To promote peaceful and collaborative resolution of the South China Sea dispute.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2013

Mr. Faleomavaega (for himself, Ms. Ros-Lehtinen, and Mr. Chabot) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To promote peaceful and collaborative resolution of the South China Sea dispute.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) The South China Sea contains vital commercial shipping lanes and points of access between the Indian Ocean and Pacific Ocean, providing a maritime lifeline to India, Singapore, Malaysia, In-
Indonesia, the Philippines, Vietnam, Brunei, Taiwan, Japan, and the Korean peninsula.

(2) China, Vietnam, the Philippines, Taiwan, Malaysia, and Brunei have disputed territorial claims over the Spratly Islands, and China, Taiwan, and Vietnam have disputed territorial claims over the Paracel Islands.

(3) In 2009, the Government of the People’s Republic of China submitted to the United Nations a map with the 9-dotted line (also known as the Cow Tongue line) which raised questions about whether China officially claims most of the 1,423,000 square miles of the South China Sea, more than any other nation involved in these territorial disputes.

(4) In November 2012, China began to include a map of its territorial claims inside its passports, despite the protests of its neighbors, including Vietnam and the Philippines.

(5) Although not a party to these disputes, the United States has a national economic and security interest in maintaining peace, stability, and prosperity in East Asia and Southeast Asia, and ensuring that no party threatens or uses force or coercion unilaterally to assert maritime territorial claims in East Asia and Southeast Asia, including in the
South China Sea, the East China Sea, or the Yellow Sea.

(6) The Association of Southeast Asian Nations (ASEAN) has promoted multilateral talks in disputed areas without settling the issue of sovereignty.

(7) In 2002, ASEAN and China signed a Declaration on the Conduct of Parties in the South China Sea.

(8) That declaration committed all parties to those territorial disputes to “reaffirm their respect for and commitment to the freedom of navigation in and over flight above the South China Sea as provided for by the universally recognized principles of international law”, and to “resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force”.

(9) In July and November of 2010, the United States and our Republic of Korea allies conducted joint naval exercises in the Yellow Sea in international waters, as well as Republic of Korea territorial waters, in the vicinity of the site of the March 2010 North Korean attack on the South Korean military vessel Cheonan, these exercises drew objections from Beijing over foreign operations in the Yellow Sea.
(10) In September 2010, tensions were raised in the East China Sea near the Senkaku (Diaoyutai) Islands, a territory under the legal administration of Japan, when a Chinese fishing vessel deliberately rammed Japanese Coast Guard patrol boats.

(11) On February 25, 2011, a frigate from China’s navy fired shots at 3 fishing boats from the Philippines.

(12) On March 2, 2011, the Government of the Philippines reported that two patrol boats from China attempted to ram one of its surveillance ships.

(13) On May 26, 2011, a maritime security vessel from China cut the cables of an exploration ship from Vietnam, the Binh Minh, in the South China Sea in waters near Cam Ranh Bay in the exclusive economic zone of Vietnam.

(14) On May 31, 2011, three Chinese military vessels used guns to threaten the crews of four Vietnamese fishing boats while they were fishing in the waters of the Truong Sa (Spratly) archipelago.

(15) On June 3, 2011, Vietnam’s Foreign Ministry released a statement that “Vietnam is resolutely opposed to these acts by China that seriously violated the sovereign and jurisdiction rights of Viet
Nam to its continental shelf and Exclusive Economic Zone (EEZ)”.

(16) On June 9, 2011, three vessels from China, including one fishing vessel and two maritime security vessels, ran into and disabled the cables of another exploration ship from Vietnam, the Viking 2, in the exclusive economic zone of Vietnam.

(17) The actions of the Government of the People’s Republic of China in the South China Sea have also affected United States military and maritime vessels and aircraft transiting through international air space and waters, including the collision of a Chinese fighter plane with a United States surveillance plane in 2001, the harassment of the USNS Victorious and the USNS Impeccable in March 2009, and the collision of a Chinese submarine with the sonar cable of the USS John McCain in June 2009.

(18) On July 23, 2010, former Secretary of State Hillary Rodham Clinton stated at the ASEAN Regional Forum that the United States, like every nation, has a national interest in freedom of navigation, open access to Asia’s maritime commons, respect for international law, and unimpeded commerce in the South China Sea.
(19) On June 23, 2011, the United States stated that it was ready to provide hardware to modernize the military of the Philippines.

(20) The United States and the Philippines conducted combined naval exercises in the Sulu Sea, near the South China Sea, from June 28 to July 8, 2011.

(21) On July 22, 2011, an Indian naval vessel, sailing about 45 nautical miles off the coast of Vietnam, was warned by a Chinese naval vessel that it was allegedly violating Chinese territorial waters.

(22) In June 2012, China’s cabinet, the State Council, approved the establishment of the city of Sansha to oversee the areas claimed by China in the South China Sea.

(23) In July 2012, Chinese military authorities announced that they had established a corresponding Sansha garrison in the new prefecture.

(24) On June 23, 2012, the China National Offshore Oil Corporation invited bids for oil exploration in areas within 200 nautical miles of the continental shelf and within the exclusive economic zone of Vietnam.
Since July 2012, Chinese patrol ships have been spotted near the disputed Senkaku (Diaoyutai) Islands in the East China Sea.

At the July 2012 ASEAN Regional Forum, former Secretary of State Clinton said, “We believe the nations of the region should work collaboratively and diplomatically to resolve disputes without coercion, without intimidation, without threats, and without the use of force”.

In November 2012, a regulation was approved by the Hainan People’s Congress authorizing Chinese maritime police to “board, search” and even “take over” ships determined to be “illegally entering” South China Sea waters unilaterally claimed by Beijing.

At a meeting with the Japanese Foreign Minister on January 18, 2013, former Secretary of State Clinton stated that “although the United States does not take a position on the ultimate sovereignty of the (Senkaku) islands, we acknowledge they are under the administration of Japan”, adding that “We oppose any unilateral actions that would seek to undermine Japanese administration, and we urge all parties to take steps to prevent incidents
and manage disagreements through peaceful means”.

(29) On August 3, 2012, a Department of State spokesperson expressed concern over “China’s upgrading of the administrative level of Sansha City and the establishment of a new military garrison there”, expressed encouragement for ASEAN and China “to make meaningful progress toward finalizing a comprehensive Code of Conduct”, and called upon claimants to “explore every diplomatic or other peaceful avenue for resolution, including the use of arbitration or other international legal mechanisms as needed”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that, in light of the congressional finding described above, the Secretary of State should—

(1) reaffirm the strong support of the United States for the peaceful resolution of maritime territorial disputes in the South China Sea, the Taiwan Strait, the East China Sea, and the Yellow Sea and pledge continued efforts to facilitate a collaborative, peaceful process to resolve these disputes;

(2) condemn the use of threats or force by naval, maritime security, and fishing vessels from
China in the South China Sea and the East China Sea as well as the use of force by North Korea in the Yellow Sea that would escalate tensions or result in miscalculations;

(3) note that overt threats and gun boat diplomacy are not constructive means for settling these outstanding maritime disputes;

(4) welcome the diplomatic efforts of Association of Southeast Asian Nations (ASEAN) and the United States allies and partners in Japan, the Republic of Korea, Taiwan, the Philippines, and India to amiably and fairly resolve these outstanding disputes; and

(5) support the continuation of operations by the United States Armed Forces in support of freedom of navigation rights in international waters and air space in the South China Sea, the East China Sea, the Taiwan Strait, and the Yellow Sea.

SEC. 3. REPORT ON THE CODE OF CONDUCT FOR THE SOUTH CHINA SEA.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the Code of Conduct and
other peaceful measures for resolution of the territorial disputes in the South China Sea.

(b) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may contain a classified annex if necessary.