to them, in terms of policy and thinking? You've got other countries bordering that have resources, too.

DR. LEWIS: The only thing I can say off the top of my head is that there are parts of the Chinese government and these companies, as well, that really are interested in international cooperation. As Dr. Thrall mentioned, the South China Sea does have a lot of these resources on the southern end of it-- Malaysia, Brunei. And they obviously could benefit from possibly Chinese technology if CNOOC does have that type of offshore capability, but certainly Chinese capital; right?

And it's also true, the other part we haven't really talked about so much, is why the international oil companies don't seem to be jumping into helping Malaysia or Vietnam or Brunei in developing their offshore resources?

The other part of it, too, is that I don't know whether it's a conscious strategy--I suspect it probably is. But the Chinese, I think, national oil companies and the government of Beijing think that one way to stop these countries from not developing their offshore resources is to make threats and that type of thing. The other way is just to find all the people who could develop those resources and

bring them over to your side. So most of the international oil companies have operations in China, in the Pearl River Delta, or in continental China, or even joint venture projects overseas or in the United States.

The Chinese NOCs view cooperation as also a way of making sure that people who might help your potential enemies start working for you instead. There is always that estimation on the part of an IOC, well, should we work with China, which has an enormous market that has a lot of capital, or do we work with Malaysia, which is a much more slowly growing one?

So at the end of the day, it's an economic calculus as well. I hope that helps answer your question.

HEARING CO-CHAIR TOBIN: Mr. Thrall.

MR. THRALL: China has leveraged that effectively. They have demarched companies. They have threatened companies' business within China, i.e., "if you take these contested blocks with Vietnam or with the Philippines, you will lose out in your business inside of China."

And it's worth pointing out, it looks very different from a firm perspective. You know, firms are interested in taking their basket of money, investing it in a place that produces hydrocarbons and produces profit. The South China Sea and the East China Sea don't look like that because of all of the political disputes, the deterrent factor of collisions with survey ships and the cutting of cables. There are just better plays out there, where, as an oil company, you could put your money and get a return on investment than the contested South China Sea.

One last one, Commissioner Wortzel, I'm hoping I addressed your concerns on blockade. My only thought was I think that that ambient ability to blockade already exists. It's a legal form of warfare that many countries, including the United States, have exercised in the past, and it's a capability that the Navy is likely to be perceived as maintaining in all scenarios. I'm hoping I've addressed your concerns.

COMMISSIONER WORTZEL: Oh, no, you and I are in complete agreement. You outlined your position well, and I will say that in every war game that I have participated in that attempted to articulate AirSea Battle, blockades were part of it once a state of war existed. So you're dead on.

HEARING CO-CHAIR BROOKES: Commissioner Shea.

VICE CHAIRMAN SHEA: Thank you, both, for being here, and I really enjoyed your testimony, both written and oral.

Dr. Lewis, you seem to know a lot about Chinese oil companies and American energy companies. I was just wondering, I'm a little bit off topic here, but we've seen some recent transactions by Chinese energy companies into American energy companies. What from your experience, what goes without naming names, but what are some of the concerns that the Americans, if they have any concerns, about participating--these investments? What's the checklist of things that goes through the head of an American executive?

DR. LEWIS: Well, the one thing I think that anybody, whether it's a potential foreign partner, an American corporate partner, or the American



government, or a shareholder in a Chinese national oil company, has to consider is that the leaders of that company are chosen according to their Party status and Party ranking. So at the end of the day, the bosses of the boss in your company is the Politburo.

And they don't talk about it. They don't publicize it, but at the end of the day, that has to be the case. Everything at the end does come down to a political decision, and so one has to wonder just how much of it is an economic decision. But that's I think fairly commonly known. If you go on all the way on down the line, and you look at any significant major investment by a Chinese oil company in China or outside of China, they typically pick a very high ranking Party person to oversee that.

And so that gives them a large Party bloc as well within the Party. In the 1970s, there was a so-called "petroleum faction," right, when they were exporting oil in Northeast Asia, when people weren't exporting. They were exporting oil to Japan. You know that continued for quite awhile, and that gave the petroleum people enormous power within the Chinese government. That's kind of diminished somewhat, but residually it still exists.

VICE CHAIRMAN SHEA: So American companies, American executives recognize this. The most recent--

DR. LEWIS: They should. They should.

VICE CHAIRMAN SHEA: --transactions have involved, seem to be focused on gaining access to technology and experience, particularly in the natural gas sector. Is that fair to say?

DR. LEWIS: It is. And in talking with both the Americans and Chinese involved in it, it has to do a lot as well with management side because they're trying to understand how a large gas, oil and gas company can have a shale section within it. Since shale, it approaches markets quite differently, and has traders maybe involved more explicitly in the higher level management of it, so they're trying to understand that. I would say they're also trying to borrow environmental regulations as well, and probably very selectively, but they have a history of borrowing things like that as well.

VICE CHAIRMAN SHEA: Okay. I'm going to go back to topic--I've got a minute-and-a-half here--and switch from carbon to protein. And what's the fishing stock like in East China Sea and the South China Sea?

DR. LEWIS: I would have to defer to Dr. Thrall.

MR. THRALL: Let me caveat up front, there are people who can give you exceptionally detailed and learned advice on fisheries.

VICE CHAIRMAN SHEA: And it would be over my head. So just give me the--

MR. THRALL: To give a rough outline: so fishery stocks have fallen dramatically in both seas since the 1960s. In response to that, the Chinese have instigated a range of measures, both to most importantly control the size of the fishing fleet, and then also institute summer bans during spawning season, and

enforce better regulation over the fisheries, which are immense.

China is the world's largest fishing power with over a million fishing boats and an exceptional range of sea space to regulate. That's a very difficult problem. And a good bit of the consolidating activity that China is doing is not "strategic chessboard" moves, but instead just trying to manage what is a very difficult problem.

With regards to its value, I think the statistics have been quoted before, that if the world averages 16 percent of protein is fish protein, the Asians are well above that. They are in the low 20s, as they have a preference for fish. As economies develop, the demand for fish goes higher. I do think it is a little too strong to draw a direct link between food security and fishing disputes if only because in the Chinese case, China exports half of its catch per year, and over half of Chinese fishery activity is farmed rather than fished.

—But I think the fisheries in some ways exemplify best the link between economic or resource tools and nationalism. A review of the Global Times will show you fishermen enraged on the front page rather frequently. The fishermen are potent national symbols, like farmers. The disputes touch on issues, especially for coastal areas, and this includes the Philippines and Vietnam, but particularly for China, that are very near to political legitimacy.

So there is a desire both to control these actors because I think from a Chinese perspective, fisheries can get you into trouble. They're hard to control, and they have large nationalist impact. You'd like to have a better regulatory framework in order to decide in Beijing how you calibrate that fisheries decision.

VICE CHAIRMAN SHEA: Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Wessel.

COMMISSIONER WESSEL: Thank you.

I have two questions, one on topic, the other to take advantage, Dr. Lewis, of some of your knowledge, as well, and Mr. Thrall, as well, if you know about this.

First is a question of follow-up. I don't remember which one of my colleagues asked about LNG, but with supposedly robust development of LNG, of the Marcellus and other shale here, that we're going to start exporting LNG or expanding of our exports. What are the estimates of that? Do you know how the Chinese are viewing it, and what role would it otherwise play with some of the Asian countries? Japan? How are they looking at it, et cetera? How much of game changer is it in that region?

DR. LEWIS: I can say having talked with people in Australia and Qatar, those are the only people who are kind of thinking about it at this point, and the United States. I think Asia really isn't focused on it yet because they know the United States isn't exporting gas, but even if it does, it could take awhile.

COMMISSIONER WESSEL: Okay.

DR. LEWIS: And also the convenient exporting places to send it to Asia might be from Alaska or California or the West Coast, and there's opposition to projects like that on the West Coast. So I think they're excited about the

possibility of it. They're not holding their breath.

COMMISSIONER WESSEL: And so not much of a game change at all at this point?

DR. LEWIS: Not at this point.

COMMISSIONER WESSEL: Okay. Second question relates to your knowledge of both Chinese and U.S. energy players. As I understand it, Sinopec announced a two plus billion dollar project for energy development in Wyoming late last year. How should we be thinking about that project?

As I understand it--I need more understanding, number one. Number two is I saw--I believe it was the Wall Street Journal reported that Sinopec was going to be sourcing all of the development materials, whether it's OCTG or whatever, out of China, which would question their development strategy. Do you have more information on what they're doing? This is one of the larger U.S. projects, I believe.

DR. LEWIS: Yeah, at this point, there is very little known about it, but it's something I will definitely be trying to follow. Historically, it's hard for them to run things from the other side of the planet when it comes to projects. They are much more likely to move people over and set up more operations because again it ties into that idea let's move assets, resources, and people over to the United States.

In general, in recent years, there's been a lot of movement of government officials and family people trying to get away from what might be viewed as excessive investigations into corruption, is how those people might put it.

But any opportunity to move to the United States, and if there was a way, for example, for a Chinese company to make an investment that would result in more visas or green cards or something like this for employees and their families, that would be something that I'm sure they would be interested in exploring. So there's a whole host of reasons that they tend to move things over rather than try and run things from back in headquarters, even though, of course, the leadership would still be very much heavily run from Beijing.

COMMISSIONER WESSEL: If you do find anything else out and could share it with us, we'd appreciate it.

DR. LEWIS: I sure will.

COMMISSIONER WESSEL: Thank you.

HEARING CO-CHAIR BROOKES: Commissioner Fiedler.

COMMISSIONER FIEDLER: Who other than the United States can protect its sea lanes?

MR. THRALL: I'm sorry, sir. Whose sea lanes?

COMMISSIONER FIEDLER: Who can protect their own sea lanes other than the United States?

MR. THRALL: Well, I think it's difficult to--let me start--

COMMISSIONER FIEDLER: I'm not sure we can.

MR. THRALL: There are three general threats to sea lanes and sea commerce. There are natural disasters, things that happen that interfere with either commerce or the land-based nodes upon which commerce is dependent. There are terrorists and pirates, and then there are state-based threats.

The first two are generally a nuisance and may lose an administration or government some political capital if mismanaged, but they are not a threat to a national economy.

COMMISSIONER FIEDLER: Right, yeah.

MR. THRALL: In terms from a sea lane perspective.

COMMISSIONER FIEDLER: Yeah.

MR. THRALL: The third is the real threat to sea lanes, and the reason for the correlation between naval power and sea lane protection is the threat from other states.

Looking at the region, who can protect their sea lanes--

COMMISSIONER FIEDLER: You can look at it from who can threaten somebody else's sea lanes other than the United States.

MR. THRALL: I mean in a global sense, the only actor that can threaten global sea lanes is the United States.

COMMISSIONER FIEDLER: Right.

MR. THRALL: The other actors would be hard-pressed to defend their sea lanes. With everyone else, it's a relative contest of power depending greatly on where in maritime geography we're speaking.

COMMISSIONER FIEDLER: Right.

MR. THRALL: To project power out to Malacca is a long way unless you happen to be one of the nations very close to it.

COMMISSIONER FIEDLER: So when we're talking about sea lanes and navigation of the oceans, the Chinese are really only concerned about us.

MR. THRALL: I wouldn't say that's accurate. I think the Chinese worry about the Indian ability to interfere with commerce in the Indian Ocean. They worry about the localized Japanese ability to interfere with commerce and their ability to project power, and then chiefly they worry about the United States.

COMMISSIONER FIEDLER: And all of those nation states could do that whether or not China wins any international legal arguments or actually practical arguments and controls more of the East China Sea and the South China Sea, for instance.

So if you have a navy, it doesn't matter who says they own it. It's a question of whether your navy is better than the other guy's navy; right? If the Chinese increase their navy to protect their sea lanes from the United States, say, the other states in order to protect their sea lanes have to reciprocate in some sort of way in order to protect their near sea lanes. It's a never-ending sort of escalation of naval power.

Am I missing something here?

MR. THRALL: There certainly is a security dilemma element to naval modernization and sea lanes. That's very historically documented and occurred

before the First World War. This logic chain does get exercised.

I think it's different in the Japanese case. A blockade is an act of war. Should someone try to blockade the Japanese--should China try to blockade Japan's commerce, this would be an act of war against Japan, and Japan exists in a context of treaties with the United States, as do other actors.

So the need to develop in-house, to be able to project naval power in order to secure commerce is different for different actors.

COMMISSIONER FIEDLER: Yeah.

MR. THRALL: If you look at your navy as having a fixed number of assets that have many things to do, it's difficult to use them in extended power projection to threaten different SLOCs. You have other jobs for them, with the possible exception of the U.S. Navy.

COMMISSIONER FIEDLER: Unless the Chinese Navy gets to be the size of the U.S. Navy?

MR. THRALL: Yes, but I think size is not the only question. The ability to conduct distant, sustained, long naval operations, far from home in complex joint warfare is very, very difficult.

COMMISSIONER FIEDLER: I actually think that. And I also think that old blockades that we used to do pre-World War I with just ships, the technology has changed in how one would exercise an effective blockade--warfare technology.

But I, as an objective, all you're saying is that they can't do it any time soon with their current navy or their current plans or the current rate of growth of their navy. But if their goal is to ultimately achieve an equivalent status to the United States, that's a problem for us; right?

MR. THRALL: The degree to which sea lanes and sea lane protection legitimately serves as a strategic motivator for naval modernization is very much in debate in the post-Mahanian world. There was once a very clear link between naval power and sea lane security. That link is now more tenuous.

There are certainly arguments that sea lanes continue to function as a great tool for advocating for naval modernization, whether or not sea lane security is actually increased. In the Chinese case, if we're thinking about a world in which the Chinese are trying to create completely safe sea lanes for their trade, that's a difficult world to envision.

It's not a matter of when naval spending becomes on par because we have decades more of sort of acquired ability. In terms of threatening sea lanes, you have the ability to mass naval force, whereas they have to defend a distributed network.

So I don't see that ultimate state, being so far distant, as being a key driver of Chinese naval modernization. I do think the ability to project force in the South China Sea and the ability to have a modified degree of maritime control makes this problem much harder and increases their relative deterrent effect in terms of sea lane security.

COMMISSIONER FIEDLER: So it increases their security.

MR. THRALL: Right.

COMMISSIONER FIEDLER: So the drivers that we were looking for in terms of energy are not really there, but it's a sea lane protection driver for the South China Sea and the East China Sea?

MR. THRALL: Well, I think there are many--

COMMISSIONER FIEDLER: One of the drivers.

MR. THRALL: Right. There are many and some more powerful drivers for Chinese naval modernization and military modernization more broadly. Local sea lane security, where that ranks, it's interesting. I don't think we have very good understanding of how the Chinese, the CMC, thinks about sea lane issues.

COMMISSIONER FIEDLER: Right.

MR. THRALL: There are alternative viewpoints that could be there, but it doesn't seem from standing back that Chinese military and naval modernization is doing an exceptional job of making their sea lanes much safer with respect to American military power.

COMMISSIONER FIEDLER: Okay. Thank you.

HEARING CO-CHAIR BROOKES: Anyone else? I think that's it. Thank you very much.

Commissioner Tobin, I think, might have some closing remarks.

HEARING CO-CHAIR TOBIN: Yes. And thank you, Commissioner Brookes. It was productive, the work we did together, to bring this day about. And thank you gentlemen; thank you to all the witnesses of the day. You're contributing to the Commission's work this year, supporting our report to Congress.

The Commission wishes to express special thanks to Kimberly Hsu who has worked to bring about today's very productive conversation. She's the Commission's policy analyst for military and security affairs. Kimberly, you did a terrific job. Finally, thank you to all the staff who operated so well together as a team.

We stand adjourned.

[Whereupon, at 2:43 p.m., the hearing was adjourned.]