TO PROMOTE PEACEFUL AND COLLABORATIVE RESOLUTION OF MARITIME TERRITORIAL DISPUTES IN THE SOUTH CHINA SEA AND ITS ENVIRONS AND OTHER MARITIME AREAS ADJACENT TO THE EAST ASIAN MAINLAND

MARKUP
BEFORE THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS
SECOND SESSION
ON
H.R. 6313
SEPTEMBER 12, 2012
Serial No. 112–179
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TO PROMOTE PEACEFUL AND COLLABORATIVE RESOLUTION OF MARITIME TERRITORIAL DISPUTES IN THE SOUTH CHINA SEA AND ITS ENVIRONS AND OTHER MARITIME AREAS ADJACENT TO THE EAST ASIAN MAINLAND

WEDNESDAY, SEPTEMBER 12, 2012

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10 o'clock a.m. in room 2172, Rayburn House Office Building, Hon. Ileana Ros-Lehtinen (chairman of the committee) presiding.

Chairman ROS-LEHTINEN. The committee will come to order. Before we begin today's markup and hearing, I would like to ask my colleagues and all who are joining us today to please stand for a moment of silence to honor United States Ambassador to Libya, Chris Stevens, Foreign Service Information Management Officer Sean Smith, and two other fellow Americans killed in Libya yesterday. [Moment of silence.]

Please be seated. I know I speak for all of the members of our committee when we say that our prayers go out to their families and their friends. They died in service of our Nation, and we are forever grateful. They risked their lives to help the people of Libya free themselves from the oppression of Ghadafi and rebuild their nation. Yet on a day marking the 11th anniversary of the deplorable attacks against our Nation on September 11, 2001, radicals chose to attack and kill our diplomats in Benghazi.

Similarly, I would like to take this opportunity on behalf of our committee to thank the men and women serving in our Embassy in Egypt, who also came under attack yesterday by those who continue to seek the support of, and assistance from, the United States. Let us be clear, there is no justification for the murder of our diplomats and attacks on our Embassies. We have nothing for which to apologize. We must ensure that the perpetrators of this recent round of 9/11 attacks are held accountable. Thank you, ladies and gentlemen.

And before we begin today's hearing, pursuant to notice, the committee meets to consider H.R. 6313 sponsored by our colleague, Mr. Faleomavaega. It is a bipartisan measure to promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea. Without objection, all members may have 5 days to submit statements and extraneous material on this bill for the record. According to the expedited procedures sent to all member offices yesterday, we will now move immediately to adoption of the bill.

[H.R. 6313 follows:]
H. R. 6313

To promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2012

Mr. FALEOMAVAEGA (for himself and Ms. ROE-LEHTINEN) 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.

A BILL

To promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland.

1       Be it enacted by the Senate and House of Representa-
2       tives of the United States of America in Congress assembled,
3       SECTION 1. FINDINGS.
4       Congress finds the following:
5       (1) The South China Sea contains vital com-
6       mercial shipping lanes and points of access between
7       the Indian Ocean and Pacific Ocean and provides a
maritime lifeline to 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 introduced the 9-dotted line (also known as the Cow Tongue line) to officially claim most of the 648,000 square miles of the South China Sea, more than any other nation involved in these territorial disputes.

(4) 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 ensuring that no party threatens or uses force unilaterally to assert maritime territorial claims in East Asia, including in the South China Sea, the East China Sea, or the Yellow Sea.

(5) The Association of Southeast Asian Nations (ASEAN) has promoted multilateral talks in disputed areas without settling the issue of sovereignty.
(6) In 2002, ASEAN and China signed a Declaration on the Conduct of Parties in the South China Sea. That declaration committed all parties to those territorial disputes to “reaffirm their respect for and commitment to the freedom of navigation in and overflight 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”. Yet, in September 2010, tensions were raised in the East China Sea off of the Senkaku (Diaoyutai) Islands, a territory under the legal administration of Japan, when a Chinese fishing vessel deliberately rammed Japanese Coast Guard patrol boats.

(7) The Government of the People’s Republic of China deliberately heightened these tensions by making a series of diplomatic protests, including on one occasion summoning the Japanese Ambassador after midnight, by threatening “further repercussions” if Japan did not immediately release the Chinese ship captain involved in the collisions, and by encouraging anti-Japanese demonstrations in Chinese cities.
(8) On February 25, 2011, a frigate from China’s navy fired shots at 3 fishing boats from the Philippines.

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

(10) 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.

(11) 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.

(12) 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 Vietnam to its continental shelf and Exclusive Economic Zone (EEZ).”.

(13) 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.

(14) On June 13–14, 2011, the Government of Vietnam held a live-fire military exercise on the uninhabited island of Hon Ong, 25 miles off the coast of Vietnam in the South China Sea.

(15) On June 25, 2011, Chinese Peoples’ Liberation Army Major General (Ret.) Peng Guangqian stated in a television interview that “China once taught Vietnam a lesson. If Vietnam is not sincere, it will receive a bigger lesson”, adding that “If Vietnam continues to act tough, play with the knife, sooner or later it will get cut.”.

(16) On June 26, 2011, the Chinese news agency Xinhua announced that China and Vietnam had agreed to hold talks on how to resolve conflicts arising from a sovereignty dispute over the South China Sea after a June 25 meeting in Beijing between Dai Bingguo, the senior Chinese official in charge of foreign affairs, and Vietnamese Vice Foreign Minister and Special Envoy Ho Xuan Son.

(17) It was reported, on June 17, 2011, that the Philippines removed a string of wooden markers that Manila determined was placed by China in dis-
puted areas of the South China Sea amid growing regional tensions.

(18) On June 23, 2011, Secretary of State Hil-
2 lary Rodham Clinton told visiting Philippines For-
3 eign Secretary Albert del Rosario that “We are de-
4 termined and committed to supporting the defense of the Philippines.”.

(19) Philippines Foreign Secretary del Rosario stated that the Philippines is a small country, but is “prepared to do what is necessary to stand up to any aggressive action in our backyard”.

(20) The United States, on June 23, 2011, stated that it was ready to provide hardware to modernize the military of the Philippines.

(21) 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.

(22) On June 17, 2011, China dispatched one of its largest patrol ships, the Haixun 31, on a voyage through disputed areas of the South China Sea in a deliberate show of force en route to a port of call in Singapore.

(23) China’s official media stated that the sailing route of the Haixun 31 in the South China Sea
was determined to protect its “rights and sov-
ereignty”.

(24) A spokesperson for Singapore’s Ministry of
Foreign Affairs pointed out, on June 20, 2011, that
“as a major trading nation, Singapore has a critical
interest in anything affecting freedom of navigation
in all international sea lanes, including those in the
South China Sea”.

(25) Singapore further urged China to clarify
its claims in the South China Sea with more preci-
sion as the current ambiguity as to their extent has
caued serious concerns in the international mari-
time community.

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

(27) In July 2010, People’s Daily, the official
newspaper of the Chinese Communist Party, re-
ported that General Ma Xiaotian, deputy chief of the
general staff of the People’s Liberation Army, said
that China “strongly opposed” combined naval exer-
cises to be conducted in the West (Yellow) Sea by
the United States and the Republic of Korea.

(28) These exercises were to be conducted in
international waters, as well as Republic of Korea
territorial waters, in the vicinity of the site of the
March 2010 North Korean torpedo attack on the
South Korean military vessel Cheonan, which re-
sulted in 46 deaths.

(29) These exercises were to include participa-
tion by the USS George Washington aircraft carrier
group.

(30) In July 2010, Chinese Major General Luo
Yuan, a researcher at the Chinese Academy of Mili-
tary Sciences, in an interview with a Hong Kong TV
station, stressed the importance of the Yellow Sea as
“a gateway to China’s capital region” and said that
“if a U.S. aircraft carrier enters the Yellow Sea, it
will become a living target”.

(31) On July 23, 2010, Secretary of State Hil-
lary Rodham Clinton stated at the Association of
Southeast Asian Nations Regional Forum that “the
United States, like every nation, has a national in-
terest in freedom of navigation, open access to
Asia’s maritime commons, and respect for inter-
national law in the South China Sea”.

(32) Secretary Clinton further expressed the
support of the United States for the Declaration by
the Association of Southeast Asian Nations and
China in 2002 on the Conduct of Parties in the
South China Sea, and stated, “The United States
supports a collaborative diplomatic process by all
claimants for resolving the various territorial dis-
putes without coercion.”.

(33) On October 12, 2010, former Secretary of
Defense Robert Gates stated at the ASEAN Defense
Ministers Meeting-Plus, “The U.S. position on mari-
time security remains clear: we have a national in-
terest in freedom of navigation; in unimpeded eco-
nomic development and commerce; and in respect for
international law.”. Former Secretary Gates further
maintained “The United States has always exercised
our rights and supported the rights of others to
transit through, and operate in, international
waters.”.

(34) On June 4, 2011, at the Shangri-La Dia-
logue in Singapore, former Secretary Gates stated
that “maritime security remains an issue of par-
ticular importance for the region, with questions
about territorial claims and the appropriate use of
the maritime domain presenting on-going challenges
to regional stability and prosperity”.

(35) On June 5, 2011, at the Shangri-La Dia-
logue, Liang Guangjie, the Defense Minister from
China, said, “China is committed to maintaining
peace and stability in the South China Sea.”.

(36) On June 14, 2011, Hong Lei, the spokes-
man for the Chinese Foreign Ministry, stated that
“China always upholds and has been committed to
a proper resolution of differences and disputes over
the South China Sea in a peaceful manner through
bilateral direct negotiation and friendly consultation
with relevant countries.”.

(37) On June 22, 2011, Chinese Vice Foreign
Minister Cui Tiankai told reporters, in reference to
the South China Sea disputes, that “I believe the in-
dividual countries are actually playing with fire, and
I hope the fire will not be drawn to the United
States.”.

(38) On June 29, 2011, the Defense Ministry
of the People’s Republic of China stated that “Re-
cent drills by the Chinese navy are routine and not
connected to the situation in the South China Sea”,
11

further calling for people to view the exercises in a
“rational” way.

(39) On April 8, 2012, a Philippine plane spot-
ed eight Chinese fishing boats in the vicinity of the
Scarborough Shoal, which both countries claim.

(40) A Philippine coast guard cutter and two
Chinese maritime surveillance craft began a tense
10-day standoff, with the Philippine vessel, citing
the upcoming typhoon season, withdrawing but the
Chinese ships remained in the area. Moreover, China
constructed barriers to prevent Philippine vessels
from entering the Scarborough Shoal where it was
reported that Chinese flags were raised.

(41) A Chinese foreign ministry spokesman
condemned a long-planned joint military exercise be-
tween the U.S. and the Philippines in April, saying
“The major trend of the times in this region is peace
and development. Military exercise does not rep-
resent the major call of the times.”.

(42) In June of 2012, Vietnam passed a law
claiming sovereignty over the Paracel and Spratly
Islands and called for mutual respect for inter-
national law.

(43) China quickly criticized the law, with a
foreign ministry statement calling it a “serious viola-
tion of China’s territorial sovereignty” and that
China expressed its “resolute and vehement opposition”.

(44) In June of 2012, China’s cabinet, the
State Council, approved the establishment of a pre-
fecture-level government in the city of Sansha to
oversee the areas claimed by China in the South
China Sea.

(45) On June 23, 2012, the China National
Offshore Oil Corporation invited bids for oil explo-
rathon in areas within 200 nautical miles of the con-
tinental shelf and exclusive economic zone of Viet-
nam.

(46) On June 28, 2012, the Chinese Defense
Ministry announced that military authorities were
considering establishing a military presence in the
prefecture capitol of Sansha.

(47) Also on June 28, Chinese military press
spokesman Senior Colonel Geng Yaosheng an-
nounced that the PLA had begun “regular, combat-
ready patrols” in the South China Sea.

(48) On July 11, 2012, Chinese patrol ships
were spotted near the disputed Senkaku (Diaoyutai)
Islands in the East China Sea.
(49) When the Japanese coast guard told the
Chinese ships to leave, the crew told them, “We are
conducting official duty in Chinese waters. Do not
interfere. Leave China’s territorial waters.”.

(50) Japan’s Vice Foreign Minister Kenichiro
Sasae called the exchange “extremely serious” and
“unacceptable,” and a government spokesperson was
quoted as saying, “It is clear that historically and le-
gally Senkaku is an inherent territory of Japan.”.

(51) At the July 2012 ASEAN Regional Forum
(ARF), Secretary Clinton said, “We believe the na-
tions of the region should work collaboratively and
diplomatically to resolve disputes without coercion,
without intimidation, without threats, and without
the use of force.”.

(52) Although ASEAN has agreed on the ele-
ments of the Code of Conduct (COC), China stated
that it would enter negotiations with ASEAN on the
COC “when the time is ripe”.

(53) A day following the conclusion of the ARF
meeting on July 14, 2012, a Chinese naval warship
ran aground while on patrol about 60 miles from the
province of Palawan in the Philippines on Half
Moon Shoal in the disputed Spratlys.
(54) While the grounded warship was in the process of removing itself from the Half Moon Shoal a day later, Xinhua announced that 30 Chinese fishing boats, guarded by an official government ship, had set sail for the South China Sea.

(55) On July 19, 2012, the Chinese Central Military Commission approved the establishment of the “military defense and watch zone of Sansha” at the division level.

(56) On July 26, 2012, China then appointed a Chief Commander and a Political Commissar of “the military defense and watch zone of Sansha”.

(57) On July 23, 2012, Philippine President Benigno Aquino III announced in his state of the nation address that the Philippines had purchased more than 40 military aircraft, including attack helicopters and two refurbished C-130 cargo planes, as well as a second former U.S. Coast Guard cutter.

(58) In the nationally televised address before Congress, President Aquino stressed that he would not back down to Chinese pressure, saying “I do not think it excessive to ask that our rights be respected, just as we respect their rights as a fellow nation in a world we need to share.”
(59) A day earlier, on July 22, China’s Central Military Commission approved the deployment of a garrison of soldiers to guard Chinese claims in the Spratlys, the Paracels and the Macclesfield Bank.

(60) On July 24, 2012, China declared a new municipality on Yongxing, or Woody Island, where the previously announced military garrison will be stationed.

(61) A State Department spokeswoman said that the United States is concerned about such “unilateral moves” and wants to see “all of these issues resolved at the table”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that, in light of the congressional finding described in section 1, 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 proves to resolve these disputes;

(2) condemn the use of threat 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 China’s North Korean ally in
the Yellow Sea;

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

(4) call on all parties to these territorial dis-
putes to refrain from threatening force or using
force to assert territorial claims;

(5) welcome the diplomatic efforts of Associa-
tion of Southeast Asian Nations (ASEAN) and the
United States allies and partners in Taiwan, Japan,
and the Republic of Korea to amiably and fairly re-
solve these outstanding disputes; and

(6) support the continuation of operations by
the United States Armed Forces in support of free-
dom 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.
Chairman Ros-Lehtinen. Without objection, the bill and the Ros-Lehtinen amendment, number 132 which merely fixes two typographical errors, which all members have before them, will be considered as read and considered en bloc. [The amendment referred to follows:]

**AMENDMENT TO H.R. 6313**

**OFFERED BY MS. ROS-LEHTINEN OF FLORIDA**

Page 15, line 15, strike “finding” and insert “findings”.

Page 15, line 22, strike “proves” and insert “process”.

I ask unanimous consent that H.R. 6313, as amended, be agreed to by the committee. Hearing no objection, it is so ordered. Without objection, the chair is authorized to seek consideration of H.R. 6313, as amended, under suspension of the rules, and staff is directed to make any technical or conforming changes. With a concluding thank you to the ranking member, and especially to Mr. Faleomavaega for authoring the bill, the markup is adjourned. [Whereupon, at 10:06 a.m., the committee proceeded to other business.]
APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

(19)
FULL COMMITTEE MEETING AND HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128
Ileana Ros-Lehtinen (R-FL), Chairman

September 10, 2012

You are respectfully requested to attend an OPEN markup of the Committee on Foreign Affairs, to be held in Room 2172 of the Rayburn House Office Building (and available live via the Committee website at http://www.house.gov)

DATE: Wednesday, September 12, 2012
TIME: 10:00 a.m.

MARKUP OF: H.R. 6313, To promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-9948 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.
COMMITTEE ON FOREIGN AFFAIRS
MINUTES OF FULL COMMITTEE MARKUP

Day Wednesday Date 9/12/12 Room 2172 RHOB
Starting Time 10:00 a.m. Ending Time 10:06 p.m.

Recesses

Presiding Member(s)
Rep. Ileana Ros-Lehtinen

Check all of the following that apply:

Open Session ☑
Executive (closed) Session ☐
Televised ☑
Electronically Recorded (taped) ☑
Stenographic Record ☐

BILLS FOR Markup: (Include bill number(s) and title(s) of legislation.)
H.R. 6313. To Promote Peaceful and Collaborative Resolution of Maritime Territorial Disputes in the South China Sea and its Environments and other Maritime Areas Adjacent to the East Asian Mainland

COMMITTEE MEMBERS PRESENT:
Attendance sheet attached.

NON-COMMITTEE MEMBERS PRESENT:

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

ACTIONS TAKEN DURING THE Markup: (Attach copies of legislation and amendments.)
See Markup Summary.

RECORDED VOTES TAKEN (FOR Markup): (Attach final vote tally sheet listing each number.)

TIME SCHEDULED TO RECONVENE or TIME ADJOURNED 10:06 a.m.

Doug Anderson, General Counsel
Chief of Staff, Ileana Ros-Lehtinen
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9/12/12 Foreign Affairs Committee Markup Summary

H.R. 6313, “To promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland.”

The Chair called up H.R. 6313 and one amendment, Ron-Lehtinen 132, which were considered en bloc.

By unanimous consent, the bill and amendment were agreed to, and the Chair was authorized to seek House consideration of H.R. 6313, as amended, under suspension of the rules.

The Committee adjourned.