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MARITIME SOVEREIGNTY IN THE EAST AND SOUTH CHINA SEAS

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON SEAPOWER AND PROJECTION FORCES

OF THE

COMMITTEE ON ARMED SERVICES

MEETING JOINTLY WITH

SUBCOMMITTEE ON ASIA AND THE PACIFIC

OF THE

COMMITTEE ON FOREIGN AFFAIRS

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MARITIME SOVEREIGNTY IN THE EAST AND SOUTH CHINA SEAS

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MARITIME SOVEREIGNTY IN THE EAST AND SOUTH CHINA SEAS

HOUSE OF REPRESENTATIVES, COMMITTEE ON ARMED SERVICES, SUBCOMMITTEE ON SEAPOWER AND PROJECTION FORCES, MEETING JOINTLY WITH COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEE ON ASIA AND THE PACIFIC, *Washington, DC, Tuesday, January 14, 2014.*

The subcommittees met, pursuant to call, at 2:24 p.m., in room 2118, Rayburn House Office Building, Hon. Steve Chabot (chairman of the Subcommittee on Asia and the Pacific) presiding.

OPENING STATEMENT OF HON. STEVE CHABOT, A REPRESENTATIVE FROM OHIO, CHAIRMAN, SUBCOMMITTEE ON ASIA AND THE PACIFIC

Mr. CHABOT. Good afternoon and welcome to this joint subcommittee hearing of the Foreign Affairs Subcommittee on Asia and the Pacific and the Armed Service Subcommittee on Seapower and Projection Forces. I want to thank Chairman Forbes for joining us this afternoon and collaborating with the Asia Pacific Subcommittee on the critically important topic of today's hearing, which is the issue of maritime security in the South and East China Seas. I also want to thank Mr. Ami Bera for serving as the Acting Ranking Member for Asia and Pacific Subcommittee and Ranking Member McIntyre for also joining us this afternoon. We look forward to an excellent hearing.

Today's hearing could not come at a more critical time, as we have seen over the last few months a growing level of tension in the Asia-Pacific region as a result of unilateral actions taken by China to exert its control over disputed maritime territories. We are witnessing a dangerously aggressive China trying to assert greater control over these territories to change the regional status quo in a way that violates core principles of international law. The implications of these actions for the United States are substantial since we have strategic and economic interests that are increasingly threatened by the growing tension and confrontational incidents in these waters.

An American presence in Asia is built on maintaining peace and stability that is upheld through respect for international law, freedom of navigation, and unhindered, lawful commerce in the maritime regions. This is pursued through our alliances with Japan, South Korea, Australia, Thailand and the Philippines, in addition to our steadfast relationships with Taiwan and Singapore, and evolving relationships with Vietnam and Indonesia.

In recognition of the region's growing importance, the U.S. policy rebalance toward Asia largely served as an acknowledgment of our

long-term goal of ensuring we remain firmly engaged in this region. This so-called "pivot" came at a crucial time, no doubt long overdue, because our regional friends and allies needed assurance of sustained U.S. commitment. While I may take issue with the lack of depth of the Administration's rebalance strategy, one thing is certain, we do have a grounded diplomatic, economic, and military commitment to the region.

There is no other issue right now in the Asia-Pacific region more worrisome than the rise in tensions we are seeing as a result of China's efforts to coercively change and destabilize the regional status quo. While I am disappointed by China's behavior, I am also not terribly surprised that it is failing to behave as a responsible global actor. Among the most prevalent reasons why China is motivated to fight for its claims, which include oil and gas reserves, fishing rights, control of fishing lanes, and establishment of security buffer zones, its view that its maritime territorial claims have deep historical roots is the most problematic.

There are a number of instances in history where nationalism was used to further international political goals with damaging consequences. Take, for instance, the incident when back in 1983 Soviet jet fighters intercepted a Korean Airlines passenger flight allegedly flying in Russian airspace and with heat-seeking missiles, shot it down in the Sea of Japan, killing all 268 passengers and crewmembers, including a U.S. Congressman. President Reagan called the incident a massacre and tensions between the U.S. and Soviet Union dramatically increased.

Similar motivations were behind the April 2001 Hainan Island incident when a People's Liberation Army Navy jet recklessly or intentionally collided with the U.S. EP–3 aircraft flying within China's exclusive economic zone. And now China's unilateral decision to establish an Air Defense Identification Zone in the East China Sea is its latest move to act upon historically contentious maritime territorial disputes with Japan. This move was further intensified this month when China established a new Hainan administrative zone and ordered all foreign fishing vessels to obtain approval before fishing in or surveying two-thirds of the South China Sea. Both these actions have only further inflamed what former Australian Prime Minister Kevin Rudd called an Asian "tinderbox on water."

While China's actions over the past few years, in piecemeal, may seem small, as a whole they depict a fundamental change in China's foreign policy and strategy. It is no longer following the policy of peaceful resolution or taking actions that align with international law, if it ever did in the first place. China's attempting to take the disputed territories by gradual force under the guise and misguided hope that Japan, Southeast Asian nations, and the U.S. will just grudgingly accept it. This "provocative" behavior, as the Obama administration has called it, unnecessarily raises tensions, threatening the security and stability of the region, targeting key U.S. allies and challenging the U.S. presence as a Pacific power.

As we have seen, players in the region are responding. Japan is taking steps to reshape its own national security apparatus to better respond to the rise of Chinese threats, a policy I support. The Philippines has also been vocal about its disagreements with Chi-

na's territorial claims, requesting arbitration against China under the U.N. [United Nations] Convention on the Law of the Sea last year. Reports this weekend indicate the Philippines is building its military presence in the Zhongye Island and China is now insisting that it plans to attack Philippine forces on the island to recover territory that Philippines allegedly "stole."

This all follows the Administration's decision to send B–52 bombers out of Guam to fly through the new defense zone in the East China Sea, and its plans to give nearly $32 million to Vietnam to strengthen maritime security, with a promise to provide the Philippines with $40 million to do the same. While these actions should send a strong message to China to be wary of taking further provocative actions, we cannot be sure. As we saw when the USS *Cowpens* narrowly avoided collision with a Chinese warship in December, heightened tensions between the U.S., China and also our allies are only increasing the risk of miscalculation in the region.

I believe steps taken by the U.S. and Japan to revise our alliance's bilateral defense guidelines to better deal with new contingencies is a good step, as is the consideration to locate U.S. troops in the Philippines on a rotational basis, as we have done in Australia. At the same time, I believe the Administration needs to do a better job at understanding and predicting China's strategic goals and clearly conveying that the U.S. is committed and prepared to work with and support our regional allies.

I look forward to hearing from our witnesses this afternoon regarding their views on how the U.S. can better manage obligations to our friends and allies to limit conflict with China in the coming months. I want to again thank Chairman Forbes and his subcommittee for collaborating on today's hearing, and I would now like to recognize Chairman Forbes for the purpose of making an opening statement.

[The prepared statement of Mr. Chabot can be found in the Appendix on page 37.]

STATEMENT OF HON. J. RANDY FORBES, A REPRESENTATIVE FROM VIRGINIA, CHAIRMAN, SUBCOMMITTEE ON SEAPOWER AND PROJECTION FORCES

Mr. FORBES. Thank you. And I would like to thank Chairman Chabot for offering to work with our subcommittee on this important topic.

There are many areas of interest that overlap between our two subcommittees and create natural areas for cooperation, and I hope this joint hearing will be the first of many to come in the future.

With the continued escalation of tensions in the East and South China Seas, or what China calls its Near Seas, I think it is essential for Congress to closely monitor this issue and affirmatively state our reservations with its present course.

My greatest fear is that China's coercive methods of dealing with territorial disputes could manifest into increased tensions that could ultimately lead to miscalculation.

This heightened use of coercive actions by Chinese naval vessels now spans the East and South China Seas from Japan's Senkaku Islands, the Scarborough Shoals, the Spratly Islands and, indeed, the entire South China Sea.

It is difficult for me to understand why China is pursuing the more aggressive actions it has over the past years given how much it has benefited from the rules-based order the U.S. and its allies have sustained in the Asia-Pacific region for the last 65 years.

This order has made the region more prosperous, more transparent and, above all, more peaceful. However, it is clear that as China has expanded its military forces and capabilities, their government has chosen a more strident path in the pursuit of its regional goals and ambitions, including the territorial claims we are here to discuss today.

I believe we must be 100 percent intolerant of China's territorial claims and its continued resort to forms of military coercion to alter the status quo in the region.

This requires not just maintaining a robust military and strong diplomatic posture, but also working closely with our friends and allies to understand their concerns and find ways to strengthen our common cause to preserve free access to the global commons.

As Congress shifts its attention more closely to the Asia-Pacific region, I am pleased to see bipartisan support for our Nation continuing to play a strong leadership role in the region.

Before I conclude, I also want to recognize Mr. Mike McIntyre for his dedicated support to the men and women in uniform, the 7th District of North Carolina, and to the greater United States.

Mike, you have been a good friend and a consummate statesman, and our Nation will be at a loss when you depart the House of Representatives at the conclusion of this session. I will clearly miss your friendship and your expertise.

Today I also want to thank our experts for being here. We look forward to your testimony, and we greatly appreciate you taking time to be here to share your knowledge and expertise with our two committees.

Again, I want to thank Chairman Chabot for holding this joint hearing, and I yield back the balance of my time.

[The prepared statement of Mr. Forbes can be found in the Appendix on page 40.]

Mr. CHABOT. I thank the gentleman.

I would now like to turn to the Ranking Member from North Carolina, Mr. McIntyre, for the purpose of making an opening statement.

STATEMENT OF HON. MIKE MCINTYRE, A REPRESENTATIVE FROM NORTH CAROLINA, RANKING MEMBER, SUBCOMMITTEE ON SEAPOWER AND PROJECTION FORCES

Mr. MCINTYRE. Thank you, Mr. Chairman.

Thanks to our witnesses today and to those who are here.

And thank you to my subcommittee chairman and my good friend, Randy Forbes, for your very kind words—and unexpected at this time; thank you, that really means a lot personally and professionally. And thank you for your leadership.

The Chinese government's recent behavior regarding maritime and airspace boundaries is of growing concern to the U.S. and to our allies in the region. And it is important for Congress to keep a close watch on this situation.

I am especially pleased we are doing this hearing jointly today with the Foreign Affairs Committee because we know in many situations, there is not always a military solution.

We have to always be ready, militarily, but we realize that it is critical that we have diplomatic and political aspects to be considered and obviously they are always the first recourse and the first choice when trying to resolve concerns.

We want to make sure that we have that perspective. We have a full range of tools at our disposal to consider when we look at various crises that may arise in this region.

Not every problem we know has a military solution. It is likely to mean that we should be in a position to look at how best we can resolve maritime disputes with China and that we can have a more robust diplomacy engaged in this region rather than seeking a military standoff.

We know that Japan has a strong military; however, some of our other allies in the region do not. And they are being intimidated, especially in the South China Sea.

So, without the naval and maritime air capabilities to patrol and protect this territory, many nations in the region are at a major disadvantage when they do feel threatened militarily.

So, over time, we have to address these imbalances between China and the regional—the countries in that region that could have a significant impact on China's actions but also have a significant impact on these countries and their security and safety.

The U.S. does have a major role to play in working with China with regard to international standards of conduct, and we should support our regional allies in every way we can to make sure that our allies are considered equal partners with us.

And we have had other briefings where the military has laid out its ambitions to engage with and in some—sometimes train our regional allies. Those military efforts are absolutely important, but we realize those military efforts cannot stand as the sole response.

We must have a concerted diplomatic effort. And right now, we do not quite seem to have reached that goal of having that concerted diplomatic effort.

We must be able to make sure that we are not always reacting, but also being proactive in making sure that we have the best possible diplomatic solutions, as well as the best possible military preparation to make sure that we are in a situation where we can resolve differences and be able to avoid conflict.

We are very thankful for those who serve in our military, and are always ready and on standby. We want them to always be in a position to be prepared. We also now must make sure that we are always prepared to handle matters diplomatically, and do what we can to help resolve conflict.

We look forward to hearing from today's panel of experts, and thank you for your time with us. And thank you, Mr. Chairman, and Mr. Ranking.

Mr. CHABOT. I thank the gentleman for his opening statement. The Ranking Member of the Asia and Pacific Subcommittee is unable to be here, Mr. Faleomavaega. So the acting Ranking Member is Mr. Bera from California, I would like to recognize him for making an opening statement.

STATEMENT OF HON. AMI BERA, A REPRESENTATIVE FROM CALIFORNIA, ACTING RANKING MEMBER, SUBCOMMITTEE ON ASIA AND THE PACIFIC

Dr. BERA. Great. Thank you, Chairman Chabot. Thank you, Chairman Forbes, for what is an incredibly important, crucial, and timely hearing on maritime sovereignty in the South and East China Seas.

I believe it is important for us, as a Congress, to really begin exploring what actions we should take to maintain these key maritime and airspace routes, and keep them open. I also am deeply concerned about the actions China took, particularly the rapidity of the announcement on unilaterally establishing a new East China Sea Air Defense Identification Zone, an ADIZ.

China's dramatic ADIZ expansion really extends over the East China Sea territories that historically have been under the hands of administrative control, and certainly overlaps with ADIZs of Japan and the Republic of Korea, two important allies of the United States.

China is also now requiring that foreign aircraft file flight plans if they intend to fly in Chinese airspace, and has threatened that their armed forces would respond in cases of non-compliance. Furthermore, China continues to exhibit a disturbing trend in their foreign policy.

We have seen this before, if we look at the example of the South China Sea, you know, as they extended. And if you look at the nine-dash line area, it creates conflict, it creates tension and uncertainty. And, you know, if we don't respond immediately, you know, over time, it becomes much more complex and much more difficult for us to address.

The nine-dash line affects island groups and reefs that are also claimed by Indonesia, Malaysia, the Philippines, Taiwan, Vietnam, all important trading partners of the United States, and all at a crucial time when we are demonstrating this pivot to Asia. And the United States has a role in mediating and, you know, lowering the volume here a bit.

China is also requiring that all foreign fishing vessels obtain permission from China to navigate these contested waters. Unacceptable. China—China—Chinese authorities are showing vigor, and pushing maritime power as a fundamental national goal, and one that they are willing to challenge anyone on.

We have got to send, as a body, in a bipartisan manner, a strong message to China that these threatening and provocative moves to assert their maritime territorial claims are unacceptable. These steps clearly undermine the peace and stability of the Asia-Pacific. If China is left unchallenged, China's claims over the region will solidify, thus altering the status quo.

The time for a provocative and strategic engagement with our allies is now, before China's next move, like more ADIZ expansions for the South China Sea or the Yellow Sea. We have got to do this immediately. China and the other nations in the region must address any outstanding territorial and jurisdictional issues by engaging in diplomatic dialogue, and not through coercion, threats, or force.

International laws and norms must be upheld in order to de-escalate tensions and mitigate any risk of an accidental military clash. And that is dangerous. Given the importance of trade and transport in this region, the U.S. must navigate and enforce the right to freely navigate in these contested areas.

Again, Mr. Chairman, thank you for calling this important hearing. I look forward to hearing the testimony of the witnesses and working together as a body. I yield back.

Mr. CHABOT. I thank the gentleman for his statement, and the chair would be pleased to extend an opportunity for members to make a 1-minute opening statement if they would like to do so. The gentleman from California, Mr. Rohrabacher, is recognized.

STATEMENT OF HON. DANA ROHRABACHER, A REPRESENTATIVE FROM CALIFORNIA, SUBCOMMITTEE ON ASIA AND THE PACIFIC

Mr. ROHRABACHER. Thank you very much. The alarm bells may finally be ringing, what some of us have been warning about for years. The fact that we have been treating China, the world's worst human-rights abuser, as if it was a democratic ally, we have been giving trade and economic benefits to the Chinese government, which as I say, the world's worst human-rights abuser, a vicious dictatorship.

We have been giving better rights than we do to some of our own friends and some of our democratic allies. They have had most-favored-nation status now for almost 20 years. Some of our other allies haven't had that.

And now they have built up their economic might, and surprise, surprise, they are using their new capabilities to build a very powerful military machine that threatens the peace and stability not only of that region, but of the world.

Well, I would call on this Administration and my colleagues, and all of us who want peace, and want and believe in democracy. It is time for us to back up 100 percent our allies who are front line, confronting this new threat, whether it is Australia, Japan, Taiwan, Korea, or the Philippines. We need to get behind them in a big way, and send that message to Beijing.

There is no faltering on our part, supporting these countries, these democratic countries, against this dictatorship's claims and its military buildup in the region. Thank you very much, Mr. Chairman.

Mr. CHABOT. Thank you. The gentleman's time is expired. The gentleman from Connecticut? The gentleman from California, Mr. Sherman, is recognized for the purpose of making a 1-minute statement.

STATEMENT OF HON. BRAD SHERMAN, A REPRESENTATIVE FROM CALIFORNIA, SUBCOMMITTEE ON ASIA AND THE PACIFIC

Mr. SHERMAN. Our national policy establishment has embraced the new phrase, "pivot toward Asia," which sounds like more trade delegations to Tokyo and more Chinese language courses in our university, but actually means that the fight against Islamic extremism is either over or it is inconvenient, and we are directing our

national security efforts toward confronting China as the new enemy.

Already, the Pentagon is shifting its design of its research, and ultimately forces toward taking on the Chinese navy. We are told that we need to pivot to Asia to protect tiny specks that may be of some economic value to countries that spend far less of their GDP [gross domestic product] than we do, protecting their own little—little island specks.

The fact is that a confrontation with China may give our national security establishment a—the kind of glorious enemy that they would like to have, rather than the frustrations of dealing with asymmetric conflict against an enemy that doesn't wear uniforms.

But the fact is, these are tiny specks. Those nations that claim them are willing to fight to get—as long as we spend trillions of dollars to protect what might be billions of dollars of assets. I yield back.

Mr. CHABOT. Thank you. The gentleman's time is expired. Gentleman from Arizona, Mr. Salmon, is recognized for a minute.

STATEMENT OF HON. MATT SALMON, A REPRESENTATIVE FROM ARIZONA, SUBCOMMITTEE ON ASIA AND THE PACIFIC

Mr. SALMON. Thank you. I would like to thank my chairman, Steve Chabot, and Chairman Forbes for holding this joint hearing on this critical national security and foreign-policy issue.

Over the last several years, we have seen increased aggressions in the disputed waters of the South China Sea, and more recently, the East China Sea. As China has sought to expand their control of the region, U.S. allies are struggling to ensure their sovereignty is maintained and navigational rights to the South and East China Sea is protected.

Military and commercial access to the navigable waters of the South and East China Seas are critical to the security and economic viability of every country in the region. Strong U.S. allies, including Japan, Taiwan, and Philippines, Vietnam, South Korea, have come under increasing pressure from China to cede or temper these inalienable sovereign rights to the Chinese will.

There must be a peaceful pass forward to protect the U.S. regional allies that ensures U.S. national security interests and avoids unnecessary conflict and aggressions.

President Ma of Taiwan has proposed the East China Sea Peace Initiative as a means to resolving disputes peacefully by exercising restraint, refraining from taking antagonistic actions, following international law, and continuing dialogue. I hope the Chinese and the other regional powers will embrace this as a solution going forward.

China has indicated a desire to settle disputes peacefully, but has been unwilling to open dialogue and negotiations in a multilateral way. This is disappointing. We have got to continue to align with our allies in assuring their sovereign rights to open commercial and military access to the waters of the South and East China Seas.

Hopefully, the Chinese will work with their neighbors and implement a peaceful, multilateral dispute resolution system that will

protect all countries' sovereign rights going forward. Thank you. I yield back.

Mr. CHABOT. I thank the gentleman. The gentleman from Georgia. The gentleman from Georgia is recognized.

STATEMENT OF HON. HENRY C. "HANK" JOHNSON, JR., A REPRESENTATIVE FROM GEORGIA, SUBCOMMITTEE ON SEAPOWER AND PROJECTION FORCES

Mr. JOHNSON. Yes, I will. I will take the opportunity to say that, you know, we face some very serious issues throughout the world. Sequestration and budget numbers in that area don't help us out a whole lot when it comes to confronting these challenges, both in the Middle East and the Asia-Pacific.

But I will say, I am happy to share this—this room today with members of the Foreign Affairs Committee, because if we have ever—if ever there has been a time for diplomacy, it is now. And so with that, I will yield back.

Mr. CHABOT. I thank the gentleman for yielding back. Would other members like to make opening statements on either side? If you could indicate you do, I would be happy to recognize others. If not, we will go ahead and proceed to the introduction of the witness panel.

We have a very distinguished panel of witnesses here this afternoon. We will begin with Mr. Peter Dutton, who is a professor of strategic studies, and the Director of the China Maritime Studies Institute at the U.S. Naval War College. Professor Dutton's current research focuses on American and Chinese views of sovereignty and international law of the sea, and the strategic implications to the United States and the United States Navy of Chinese international law and policy choices. Professor Dutton is widely published, and has previously testified before the Senate Foreign Relations Committee. He also researches and lectures on topics related to international law of the sea, issues in the East and South China Seas, East and Southeast Asia and the Arctic, in addition to the Proliferation Security Initiative and Maritime Strategy.

He is a retired Navy Judge Advocate and holds a Juris Doctor from The College of William and Mary, my alma mater, a Masters with Distinction from the Naval War College, and a Bachelor of Science cum laude from Boston University.

We welcome you, Mr. Dutton.

I would like to also introduce the other panel members.

We have Bonnie S. Glaser, who is a senior advisor for Asia and the Freeman Chair in China Studies at the Center for Strategic and International Studies [CSIS] where she works on issues related to Chinese foreign and security policy. She is concurrently a senior associate with CSIS Pacific Forum and a consultant for the U.S. government on East Asia. Ms. Glaser previously served as senior associate in the CSIS International Security Program. Prior to joining CSIS, she served as a consultant for various U.S. government offices including the Departments of Defense and State. Ms. Glaser has written extensively on Chinese threat perceptions and U.S.-China strategy. She received her B.A. in Political Science from Boston University and her M.A. with concentrations in inter-

national economics and Chinese studies from the John Hopkins School of Advanced International Studies.

And we welcome you here this afternoon, Ms. Glaser.

Our final witness will be Jeff M. Smith, who is the Kraemer Strategy Fellow at the American Foreign Policy Council (AFPC) and the author of a forthcoming book on China-India relations in the 21st century. He also serves as the managing editor of the World Almanac of Islamism and the editor of AFPC's South Asia Security Monitor. He has provided briefings and consultations for the Pentagon, State Department, and intelligence community. Mr. Smith's writings have appeared in the Wall Street Journal of Asia, U.S. News and World Report, among others. Additionally, he has been a commentator for many world news organizations such as BCC and others.

Mr. Smith has an MPIA [Master of Public and International Affairs] from the University of Pittsburgh's Graduate School of Public and International Affairs and studied abroad at Oxford University in 2005. He has lectured at the graduate and undergraduate level.

We welcome all three of you this afternoon. I apologize for my voice which is not up to the standards it ought to be, but not much I can do about it.

I am sure that the panel is familiar with the 5-minute rule. You will each have 5 minutes to testify. We have a lighting system. The yellow light will come on when you have 1 minute to wrap up. We would appreciate it if you wrapped up as closely to when the red light comes on as possible.

And, Professor Dutton, you are recognized for 5 minutes.

STATEMENT OF PETER A. DUTTON, STRATEGIC RESEARCHER, CHINA MARITIME STUDIES INSTITUTE, U.S. NAVAL WAR COLLEGE

Mr. DUTTON. Thank you very much, Mr. Chairmen, Ranking Members, and distinguished members of the subcommittees. Thank you very much for the opportunity to testify before you today.

The first question I was asked to address has to do with what it is that China's extension of power over the Near Seas gains for China, and the extension of China's strategic power over its Near Seas through expanding military capabilities, growing law enforcement capacity, sweeping legal frameworks, augmented by orchestrated civilian activities and political and economic arm-twisting, has deep strategic roots.

And the roots are grounded, in China's view, that prior to 1840—and this goes back in history, but prior to 1840 when China dominated the East Asian system, it was a continental system, all of the strategic events occurred on the continent and China could dominate the maritime periphery and the maritime periphery could not dominate China.

After 1840, that reversed. It is the maritime periphery where the strategic actions in Asia have been evolving, and it is in the American interest for it to remain that way.

So, first and foremost, it is the failure of previous Chinese leaders to close the maritime gap in China's arc of security and the invasions from the sea that resulted that motivates China's current leaders to extend strategic power over the Near Seas and which

provides them internal domestic legitimacy. I think that is important to note.

Second, as China advances, the aim of China's regional maritime strategy as it advances is to expand its interior control over the Near Seas to cover the maritime demand under an umbrella of continental control for the purpose of enhancing that perceived security that China gains from this.

So the two attributes that China gets are security and leadership legitimacy from extending its control over the region.

Second, what does this have to do with the Senkakus? Chinese activities around the Senkaku/Diaoyu Islands have, since December 2008, been designed to create a circumstance that puts Japanese control over the islands in doubt.

The manner in which Chinese activities are conducted is carefully calibrated to achieve the objective without provoking outright conflict with the United States.

China's strategy can best be described, in my view, as non-militarized coercion. Non-militarized coercion involves the direct and indirect application of a broad range of national capabilities to favorably alter the situation at sea in China's favor.

That does not mean that the military has no role to play. The military's role, however, is indirect as part of the escalation control mechanism that China uses not to provoke conflict with the United States as it pursues its objectives.

The integrated process of power and law accurately describes the events around the Senkaku/Diaoyu Islands and also with the Scarborough Shoal in the South China Sea, over which China wrestled full control from the Philippines over a year ago.

There are many other examples in various stages of development around China's periphery, including China's claim to the East China Sea continental shelf and China's advancing claims to administer the waters within the nine-dash or U-shaped line in the South China Sea.

The third question is what does the Air Defense Identification Zone have to do with this? Well, China's strategy to control water and airspace is similar to its power and approach to controlling the islands in the East and South China Sea.

The purpose of China's force structure component is obviously to develop the power to dominate events in the Near Seas according to will—China's will. The purpose of the legal component of China's strategy is to articulate a legitimizing narrative for the development and employment of this power.

So China's ADIZ is part of a coordinated legal campaign to extend maximal security jurisdiction over the East China Sea and the international airspace above it, beyond the authorities currently allowed by international law, in support of its objectives related to security, resource control, and regional order.

And so what are the policy implications for the United States? Well, there are many, but I would like to point out just a few.

The first is the Chinese have been talking this great power—"new-type great power relationship" with the United States. I think we need to come back with expectations that China will become a responsible leading power.

Leading in the sense of leadership over the existing global system of institutionalized economic and security mechanisms designed to foster regional and global stability and economic progress.

Responsible as a supporter and defender of that system and all its attributes, the institutions, the laws, the rules, the principles and norms, and refraining from self-interested actions that conflict with them.

And, power, in recognition that China is one of only a few states with global economic, political, and security interests and some capacity to exercise global leadership.

I have a number of recommendations we can talk about during testimony if you would like. Thank you.

[The prepared statement of Mr. Dutton can be found in the Appendix on page 44.]

Mr. CHABOT. I thank the gentleman for your testimony.

We will turn to Ms. Glaser. You are recognized for 5 minutes.

If you could turn the mic on please. Thank you.

STATEMENT OF BONNIE S. GLASER, SENIOR ADVISOR FOR ASIA, FREEMAN CHAIR IN CHINA STUDIES AND SENIOR ASSOCIATE, PACIFIC FORUM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

Ms. GLASER. Mr. Chairmen, Mr. Ranking Members, distinguished members of the subcommittees, for this opportunity to offer my thoughts on China's maritime disputes.

As you all said, disputes in the waters and airspace off China's eastern coastline have fueled increased tensions in recent years, both between China and its neighbors as well as between China and the United States.

How Beijing manages these disputes is widely seen as a litmus test of China's broader strategic intentions, and how the United States responds to China's growing propensity to use coercion, bullying, and "salami-slicing" tactics to secure its territorial and maritime interests is increasingly viewed as the key measure of success of the U.S. rebalance to Asia.

The risk of a clash with the attendant potential for escalation is highest today, I think, between China and Japan in the East China Sea. And the United States could become entangled in such a Sino-Japanese conflict as a result of its obligations under the U.S.-Japan mutual security treaty.

China's recent declaration of an ADIZ that overlaps substantially with Japan's ADIZ and covers the disputed islands significantly increases that risk of accident and miscalculation.

China's "salami-slicing" tactics have been evident in both the East China Sea and the South China Sea. Through a steady progression of small steps, none of which by itself is a casus belli, China seeks to gradually change the status quo in its favor, and it is scoring some victories without adequate consequences.

Chinese efforts to restrict free use of the maritime commons is also worrying. We saw the recent example on December 5th in which the PLA [People's Liberation Army] Navy vessel engaged in dangerous maneuvers to stop the USS *Cowpens* from observing drills conducted by China's aircraft carrier.

And as U.S. and Chinese vessels operate in increasingly close proximity, I think such incidents are likely to increase.

Regional concerns about territorial and maritime disputes in the Asia-Pacific are very much on the rise. East Asian governments increasingly view closer ties with the United States as a useful hedge against potential domineering behavior by China.

Virtually every country in Northeast Asia and Southeast Asia has been publicly or privately supportive of the U.S. rebalance to Asia. They hope the U.S. will sustain its role as balancer and counterweight to growing Chinese power.

But I must emphasize that doubts persist about the credibility and the constancy of U.S. power.

The U.S. has multiple interests at stake in these maritime disputes. We all know the U.S. supports—we have at stake the maintenance of freedom of navigation, the encouragement of a rules-based international system, the maintenance of U.S. credibility and influence in the region, certainly the peaceful resolution of disputes.

We also have an interest in the development of a cooperative relationship with a rising China. In the coming decade, the U.S. role I think will be pivotal in shaping the strategic landscape in the Asia-Pacific region.

We must continue to be engaged economically, diplomatically, and militarily to influence the future balance of power in the region and ensure it remains favorable to the interests of the United States, its allies, and its partners.

Congress can play a vital role in this process and my recommendations for Congress going forward are as follows:

First, Congress should require the executive branch to produce a strategy paper on the rebalance to Asia. The paper should establish explicit objectives and benchmarks for evaluating progress.

And it should include incentives to China to abide by international law and practices, as well as consequences for violating them.

Second, Congress should encourage other governments and legislatures in the Asia-Pacific to back the Philippines' right to use available international arbitration mechanisms to address its territorial dispute with China.

If this tribunal rules in Manila's favor, and China does not comply, this will have profoundly negative impact on peace and stability in the region. This is a way to tether China to a rules-based order. It is an opportunity.

Third, the United States Senate, I believe, should ratify UNCLOS [United Nations Convention on the Law of the Sea], to increase the effectiveness of U.S. efforts to pursue a rules-based approach to managing and resolving disputes over maritime jurisdiction.

And fourth, Congress should enact trade promotion authority legislation so that the Administration can persuade the other countries negotiating the TPP [Trans-Pacific Partnership] that the U.S. will be able not just to sign, but also ratify a high-standard TPP agreement.

Maintaining American economic leadership in the Asia-Pacific is imperative to enhancing the U.S. ability to achieve its other inter-

ests, including the promotion of a rules-based system and the peaceful settlement of maritime disputes. Thank you very much.

[The prepared statement of Ms. Glaser can be found in the Appendix on page 56.]

Mr. CHABOT. Thank you very much for your testimony. Mr. Smith, you are recognized for 5 minutes.

STATEMENT OF JEFF M. SMITH, DIRECTOR OF SOUTH ASIA PROGRAMS, KRAEMER STRATEGY FELLOW, AMERICAN FOREIGN POLICY COUNCIL

Mr. SMITH. I would like to thank the chairmen and the ranking members for the opportunity——

Mr. CHABOT. If you could turn the mic—thank you.

Mr. SMITH. I would like to thank the chairmen and the ranking members for the opportunity to appear before you today.

In recent months, the world attention has been focused on China's provocative behavior towards the Senkaku and Diaoyu Island dispute, and for good reason. That dispute demands our utmost attention, and poses a tangible risk for interstate conflict in the years to come.

However, the issue of maritime sovereignty in the East and South China Seas encompasses more than simply China's territorial disputes with its neighbors. I want to focus my remarks on a disagreement between the U.S. and China over the type of sovereignty China is claiming in its 200 nautical-mile exclusive economic zone, or EEZ, and specifically, the right of the U.S. military to conduct surveillance operations there.

Our dispute derives from differing interpretations of the U.N. Convention on the Law of the Sea, or UNCLOS, a treaty the U.S. has not signed, but whose maritime boundary distinctions we observe and practice. Under Beijing's interpretation, China enjoys expansive sovereign rights in its EEZ, including the right to deny U.S. military access to conduct surveillance operations.

China is not alone in this interpretation. At least 16 other countries share Beijing's position. But China is the only country that has operationally challenged U.S. forces, leading to more than half a dozen dangerous confrontations at sea over the past decade, which are documented in the appendix to my testimony.

The U.S. and most countries of the world reject this interpretation of UNCLOS, arguing that China cannot treat the EEZ as if it were a sovereign territorial sea. My testimony shows how U.S. scholars have thoroughly debunked Beijing's reading of the treaty, and that UNCLOS does not require home-state consent to conduct surveillance operations in an EEZ.

Yet the confrontations continue. And if the U.S. and China don't come to a modus vivendi on a code of maritime conduct in Western Pacific, the possibility for escalation and confrontation is very real.

Further aggravating the situation is the poor military-to-military [mil-mil] relationship between our two countries. Though we have taken some small steps forward in engaging the PLA in recent years, mil-mil remains the most underdeveloped and concerning aspect of bilateral relations.

While the political and professional Chinese elite are experiencing an unprecedented level of exposure to the outside world,

this encouraging trend has not yet reached the People's Liberation Army, which tightly restricts contacts with the U.S., particularly for junior officers.

By design, the PLA ranks remain conspiracy-minded, hawkish, and insulated from the Western world, and even to some liberal influences within China. This is worrying, because many Chinese nationalists inside and outside the PLA see the U.S. as engaged in a containment strategy designed to prevent China's rise and undermine its security.

Firebrand nationalists are taking to the airwaves and Web pages to denounce a U.S. foreign policy they believe is aggravating China's territorial disputes with Japan, the Philippines, and Vietnam. And China's leaders are increasingly pandering to these nationalists, escalating their own hawkish rhetoric, and in the process, restricting their freedom to maneuver in the future.

The trend is worrying enough that last year, the vice president of the PLA's Academy of Military Science warned publically that PLA commentators were "inciting public sentiment and causing interference with our high-level policy decision-making and deployments."

Testing boundaries and establishing new status quos favorable to China has been a defining feature of its regional policy in recent years. When the U.S. and other countries have faltered in the face of this policy, as was the case with the Philippines in the Scarborough Shoal, China has advanced its goals and established new status quo.

However, where the U.S. has held firm in its position and demonstrated resolve, Beijing has backed down. The same result must be committed to surveillance activities in China's EEZ.

America's position on this issue is not only within the U.S. national interest, it is fully supported by domestic and international law. Were we to accept China's interpretation of UNCLOS, U.S. military vessels could be barred from operating in large swaths of the world's oceans, an outcome that is clearly unacceptable to Washington and one never envisioned by the drafters of UNCLOS.

The U.S. has in the past attempted to create a code of conduct with China on these matters. However, talks have been stalled on Chinese demands that the U.S. end arm sales to Taiwan, put an end to surveillance activities, and repeal provisions of the 2000 National Defense Authorization Act.

The U.S. should do everything at its disposal to ensure future incidents do not escalate, but it must reaffirm that U.S. policy will not be subject to fear, intimidation, coercion, or reckless behavior from Chinese naval forces.

Furthermore, Washington must do a better job drawing clear red lines around unacceptable behavior in the maritime arena and enforce those red lines when they are crossed. To that end, the U.S. should continue an active schedule of surveillance activities, patrolling, and freedom of navigation operations.

America carries a special burden on this issue. While Beijing views its neighbors as subservient regional powers, the Chinese leadership acknowledges and respects American power, even as they increasingly resent that power.

As perhaps the only country capable of drawing and enforcing red lines, America's allies in the region are depending on the U.S. to be a firewall against Chinese aggression in the Western Pacific. Thank you.

[The prepared statement of Mr. Smith can be found in the Appendix on page 70.]

Mr. CHABOT. Thank you very much for your testimony. I now recognize each of the Members for 5 minutes to ask questions. And I will recognize myself at this time.

Ms. Glaser, let me start with you first, if I can. In your testimony, you recommended that Congress urge the executive branch to impose consequences on China when they violate international laws and norms. How do you propose the Administration penalize China, or punish China, or whatever the proper verb would be, for violating international laws such as its decision to unilaterally impose an Air Defense Identification Zone, for example?

Ms. GLASER. Thank you very much, Mr. Chairman, for your very important question. I think that the Administration took one very important step, and that was flying our B–52s through that zone, not recognizing the zone.

I think we should be doing more. The United States and Japan, for example, could conduct joint flights through that zone.

In other words, the message is that China's behavior threatens the security of its neighbors, and therefore, there is a stepped-up military response. So there should be, I think, greater cooperation.

I would also like to see the United States continue to encourage greater military cooperation among Japan, and South Korea, and the United States, which is ongoing, and I think has been somewhat complicated by some of the political decisions recently made in Japan by Prime Minister Abe in his visit to the Yasukuni Shrine. But I think that ultimately, these are very, very important.

In other cases, I think that the United States can adopt targeted sanctions or responses to Chinese behavior. For example, in the cyber area, it has been widely discussed how the United States might adopt some very targeted sanctions that are aimed at responding to China's use of cyber to steal intellectual property, commercial proprietary information.

So those are some of the examples that I would give. Thank you.

Mr. CHABOT. Thank you very much. Professor Dutton, let me turn to you next, if I can. You mention a couple of things that I wanted to touch on.

In your testimony, you said that unless current trends in the region change, there is no reason to believe that China's campaign will stop short of achieving its aims, which are gaining the upper hand on regional security, redeveloping regional order, and gaining control of maritime resources. You also said that the U.S. should seek to develop a new type of great-power relationship with China. What does such a relationship look like? Also in terms of this trend China is creating, I believe it is in our interest to slow that trend down, and in fact, to stop it. How do you also suggest that we accomplish that?

Mr. DUTTON. Yes, thank you very much for the question. First, I would like to say that U.S. and regional strategies have largely

been reactive. In other words, China has had and maintained the initiative.

I think we need to restore the initiative in this process by thinking about rather than what I will call "negative objectives," in other words, prevent bad things from happening, let's have a positive objective, which is to create a region that is fully integrated into the global system and stable at the same time.

So part of what I was articulating since I submitted the testimony, I thought more about your question. And actually, in my oral comments, made the point that we need to expect China to be a responsible leading power, not just a, frankly, self-interested regional leading power, right. We need to expect them to do more for the system and to support the system, because of the benefits that they receive from it.

What that means is, in terms of the consequences that my colleague, Ms. Glaser, is talking about, we need to think about consequences that broaden the horizon of options. In other words, if we just respond in kind—if China provokes, we respond with a similar kind of action—then we are still being reactive.

So we need to think more broadly about the type of responses. So if China does something in the security field, well, maybe we need an economic or political reaction to it, not just a security reaction, in ways that imposes a cost on China, that China would prefer not to have to pay.

For instance, China was invited to join the Arctic Council recently. That is a benefit that China has received. There are other similar kinds of things that China would like to receive.

Well, we need to impose costs when China fails to act in ways that benefit and support the system. We are inviting them to share responsible leadership into the system; now we need to expect them to maintain proper leadership over the system's rules, norms, principles, and laws.

Mr. CHABOT. Okay. Thank you very much. My time is expired.

The gentleman from Connecticut, Mr. Courtney, is recognized for 5 minutes.

Mr. COURTNEY. Thank you, Mr. Chairman. Thank you for organizing this hearing and the witnesses for their outstanding testimony.

Mr. Dutton, in your sort of policy recommendations starting on page nine, again, deterrence was certainly one of the recommendations you set forth.

And in particular, you said, "In terms of naval power, I am especially concerned that the U.S. continue to invest in maintaining its advantage in undersea warfare."

I mean, given the fact that some of these bodies of water are described as relatively shallow, maybe you could just sort of explain your thoughts on that.

Mr. DUTTON. First I would—certainly, sir. Thank you for the question. I—first of all, the ability to impose maritime actions in East Asia requires our ability to access the water space.

And although, yes, in some parts of the East China Sea, in particular, the water space is relatively shallow and submarine operations in that particular location may or may not be appropriate—I am not a submariner, I don't know.

But the truth of the matter is the submarine component of American naval power is one in which we enjoy an advantage, and that advantage is one that we need to maintain in order to maintain our access for all forces within the region. That is the point I am trying to make.

Mr. COURTNEY. Okay, thank you. And your second recommendation, again, talked about sort of coordinating with our allies in the region in terms of, you know, making sure that not everybody is, you know, kind of duplicating, I guess, resources.

The New York Times the other day had an editorial, "The Submarine Race in Asia," which talked about how, you know, the Vietnamese navy and the Malaysian navy and—I mean, everybody's navy is sort of rushing to, you know, buy or build submarines.

Your recommendation seems to be that some of these allies should be more focused on sort of Whitehall Coast Guard-like capability and sort of—I guess I am sort of—well, maybe you can tell me.

Are you sort of suggesting that the sort of military side should be sort of the U.S. Navy's realm? Am I reading that right?

Mr. DUTTON. Well, it is sort of—we certainly welcome support. I think the United States Navy has been very open and clear about that.

I don't mean to speak for the Navy. What I mean to say is that the Navy has been very open in terms of support for naval activities in the region.

But what we don't want to see is a negative spiral—negative security spiral. What we want to see is a more positive direction for maritime power in the region.

And one of the things—countries will make their own decisions about what force structures they need to have—but one of the things that is important that all countries in the region be able to do is to enforce their own maritime interests in terms of their exclusive economic zone and the fisheries issues that they have rather than simply allowing China to continue to build its law enforcement capacity without any regional response.

So, I am not suggesting that the regional states should not make their own decisions about their force structure, but I do hate to see a negative regional spiral in which countries are starting to get into arms races that could be very destabilizing.

Mr. COURTNEY. Great, thank you.

Ms. Glaser, you know, sort of—there has been a little bit of what came first, the chicken or the egg. Is it the Asia pivot that stimulated the claim of territorial space or is the pivot in reaction to the claims of territorial space?

And I just wondered if you could sort of give your thoughts in terms of, you know, the Asia pivot, in terms of whether it was justified or whether it is provoking a negative reaction.

Ms. GLASER. Well, thank you very much for that question. I think that is actually a narrative that is quite common in China.

And I think when the Obama administration came to power, they had the idea that—this is particularly in 2009—that China was going to be a partner on a range of issues that were very important for the United States.

We heard officials talk about how no global problem could be solved without Chinese cooperation. So, global warming, proliferation, the global financial crisis—these were all things that the United States was going to work with China on.

And this was really borne out of the same time that the pivot really came into being, even though it wasn't really announced until later. Very early on, as we heard from former National Security Advisor Tom Donilon in a speech that he gave at CSIS, Administration advisors even before the President was inaugurated, I understand, talked about where we were overinvested in the region, where we were underinvested.

It was so clear that the economic dynamism in the Asia-Pacific was so important to the rejuvenation of the American economy and the institutions that were being formed in the Asia-Pacific region like the East Asia Summit—we needed to be a part of; and that decision was made really very, very early on.

So, I think that the rebalance to Asia from the beginning was about including China, and it is China's more coercive behavior that we saw really take full form, I think, in 2010 and then thereafter, that has caused it to have a sharper edge in dealing with China—in large part because of the magnetic demand pull from the region which has been calling on the United States to be more involved diplomatically, economically, and militarily—to give them some backing so that they, too, can stand up for their interests.

Mr. CHABOT. The gentleman's time has expired.

Chairman Forbes is recognized.

Mr. FORBES. Thank you, Mr. Chairman.

And thank all of you for being here. You know, to each of you three witnesses, I appreciate your work. I have enormous respect for what you have done—your expertise.

Undoubtedly, that is shared by both of our subcommittees and the staffs or else they wouldn't have invited you here.

So, in that collective expertise, Ms. Glaser, I want to start with you, but I want both of our other witnesses to weigh in on this.

You mention this concept of strategy. We have been groping around in the night to try to find it.

And as I think all of us recognize, we agreed with the concept of a pivot or rebalance to the Asia-Pacific area, but we also believe very strongly we needed to have a strategy that we could get our hands around.

In July of last year, I wrote a letter to Susan Rice requesting that the Administration do an interagency review of their strategy so that we could articulate that and note what it was.

I got a very prompt response back 3 months later that said that they had done that. They called it a vision, first of all, and then they came back and said, "We are continuing to implement our comprehensive strategy."

But I have yet to find anybody that can really articulate that strategy or any of the agencies that say, "Yes, we have sat down and done this."

In the new omnibus bill that is coming up there is good language in here because we require within 90 days after the enactment of that provision that the Secretary of State do just that—develop that strategy and give an integrated, multi-year planning and

budget strategy for rebalancing of United States policy in Asia back to the respective committees.

In your expertise and knowledge, do you believe that strategy exists today? Do we have any such interagency strategy that we have developed or do you think that is something that yet needs to be designed and developed?

Ms. GLASER. That is, indeed, a very important question. I think that there are pieces of the strategy. I don't think they are necessarily well-coordinated.

I think that the Defense Department [DOD] is working very effectively within the constraints of budget cuts and potential future sequestration cuts and I think that they are very focused on the problem——

Mr. FORBES. I don't want to interrupt you—I want to just add this, too. We are being told by so many people that weigh in on this that this needs to be a more holistic approach, though; it can't be just——

Ms. GLASER. Yes.

Mr. FORBES. DOD. Do you agree with——

Ms. GLASER. And that is exactly the point that I was going to make. We really do need more of a whole-of-government approach. You can't just have the diplomatic piece working at—by itself and independently—and the economic piece and the military piece.

I think it is very helpful when there is a central document that is generated in the Administration that assigns various responsibilities to certain agencies and then they all see how the means and the ends come together to—in the pursuit of very specific objectives.

I don't think that the Administration has done that yet. There have been some very good speeches that have been given by senior Administration officials, but they are not seen by the region as sufficient enough to ease their concerns about U.S. staying power.

There is growing concern in the region that the United States is being distracted—that the priorities of some of the officials in government are elsewhere. And the United States is a global power—we have priorities in many places in the world. And just because we happen to be doing something in the Middle East today doesn't mean that we can't also address our interest and the interests of the wider countries in the region at the same time.

And a document like this, I think, will go a long way towards easing that concern and actually generating a more coherent strategy within the Administration. So, I am very much in support of this effort.

Mr. FORBES. Mr. Dutton? Mr. Smith? How do you feel about?

Mr. DUTTON. I do agree, actually. And one of the problems we are confronting is that there is really a certain—I am going to call it strategic ambivalence here—in that on the one hand, the Administration seems to want to achieve a stable relationship with China. On the other hand, it wants to reassure friends, allies, and partners in the region.

And that—those have become an increasingly difficult goals to reconcile because of the friction between the two in the region. So, we do, I think, need to, rather than simply say we want to deter,

prevent, and maintain stability, we need to articulate a positive regional end state.

In other words, what would a region in the—what would a positive regional system in Asia look like and how could we, then, begin to move closer toward it over time, rather than simply saying—rather we don't want anything bad or destabilizing or negative to occur in the region. How do we make it a positive region?

Mr. FORBES. Mr. Smith.

Mr. SMITH. I want to associate myself with Bonnie and Peter's remarks and also say that I do think there is a great deal of room for us to further flesh out this pivot strategy.

I get frequently asked, not only by Chinese guests but also by visiting fellows from other Asian countries, what does the pivot mean? Is it sustainable? What exactly are you trying to accomplish with it?

And we are not always able to provide them good answers. There is a great deal of uncertainty that remains in the region.

One trend I do think that is positive is that we have been emphasizing more of an economic and diplomatic component to it, rather than a purely military component. And I think that has helped the image of the pivot in the region, and I think we should continue to emphasize that.

But I also don't think we should be ashamed of admitting our concerns. I think we should be candid with China, and we should note that some aspects of the pivot are our reaction to increasingly provocative behavior. And while we are not putting ourselves in a position to contain China, we are putting ourselves in a position to respond if China's behavior grows more provocative.

Mr. FORBES. Thank you.

And, Mr. Chairman, I yield back the balance of my time.

Mr. CHABOT. Thank you.

I believe the gentlelady from Hawaii, Ms. Hanabusa, is recognized for 5 minutes at this time.

Ms. HANABUSA. Thank you, Mr. Chairman.

In reading the testimony—I am going to begin with Mr. Dutton—you had an interesting statement in your conclusion, that, basically, you said, "first and foremost, the United States must develop and deploy the naval, air, space, and cyber technologies required to ensure East Asia remains a maritime system."

I am curious about how you anticipate or envision that it remains a maritime system, versus what other kind of system.

Mr. DUTTON. Yes. Thank you very much for the question.

So, I started to introduce the idea in my opening comments that prior to 1840 and the introduction of British maritime power in the region, that Asia was a continental system that—in other words, China, on the continent, could dominate the region, because there were no threats that could impose challenges—strategic challenges for China from the sea. And this is really what China is trying to change in developing its force structure and in jurisdictionalizing the region.

The problem with that is that there is the possibility of it becoming over time a closed system. In other words, limiting the economic and political freedom of action of other regional states, un-

less China acknowledges or accepts what they are doing as being appropriate for China's interests.

That limitation is also a problem for the United States, because our political, our economic, and our security access requires an open system, as well.

Technology is the basis of maritime—an open maritime system. Ships, aircraft, supported by space and cyber power, are the way in which strategic power is generated in the region. And so, I don't have specific force structure recommendations, but I do know that we need to develop and maintain the kind of force structure, the technology in the region, that enables us to ensure that the maritime domain remains open, remains—freedom of navigation remains, not just for commercial purposes, but for security purposes, as well, in order to keep this system vibrant and open and connected to the global system.

Ms. HANABUSA. So, am I hearing you correctly then? When you talked about it—I mean, maintaining or remaining a maritime system, that you are really saying that the United States must maintain its dominance in Asia-Pacific as a maritime power? Is that what you are saying? And that somehow, that maritime power base will then keep China in check, and keep our commercial lines open, trade flowing? Is that what you are alluding to with this statement?

Mr. DUTTON. In short, the answer is yes. But it—what I mean, too, to say is exactly how much power and how much force structure is required—that is a very difficult assessment that I am not qualified to make, frankly. And so, one thing that is important, though, is that there is a scale between dominant sea supremacy and sea denial on the other end, where you can't go. And somewhere in between there is where the United States needs to be sure that we can act. We don't need sea supremacy or total control. We need to recognize that China has legitimate security interests, right?

But we do need to, also at the same time, recognize that we have legitimate security interests in the same space. And so, we need to ensure our access to that space to preserve our security interests.

Ms. HANABUSA. And one of the recommendations, of course, that you made that was pointed out earlier was our undersea dominance, which is really submarine capacity, correct?

Mr. DUTTON. Yes.

Ms. HANABUSA. Now—but still, what you are alluding to, though you said you don't know what the force structure will look like—what you are alluding to is that it is really not a balanced system that you want out there. You want something that will keep China in check. So, therefore, it would only make logical sense if the United States and its allies must somehow dominate, or have an advantage to keep China in check. That seems to be—though you don't know what it means yet, that seems to be where you are headed with that statement.

Mr. DUTTON. Well, I would say sufficient power to ensure our access. That is a little——

Ms. HANABUSA. In other words, and so——

Mr. DUTTON [continuing]. Different. That is——

Ms. HANABUSA [continuing]. And so, we don't have to worry about what we would call the A2/AD [anti-access/area-denial], area access and access denial. Is that what you are saying?

Mr. DUTTON. It is our ability to overcome any kind of A2/AD, or counter-intervention capability, as China often, I think, refers to it.

It is our ability to ensure that we cannot be excluded at China's will. It is not the same thing as ensuring that we keep China in check. It is a balance in between the two.

Ms. HANABUSA. I understand what you are saying, but it still has to come down to some measure of something. In other words, we, as policymakers, as we sit here, we are going to have to put numbers to what you are saying. And there has got to be something that measures that for us. And what you are saying is, you don't have the answer. It is just that it has got to be measured somehow. Is that correct?

Mr. DUTTON. That is fair enough. Yes, sir, I think I would—or, ma'am, I would defer to the Navy staff for that.

Ms. HANABUSA. Thank you.

Mr. CHABOT. The gentlelady's time has expired.

The gentleman from California, Mr. Rohrabacher, is recognized for 5 minutes.

Mr. ROHRABACHER. I thank you very much, Mr. Chairman.

From what I am understanding from the testimony so far is that there is no strategy in place right now in terms of American strategy in the far Pacific Asian region. Anybody disagree with that?

Okay.

Let me suggest then that what I have heard suggests to me that the pivot was a slogan. A slogan signifying that we are changing emphasis, but it is not based on some thought-out strategy. Is that—would that be inaccurate? Correct, or correct?

But please feel free to comment, disagree, whatever.

Ms. GLASER. Okay, I am happy to—Mr. Congressman, I think that your critique perhaps, from my perspective, is a bit harsh. There was no initial strategy document that was guiding the pivot. I think that it evolved piecemeal over a period of time. I think we have seen some important diplomatic, economic, and military aspects of it, but they haven't yet come together, from my perspective, in a coherent strategy——

Mr. ROHRABACHER. All right, so there is no strategy? It is not a strategy.

Ms. GLASER. Okay.

Mr. ROHRABACHER. It is something—it is piecemeal. It is going by time.

Let me—to let you know, I flew over the Spratly Islands about 10 years ago, after being kept from doing this. As a member of the Foreign Affairs Committee, our government, meaning our State Department, felt compelled to prevent me from seeing what was going on in the Spratly Islands. And I eventually had to commandeer a plane from the Philippine air force to fly me over the Spratly Islands, all right?

At that time, the Spratlys were—there were some Chinese naval vessels there, clearly warships. Have the Spratly Islands been fortified since those days when I flew over there? So, for the last 10 years, as piecemeal policy is being developed here in Washington,

or a response, that they have been fortifying Spratly Islands? Am I inaccurate in that suggestion?

Yeah, they are fortifying the Spratly Islands. So, the piecemeal message we have been giving them as to our strategy is that we are cowards and we are weak. Just don't confront us and you can get away with what you want. And now, we see China challenging us in a way that threatens our security and threatens the peace of the world, by putting Japan and our other allies on the spot. Surprise, surprise.

Well, I would hope that the pivot becomes more than just a slogan, and that we really take advantage of maybe whatever time we have got left to work with our allies. Luckily, we have a new sign of strength in Japan. And we should all be grateful and praise President Abe, and give him all the backing we can, coupled with one thing: we are weaker than we were 10 years ago. We are weaker than when we walked into Iraq and wasted a trillion dollars and thousands of our lives, and demoralized the American people so we are not able to make those kind of foreign commitments again.

So, you know what we have to do? We have to make sure Australia, we have to make sure Japan, Korea, and our other allies in that area know that we will support them in their efforts to confront this aggression. And that is the—that should be the strategy and the formula. Maybe you would like to comment on that strategy.

Anybody?

I guess what I am saying is, maybe we should agree with Abe that he should expand his military forces, and thus, we don't necessarily have to send another two aircraft carrier battle groups there at a cost of, what, $50 billion to the American people, to offset this expansion of China into that region. Does that make sense?

Ms. GLASER. I—we are——

Mr. ROHRABACHER. Go right ahead.

Ms. GLASER. We are undertaking a project at CSIS. We are looking at—it is our president, John Hamre's idea—to look into how we could pursue more what he calls "federated defense." Which is, encouraging greater collaboration among our allies——

Mr. ROHRABACHER. All right.

Ms. GLASER [continuing]. Not only in the area of deployments, but also in exercises and procurement——

Mr. ROHRABACHER. Okay.

Ms. GLASER [continuing]. So we can try and limit duplication——

Mr. ROHRABACHER. I have got 20 seconds left.

Ms. GLASER [continuing]. Get force multipliers——

Mr. ROHRABACHER. It is a great idea what you said. How about the idea of creating an OSCE [Organization for Security and Cooperation in Europe], that is now focused on Europe, of course—but an OSCE that would be Asia-focused, and having just an organization of democratic states like that for Asia? Would that help give China a message that we are united behind democratic countries?

Ms. GLASER. In principle, it is a good idea, but in a short answer, what I would say is, there is no country in the region that wants to be compelled to choose between the United States and China. And being part of that kind of organization would appeal to some countries, but for some that are geographically very close to China,

very dependent on China economically, would not want to be put in that position.

Mr. ROHRABACHER. Well, let's just make sure that Mr. Abe and our Korean friends and our friends down in Australia, and our other close friends who do want to be with us know that we are encouraging them to stand up to this challenge, because they will be the ones who have to stand up. Our government seems to be pivoting around the world, and trying to take in the information and develop some strategy for the future.

Thank you very much, Mr. Chairman.

Mr. CHABOT. Thank you. The gentleman's time is expired.

The gentleman from the Commonwealth of Virginia, Mr. Connolly, is recognized for 5 minutes.

Mr. CONNOLLY. I thank the chair. And, Mr. Chairman, I have an opening statement I would ask to be entered into the record.

[The statement of Mr. Connolly can be found in the Appendix on page 42.]

Mr. CHABOT. Without objection, so ordered.

Mr. CONNOLLY. I thank the chair, and I thank the panel for being here.

And I am always—I always enjoy the thoughts of my friend from California. And I have so many reactions to so much of what he had to say.

I would note, as a student of history, there are others in Asia who have made the miscalculation of mistaking American resolve, and with tragic consequences for them and for us.

But I would hope that others in the region today would not make a similar miscalculation, because some think we are weak. Weakness is in the eye of the beholder. I certainly share my colleague's views about the folly of Iraq, and the terrible price the United States has paid, and the diversion it represents.

I am not sure, maybe my friend would be happier if we had a white paper on the pivot, and then we could call it a strategy. I happen to think the pivot is an enlightened decision by the United States, and is going to involve lots of elements.

We are seeing one of them as we speak, the TPP, the Trans-Pacific Partnership, which is going to be a very important economic anchor and political anchor. And it is very much in the face of China.

My friend lionizes the prime minister, now president of Japan, Mr. Abe. It might be useful if Mr. Abe wishes to really exercise moral, as well as political, leadership in the region, if he were to acknowledge the sins of Japan, especially with respect to Korea, from the recent unpleasantness known as World War II. That might be a useful start if Mr. Abe wishes to exercise regional leadership.

Let me ask you about the situation. I mean, China seems to have gone out of its way to provoke the Philippines, South Korea, Taiwan, Vietnam, Japan, and the United States, the Spratly Islands, as Mr. Rohrabacher talks about, the Senkaku or Diaoyu Islands.

What is in the thinking of Japan—I mean, of China? Is it deliberately being provocative, or is it unmindful or uncaring of the consequences of such provocation? Your sense, Mr. Dutton. And we can go down the panel.

Mr. DUTTON. Thank you very much. Yes, I believe it is deliberate provocation for the purpose of achieving at least two sets of objectives. One set of objectives is domestic, it is internal.

This type of friction, I think, is managed friction. It is creating it, but managing it, avoiding escalation, in order to ensure domestic stability in the sense that the Chinese Communist Party remains the center of governance within the——

Mr. CONNOLLY. You think it is more internal than anything else?

Mr. DUTTON. It is tough to assess. But it is a very important part.

Mr. CONNOLLY. I am going to come back and ask you about miscalculation. But I want to give Ms. Glaser and Mr. Smith a quick chance to comment.

Ms. GLASER. Very quickly, I think there is an inextricable linkage between the domestic situation and the external situation for China. I think that the Communist Party is seeking to rejuvenate itself. Its legitimacy is very much wrapped up with not making any concessions on territorial and sovereignty in these maritime disputes.

So I think that the Chinese are going to continue to adhere to this. They don't want to make concessions on these. They also want good relations with their neighbors. Up until now, they haven't been compelled to make a choice.

Mr. CONNOLLY. Mr. Smith.

Mr. SMITH. I would like to add India to that long list of countries that China has been provoking in recent years. In fact, India may have been one of the first.

I think this behavior really began in 2009. And actually, in doing some research for a book on China-India relations, one of the things that frequently came up was in assessing China's behavior in recent years, don't underestimate the effect that the global financial crisis had on the thinking of their leadership; that really, America's—this was the beginning of America's decline, and the time had come for China's rise.

They had weathered the storm much better than we had, or in fact, anyone else around the world. And if the time to assert China's—reassert China's authority in Asia, it was now.

Mr. CONNOLLY. Okay. Final point, though, what worries me about, as a student of history, is miscalculation. Okay. So that is your thinking, and that is what you are doing. And it has a lot of internal domestic pressure, which, not unique to China, not unique at this moment in history.

But what can happen is a miscalculation. Because the fact externally is this is a provocative set of behavior that could provoke something, not planned, not intended, nonetheless real.

Mr. Dutton, Ms. Glaser, Mr. Smith, do you want to quickly comment?

Mr. DUTTON. Yes, it is absolutely——

Mr. CONNOLLY. The chair will allow them to finish answering. My questions are over.

Mr. CHABOT. Without objection.

Mr. CONNOLLY. I thank the chair.

Mr. DUTTON. It is absolutely the case that it is a dangerous game. And what we can see clearly is that it has provoked Amer-

ican attention and American concern, and the same thing throughout the region. And I think it has achieved what China sought to prevent, which is balancing behavior against China directly. It is unfortunate, but I think that is what it has achieved.

Ms. GLASER. I would just say that the Chinese are insufficiently worried about miscalculation and accident, and quite confident, frankly, that they could control escalation.

If they were worried about this, they would not have announced that new ADIZ, which the potential for their aircraft flying over these disputed islands in the East China Sea, then being intercepted by Japanese fighters, and responded to by Chinese fighters scrambling.

This carries, I think, great inherent danger. And I don't think the Chinese appreciate this significantly.

Mr. SMITH. I would agree, and I understand why China's policy in the region seems so counterintuitive, because I think it has done their image great harm. And on the flipside of that, we must never forget sort of the silver lining, which is that countries in the region who maybe 10 years ago were tiring of American power and authority, or looking for alternatives, are now welcoming the U.S. back with, you know, great enthusiasm.

So as we confront this challenge, we must also look at it as an opportunity.

Mr. CHABOT. The gentleman's time has expired. The gentleman from California, Mr. Sherman, is recognized for 5 minutes.

Mr. SHERMAN. Thank you. First, I am just trying to understand the law of the sea, and the conventional law of the sea. It is my understanding that if there is a tiny speck just barely above water, the smallest possible island, that whoever owns that island controls 125,000 nautical miles, 200 miles in every direction, of that speck, with regard to economic exploitations. Is that true?

Mr. DUTTON. I am sorry, sir. No, it is not true. A small island that is uninhabitable, or that can produce no economic activity of its own, gets no more than 12 nautical miles around it. And that is only if it is above water at high tide.

Mr. SHERMAN. Does an artificial island get anything?

Mr. DUTTON. It does not.

Mr. SHERMAN. And if there is like one family that lives on the island, does it then get the 200 miles?

Mr. DUTTON. Well, we are hoping that the Philippine arbitration can help us understand what the law says about these questions. It is one of the most important aspects of China's—or of the Philippines, a desire to get an international law perspective on these questions.

Mr. SHERMAN. Okay. And if the—if it is inhabited, I assume that an island that was previously uninhabited, that gains habitation, counts as a habitable island. Is that accurate?

Mr. DUTTON. Well, it is a little difficult to know, and here is why: Because what does habitation mean, has so far not been answered. And if you have—you just put soldiers down on an island, but you have to truck in water, or fly in water, is that habitation? No, probably not.

So the answer is not yet definitive in international law, but it is pretty clear that it has to be self-sustaining habitation. And that was meant, was a permanent——

Mr. SHERMAN. Well, of course, a vacation—there are many vacation islands with thriving economies that exist only because tourists spend money to be there.

Mr. DUTTON. Well, if they are self-sustaining, and from what the resources of the island can produce, then they probably would get——

Mr. SHERMAN. You put a rich family on an island, you have a tourist resort.

Now—but there is no—even the smallest inhabited island does get the 125,000 square miles, nautical miles, it can be a small island with—as long as it is inhabited; is that correct?

Mr. DUTTON. As long as it is inhabited, it gets 200-mile exclusive economic zone. Yes, I haven't done the math.

Mr. SHERMAN. Wow. Now, Japan would certainly—so the islands that are in dispute, for the most part, are viewed as uninhabited, and control only 12 miles?

Mr. DUTTON. Yes. In the Spratlys, there are about 45 islands that are the major groups that are the larger of the islands, 45 of which are inhabited, technically inhabited. Whether they are legally inhabited is a different question, we don't know——

Mr. SHERMAN. Got you.

Mr. DUTTON. Technically inhabited by——

Mr. SHERMAN. So we have to both determine the ownership of the islands and whether they are inhabited.

Mr. DUTTON. That is right.

Mr. SHERMAN. And these islands have been of scant economic value up until now. We are told that we should be spending trillions of dollars reorienting our entire military establishment to defend the economic rights of countries that spend, in the case of Japan, only 1 percent of its GDP.

This is a kind of rhetorical question, but if there is oil on any of these islands, the American taxpayer doesn't get any of it, right?

Mr. DUTTON. Sir, the answer to that question is there are three problems. We are only being asked to deal with one of them; not the sovereignty question, not even the jurisdictional question over how do you draw resource boundaries, but control.

Whether the coastal state has, China, has the right to limit freedom of navigation for military purposes or not, that is the key American interest.

Mr. SHERMAN. I understand. Well, the reason they are trying to do it, presumably is the resources. And of course, Japan also has the same kind of notification zone that China has been criticized for creating. My time is almost expired. I will ask any witness with—Ms. Glaser, do you have——

Ms. GLASER. With all due respect, sir, I do think that your perspective is a narrow interpretation of American interest. No, we may not get directly all the fish, or the oil——

Mr. SHERMAN. We have a tremendous interest in everything in the world. And we could have a $5 trillion military, and it wouldn't be sufficient to deal with every occasion where people have sat in

front of me and said, "We have vital interests. And the interests of our allies are at stake. And we must take action."

Ms. GLASER. I believe that our interest——

Mr. SHERMAN. Sure. If—you know, if we could just phone this one in, fine. But our entire military is looking at this as a chance to face a noble foe, a chance to be in the kind of conflict that is far less frustrating than fighting insurgencies and fighting asymmetrical warfare, all for some islands where our interests may be just as vital as they are in every other square inch of this planet. And there is no shortage of interests.

Mr. CHABOT. The gentleman's time is expired.

Unless one of the witnesses wants to respond briefly. Ms. Glaser.

Ms. GLASER. I would just like to briefly comment. There may be some individuals in the military that hold those views. Those that I speak with and people who are in higher levels in this Administration and even prior Administrations I think would argue differently. That our goal is not to encourage China to be an enemy or to organize our military against China. That we very much want to see China emerge peacefully and become part of this rules-based system.

I don't think about our presence in the Asia-Pacific is simply about protecting tiny specks of rocks or other things in the waters. I think it goes way beyond that. It is freedom of navigation. It is maintaining the access and freedom to maneuver within the area, without which we will have no credibility as a presence and a provider of a balancing force in the region to help protect not only our own interests, but those of our allies and partners.

Mr. CHABOT. Mr. Dutton.

Mr. DUTTON. Yes, quite briefly, I would like to say the pivotal rebalance is not about looking for a glorious enemy or some noble foe. It is about a return to America's fundamental security and strategic interests.

Mr. SHERMAN. I would simply say that a nation with our economic problems has fundamental interests at home. And that the fundamental interests that you are talking about are no more significant than those in the eastern Mediterranean, those in the Caribbean, hundreds of other conflicts most of them not in the headlines today.

And if—again, could we limit our military to merely a $5 trillion budget if we dealt with every set of witnesses that told us of a critical national security vital interest position, critical to our standing in the world. I would say that Japan, the real beneficiary of some of the actions you suggest, limits its military to 1 percent of GDP.

I yield back.

Mr. CHABOT. The gentleman's time has expired.

The chair would ask unanimous consent that all Members have 5 days to supplement any statements or submit any questions. I would like to recognize Chairman Forbes, for the purpose of making a statement and recognize the panel.

Mr. FORBES. Mr. Chairman, first of all, thank you for allowing us to do this.

And to each of you, we recognize the time that you spent to prepare to be here today. This is a very important hearing, but equally it is a very important record for us to create. So, our subcommittee

always likes to give our witnesses an opportunity, if you need to, to either complete or make sure your responses were complete and accurate. If there is anything that you feel briefly you need to put on the record, to supplement or clarify anything that you have said, we would like to give you that opportunity now.

And if you don't do it now, please feel free to submit it to us later. We will start in the order that you spoke. Mr. Dutton, anything else that you have for us for the record that you would like to offer?

Mr. DUTTON. Yes, sir. I have four points. I will be as quick as I can. The first is I think it is important to note that China has not been as dangerously, quote, "aggressive" as (A) they could be, or (B) they have been at different times in the past. China has been through—the current, the People's Republic of China, has been through four phases in their approaches to the island disputes and the water disputes in East Asia. The first phase from 1949 to 1974 was they ignored them, essentially. From 1974 to 1988 or so, they did in fact use military power to change the circumstances on the ground a number of times during that timeframe.

From roughly 1990 to the mid-2000s, China went on a charm offensive trying to buy the goodwill of the regional states regarding these disputes. And then finally, most recently, this nonmilitarized coercion that we are seeing now. And the problem with—that we are having with is that we have too few tools to grapple with this particular strategy. We could manage the previous ones. We have too few tools to manage this one.

The second point that I would like to make is in talking about whether China will be weaker or stronger in the future, it is almost the wrong question. We have 1.3 billion globally connected, economically connected people now that a generation ago were not. That economic connectivity has a gravitational pull of its own, which means that China's economy will be a powerful force of some kind in the future.

Whatever the GDP futures look like, I don't know. My crystal ball is cloudy. But I will say that China will have substantial economic and political power—substantial enough to choose to make military power in the future if that is where they choose to balance how to spend their money. Whether it is on social spending or military spending, we don't know. But they will have plenty of spending when you have 1.3 billion globally connected, economically connected people.

The third point I want to make is to reiterate that freedom of navigation and the essence of American security around the world is based on American ability to navigate around the world through—in and through the commons, and that requires us to support the laws and norms of freedom of navigation and to exercise leadership over those norms. I believe we need to accede to the United Nations Convention on the Law of the Sea. The world is crying out for American leadership of some kind. And in order for us to exercise that leadership, getting inside the system and running the system from inside, rather than standing outside it is how we are going to best get the support and the coalescence of power that we need in order to confront what China is pushing at us with—on this point.

And then the last point I wanted to make, it is also related to freedom of navigation. It is also related to the fundamental strategic roots of American security. And that is our ability to ensure our security presence in Europe and the Middle East and in Asia. Those three regions are—and our ability to access them for security purposes is the foundation of American security. It is possible for America to re-articulate a fundamentally different security strategy and that may be something we would want to do in the future. But it is a world in which our options and our opportunities become significantly constrained.

Mr. FORBES. Thank you.

Ms. Glaser, very briefly, any other comments that you——

Ms. GLASER. Yes, thank you very much. I will just make two points.

One is that there are these ongoing worries and concerns about U.S. staying power in the region. This is not going to be attainable, this reassurance, probably over any period of time. It is just an effort that the United States has to keep up at every day, every week, every month, every year.

We have to give these countries in the region confidence that the United States is going to continue to be there. It is not enough just to say we are a resident power. But we really have to be involved in the life of the region.

And countries are so welcoming of the United States. So it is a great opportunity, but we really have to continue to do this. If we are not sufficiently providing this reassurance, I really do think that there is a risk that some of the smaller countries in the region are going to feel that they have to accommodate to terms that are being dictated to them, in part and mostly by China, but that they prefer not to accede to.

The second point that I would like to make is that one of the fundamental sources of instability in the region and particularly in the South China Sea is the nine-dash line and the ambiguity of the nine-dash line.

So, it originated 1947. It was an 11-dash line. You know, we all know this. But today, what does it mean? The Chinese themselves have these internal debates about what it means.

And we all need to compel China to tell us and the world, and particularly its neighbors, what does it mean? Is it China's EEZ? Is it a national boundary? Does China simply claim the land features and then the waters that those legally generate under UNCLOS?

Clarification of this by China I think would go a long way towards beginning to create the kind of circumstances in which countries can begin to collaborate, maybe join economic exploitation, fisheries agreements, and things of that nature that might diffuse some of the tensions.

Thank you.

Mr. FORBES. Thank you.

And Mr. Smith, last brief word on your account?

Mr. SMITH. Yes, just a brief remark for Congressman Sherman who I think in an era of budget constraints, this type of skepticism is actually very healthy. This is an issue where we all seem to be

on the same page. So, having some critical thinking and really prodding us to think through this is most welcome.

And I think—I am sure everyone who comes before you says that their issue and their region of the world is of utmost importance and is, you know, vital national security interest.

I think in this case, you really can make a valid and rational case that China is unique—that it is the one country that is capable of posing a genuine conventional threat to the U.S. military in the 21st century.

And in addition to that, is the one country that is really doing—is engaging in a lot of provocative behavior with its neighbors.

And it is not just a territorial dispute issue with its neighbors—it is also attempting to restrict our freedom to operate in the Western Pacific. It is something that impinges directly on our national security interests and is not merely an issue for our allies.

But thank you for voicing this concern.

Mr. FORBES. Mr. Chairman, thank you, and I yield back.

Mr. CHABOT. Thank you. The gentleman yields back.

I would like to thank the chair and the ranking members that were here earlier for their cooperation in making this very important hearing possible, and I want to especially thank our distinguished panel this afternoon for their very helpful testimony.

If there is no further business to come before the committees, we are adjourned. Thank you.

[Whereupon, at 3:59 p.m., the subcommittees were adjourned.]

A P P E N D I X

JANUARY 14, 2014

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

JANUARY 14, 2014

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Committee on Foreign Affairs

Subcommittee on Asia and the Pacific

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Maritime Sovereignty in the East and South China Seas

Chairman Steve Chabot (R-OH)
Opening Statement

Today's hearing could not come at more critical time, as we have seen over the past couple months a growing level of tension in the Asia-Pacific region as a result of unilateral actions taken by China to exert its control over disputed maritime territories. We are witnessing a dangerously aggressive China trying to assert greater control over these territories to change the regional status quo in a way that violates core principles of international law. The implications of these actions for the United States are substantial as we have strategic and economic interests that are threatened by growing tensions and confrontational incidents in these waters.

An American presence in Asia is built on maintaining peace and stability, that is upheld through respect for international law, freedom of navigation, and unhindered lawful commerce in the maritime regions. This is pursued through our alliances with Japan, South Korea, Australia, Thailand and the Philippines, in addition to our steadfast relationships with Taiwan and Singapore, and evolving relationships with Vietnam and Indonesia.

In recognition of the region's growing importance, the U.S. policy rebalance toward Asia largely served as an acknowledgement of our long-term goal of ensuring we remain firmly engaged in this region. This so-called "pivot" came at a crucial time when our regional friends and allies needed assurance of sustained U.S. commitment. While I may take issue with the lack of depth of the Administration's rebalance strategy, one thing is certain—we have a grounded diplomatic, economic and military commitment to the region.

There is no other issue right now in the Asia-Pacific region more worrisome than the rising tensions we are seeing as a result of China's efforts to coercively change and destabilize the regional status quo. While I am disappointed by China's behavior, I am not terribly surprised that it is failing to behave as a responsible global actor. Among the most prevalent reasons why China is motivated to fight for its claims, which include oil and gas reserves, fishing rights, control of shipping lanes, and the establishment of security buffer zones, its view that its maritime territorial claims have deep historical roots is the most problematic.

There are a number of instances in history where nationalism was used to further international political goals, with damaging consequences. Take for instance the incident when in 1983, Soviet jet fighters intercepted a Korean Airlines passenger flight allegedly flying in Russian airspace and with heat-seeking missiles, shot it down into the Sea of Japan, killing all 268 passengers and crewmembers, including a U.S. Congressman. President Reagan called the incident a "massacre" and tensions between the U.S. and Soviet Union dramatically increased.

Similar motivations were behind the April 2001 Hainan Island incident when a People's Liberation Army fighter jet intentionally collided with a U.S. EP-3 aircraft flying within China's Exclusive Economic Zone (EEZ). And now China's unilateral decision to establish an Air Defense Identification Zone (ADIZ) in the East China Sea is its latest move to act upon historically contentious maritime territorial disputes with Japan. This move was further intensified this month when China established a new Hainan administrative zone and ordered all foreign fishing vessels to obtain approval before fishing in or surveying two-thirds of the South China Sea. Both these actions have only further inflamed what former Australian Prime Minister Kevin Rudd called an Asian "tinderbox on water."

While China's actions over the past few years, in piecemeal, may seem small, as a whole they depict a fundamental change in China's foreign policy and strategy. It is no longer following a policy of peaceful resolution, if it ever did in the first place, or taking actions that align with international law. China is attempting to take the disputed territories by gradual force under the guise and misguided hope that Japan, Southeast Asian nations and the U.S. will just grudgingly accept it. This "provocative" behavior, as the Obama Administration has called it, is unnecessarily raising tensions, threatening the security and stability of the region, targeting key U.S. allies, and challenging the U.S.' presence as a Pacific power.

As we have seen, players in the region are responding. Japan is taking steps to reshape its own national security apparatus to better respond to the rise of Chinese threats—a policy I support. The Philippines has also been vocal about its disagreements with China's territorial claims, requesting arbitration against China under the UN Convention on the Law of the Sea last year. Reports this weekend indicate the Philippines is building its military presence on Zhongye Island, and now China is insisting that it plans to attack Philippine forces on the island to recover territory the Philippines "stole."

This all follows the Administration's decision to send B-52 bombers out of Guam to fly through the new defense zone in the East China Sea, and its plans to give nearly $32 million to Vietnam to strengthen maritime security, with a promise to provide the Philippines with $40 million to do the same. While these actions should send a strong message to China to be wary of taking further provocative actions, we cannot be sure. As we saw when the USS Cowpens narrowly avoided collision with a Chinese warship in December, heightened tensions between the U.S. and China are only increasing the risk of miscalculation.

I believe steps taken by the U.S. and Japan to revise the bilateral defense guidelines that frame our alliance to deal with new contingencies is a good step, as is as the consideration to locate U.S. troops in the Philippines on a rotational basis, as we have done in Australia. At the same time, I believe the Administration needs to do a better job at understanding and predicting

China's strategic goals, and clearly conveying that the U.S. is committed and prepared to working with and supporting our regional allies.

I look forward to hearing from our witnesses this afternoon regarding their views on how the U.S. can better manage obligations to our friends and allies to limit conflict with China in the coming months. I want to again thank Chairman Forbes and his Subcommittee for collaborating on today's hearing.

Opening Remarks of the Honorable J. Randy Forbes

for the

Seapower and Projection Forces Hearing on

Maritime Sovereignty in the East and South China Seas

January 14, 2014

I want to thank Chairman Chabot for offering to work with my Subcommittee on this important topic. There are many areas of interest that overlap between our two subcommittees and create natural areas for cooperation and hope this joint hearing will be the first of many to come in the future.

With the continued escalation of tensions in the East and South China Seas, or what China calls its "Near Seas," I think it is essential for Congress to closely monitor this issue and affirmatively state our reservations with its present course. My greatest fear is that China's coercive methods of dealing with territorial disputes could manifest into increased tensions that could ultimately lead to miscalculation. This heightened use of coercive actions by Chinese naval vessels now spans the East and South China Seas. From Japan's Senkaku islands, the Scarborough Shoals, the Spratley Islands and indeed the entire South China Sea.

It is difficult for me to understand why China is pursuing the more aggressive actions it has over the past five years given how much it has benefited from the rules-based order the U.S. and its allies have sustained in the Asia-Pacific region for the last 65 years. This order has made the region more prosperous, more transparent, and, above all,

more peaceful. However, it is clear that as China has expanded its military forces and capabilities, their government has chosen a more strident path in the pursuit of its regional goals and ambitions, including the territorial claims we are here to discuss today.

I believe we must be 100% intolerant of China's territorial claims and its continued resort to forms of military coercion to alter the status quo in the region. This requires not just maintaining a robust military and strong diplomatic posture, but also working closely with our friends and allies to understand their concerns and find ways to strengthen our common cause to preserve free access to the global commons. As Congress shifts its attention more closely to the Asia-Pacific region, I am pleased to see bipartisan support for our Nation continuing to play a strong leadership role in the region.

Before I conclude, I also want to recognize Mr. McIntyre for his dedicated support to the men and women in uniform, the 7th District of North Carolina and to the greater United States. Mike, you have been a good friend and a consummate statesman. Our Nation will be at a loss when you depart the House of Representative at the conclusion of this session. I will clearly miss your camaraderie and friendship.

Again I want to thank Chairman Chabot for holding this joint hearing and I yield back the balance of my time.

Congressman Gerald E. Connolly (VA-11)
Joint Subcommittee Hearing: Asia & the Pacific (HFAC) and Seapower & Projection Forces (HASC)
Tuesday, January 14, 2014
2pm

China's actions last fall to impose a restrictive Air Defense Identification Zone (ADIZ) over a set of disputed islands was just the latest manifestation of a long-standing territorial dispute in the South and East China Seas, which has implications for U.S. economic and security interests across the region. The islands dispute is not the only territorial issue in the China Seas, and China and Japan are not the only countries that lay claim to disputed islands. However, China's declaration of the ADIZ and subsequent provocative actions toward non-Chinese ships raise concerns about escalation and unintended consequences. For example, this new Chinese air defense zone encroaches on neighboring zones enforced by Taiwan and South Korea. The U.S. has a particular interest in seeing a peaceful resolution that keeps these maritime routes open given the Administration's pivot to Asia and the ongoing negotiations over a new trade agreement with several countries in the region.

U.S. reaction to China's assertion was swift—the U.S. flew two B-52 bombers over the ADIZ. While U.S. officials say the flights were planned before the ADIZ declaration, a clear message was delivered. Secretary Hagel reiterated the United States' commitment to its allies and stated that the security treaty with Japan applies to the disputed islands. The United States increased its rhetoric after a Chinese warship came dangerously close to striking an American guided missile cruiser last month. The U.S. ship had to carry out emergency maneuvers to avoid hitting the Chinese vessel. Such provocation is of great concern and sadly not without precedent. Recall the 2001 collision between a Chinese jet fighter and a Navy surveillance plane in international airspace. The incident killed the Chinese pilot and resulted in the detention of 24 American crewmembers.

The United States has repeatedly expressed a "national interest in the maintenance of peace and stability, respect for international law, freedom of navigation, and unimpeded lawful commerce in the South China Sea" and "support [for] ASEAN's[1] efforts to build consensus on a principles-based mechanism for managing and preventing disputes."[2] According to one China expert, Minxin Pei, "China wants to resolve the dispute, but only on its terms." Mr. Pei goes on to describe how China would preferably like go about this—by "achiev[ing] uncontested regional dominance."[3] However, in the view of some China watchers, it is fallacy to assume that China is acting as a monolithic entity, in light of the multiple Chinese agencies, often referred to as the "nine dragons" that oversee maritime issues. An April 2012 report by the International Crisis Group describes these "nine dragons" and states that "China's current

[1] Association of South East Asian Nations.
[2] Both quotes from Patrick Ventrell, "Press Statement," U.S. Department of State (August 3, 2012).
[3] Both quotes from Minxin Pei, "Beijing plays divide and conquer to win in South China Sea," *The National* (July 17, 2012).

approach remains characterised [sic] by numerous ministerial-level actors and law enforcement agencies with no effective coordinating authority and no high-level long-term policy."[4]

An analysis of this issue requires examination of China's internal and external policies. Unilateral declarations, though they may be an ostentatious demonstration of pride, only increase regional tensions and the likelihood for incidents of misunderstanding. These are but a few of the issues surrounding the territorial disputes in the South China Sea and other maritime areas adjacent to the East Asian mainland. I look forward to hearing our panel's thoughts on how U.S. policy can contribute to a fair and peaceful resolution while maintaining U.S. interests.

[4] "Stirring Up the South China Sea," International Crisis Group (April 23, 2012), i.

January 14, 2014

Peter A. Dutton

Professor and Director

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U.S. Naval War College

Testimony before the House Foreign Affairs Committee

Hearing on

China's Maritime Disputes in the East and South China Seas

The opinions expressed herein are the personal views of the author and are not meant to represent the official views of the Department of the Navy or any other agency of the federal government.

Summary

China pursues its security through interior strategies that involve the development of rings of security around central areas of national interest. The Chinese have long felt vulnerable from the sea and their current maritime strategy seeks to reduce that vulnerability by extending a ring of maritime control around China's periphery. China pursues this control through a combination of force structure development and legal assertions. Tensions arise because China's strategy conflicts with the territorial claims, resource interests, and security concerns of other states in East Asia. China's strategy also causes friction with the United States, which relies on freedom of navigation in maritime East Asia for American security interests and which must reassure regional allies and partners that American security guarantees are meaningful. In order to assure the position of the United States in East Asia, American policies must focus on maintaining the region as an open, maritime system. This requires continuous development of technological advantages to ensure the center of power in Asia does not migrate from the maritime domain to the continent. It also requires supporting the ability of allies, friends, and partners to resist China's non-militarized coercion, and reinforcing the normative structure that supports the efficacy of maritime power in the region and around the globe.

What does China's extension of its power over the near seas gain for China?

The extension of China's strategic power over its near seas through expanding military capabilities, growing law enforcement capacity, sweeping legal frameworks, augmented by orchestrated civilian activities and political and economic arm-twisting, has deep strategic roots. These roots are nourished by China's historic approach to dealing with its security environment by developing continental strategies, also known as interior strategies, an approach China continues to take today. Interior strategies generally involve the development of expanding rings of security around a state's territory, especially territory of fundamental strategic value. Over China's long history, the territory of critical strategic value has consistently been the Han heartland, which extends from Beijing in the north to the coastline of Guangzhou Province in the south and from the mouths of the Yellow, Yangtze, and Pearl Rivers in the east inward to the great mountain ranges west of Sichuan Province. Around this central area, Chinese dynasties for centuries employed various techniques to exert control or influence to enhance their own security, such as enculturation, development of an economic and political tribute system, and even conquering peripheral territories and incorporating them under Chinese sovereignty. In this way, at the historical height of Chinese power the Qing dynasty guaranteed their nation's security by incorporating under Chinese sovereignty a great arch of territory beyond the traditionally Han regions. That arch extended from Manchuria in the east (including large areas of today's Russian Far East), west through Mongolia to modern Xinjiang Province, and South to Tibet. Much of that territory

remains under Chinese control today and for similar purposes—it provides a strategic buffer for the modern Chinese state just as it did for previous dynasties.

Qing leaders failed, however, to complete a similar arch of security on their southern and eastern maritime flanks, leaving China strategically vulnerable to European advances in sea power. Thus, during the period from the British Opium War beginning in 1840 to the Japanese invasions of the Chinese mainland that ended in 1945, China's security and sovereignty were severely compromised by the failure to develop maritime power sufficient to overcome western naval technologies.

Chinese strategists today fully grasp that 19th century European naval power fundamentally altered the nature of Asia as a strategic system. Up until that time, China dominated a relatively closed region. Security for China meant the maintenance of strong armies with the capacity to overpower threats that might invade from the north or west. No combination of states in the region could generate sufficient land power to challenge China and none of the region's island states had sea power sufficient to pose a threat to China's fundamental security from the sea. Nearly all strategic events in East Asia prior to 1840 occurred on the continent and involved amassing strong armies, maneuvering them across land to meet potential enemies, and building layered defenses to secure the Chinese homeland. Beginning in 1840, however, the Royal Navy demonstrated to the Chinese that British naval power was superior not only to China's existing coastal defense system, but to any coastal defense system that China at the time had the technological capacity to produce. Thereafter, Chinese security became much more complex.

Since the Opium War, China has been required to deal with a combination of continental and maritime strategic concerns and has never yet, in its eyes, been adequately able to deal with the maritime aspect of its security equation. For nearly two centuries the dominant thrust of Asian history has involved the projection of power across the East and South China Seas, and East Asia remains a maritime strategic system today. It is a system in which strategic events are driven by technology, rather than by armies, in that projection of power (or the preparations for it) are driven by advancements in the ability to maneuver sea, air, space and cyber technologies to a regional decisive point as required. The dominant maneuver space is therefore no longer the great interior plains of Asia, but rather the common sea, air, and space areas of China's near seas. Thus, the introduction of advanced military technology to maritime Asia marked a tectonic shift in Asia's strategic focus from continental to maritime events. Nineteenth century China was caught unprepared for the shift and today's Chinese leaders have developed national power in part to ensure their country is never again caught unprepared on their maritime flank. *First and foremost, it is the failure of previous Chinese leaders to close the maritime gap in China's arc of security and the invasions that resulted that motivates China's current leaders to extend strategic power over the near seas. Extending Chinese control over the near seas therefore is seen as enhancing security for the Chinese state and healing a sort of psychological wound in the collective Chinese mind. Importantly, demonstrating the power to close the gap also accrues credibility to the current Chinese*

leadership and helps solidify the place of the Communist Party as the ruling system of the Chinese state.

Second, as China advances its capacity to assert its will in the near seas, it has increasingly caused friction with its maritime neighbors and with the United States. East Asian geography, with its long chain of fringing islands stretching from the Kuriles to Singapore lends itself to the development of a maritime system if certain conditions are met. The first condition is that regional maritime technological power, generally naval power, must be sufficient to overcome the continental power's ability to sweep it from the near seas. Dominant maritime power in the region was first introduced by the British, then developed by Japan, and since the end of the Second World War has been maintained by the United States and its allies. The second condition is that in order to remain dominant over the continental power the maritime power must have ready access to bases and the resources necessary for sustainment. Nearby American bases in Guam and Hawaii are not enough to ensure the strategic influence of sea power over the near seas. Accordingly, such access requires and is provided by America's allies, partners, and friends in the region.

But why do the United States and its regional partners expend the effort and pay the costs associated with maintaining East Asia as a maritime system? East Asia's maritime states--Japan, the Philippines, Malaysia, Brunei, Indonesia and Singapore--all cooperate with the United States because they benefit politically and economically by remaining outside the arc of China's control. Should the system revert to one dominated by the continent, even if China might not choose to actively dominate the peripheral states, China's capacity to do so would narrow the political and economic options available to them. Likewise, the United States benefits from the maintenance of an open, maritime regional system in East Asia because it supports the American global and national security strategies, it ensures American economic access to the region, and it sustains American political influence there.

A fundamental cause of friction, therefore, lies in the fact that China's regional maritime strategy appears to have as its aim to reverse the tectonic shift brought about two centuries ago by the introduction of superior foreign naval technology and to restore the regional system to its continental past. In other words, *the aim of China's regional maritime strategy is to expand China's interior to cover the maritime domain under an umbrella of continental control*. This expansion is security-oriented in nature, but it also incorporates all aspects of Chinese power to advance China's aims of asserting sovereignty over near seas islands, extending jurisdiction over the near seas water space, and cementing political and economic relations in Asia around Chinese influence. Thus, in addition to enhancing its security and the legitimacy of China's rulers, if China is successful in reverting East Asia from a maritime system to a continental system, China will reap economic and political benefits from its capacity to control events throughout the region without the costs associated with competition from either a regional or an outside power.

What is the connection between Chinese activities around the Senkaku Islands and China's larger strategic objectives?

Chinese activities around the Senkaku/Diaoyu Islands have since December 2008 been designed to create a circumstances that puts Japanese control over the islands in doubt. The manner in which Chinese activities are conducted is carefully calibrated to achieve the objective without provoking outright conflict with the United States. Accordingly, China's strategy can best be described as non-militarized coercion.[1] China has so far rejected most institutional approaches to dispute resolution—such as multilateral negotiations or arbitration, and maintains a stated preference for resolving its maritime disputes through bilateral negotiations. Indeed, as one leading academic put it, the "recent growth in military, economic and other forms of China's hard power will be put to best use in bilateral negotiations."[2] In other words, China's leverage against other disputing states is sufficiently high to ensure an outcome favorable to China. Understandably, therefore, bilateral negotiations have gone nowhere over the past two decades. China simply demands more than its negotiating partners are willing to give up.

On the power side of the equation, China has been deterred since the late 1980's from using armed conflict to resolve its maritime disputes. But since 2008, China's strategic emphasis has settled into the gap between armed conflict and institutional approaches. In this gap lies the power-based approach of *non-militarized coercion, which involves the direct and indirect application of a broad range of national capabilities to favorably alter the situation at sea in China's favor*. The operational aspects of the strategy have been all too apparent over the past four years: increasing development of civilian law enforcement capacity, reorganization and streamlining of civilian agencies, increased operations tempo by maritime law enforcement vessels in disputed areas, all in coordination with civilian fishing vessels in what might be termed a maritime-style People's War. Maritime law enforcement and other civilian vessels form the core of this strategy—hence, non-militarized coercion, but in this strategy there is also an important indirect role for the Chinese military. It is never far from any action, its nearby presence serving to deter China's opponent from considering escalation. The growing capabilities and regional presence of the PLA Navy also serves the strategy by applying psychological and political pressure on regional leaders, limiting their freedom of action.

A well-developed legal component augments the operational aspects of China's strategy of non-militarized coercion. One representative article that captures this concept well was published in the journal *China Newsweek* in November 2012 at the height of the unfolding tensions between China and Japan over the Senkaku/Diaoyu Islands. The article observes that China employs a "legal rights protection chain" to reinforce its operational efforts as part of the overall strategy to achieve control over the islands and waters of the near seas. In this case, referring specifically to the Senkaku/Diaoyu Islands,

> China's legal behavior throughout can be divided into several levels: first was enacting law, as seen with the promulgation of the Statement on Territorial Sea Baselines; second was formulating implementation measures [to put the law into effect] … ; third was law enforcement, as

> seen with China Maritime Surveillance vessels patrolling the waters of the Diaoyu Islands; and fourth was pursuing international validity, as seen with filing the coordinates and maps with the UN and deciding to submit a case for an extended continental shelf.[3]

The first two steps in the legal process in particular are aimed at energizing the capacity of all relevant agencies of the Chinese government. As the article notes in reference to the application of this legal strategy to the South China Sea, "the significance of creating administrative zones is that it provides performance incentives for government departments."[4] Additionally, China's calculations regarding how and when to move from one stage in this process to the next is carefully influenced by its assessment of power dynamics.

> To get the upper hand [the article notes], China must involve both military and administrative presence as well as nongovernmental presence. … Integrated military, administrative and nongovernmental presence constitutes a mutually reinforcing chain of presence.[5]

The integrated process described above accurately describes the approach China takes in the East China Sea to contest Japan's control over the Senkaku/Diaoyu Islands. It also accurately describes events at Scarborough Shoal in the South China Sea, over which China wrestled full control from the Philippines. There are many other examples in various stages of development, including China's continental shelf claim in the East China Sea, and many actions that advance China's claim to administer the waters within a U-shaped line in the South China Sea. In short there is a steady drum beat of combined Chinese legal and power operations throughout the near seas.

What is the connection between China's near seas strategy and its recent announcement of an ADIZ over the East China Sea and the Cowpens Incident in the South China Sea?

China's strategy to control water and air space is similar to its 'power and law' approach to control the islands in the East and South China Seas. What has been clear to many American observers since at least the April 1, 2001 'EP-3 Incident' is that China's strategic approach to enhancing its jurisdictional control over the near seas involves both a force structure component and a legal component. The purpose of the force structure component is obviously to develop the power to dominate events in the near seas according to China's will. It extends China's umbrella of security over its maritime periphery and is entirely consistent with the interior security strategy that China pursues. The purpose of the legal component of China's strategy is to articulate a legitimizing narrative for the development and employment of this power. There are two general audiences for this message. It is designed to persuade the Chinese people that their government's actions are justified and it seeks to build a favorable international environment where possible.

That the Chinese use the language of international law is not to say the Chinese seek at all times to comply with international law. Rather they use legal language for its power to cloak in a mantle of legitimacy China's power-based actions in pursuit of Chinese national interests.[6] China's announcement of an Air Defense Identification Zone (ADIZ) over the East China Sea in November 2013 was entirely consistent with this strategy to use legal language to incrementally increase Chinese jurisdictional control over the near seas. Because the announced ADIZ does not fully comport with existing international law, the announcement raised tensions with Japan, the United States, and others.

As a general matter, however, it is entirely normative for a coastal state to establish an Air Defense Identification Zone (ADIZ) in the international airspace off its coastlines to enhance and protect its national security. Such zones are legitimate as a matter of international customary and treaty law related to airspace and national security.[7] But China's ADIZ announcement is an excellent example of how China uses the language of international law while disregarding the actual constraints of the law. There are at least three legal problems with China's ADIZ.

The first problem is that it covers the Senkaku/Diaoyu Islands, which are administered by Japan. Even though China disputes Japanese sovereignty over these rocky outposts, as the islands' administrator Japan has a duty to exercise its sovereign authority over the islands, including in the national airspace above the islands and the territorial sea around them. Since the ADIZ announcement asserts China's right to operate within the entire ADIZ, to control the activities of others within it, and to take unspecified "emergency measures," and also covers the airspace over and around the Senkaku/Diaoyu Islands, the Chinese ADIZ poses a direct affront to Japanese sovereign responsibilities. If the Chinese choose to operate in the national airspace above the Senkaku/Diaoyu Islands, as their announcement implies the right to do, in addition to being a seriously provocative act, it would be an illegal violation of Japan's current administrative authority there.

The second problem is that the terms of the ADIZ announcement purport to regulate the activities of *all* aircraft in the zone. As a practical matter, an ADIZ is a sorting out mechanism to determine which aircraft in the international airspace off the coastal state's shores might potentially threaten its national security. As a legal matter, an ADIZ declaration confers almost no additional jurisdictional authority to the coastal state. It cannot; the airspace beyond twelve nautical miles from the coastline is international in character by the terms of the Chicago Convention and as such all states possess the right to operate civil or military aircraft there without the coastal state's permission. The only legitimate exercise of coastal state jurisdiction in an offshore ADIZ is over aircraft intending to leave international airspace and enter the coastal state's fully sovereign national airspace. Similar to requiring a visa stamp in a passport before entry, the coastal state can specify ADIZ procedures for aircraft to obtain permission before entering their national airspace. Accordingly, that the terms of China's ADIZ purport to bring the activities of *all* aircraft operating in or through the ADIZ under Chinese control, not just those desiring to enter China's national airspace, is a unlawful extension of Chinese jurisdiction into airspace that is international in character.

Similarly, a third legal problem stems from China's overbroad claim to regulate the activities of *all* aircraft in its ADIZ. Military aircraft are sovereign immune from the imposition of jurisdiction of other states when they are operating in international airspace. Chinese officials and scholars alike have long claimed—incorrectly, in my view—that the United Nations Convention on the Law of the Sea gives additional legal protection to a coastal state's security interests in *and above* the exclusive economic zone.[8] There is also good reason to believe the Chinese apply legal protection for their security interests beyond the EEZ to a broader category of what it calls "Chinese jurisdictional waters" and the airspace above them. Such waters appear to include China's claimed continental shelf any additional waters over which China claims historic rights. In this sense it is important to note that the eastern edge of China's ADIZ closely follows the eastern edge of China's expansive extended East China Sea continental shelf claim. When lined up together, China's overbroad claim to regulate the activities of *all* aircraft in its ADIZ, China's assertion that UNCLOS protects its security interests in and above its jurisdictional waters, and China's decision to align the limits of its ADIZ with the limits of its continental shelf claim, suggest that *China's ADIZ is part of a coordinated legal campaign to extend maximal security jurisdiction over the East China Sea and the international airspace above it, beyond those authorities currently allowed by international law, in support of its objectives related to security, resource control, and regional order*.

This is the context in which the 'Cowpens Incident' should also be interpreted. On December 5, 2013, the USS Cowpens was operating in the South China Sea outside sovereign waters where high seas freedoms apply, she was forced to maneuver to avoid a collision when a PLA Navy amphibious ship crossed her path and came to a stop. The PLA Navy's action was apparently prompted by the belief that USS Cowpens was monitoring the activities of the China's new aircraft carrier, the Liaoning, and that China has a right to prevent American ships from doing so.[9]

The actions of the Chinese naval vessel were dangerous and the failure to exercise due regard was serious. In my view, however, *the most significant problem brought to light by this incident is that China asserts the right to ban any ships from entering large areas of non-sovereign waters in the near seas for long periods of time if the Chinese plan to undertake naval exercises there.* This is an impermissible infringement on the rights and freedoms of all states to operate freely at sea. Specifically, in the weeks before the Cowpens Incident, the China Maritime Safety Administration reportedly declared a "ban on entry" into certain waters in the South China Sea between the dates of December 3, 2013 and January 3, 2014—although by some accounts the purported ban was not actually made public by the PLA prior to the confrontation on December 5th.[10] Either way, the area of the purported ban was entirely outside the sovereign waters of China in an area where international freedoms of navigation pertain. The USS Cowpens was exercising those international freedoms and, zone or no zone, ban or no ban, the PLA Navy had no legal right to impede her progress.

China's many operational actions in the near seas and its use of the language of international law to seek legitimacy for these actions demonstrate the steady unfolding of

China's strategy to develop an arc of maritime control across its near seas. Accelerated Chinese activities around the Senkaku/Diaoyu Islands, the ADIZ announcement, and the Cowpens Incident are just the most recent 'battles' in China's regional security campaign. Unless current trends change in the region, there is no reason to believe that China's campaign will stop short of achieving its aims

What are the policy implications of the strategic dynamics in East Asia?

Some American commentators have suggested China's strategy is in response to the US pivot to Asia, but that view seems too self-referential. Chinese actions are about Chinese objectives and those objectives have been consistent for decades because they are based on China's enduring geography-driven security interests. This view also ignores solid evidence that China's current strategy began to unfold as early as December 2008, before the current administration came into office and of course years before it announced a pivot or rebalance to Asia. I think it is fairer to say China is undertaking its strategy *despite* the American rebalance to Asia.

It is important to note as well that in order to mitigate American strategic dilemmas Chinese leaders express a desire to develop a "new-type great power relationship" with the United States. Indeed, the U.S. should seek to develop such a relationship with China, but it should not do so at the expense of maintaining an open, maritime system in East Asia. Unless some fundamentally new form of security architecture can be devised that makes regional geography and the tensions between interior and exterior power irrelevant—and frankly, I do not see how such an architecture could be developed given the current state of political development in East Asia--then American security interests and those of America's regional allies, partners and friends will continue to require that the United States bear the burden of ensuring the maritime character of the regional system. The strategic advantages of doing so are worth the expense in that they provide

1) security for American soil that comes from the maintenance of the American global exterior position,
2) political and economic independence of regional states in East Asia and the global credibility that accrues to the United States from its ability to support them,
3) political access for American influence in the region, and
4) assured economic access and the benefits it provides to the American economy.

Accordingly, American regional objectives should continue to focus on maintaining regional stability and deterring conflict as a means of resolving disputes.

To do so, first and foremost the United States must develop and deploy the naval, air, space, and cyber technologies required to ensure East Asia remains a maritime system. It is the only way that the United States can continue to ensure conflict as a means of regional dispute resolution remains off the table. In terms of naval power, I am especially concerned that the United States commits to invest in maintaining its advantage in undersea warfare. The undersea domain is perhaps the lynchpin to preventing East Asia from reverting to a continental system in the 21st century. Other key areas of investment

will be in maintaining American advantages in maritime domain awareness and in C4ISR.[11] The United States also needs to reduce vulnerabilities to the surface fleet, to regional bases, and to our logistics train across the Pacific.

Second, American policies should focus on allowing regional states to expend scarce resources on counter-coercion capabilities. By focusing on military deterrence, the United States allows regional states to allocate more of their defense resources on developing coast guard and other non-military capabilities necessary to withstand Chinese coercive pressure at sea. Additionally, American policies should encourage other states to play a supporting role by providing financial support for building white hull capacity to resist Chinese pressure. Potential such partners could include Australia, India, NATO, and the European Union, among others. These are logical partners inasmuch as they rely heavily on the stability of maritime trade routes through the East and South China Seas.

Third, American policy makers must realize that the contest for East Asia is one of both power and law. International law supports and legitimizes the exercise of American power. It ensures that the landscape of domestic and international opinion is favorable to American objectives, policies, and actions. International law of the sea in particular, through its assurances of freedom of navigation for security as well as commercial purposes, supports the continued nature of East Asia as a maritime system. International law regarding the free use of international airspace operates similarly. Accordingly, to ensure its future position in East Asia the United States should take specific actions to defend the international legal architecture pertaining to the maritime and aerial commons. *Acceding to the United Nations Convention on the Law of the Sea and once again exercising direct leadership over the development of its rules and norms is the first and most critical step.* The Department of State should also re-energize its Limits in the Seas series to publicly and repeatedly reinforce international law related to sea and airspace. A good place to begin the new series would be with a detailed assessment of why international law explicitly rejects China's U-shaped line in the South China Sea as the basis for Chinese jurisdiction there. Others could be written to describe why China's East China Sea continental shelf claim misapplies international law and why China's ADIZ unlawfully asserts jurisdiction in the airspace. My sense is that East Asian states, indeed many states around the world, are desperate for active American leadership over the norms and laws that govern legitimate international action.

Finally, the United States should accept China's outstretched hand and actively engage at all levels in discussions about what a "new-type great power relationship" might look like. If there is some way to find a new security paradigm then the United States and China owe it to each other and to the world to find it. My strong sense is that this third path is already apparent. That path lies in the further advancement of the economic and security institutions, international law, and norms of acceptable behavior that arose out of the ashes of old-type great power relationships of the nineteenth and twentieth centuries. Revitalizing and further developing these institutions with full Chinese partnership is the pathway to strong, stable, and vibrant regional and global systems in the coming decades.

[1] Dutton, Peter, *Viribus Mari Victoria? Power and Law in the South China Sea*, Conference Paper submitted by the author for a conference hosted by the Center for Strategic and International Studies entitled, "Managing Tensions in the South China Sea," June 5-6, 2013, available at: http://csis.org/files/attachments/130606_Dutton_ConferencePaper.pdf.
[2] Han Yong, "A Maritime Legal Contest," *China Newsweek*, November 26, 2012, Issue 43, pp. 29-33. [China Maritime Studies Institute translation].
[3] Han Yong, "A Maritime Legal Contest," *China Newsweek*, November 26, 2012, Issue 43, pp. 29-33. [China Maritime Studies Institute translation].
[4] Han Yong, "A Maritime Legal Contest," *China Newsweek*, November 26, 2012, Issue 43, pp. 29-33. [China Maritime Studies Institute translation].
[5] Han Yong, "A Maritime Legal Contest," *China Newsweek*, November 26, 2012, Issue 43, pp. 29-33. [China Maritime Studies Institute translation].
[6] Odom, Jonathan, "A China in the Bull Shop? Comparing the Rhetoric of a Rising China with the Reality of the International Law of the Sea," *Ocean and Coastal Law Journal*, Vol. 17, No. 2 (2012), p. 201.
[7] Dutton, Peter, "Caelum Liberam: Air Defense Identification Zones in Non-Sovereign Airspace," *American Journal of International Law*, Vol. 103, No. 4 (2009), p. 691.
[8] Dutton, Peter, "Caelum Liberam: Air Defense Identification Zones in Non-Sovereign Airspace," *American Journal of International Law*, Vol. 103, No. 4 (2009), p. 691.
[9] Mulrine, Anna, "Why China Forced a Confrontation at Sea with the US Navy," *Christian Science Monitor*, December 14, 2013; "China Paper Says US Ship Harassed China Fleet," *Associated Press*, December 15, 2013.
[10] Wee, Sui-Lee, "China Confirms Near Miss with U.S. Ship in South China Sea, *Reuters*, December 19, 2013 ["Even before the navy training, Chinese maritime authorities … posted a navigation notice on their website."]. Others familiar with the incident suggest otherwise.
[11] C4ISR is an acronym for "Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance."

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Professor Peter Dutton is a Professor of Strategic Studies and Director of the China Maritime Studies Institute at the U.S. Naval War College. Professor Dutton's current research focuses on American and Chinese views of sovereignty and international law of the sea and the strategic implications to the United States and the United States Navy of Chinese international law and policy choices. Selected recent publications include: Military Activities in the EEZ: A U.S.-China Dialogue for Security in the Maritime Commons (December 2010), Caelum Liberam: Air Defense Identification Zones Outside Sovereign Airspace (American Journal of International Law, October 2009), Charting a Course: US-China Cooperation at Sea (China Security, April 2009), Scouting, Signaling and Gate-Keeping: Chinese Naval Operations in Japanese Waters and the International Law Implications (China Maritime Studies Monograph, April 2009), and Carving Up the East China Sea (Naval War College Review, Spring 2007). Additionally, Professor Dutton has testified before the U.S. China Economic and Security Review Commission on Chinese Perspectives on Sovereignty and Access Control (February 2008) and on the Implications of Chinese Naval Modernization (June 2009). Additionally, he testified before the Senate Foreign Relations Committee on Maritime Disputes and Sovereignty Issues in East Asia (July 2009). Professor Dutton also researches and lectures on topics related to international law of the sea issues in the East and South China Seas, East and Southeast Asia, the Arctic, the Proliferation Security Initiative, and Maritime Strategy. He is a retired Navy Judge Advocate and holds a Juris Doctor from the College of William and Mary, a Master's of Arts (with distinction) from Naval War College, and a Bachelor's of Science (cum laude) from Boston University.

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Statement before the U.S. House Armed Services Subcommittee on Seapower and Projection Forces and the House Foreign Affairs Subcommittee on the Asia Pacific

"PEOPLE'S REPUBLIC OF CHINA MARITIME DISPUTES"

A Statement by

Bonnie S. Glaser

Senior Adviser, Freeman Chair in China Studies

Center for Strategic and International Studies (CSIS)

January 14, 2014

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People's Republic of China Maritime Disputes

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January 14, 2014

Mr. Chairmen, Mr. Ranking Members, Members of the Subcommittees, thank you for this opportunity to offer my thoughts on China's maritime disputes.

Disputes in the waters and airspace off China's eastern coastline have fueled increased tensions in recent years between China and its neighbors as well as between China and the United States. Nationalism and power competition are the main drivers of these disputes, with resource rivalry an important, but secondary factor. How Beijing manages these disputes is widely seen as a litmus test of China's broader strategic intentions. How the US responds to China's growing propensity to use coercion, bullying and salami-slicing tactics to secure its maritime interests is increasingly viewed as the key measure of success of the US rebalance to Asia.

China's maritime disputes fall into three discrete categories. The first type of dispute centers on territorial sovereignty and resources in the surrounding water and sea bed. This includes the land features in the South China Sea (claimed by China, the Philippines, Vietnam, Malaysia, Brunei, and Taiwan) and their rightful maritime zones under the 1982 UN Convention of the Law of the Sea (UNCLOS). It also involves the East China Sea dispute between China and Japan over the Senkaku/Diaoyu islands and the delimitation of the two countries' maritime borders.

The second type of dispute concerns the operations of foreign naval vessels within China's 200nm Exclusive Economic Zone (EEZ), including US Navy ISR activities along China's coastline, which derives from differing interpretations of permissible conduct within EEZs, as defined by UNCLOS.

The third category of dispute—perhaps more accurately described as a competition—is also between the US and China, but entails a larger area and is more strategic, extending the entire space within the first island chain that stretches from the Japanese home islands in the northeast through the Ryukyu islands and Taiwan to the Philippines in the southeast. The point of contention is US insistence on retaining unfettered access to and freedom of maneuver within the

Western Pacific, which China is challenging through the deployment of anti-access/area denial (A2/AD) weapons systems along its maritime periphery.

The dispute over territory and maritime jurisdiction is a major source of rising tensions and instability as regional nations take tit-for-tat measures to assert their claims. The risk of a clash, with the attendant potential for escalation, is highest between China and Japan in the East China Sea. The US could become entangled in such a Sino-Japanese conflict as a result of its obligations under the US-Japan Mutual Security Treaty to defend territories under Japanese administrative control. China's recent declaration of an East China Sea air defense identification zone (ADIZ) that overlaps substantially with Japan's ADIZ and covers the disputed islands significantly increases the risk of accidents and miscalculation.

In China's EEZ, there is a palpable danger of an inadvertent incident between US and Chinese military forces. The collision of a Chinese fighter jet and a US surveillance plane in 2001 that resulted in the death of the Chinese pilot and engendered a major US-China political crisis could reoccur. China's harassment of US navy vessels such as the USS *Impeccable* in 2009 and the USS *Cowpens* in 2013 demonstrate the potential for an armed clash. Even if defused quickly, a US-China military incident would frighten the region, and set back US and Chinese efforts to establish a new model of major power relations and build greater trust and predictability.

The US-China strategic rivalry within the first island chain, though unlikely to result in an accidental clash, is worrying because it is emblematic of the shifting balance of power in the region. As China's military capabilities grow and challenge US military supremacy in the Western Pacific, many countries in the region feel increasingly vulnerable and anxious. Doubts about US persisting capability and will to safeguard peace and stability in the region are rampant. Concerns about Chinese actions that undermine the prevailing rules-based order are also running high.

This testimony will focus on the territorial disputes in the South and East China Seas and the dispute with the US over permissible activities in a coastal state's EEZ. An effective response to these maritime disputes involving China requires an understanding of China's strategy and security perspective as well as the region's responses to China's maritime assertiveness. These are discussed below.

China's "Salami Slicing" Strategy

In all of the above disputes, China is pursuing a "salami slicing" strategy. Through a steady progression of small steps, none of which by itself is a casus belli, Beijing seeks to gradually change the status quo in its favor. In the South China and East China seas, China's episodic encroachments are designed to compel other claimants to stop trampling on Chinese sovereignty and to advance China's territorial and maritime claims.

Sometimes, China's actions are unilateral and unprovoked, such as China's annual fishing ban, its assertion of expansive fishing rights in the South China Sea, and its decision to begin incursions in the 12nm territorial waters of the Senkaku/Diaoyu islands in December 2008. Other times, China's moves are in response to perceived provocations by other countries, described by some experts as "reactive assertiveness." In such cases, Beijing has deliberately escalated the situation, seeking to create a new status quo in its favor. In the most egregious example of such behavior in the South China Sea, the standoff between vessels from China and the Philippines, which was triggered in April 2102 by Manila's dispatching a frigate to arrest Chinese fishermen engaged in poaching at Scarborough Shoal, ended with China occupying the Shoal in violation of an oral understanding reached with Manila to withdraw all vessels from the area. This constituted the first instance of a change the status quo of a land feature in the South China Sea since 1995 when China seized control of Mischief Reef. Other examples include several cases of Chinese vessels cutting the cables of Vietnamese seismic survey boats in 2010 and 2011, and China's announcement of exploration blocks located within Vietnam's 200nm EEZ in June 2012.

Chinese "salami slicing" to alter the status quo to its advantage has also been evident in islands dispute in the East China Sea. In the aftermath of the purchase of three of the disputed Senkaku/Diaoyu islands by the government in Tokyo in September 2012, Beijing implemented the following policy initiatives in quick succession: 1) issued an updated claim to its territorial baselines in the East China Sea; 2) filed a claim with the United Nations of an extended continental shelf beneath the East China Sea that extends all the way to the Okinawa Trough; 3) declared names and coordinates for the 71 features it deemed to be included in the grouping of islands and "affiliated islets;" and 4) released the names of 26 geographic features on the islands, including peaks, creeks, and ridges. These swift moves were obviously pre-planned actions aimed at bolstering Chinese claims, which China claimed were justified by Japan's "provocation."

China also quickly began regular patrols in the contiguous waters and the 12 mile territorial waters of the disputed Senkaku/Diaoyu Islands. Prior to the purchase of the islands by the Japanese government, China had made incursions into the disputed islands' territorial waters four times. The first incursion took place in December 2008 and was itself arguably an action designed to change the status quo in China's favor. In December 2012, China intentionally once again escalated the dispute by conducting its first ever air patrol over the Senkaku/Diaoyu islands. These actions are all aimed at challenging Japan's administrative control over the islands and asserting China's own territorial sovereignty and maritime jurisdictional claims.

China's announcement of an East China Sea ADIZ in November 2013 is another example of its "salami slicing" strategy. Chinese sources say that the decision was justified internally as a reasonable response to Japan's threats to shoot down Chinese drones that pose a threat to

Japanese air space.[1] Beijing may believe that by creating an ADIZ it has established the basis for challenging and, if necessary, taking action against Japanese aircraft operating in this zone. The ADIZ also gives Beijing another rationale for protesting allied military activity in the waters and air space over its EEZ. The move thus advances China's goal of altering the status quo to its advantage in its territorial dispute with Japan as well as in its dispute over acceptable military operations in its EEZ with the United States.

Another instance of Chinese efforts to restrict free use of the maritime commons took place in the South China Sea in December 2013 when a PLA Navy vessel ordered the USS *Cowpens* to stop and then crossed its bow at a distance of 100 yards, forcing the *Cowpens* to maneuver to avoid a collision. The *Cowpens* was apparently shadowing China's carrier *Liaoning* at a distance to observe an exercise. China claimed that the US ship had come within 30 miles of the fleet's "inner defense layer" and was operating in China's waters. From the US perspective, the incident took place in international waters and China's actions posed a challenge to freedom of navigation.

As China's economic and strategic interests, as well as naval capabilities, extend ever further from its shores, it is possible that Beijing will change its position on activities that are permissible in a coastal state's EEZ. If they continue to hold to their current interpretation, Chinese military ships conducting surveillance will not be able to operate in more than one-third of the surface of the world's ocean space. So far, however, hopes that China would soon alter its reading of UNCLOS have been dashed. In the past two years, China's navy has begun to conduct missions within the EEZs off Guam and Hawaii, but it has continued to insist that US ISR operations in China's EEZ are unlawful.

China's Security Perspective and Recent Policies

China's policies toward maritime disputes must be understood in the broader context of Beijing's perspective on the security challenges it faces. China's leader Xi Jinping told Vice President Biden when they met in Beijing in early December that "the world is undergoing complicated changes." Deeper insight into this phrase can be found in authoritative Chinese documents such as China's Defense White Paper, which was last released in April 2013.

That document reaffirmed China's assessment that the international situation is expected to remain sufficiently benign to allow China to continue to focus on domestic development for the duration of the "period of strategic opportunity" extending through 2020. But it also pointed to "signs of increasing hegemonism, power politics, and neo-interventionism" and other sources of instability. Among the "multiple and complicated security threats and challenges" that China

[1] Douglas H. Paal, "Contradictions in China's Foreign Policy," Carnegie Endowment, December 13, 2013, http://carnegieendowment.org/2013/12/13/contradictions-in-china-s-foreign-policy/gw4w.

faces, the White Paper identified the US rebalance to Asia, noting that "Some country has strengthened its Asia-Pacific military alliances, expanded its military presence in the region, and frequently makes the situation there tenser."[2]

Such statements suggest that China's leadership views the country's security environment as under significant stress, especially on its periphery. Perceived challenges emanate not only from renewed US attention to the region, but also from the increased willingness of some of China's neighbors to confront Beijing, which many Chinese see as linked to the US re-balance.

A new sense of urgency has prevailed in Beijing to more proactively counter the threats it faces and shape a more positive security environment along its borders. Recent policy enunciations to this end include reassertions of China's determination to protect its maritime rights and interests and diplomatic outreach to members of ASEAN. Steps to increase the efficiency of battle-readiness of the PLA are also underway with the announcement at the Third Plenum that the Chinese military will undergo potentially sweeping structural reform. Major goals of the reforms include fully bringing China's military into the information age, revamping the command system for joint combat, and reforming the leadership structure.[3]

Strengthening China's maritime power is a top priority in accordance with the pronouncement at the 18th Party Congress that China seeks to become a major sea power. Since the middle of the 19th century, China's primary security threats have come from the sea. Chinese strategists have embraced the "sea power" theory of Admiral Alfred Thayer Mahan, arguing that the country must build up its sea power for the sake of its economic growth, maritime interest, and national security.

This ambition was reiterated by Xi Jinping at a collective study session held by the Politburo last July. At his speech at the meeting, Xi insisted that China "must make good preparations for coping with all kinds of complicated situations, improve the ability to safeguard maritime rights and interests, and resolutely safeguard our country's maritime rights interests." Alluding to China's territorial disputes, he emphasized the need to safeguard "national sovereignty" and "core interests."[4]

Chinese leaders have also put forward a positive agenda to improve ties with its neighbors, especially in Southeast Asia, as part of its efforts to more proactively shape the security environment on its periphery. The renewal of China's "good-neighbor policy" was first signaled

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[2] "The Diversified Employment of China's Armed Force," China's Defense White Paper, Information Office of the State Council, April 2013, http://news.xinhuanet.com/english/china/2013-04/16/c_132312681.htm.

[3] Shannon Tiezzi, "China Revamping its Military to Increase Battle-Readiness," *The Diplomat*, November 22, 2013. http://thediplomat.com/2013/11/china-revamping-its-military-to-increase-battle-readiness.

[4] "Xi Jinping's Important Speech to the Periphery Diplomacy Work Conference," Xinhua, October 25, 2013 (Chinese), http://news.xinhuanet.com/politics/2013-10/25/c_117878897.htm.

by Xi Jinping at the July Politburo meeting where he called for persistence in resolving disputes by peaceful means and through negotiations, including "shelving disputes and carrying out joint development for areas over which China has sovereign rights." This reaffirmation of Deng Xiaoping's guideline for handling territorial disputes over offshore islands indicated the leadership's rejection of internal proposals to adopt a tougher stance against other claimants.[5] Another important step was taken in September, when China launched consultations on a Code of Conduct in the South China Sea with ASEAN.

China's new diplomatic activism toward its surrounding countries became clearer in late October, when China's leadership convened an unprecedented work conference on periphery diplomacy. In Xi's speech at the meeting—which was attended by the entire Standing Committee of the Politburo, the members of the Central Leading Small Group on Foreign Affairs, and Chinese ambassadors to important countries—he underscored the close linkage between security on the country's periphery and achieving China's domestic objectives: The goal of creating "excellent external conditions" is required for China's reform, development, and stability," Xi stated.[6] Beijing would therefore continue to provide the benefits of China's development to its neighboring countries, and "realize common development."

China's emphasis on Southeast Asia in this policy was foreshadowed in visits by Xi Jinping and Chinese Premier Li Keqiang to the region earlier that month. Speaking to the Indonesian parliament, Xi advanced the idea of a Maritime Silk Road. Li Keqiang offered a seven pronged proposal on promoting China-ASEAN cooperation and outlined a plan to establish an Asian infrastructure bank.

According to informed Chinese sources, relations with Japan are being viewed as a separate case. Beijing undoubtedly hopes to stabilize, and if possible, improve ties with Japan, but only on its terms. China continues to demand that Tokyo acknowledge that a territorial dispute exists before the two countries can resume normal political and military ties, including consultations on implementing conflict avoidance measures.

China thus seeks to employ a charm offensive with the majority of its neighbors while continuing its salami-slicing tactics to advance its territorial and maritime claims and pressing its interpretation of permissible military activities in its EEZ. From Beijing's perspective, these are vital security interests and are not contradictory. Maintaining amicable ties with its neighbors, and especially preventing the US from colluding with its neighbors against Chinese interests, is a necessary precondition for China's pursuit of economic reform. Resolutely safeguarding the

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[5] Taylor Fravel, "Xi Jinping's Overlooked Revelation on China's Maritime Disputes," *The Diplomat*, August 15, 2013, http://thediplomat.com/2013/08/xi-jinpings-overlooked-revelation-on-chinas-maritime-disputes.

[6] Bonnie Glaser and Deep Pal, "China's Periphery Diplomacy Initiative: Implications for China's Neighbors and the United States,", *US-China Focus*, November 7, 2013, http://www.chinausfocus.com/foreign-policy/chinas-periphery-diplomacy-initiative-implications-for-china-neighbors-and-the-united-states/.

nation's territorial integrity and sovereignty as well as upholding its maritime rights are tied to the Chinese Communist Party's political legitimacy, and thus, Chinese leaders believe they cannot make concessions. A set of well-designed and persistently implemented policies by the US, coordinated with its allies and partners, will be necessary to persuade Beijing to seek a rule-based and more mutually accommodating approach to protecting its maritime interests.

Regional Responses to China's Maritime Assertiveness

Regional concerns about territorial and maritime disputes in the Asia-Pacific are on the rise. The Pew Research Center's Global Attitudes Project conducted public opinion polls in several regional nations in 2013 to assess the extent of these concerns. In response to the question "How big a problem are territorial disputes between China and your country?" the proportion that said the disputes are a "very big" or "big" problem was 82 percent in Japan, 90 percent in the Philippines, 62 percent in Indonesia, 36 percent in Malaysia, and 77 percent in South Korea.[7]

An important change from the past is that Southeast Asian governments no longer see a danger of US dominance and a growing number of states view closer ties with the US as a useful hedge against potential domineering behavior by China. Virtually every country in Northeast Asia and Southeast Asia has been publicly or privately supportive of the US rebalance to Asia and hopes that the US will sustain its role as balancer and counterweight to growing Chinese power.[8]

Nevertheless, doubts persist about the credibility and constancy of US policy. Regional states are worried that the US may once again be drawn into crises in the Middle East or elsewhere and leave them exposed without adequate capability to fend off Chinese pressure. US policy toward the South China Sea is the critical indicator for countries in Southeast Asia, although recently some Southeast Asian nations have begun to view developments in Northeast Asia (such as the ADIZ announcement) as warning signals of Chinese willingness to employ coercion generally. Southeast Asian states are looking to the US to stand up for rule of law and the peaceful settlement of disputes through diplomacy both through rhetoric and action. At the same time, however, they want to use the framework of ASEAN-based multilateral dialogue and seek greater support for ASEAN centrality and the use of ASEAN's collective diplomatic power to shape Chinese policies.

Even as the region welcomes increased US presence and attention to Southeast Asia, the majority of countries are keen to avoid having to choose between the United States and China.

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[7] Richard Wike and Bruce Stokes, "Who Is Up, Who Is Down: Global Views of China and the U.S.," Pew Research Center, Global Attitudes Project, July 2013, http://www.slideshare.net/PewResearchCenter/who-is-up-who-is-down-global-views-of-china-the-us-71813.

[8] Robert G. Sutter, Michael E. Brown, and Timothy J.A. Adamson, *Balancing Acts: The U.S. Rebalance and Asia-Pacific Stability*, Elliot School of International Affairs, The George Washington University, August 2013, http://www2.gwu.edu/~sigur/assets/docs/BalancingActs_Compiled1.pdf.

They prefer to reap the benefits of having good relations with both and fear the consequences of a US-China rivalry in their backyard. Therefore, the US must strike a tricky balance between securing peace and stability in the South China Sea and avoiding confrontation with Beijing.

Sustaining the momentum in US-ASEAN relations is especially critical to American interests. Continued US support for enhancing the capabilities of Southeast Asian nations to defend themselves is also essential. The announcement by Secretary of State John Kerry during his December trip to the region of $32 million to help Southeast Asian countries protect their territorial waters, and an additional $40 million in aid to the Philippines,' in part to enable it to boost its maritime defense capabilities, is welcome in this regard. The US must also pay equal attention to the non-security aspects of US-ASEAN relations including greater focus on economic initiatives. The US executive and legislative branches can help by promoting new business opportunities in Southeast Asia and providing capacity building for less-developed members of ASEAN to eventually join the TPP.

Policy Recommendations

The US has multiple interests at stake in the maritime disputes in East Asia that involve China, including the maintenance of freedom of navigation, the encouragement of a rules-based international system, the maintenance of US credibility and influence in the region, peaceful resolution of disputes through negotiation, the preservation of peace and stability in the region, and the development of a cooperative relationship with a rising China. In the coming decade, the US role will likely be pivotal in shaping the security landscape in the Asia-Pacific region. The US must continue to be engaged economically, diplomatically, and militarily to influence the future balance of power in the region and ensure it remains favorable to the interests of the US, its allies, and its partners.

Congress can play a vital role in this process. Below are my recommendations for Congress going forward:

First, Congress should require the executive branch to produce a strategy paper on the rebalance to Asia. The paper should establish explicit objectives and benchmarks for evaluating progress. It should also outline a coordinated, whole-of-government approach to the rebalance, while articulating a clear bureaucratic division of labor that assigns the lead for various elements to appropriate agencies.

Second, Congress should encourage other governments and legislatures in the Asia-Pacific to back the Philippines' right to use available international arbitration mechanisms to address its territorial dispute with China. So far, only the U.S. and Japan have explicitly endorsed Manila's decision to file a case with the UNCLOS arbitration panel. If a large number of countries, including members of ASEAN, speak out in support of the application of international law to

resolve disputes, Beijing might conclude that flouting the ruling of the tribunal is too costly, even if China's nine-dashed line is found to be illegal.

Third, the US Senate should ratify UNCLOS to increase the effectiveness of U.S. efforts to pursue a rules-based approach to managing and resolving disputes over maritime jurisdiction. The Convention serves US national security and economic interests. It provides clear, treaty-based rights for U.S. ships and aircraft to travel through and over the territorial seas of other coastal states. Ratification would therefore be helpful in ensuring freedom of navigation in the Asia-Pacific. It would also silence China's charge that the US is attempting to enforce its interpretation of a law that it has not even ratified.

Fourth, Congress should urge the executive branch to impose consequences on China when it violates international laws and norms. If Beijing can flagrantly breach international laws and practices without penalty, it will have little incentive to become a more responsible regional and global player. In addition, the Administration should demand that China be more transparent about how it seeks to modify international rules and norms in the future.

Fifth, Congress should enact trade promotion authority legislation so that the Administration can persuade the other countries negotiating the TPP that the US will be able to not just sign, but also ratify a high-standard TPP agreement. Maintaining American economic leadership in the Asia-Pacific is imperative to enhancing the US ability to achieve its other interests, including the promotion of a rules-based system and the peaceful settlement of maritime disputes.

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Senior Adviser for Asia, Freeman Chair in China Studies and Senior Associate, Pacific Forum

Bonnie Glaser is a senior adviser for Asia in the Freeman Chair in China Studies, where she works on issues related to Chinese foreign and security policy. She is concomitantly a senior associate with CSIS Pacific Forum and a consultant for the U.S. government on East Asia. From 2003 to mid-2008, Ms. Glaser was a senior associate in the CSIS International Security Program. Prior to joining CSIS, she served as a consultant for various U.S. government offices, including the Departments of Defense and State. Ms. Glaser has written extensively on Chinese threat perceptions and views of the strategic environment, China's foreign policy, Sino-U.S. relations, U.S.-China military ties, cross-strait relations, Chinese assessments of the Korean peninsula, and Chinese perspectives on missile defense and multilateral security in Asia. Her writings have been published in the Washington Quarterly, China Quarterly, Asian Survey, International Security, Problems of Communism, Contemporary Southeast Asia, American Foreign Policy Interests, Far Eastern Economic Review, Korean Journal of Defense Analysis, New York Times, and International Herald Tribune, as well as various edited volumes on Asian security. Ms. Glaser is a regular contributor to the Pacific Forum quarterly Web journal Comparative Connections. She is currently a board member of the U.S. Committee of the Council for Security Cooperation in the Asia Pacific and a member of the Council on Foreign Relations, and she served as a member of the Defense Department's Defense Policy Board China Panel in 1997. Ms. Glaser received her B.A. in political science from Boston University and her M.A. with concentrations in international economics and Chinese studies from the Johns Hopkins School of Advanced International Studies.

DISCLOSURE FORM FOR WITNESSES
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Witness name: Ms. Bonnie Glaser

Capacity in which appearing: (check one)

X Individual

___Representative

If appearing in a representative capacity, name of the company, association or other entity being represented: Center for Strategic & International Studies

FISCAL YEAR 2013

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
HQ0034-12-A-0022-0004	DOD	$74,779	Asia Rebalance in age of Austerity

FISCAL YEAR 2012

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
HQ0034-09-A-1009-0031	DOD	$676,554	US Force Postures in PACOM
W91WAW-12-F-0050	DOD	$272,870	US Forces challenges PACOM/CENTCO

Note: All grants/contracts are to the organization, not the individual.

FISCAL YEAR 2011

Federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
HQ0034-07-A-1007-0024	DOD	$143,052	Climate Security Challenges in Asia-Paci

Federal Contract Information: If you or the entity you represent before the Committee on Armed Services has contracts (including subcontracts) with the federal government, please provide the following information:

Number of contracts (including subcontracts) with the federal government:

Current fiscal year (2013): 1;
Fiscal year 2012: 2;
Fiscal year 2011: 1.

Federal agencies with which federal contracts are held:

Current fiscal year (2013): DOD;
Fiscal year 2012: DOD;
Fiscal year 2011: DOD.

List of subjects of federal contract(s) (for example, ship construction, aircraft parts manufacturing, software design, force structure consultant, architecture & engineering services, etc.):

Current fiscal year (2013): force structure;
Fiscal year 2012: force structure;
Fiscal year 2011: climate and force security.

Aggregate dollar value of federal contracts held:

Current fiscal year (2013): $74,779;
Fiscal year 2012: $999,424;
Fiscal year 2011: $143,052.

Federal Grant Information: If you or the entity you represent before the Committee on Armed Services has grants (including subgrants) with the federal government, please provide the following information:

Number of grants (including subgrants) with the federal government:

Current fiscal year (2013):_____;
Fiscal year 2012:_____;
Fiscal year 2011:_____.

N/A

Federal agencies with which federal grants are held:

Current fiscal year (2013):_____;
Fiscal year 2012:_____;
Fiscal year 2011:_____.

N/A

List of subjects of federal grants(s) (for example, materials research, sociological study, software design, etc.):

Current fiscal year (2013):_____;
Fiscal year 2012:_____;
Fiscal year 2011:_____.

N/A

Aggregate dollar value of federal grants held:

Current fiscal year (2013):_____;
Fiscal year 2012:_____;
Fiscal year 2011:_____.

N/A

MARITIME SOVEREIGNTY IN THE EAST AND SOUTH CHINA SEAS

Testimony before the
House of Representatives Joint Subcommittee hearing
Foreign Affairs Subcommittee on Asia and the Pacific
Armed Services Subcommittee on Seapower and Projection Forces

Jeff M. Smith
Director of South Asia Programs
American Foreign Policy Council

January 14, 2014

Chairmen Forbes and Chabot, Ranking members Faleomavaega and McIntyre:

Thank you for the opportunity to appear before you today. In recent months the world's attention has been focused on China's provocative behavior toward maritime territorial disputes with its neighbors, and for good reason. The tensions now festering in the Western Pacific, and the Japan-China dispute over the Senkaku/Diaoyu islands in particular, pose a tangible risk for interstate conflict in the years to come.

However, the issue of maritime sovereignty in the East and South China Seas encompasses more than simply China's territorial disputes. It also involves a volatile dispute between the U.S. and China over the type of sovereignty China is claiming over its 200-nautical-mile Exclusive Economic Zone (EEZ), and the right of the U.S. military to conduct surveillance operations there. China's position on this matter poses a direct challenge to U.S. national security interests in the region and the disagreement has already produced more than a half-dozen dangerous confrontations at sea which are documented in the appendix to this testimony.

Make no mistake, while the United States and China have a wide range of substantive disagreements -- over everything from cyber security to intellectual property, human rights, and trade practices – our disagreement in the realm of maritime security presents arguably the greatest potential for miscalculation, escalation, and conflict.

BASIS FOR U.S.-CHINA SOVEREIGNTY DISPUTE

Before the 1990s, the oceans of the world were effectively divided into two categories: "territorial seas," the sovereign waters of a state stretching three nautical miles from its coastline, and the "high seas," open to unrestricted navigation for all. During negotiations for the UN Convention on the Law of the Sea (UNCLOS), conferees agreed to extend the territorial sea to 12 nautical miles and create several new categories, including an Exclusive Economic Zone extending 200 nautical miles from a country's coastline. There, the host state would enjoy limited rights over economic exploitation activities and marine scientific research, among other related things. (The United States has not ratified the treaty, but in practice observes these distinctions).

MARITIME BOUNDARY DEFINITIONS

Territorial Sea	Up to 12-nautical miles from a country's baseline (low-water coastline).	Sovereign territory of the state. Foreign civilian and military vessels right to innocent passage.
Contiguous Zone	Up to 24 nautical miles from the baseline.	State may exercise control necessary to prevent infringement of its customs, fiscal, immigration or sanitary laws.
Exclusive Economic Zone (EEZ)	Up to 200 nautical miles from baseline	Sovereign rights for exploring and exploiting resources; preserving marine environment; establishing artificial islands and structures
High Seas	All parts of the sea that are not included in the EEZ, the territorial sea, or in the internal waters of a state. No exclusive rights.	

*The National Oceanic and Atmospheric Administration (NOAA)*http://www.gc.noaa.gov/gcil_maritime.html

Yet China and the United States have developed different and fundamentally contradictory interpretations of a nation's rights in its EEZ. The U.S. and most other nations of the world treat the EEZ more like the high seas for the purpose of military surveillance activities, which do not require prior consent from the home state.

Beijing argues that the EEZ should be treated more like a country's territorial sea, where the host state enjoys vast sovereign rights, including the right to deny foreign military vessels permission to conduct surveillance activities.

It must be noted that while China is in the minority in its interpretation, it is not alone. Sixteen other countries share China's position, an additional seven claim territorial seas beyond the 12 nautical miles allowed in UNCLOS, and three assert full sovereignty in their 24 nautical mile contiguous zone. These countries include: Bangladesh, Brazil,

Burma, Cambodia, Cape Verde, China, Egypt, Haiti, India, Iran, Kenya, Malaysia, Maldives, Mauritius, North Korea, Pakistan, Portugal, Saudi Arabia, Somalia, Sri Lanka, Sudan, Syria, Thailand, United Arab Emirates, Uruguay, Venezuela, and Vietnam.

The important distinction is that while some countries have issued diplomatic protests when U.S. naval vessels have operated in their EEZ without consent, only China has "operationally challenged" U.S. warships on multiple occasions, resulting in several dangerous confrontations at sea, the most recent involving the *USS Cowpens* in December, 2013.

Most of the incidents have taken place in the East and South China Seas, and have involved U.S. Navy Special Mission Program ships (SMPs), which are designed to conduct oceanographic surveys, underwater surveillance, hydrographic surveys, missile tracking and acoustic surveys. The U.S. Navy also conducts "Freedom of Navigation operations" in and around China's claimed EEZ, a program designed to challenge maritime claims that the U.S. finds inconsistent with international law.[i] These operations "involve naval units transiting disputed areas to avoid setting the precedent that the international community has accepted these unlawful claims."[ii]

THE LEGAL DISPUTE EXAMINED

China has mustered several legal arguments in support of its position on foreign military activities in its EEZ, all of which have been challenged or refuted by U.S. military scholars and government officials. A particularly convincing case is made by Captain Raul Pedrozo (USN, Ret.), Associate Professor at the U.S. Naval War College's International Law Department, in an article for the Chinese Journal of International Law, "Preserving Navigational Rights and Freedoms: The Right to Conduct Military Activities in China's Exclusive Economic Zone."[iii]

Under UNCLOS, China is given exclusive *economic* rights in its EEZ, including the exclusive right to conduct marine scientific research. Beijing has claimed that U.S. surveillance activities such as sonar mapping have dual-use military and scientific purposes and therefore qualify as marine scientific research. Pedrozo counters that under UNCLOS "coastal State consent is not required for survey activities, including hydrographic and military oceanographic surveys, in the EEZ."

> Although the means of data collection may be the same or similar to that used in [Marine Scientific Research], the information obtained during military marine data collection or a hydrographic survey is intended for use by the military or to promote safety of navigation.

China has also claimed that military intelligence collection activities in its EEZ are banned under the rules of UNCLOS, however the relevant provision in UNCLOS applies only to a country's territorial waters.

> Intelligence collection is addressed in only one article of UNCLOS—Article 19. Foreign ships transiting the *territorial sea* in innocent passage may not engage in "any act aimed at collecting information to the prejudice of the defense or security of the coastal state." *A similar restriction does not appear in Part V of the Convention regarding the EEZ. Under generally accepted principles of international law, any act that is not specifically prohibited in a treaty is permitted.* [emphasis added]

Finally, China claims that the U.S. is applying a double-standard; that Washington would not accept Chinese military vessels conducting similar activities in its own Exclusive Economic Zone, and has not accepted such behavior in the past from countries like Russia. Again these claims are untrue, and ring particularly hollow considering China regularly conducts such operations in Japan's EEZ.

> The U.S. does not prevent - but merely monitors - the military activities of Russia and other countries in America's EEZ… During the Cold War, for example, Soviet surveillance ships (AGI) routinely collected intelligence on US and NATO warships at sea. Such surveillance activities were lawful and acceptable to the Alliance so long as they occurred seaward of the territorial sea and the AGIs complied with the obligations of the 1972 International Regulations for Preventing Collisions at Sea.

CAUSES FOR CONCERN MOVING FORWARD

Although the U.S. and China have successfully managed this dispute without resorting to conflict, the prospect for escalation and confrontation is very real. The situation is particularly concerning because the U.S.-China military-to-military relationship remains among the poorest and least-developed arenas in bilateral relations.

To quote two former senior defense officials:

> **"Nearly all of the aspects of the relationship between the United States and China are moving forward in a positive direction, with the sole exception of the military-to-military relationship... the PLA is significantly less interested in this relationship than the political leadership of China."** *U.S. Secretary of Defense Robert Gates June 4, 2010*
>
> **"Fairly recently I have gone from being curious about where China is headed to being concerned about it… We have virtually no relationship with the**

> **Chinese military."** *Chairman of the Joint Chiefs of Staff Admiral Mike Mullen July 24, 2010.*

The poor state of military-to-military relations is even more troubling given what we know about the ideology and mindset of the People's Liberation Army and their cadres of nationalist supporters. While the political and professional Chinese elite are experiencing an unprecedented level of exposure to the outside world, and the U.S. in particular, this encouraging trend has not extended to the People's Liberation Army, which tightly restricts military-to-military contacts with the U.S., particularly for junior officers. By design the PLA ranks remain conspiracy-minded, hawkish, and insulated from the Western world and even to liberal influences within China.

A leaked film released by the Chinese military in 2013 entitled "Silent Contest" provides "a remarkably straightforward glimpse into the Cold War mind-set of the Chinese military leadership, as well as the deep suspicions of the United States festering inside one of the most influential institutions in the Chinese political system."[iv] Lamenting the fall of the Soviet Union, the film suggests that military-to-military exchanges with the U.S. are designed to corrupt Chinese officers. Washington is accused of supporting ethnic separatists inside China and the film warns of "America's cultural invasion" being promoted by the "soft tentacles" of Western NGOs.

Many Chinese nationalists inside and outside the PLA see the U.S. as engaged in a containment strategy designed to prevent China's rise and undermine Chinese security. America, in their eyes, is intentionally aggravating China's maritime territorial disputes with its neighbors and encouraging provocative behavior from Japan, the Philippines and Vietnam. And they increasingly see some kind of confrontation with the U.S. as likely, if not inevitable.

Consider how two well-known PLA academics have responded to the ongoing game of cat-and-mouse between U.S. and Chinese naval forces in China's EEZ:

> **In 2009, the Chinese press quoted Senior Colonel Dai Xu as warning that if the U.S. continues carrying out surveillance activities in Chinese waters the following concrete military actions would be taken: first warning, second expulsion. And if that does not work, the invading vessels can be directly surrounded and sunk.**[v]

> **In 2012, Major General Zhang Zhaozhong stated: "Dealing with the [*USS Zumwalt*] requires a different approach. You can't use conventional thinking [against it]. In dealing with a ship like the *Zumwalt* you need to think outside the box. I reckon I could gather dozens of fishing boats swinging [across the water] and it is done. My little fishing boats could be armed with explosives on top."**[vi]

This type of rhetoric is particularly problematic because China's leaders are increasingly pandering to these nationalists, escalating their own rhetoric about China's "indisputable sovereignty" over the South China Sea and in the process restricting their freedom to maneuver in the future.

Ely Ratner of the Center for a New American Security worries that this firebrand rhetoric has "fed a system that has backed the Chinese leadership into a corner where if there is a crisis or incident they will almost have no choice but to respond because their decision-making will be driven by their concerns about domestic political effects and not by the external strategic logic of their behavior."[vii]

This danger was seemingly acknowledged by Lt. Gen Wang Hongguang, the Vice President of the PLA's Academy of Military Science, in April 2013. Offering a rare rebuke to the PLA commentariat, he argued that "military affairs experts" have been appearing in the media saying "off-key" and "irresponsible" things that mislead the public. This commentary was "inciting public sentiment and *causing some interference with our high-level policy decision-making and deployments* [emphasis added]."[viii]

POLICY IMPLICATIONS AND RECOMMENDATIONS

Testing boundaries and establishing new status quos favorable to China has been a defining feature of China's regional policy in recent years.

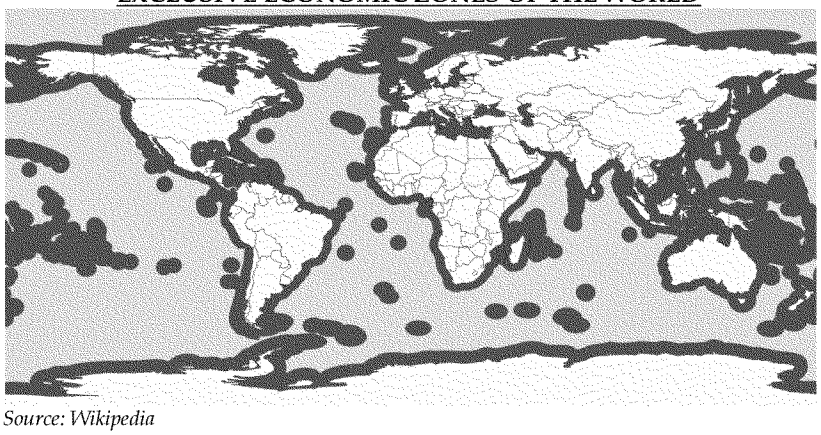
When the U.S. and other countries have faltered in the face of this policy, as was the case with the Philippines in the Scarborough Shoal, China has advanced its goals and established a new status quo. However, where the U.S. has held firm in its position and demonstrated resolve, Beijing has backed down.

- In 2009 Chinese diplomats began referring to the South China Sea as a "core interest" of China's through private channels. When the pushback against that characterization grew to a furor, Beijing backed down and Chinese officials no longer describe the South China Sea as a "core interest."
- In 2010, after the sinking of the South Korean corvette *Cheonon* by a North Korean midget submarine, Beijing warned the U.S. that the *USS George Washington* was not welcome to conduct exercises with South Korea in the Yellow Sea. Those exercises were eventually held over Beijing's objection, and the *George Washington* has now exercised there multiple times with little to no protest from Beijing.
- When Beijing unilaterally declared an Air Defense Identification Zone in late 2013, the U.S. immediately flew B-2 bombers within the new ADIZ without notifying Beijing. The flights went unchallenged and an important precedent was established.

The same resolve must be committed to surveillance activities in China's EEZ. America's position on this issue is not only within the U.S. national interest, it is fully supported by domestic and international law.

Were the U.S. to accept China's interpretation of UNCLOS, U.S. military vessels could be barred from operating in large swathes of the world's oceans (as seen in the map below), an outcome that is clearly unacceptable to Washington and one never envisioned by the drafters of UNCLOS.

EXCLUSIVE ECONOMIC ZONES OF THE WORLD



Source: Wikipedia

The U.S. should do everything at its disposal to ensure future incidents do not escalate, but it must reaffirm that U.S. policy is not subject to fear, intimidation, coercion, or reckless behavior from Chinese naval forces.

Furthermore, Washington must do a better job drawing clear red lines around the type of behavior that is and isn't acceptable in the maritime arena, and enforce those red lines when they are crossed. The U.S. should continue an active schedule of surveillance activities, patrolling, and freedom of navigation operations, and should continue to challenge unlawful or provocative acts by China.

America carries a special burden on this issue. Whereas Beijing tends to view its neighbors as subservient regional powers, the Chinese leadership acknowledges and respects America's superior "comprehensive national power," even as many Chinese increasingly resent that power. As perhaps the only country capable of drawing and enforcing red lines with China, America's allies in the region are depending on the U.S. to be a firewall against Chinese aggression in the Western Pacific.

APPENDIX I

US-CHINA INCIDENTS AT SEA 21st CENTURY

March 24, 2001: In the Yellow Sea near South Korea, a PLA Navy Jianghu III-class frigate passes as close as 100 yards from a U.S. surveillance ship, the *USNS Bowditch*, and a PLA reconnaissance plane shadows the ship. The Chinese frigate carries out "aggressive and provocative actions," aims its fire control radar at the *Bowditch*, and warns it against carrying out activities within China's EEZ. Following the encounter, the U.S. dispatches an armed naval escort alongside the *Bowditch*.

April 2, 2001: A U.S. Navy EP-3 reconnaissance plane makes a forced landing on Hainan Island after colliding with a PLA Navy F-8 fighter. The U.S. Navy deploys three destroyers to the island's vicinity. The PLA detains 24 U.S. Navy personnel for 11 days.

September 28, 2002: Continued Chinese harassment of the *USNS Bowditch* in the Yellow Sea causes the ship to leave China's EEZ a second time. On a number of occasions, Chinese coastal patrol aircraft buzz the ship while Chinese patrol craft pass within a few hundred yards of the *Bowditch*, repeating the message that the ship's mission is illegal and that it should leave the China's EEZ.[ix]

May 2003: In a continuation of attempts to deter the *USNS Bowditch* from conducting oceanographic research within its EEZ, China alters its tactics by instructing fishing vessels to deliberately bump the research vessel. According to reports, the *Bowditch* suffers damage from one of these episodes.[x]

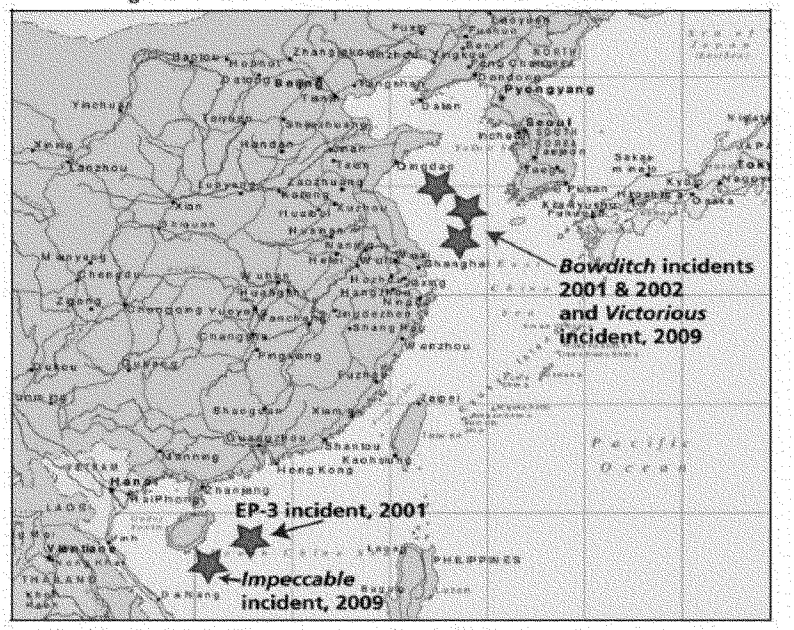
October 26, 2006: On October 28, 2006, a Chinese Song-class diesel attack submarine unexpectedly surfaces in the midst of a U.S. naval exercise of the coast of Okinawa. According to reports, the submarine was spotted by routine aerial surveillance within torpedo range of the *USS Kitty Hawk*.[xi]

November 2007: Beijing "disapproves" of a port call by U.S. minesweepers in distress seeking to refuel in the face of an approaching storm. Beijing also disapproves of port call for *USS Kitty Hawk* in Hong Kong.

March 4-8, 2009: The *USNS Victorious* and *USNS Impeccable* are harassed by a Chinese Y-12 maritime surveillance craft, a PLAN frigate, and Chinese intelligence ships and trawlers 75 miles south of Hainan Island. On March 5, the *Impeccable* is approached by a PLAN frigate which crosses the ship's bow and shadows the vessel for several days. Chinese flagged fishing trawlers come within 25 feet of the *Impeccable*, obstructing its path and forcing the ship to turn its water cannons on their crews. As the *Impeccable* tries to leave, a Chinese trawler seeks to snag its sonar array with a grappling hook. On March 10 China dispatches its largest "fishery patrol" ship to the area, and the U.S.

deploys USS Chung-Hoon to provide escort its surveillance ships. Director of National Intelligence Adm. Dennis Blair states it's the most serious crisis since EP-3 of 2001.

Figure 2. Locations of U.S.-Chinese Incidents at Sea and In Air



Source: Mark E. Redden and Phillip C. Saunders, *Managing Sino-U.S. Air and Naval Interactions: Cold War Lessons and New Avenues of Approach*, Washington, Center for the Study of Chinese Military Affairs, Institute for National Strategic Studies, National Defense University, September 2012. Detail of map shown on page 6.

May 5, 2009: Two Chinese fishing vessels come "dangerously close" to the *USNS Victorious* as it conducts underwater listening exercise in the Yellow Sea. According to the crew, the Chinese vessels approached the ship in heavy fog and at times came within 30 yards.

June 11, 2009: Chinese submarines damage the underwater sonar array of the *USS John McCain*, which was tracking the PLA submarine off the coast of the Philippines.

2010:

March 26: A North Korean midget submarine sinks a Republic of Korea (ROK) corvette, the *Cheonan*, killing 46.

June 1: An ROK spokesman announces the U.S. and ROK will conduct joint drills in the Yellow Sea and the *USS George Washington* aircraft carrier will participate. Chinese media outlets repeatedly voice "resolute opposition" to any carrier-led exercises in Yellow Sea. The Singapore Straits Times quotes Chinese Major General Luo Yuan as saying China would "welcome the opportunity to try out its anti-aircraft carrier skills, short of firing at the carrier."

June-July: Chinese officials tell the U.S. that the South China Sea is now one of China's "core Interests." China conducts air and sea live-ammunition drills in the Yellow Sea as well its first-ever "wartime emergency drills" there.

July 25: The first U.S.-ROK exercises are held in the Sea of Japan off Korea's eastern coast instead of the Yellow Sea. ROK sources say the exercise had to be relocated from the Yellow Sea because of protests from China.

August: A Pentagon spokesman says the *USS George Washington* will drill in the Yellow Sea in the "coming months." Another Pentagon spokesman later clarifies that the *George Washington* will "operate in the waters off the Korean peninsula in future exercises."

November 23: North Korea attacks South Korea, firing an artillery barrage onto Yeonpyeong island, killing four and wounding 18.

November 24: U.S. officials announce the *USS George Washington* will participate in drills in the Yellow Sea with South Korean forces from November 28 – December 1. China lodges an official protest. James Steinberg, deputy secretary of state, explains: "China is suffering the indignity of exercises close to its shores, and though they are not directed at China, the exercises are a direct result of China's support for North Korea and unwillingness to denounce their aggression."

June 29, 2011: China scrambles two Su-27 fighter aircraft to intercept a U.S. U-2 reconnaissance aircraft over the Strait of Taiwan. The intercept represents the first time that Chinese aircraft crossed the median line dividing the Taiwan Strait since 1999.[xii]

June 2013: At the annual Shangri La Dialogue in Singapore, Chinese Senior Col. Zhou Bo announces that Chinese ships have been conducting reconnaissance operations in America's Exclusive Economic Zone. The 2013 Department of Defense report on

Chinese Military Power admits that Chinese ships have begun conducting "naval activities" around Guam and Hawaii. Adm. Samuel Locklear, the head of U.S. Pacific Command states: "They are [conducting exercises in our EEZ], and we encourage their ability to do that."

December 5, 2013: The *USS Cowpens,* a guided-missile cruiser, is confronted by a Chinese amphibious dock ship as it monitors China's new aircraft carrier, the *Liaoning* in the South China Sea. The Chinese ship orders the *Cowpens* to stop and then blocks its way, forcing the U.S. vessel to a stop, according to U.S. reports. The *Cowpens* "required maneuvering to avoid collision," according to U.S. officials.

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[i] O'Rourke, Ronald. "Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress." Congressional Research Service. 7-5700. R42784. August 9, 2013. Web. <http://www.fas.org/sgp/crs/row/R42784.pdf>.

[ii] "Maritime Security and Navigation." U.S. Department of State. U.S. Department of State, n.d. Web. March 22, 2013. < http://www.state.gov/e/oes/ocns/opa/maritimesecurity/index.htm>.

[iii] Pedrozo, Raul. "Preserving Navigational Rights and Freedoms: The Right to Conduct Military Activities in China's Exclusive Economic Zone." Chinese Journal of International Law. Oxford Journals, n.d. Web. January 13, 2014. <http://chinesejil.oxfordjournals.org/content/9/1/9.full>.

[iv] Perlez, Jane. "Strident Video by Chinese Military Casts U.S. as Menace." Web log post. Sinosphere: Dispatches from China. New York Times, n.d. Web. January 13, 2014. <http://sinosphere.blogs.nytimes.com/2013/10/31/strident-video-by-chinese-military-casts-u-s-as-menace/?smid=tw-share&_r=0>.

[v] Jin, Wei, "America Refuses to Stop Offshore Reconnaissance Activities in China." The New Legalist. September 9, 2009. <http://www.xinfajia.net/6717.html>.

[vi] "Zhang Zhaozhong: China Could Use Fishing Boats to Besiege the New American DDH-1000 Destroyer." Fenhuang Net. April 30, 2012. Pp. 7. http://news.ifeng.com/mil/4/detail_2012_04/30/14246690_6.shtml

[vii] Ratner, Ely. "The Challenges of a Rising China." Interview by Paul Haenle. Audio blog post. *Carnegie-Tsignhua Center for Global Policy*. N.p., January 8, 2014. Web. <http://carnegietsinghua.org/2014/01/08/challenges-of-rising-china/gxv5>.

[viii] "Chubb, Andrew. "Lieutenant-General Wang Hongguang Blasts PLA Pundits' 'Interference' in Decisions and Deployments." South Sea Conversations, April 29, 2013. <http://southseaconversations.wordpress.com/>.

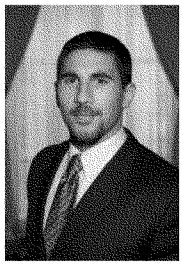
[ix] Eckholm, Eric. "China: US Ship Entered Waters; Navy Contends Research Vessel Allowed by Law", *New York Times,* September 27, 2002.

[x] Global Security, "2001-2009- South China Sea Developments." Last modified 2012. Accessed April 3, 2013.

[xi] Hickley, Matthew. "The uninvited guest: Chinese sub pops up in middle of US Navy exercise, leaving military chiefs red-faced". *The Daily Mail*. November 10, 2007.

[xii] Gertz, Bill. "Chinese jets chase US surveillance jet over Taiwan Strait". *Washington Times.* July 25, 2011

Jeff M. Smith
Director of South Asia Programs, Kraemer Strategy Fellow



Jeff is the Kraemer Strategy Fellow at the American Foreign Policy Council (AFPC) and the author of a forthcoming book on China-India relations in the 21st century. He also serves as the Managing Editor of the World Almanac of Islamism and the editor of AFPC's South Asia Security Monitor. He has provided briefings and consulted for the Pentagon, State Department and intelligence community.

Smith's writings have appeared in the Wall Street Journal Asia, U.S. News and World Report, the Harvard International Review, Yale Global, CNN, the Washington Times, Defense News, Jane's Intelligence Review, World Politics Review, The Diplomat, the Far Eastern Economic Review, Asia Times, and The Hindu, among others. His interviews and commentary can be seen on the BBC, Fox News, CNBC, the Voice of America, al-Hurra, Agence France-Presse, and Pakistan's Dawn News. He is also the chair of the Young Professionals in Foreign Policy South Asia Discussion Group.

Smith has an MPIA from the University of Pittsburgh's Graduate School of Public and International Affairs and studied abroad at Oxford University in 2005. He has lectured at the graduate and undergraduate level.

DISCLOSURE FORM FOR WITNESSES
CONCERNING FEDERAL CONTRACT AND GRANT INFORMATION

INSTRUCTION TO WITNESSES: Rule 11, clause 2(g)(5), of the Rules of the U.S. House of Representatives for the 113th Congress requires nongovernmental witnesses appearing before House committees to include in their written statements a curriculum vitae and a disclosure of the amount and source of any federal contracts or grants (including subcontracts and subgrants) received during the current and two previous fiscal years either by the witness or by an entity represented by the witness. This form is intended to assist witnesses appearing before the House Committee on Armed Services in complying with the House rule. Please note that a copy of these statements, with appropriate redactions to protect the witness's personal privacy (including home address and phone number) will be made publicly available in electronic form not later than one day after the witness's appearance before the committee.

Witness name: Mr. Jeff M. Smith

Capacity in which appearing: (check one)

✓ Individual

___Representative

If appearing in a representative capacity, name of the company, association or other entity being represented:

FISCAL YEAR 2014

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
N/A			

FISCAL YEAR 2013

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
N/A			

FISCAL YEAR 2012

Federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
N/A			

Federal Contract Information: If you or the entity you represent before the Committee on Armed Services has contracts (including subcontracts) with the federal government, please provide the following information:

Number of contracts (including subcontracts) with the federal government:

Current fiscal year (2014): N/A;
Fiscal year 2013: N/A;
Fiscal year 2012: N/A.

Federal agencies with which federal contracts are held:

Current fiscal year (2014): N/A;
Fiscal year 2013: N/A;
Fiscal year 2012: N/A.

List of subjects of federal contract(s) (for example, ship construction, aircraft parts manufacturing, software design, force structure consultant, architecture & engineering services, etc.):

Current fiscal year (2014): N/A;
Fiscal year 2013: N/A;
Fiscal year 2012: N/A.

Aggregate dollar value of federal contracts held:

Current fiscal year (2014): N/A;
Fiscal year 2013: N/A;
Fiscal year 2012: N/A.

Federal Grant Information: If you or the entity you represent before the Committee on Armed Services has grants (including subgrants) with the federal government, please provide the following information:

Number of grants (including subgrants) with the federal government:

Current fiscal year (2014): N/A;
Fiscal year 2013: ;
Fiscal year 2012: .

Federal agencies with which federal grants are held:

Current fiscal year (2014): N/A;
Fiscal year 2013: ;
Fiscal year 2012: .

List of subjects of federal grants(s) (for example, materials research, sociological study, software design, etc.):

Current fiscal year (2014): N/A;
Fiscal year 2013: ;
Fiscal year 2012: .

Aggregate dollar value of federal grants held:

Current fiscal year (2014): N/A;
Fiscal year 2013: ;
Fiscal year 2012: .

1/13/14

DOCUMENTS SUBMITTED FOR THE RECORD

JANUARY 14, 2014

HUFF POST WORLD

Ami Bera, M.D.
Physician and Representative (D-CA 7th District)

Setting and Enforcing International Norms for Airspace

Posted: 12/19/2013 2:37 pm

On November 23, China announced it was dramatically and unilaterally establishing a new "air defense identification zone" (ADIZ) to encompass international open airspace over the East China Sea, overlapping with the ADIZs of Japan, South Korea, and Taiwan, and covering the disputed Senkaku Islands that are administered by Japan, but also claimed by China and Taiwan. China also announced requirements that all aircraft comply with new rules to notify them if flying in China's air space and threatened that armed forces will respond in cases of non-compliance.

The net impact of this expansion was to take a heavily trafficked commercial air corridor, and effectively declare that any air travel through this corridor would need to get Chinese permission first, otherwise China would be justified utilizing its air defense if unauthorized aircraft was discovered in its airspace. While it is unlikely that passenger air travel will actually be threatened, most commercial airlines, including American, South Korean, and Japanese carriers, now face the problem of whether to submit to China's unjustified rules and threats. And that's where the problem begins.

China's unilateral moves continue a disturbing trend in their policy that includes expansion of maritime law enforcement and military presence near disputed areas throughout the South and East China Sea. This is exacerbating a chain of events that threaten to escalate tensions throughout the region, particularly among China, Japan, and South Korea. Recently, South Korea announced it has expanded its own ADIZ, and it further overlaps with China's and Japan's claimed air space. The problem with all of this posturing is that it now dramatically increases the risk of an accidental military clash as aircraft from various countries patrol the overlapping airspace. And that is where the United States needs to forcefully take a stand on a sustained, strategic basis.

Vice President Biden recently visited Japan, South Korea, and China, and the ADIZ dispute was a major point of discussion. As the State Department has indicated, we will closely support our allies and move to keep all lines of communication open. And while communication is nice, the United States and international community must forcefully and jointly indicate that these unilateral moves by China are unacceptable and that if there are territorial or maritime disputes, China must use diplomatic, peaceful means to address disputes without threats, coercion, or force. Diplomatic means could include senior-level talks, binding codes of conduct, confidence building measures, and legal mechanisms. An example is the Military Maritime Consultative Agreement (MMCA) that the U.S. Defense Department signed with China's military in 1998 to arrange meetings to discuss maritime and air safety that could be used as a mechanism to develop crisis-management or rules of engagement.

As a member of the House Foreign Affairs Committee, and subcommittee on Asia and the Pacific, I have requested that our Committee begin exploring what actions Congress can take to send a message in support of keeping important maritime and airspace routes open.

The time for proactive and strategic engagement, especially before China's next move like more ADIZs for the South China Sea of Yellow Sea, is now. Given the increasing trade between nations on the Pacific Rim, and current negotiations around the Trans Pacific Partnership, the timeliness of establishing stated norms and accepted territorial borders is paramount. Given the importance of trade and transport in this region, the United States must extend and enforce open trade and travel routes.

I am happy to say that we have not recognized China's new ADIZ. Immediately after China's announcement, the Secretary of State criticized the move as an attempt to change the status quo, an escalatory action, and a threat. We flew two long range B-52 bombers into China's air space on a previously-planned, routine, unarmed training mission without notifying China.

And in a statement to demonstrate the importance of open international air travel, the North American Aerospace Defense Command (NORAD) confirmed that while Santa Claus does not file flight plans, regardless of the fact, he too would most likely ignore China's posturing.

Given that Christmas is almost upon us, now is the time to keep all routes open and stop the posturing lest Santa Claus deliver a lump of coal to China.

QUESTIONS SUBMITTED BY MEMBERS POST HEARING

JANUARY 14, 2014

QUESTIONS SUBMITTED BY MR. FORBES

Mr. FORBES. It was reported that a Chinese naval vessel nearly collided with the USS *Cowpens* after the Chinese vessel moved to block passage of the USS *Cowpens*. I understand that the USS *Cowpens* was operating in international waters. There have been other incursions by the Chinese military to impede U.S. military operations in other areas including the USNS *Impeccable* in 2009 and the interdiction of an EP–3 aircraft in 2001. How effective is China in coordinating actions of local military commanders? In your estimation, are these incidents coordinated by the central government or are they actions by rogue military agents?

Mr. DUTTON. [The information was not available at the time of printing.]

Mr. FORBES. As to the establishment of the Air Defense Identification Zone by the Chinese in the East China Sea, it appears that our response was not well coordinated with our partners. I understand that FAA included a Notice to Airman to our commercial airline industry that required them to abide by the Chinese notice. I also understand that the Japanese and the South Korean initially blocked implementation of this notice and the Japanese remain opposed to using the notice. While I applaud the PACOM's decision to send a B–52 flight without notice into the Air Defense Identification Zone thereby establishing our intent to follow international law, I am concerned that the executive branch did not effectively coordinate an international response with our partners and allies for our commercial sector. From your perspective, can you elaborate what you believe would have been an appropriate response to this incursion and did the U.S. effectively coordinate a response with our partners and allies?

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Mr. FORBES. The Subcommittee on Seapower and Projection Forces had a hearing in December to discuss Chinese trends and potential impacts of a reduction in GDP growth. I was surprised at the near unanimity in thought among those witnesses as to their anticipated growth assessments for China. If China GDP continues to decline, can you project how their economy will impact Chinese military decisions? Would you anticipate a reduction in GDP could possibly embolden Chinese military activities to more vigorously exert territorial claims in the near to mid-term?

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Ms. GLASER. Regarding the *Cowpens* incident specifically, the PLAN undoubtedly anticipated that U.S. surveillance vessels would be monitoring this exercise, which was the first major exercise conducted by the Liaoning carrier escorted by destroyers and frigates. It is likely that the naval ships involved in the exercise were instructed as to the rules of engagement with U.S. surveillance vessels. They may not have anticipated that the *Cowpens* would sail as close to the carrier as it apparently did. In a January 23 News briefing, U.S. Pacific Command Commander Adm. Samuel J. Locklear III stated that the Chinese believed that their carrier operations were properly notified, but the *Cowpens* was not aware of any notification. It is my understanding that China's Maritime Safety Administration issued on December 6 three no-sail ban warnings for the areas where PLAN training was taking place from December 3, 2013 to January 3, 2014. The incident with the *Cowpens* occurred on December 5, so it seems that the late issuance of the no-sail warning played an important role in this incident.

To your larger question, coordination between Chinese civilian and military actors, and between law enforcement ships and navy ships (white hulls and grey hulls), has improved. Xi Jiping was put in charge of a task force to manage maritime issues even before he became general secretary of the Chinese Communist Party, and he has taken steps to strengthen coordination. Nevertheless, it is plau-

sible that there could be instances in which individual ship commanders or even pilots behave more aggressively than the central government has authorized. The PLA is not a rogue actor, however; it is very much under the control of the CCP.

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Ms. GLASER. It is my understanding that the FAA reiterated longstanding practice and policy that, for the safety and security of passengers, U.S. civilian aircraft flying internationally operate in accordance with NOTAMs issued by foreign countries. I do not believe that there was an instruction issued to specifically abide by China's notice. However, since this reiteration by the FAA of U.S. policy was made after China issued its new ADIZ regulations, it appears that the FAA was telling U.S. airlines to follow Chinese regulations. The Japanese opposed complying with China's notice.

Perhaps even of greater significance, there was a gap between Japan and the U.S. in their official responses to Beijing after the announcement of the ADIZ. Tokyo insisted that China rescind the ADIZ; the U.S. only demanded that China not implement it and said it would not recognize the ADIZ. It is clear from both these instances that the U.S. and Japan did not adequately coordinate their responses. Given the fact that there were ample signals in the Chinese media and from other sources that Beijing was planning to announce an ADIZ, this is disappointing and inexcusable.

I believe that ensuring the safety of American citizens flying abroad should be the number one priority of the U.S. government, so I do not oppose the U.S. decision to not instruct U.S. airlines to ignore China's ADIZ regulations. I do think, however, that the U.S. should have coordinated more effectively with Japan and minimized the gap between the allies, which works to China's advantage. Tokyo and Washington should work harder to anticipate Chinese actions and coordinate responses. I understand that there are plans to conduct a series of US-Japan tabletop exercises to enhance preparedness for such contingencies and I applaud this effort.

Mr. FORBES. The Subcommittee on Seapower and Projection Forces had a hearing in December to discuss Chinese trends and potential impacts of a reduction in GDP growth. I was surprised at the near unanimity in thought among those witnesses as to their anticipated growth assessments for China. If China GDP continues to decline, can you project how their economy will impact Chinese military decisions? Would you anticipate a reduction in GDP could possibly embolden Chinese military activities to more vigorously exert territorial claims in the near to mid-term?

Ms. GLASER. China has entered an era of slower growth after three decades of double-digit annual economic expansion. Mainstream economists predict that China's annual growth will slow to between 6 and 7 per cent over the next decade. If this forecast is accurate, China will continue to be a formidable economic power and its economic influence on the region, indeed on the world, will be enormous. China's military expenditures will likely remain substantial, and will continue to exceed the military budgets of most of China's neighbors.

Today, China is the number one trading partner of 124 countries in the world. These include Japan, Korea, Australia and every ASEAN country with the exception of the Philippines. Beijing will therefore be able to use economic tools to influence the political decisions of its neighbors. China is likely to rely on diplomacy and economic tools, rather than military means to enforce its claims. The Chinese know that any use of force to secure their claims would be counterproductive in that it would make the regional states more wary of Chinese intentions and push them into closer alignment with the United States. In the past few years, there has been a pattern of Chinese coercion and assertiveness, but not Chinese aggression. I do not expect that in the near to mid-term the Chinese will shift to the blatant employment of military force to exert control over their claims.

China's GDP is only one of several variables that will affect Chinese decision making regarding maritime disputes. Chinese assessments of U.S. economic strength and commitment to the Asia-Pacifica region will also be important factors.

If the U.S. is strong and deeply involved in the region, there is a reduced potential for miscalculation by China.

Mr. FORBES. It was reported that a Chinese naval vessel nearly collided with the USS *Cowpens* after the Chinese vessel moved to block passage of the USS *Cowpens*. I understand that the USS *Cowpens* was operating in international waters. There have been other incursions by the Chinese military to impede U.S. military operations in other areas including the USNS *Impeccable* in 2009 and the interdiction of an EP–3 aircraft in 2001. How effective is China in coordinating actions of local military commanders? In your estimation, are these incidents coordinated by the central government or are they actions by rogue military agents?

Mr. SMITH. This question has been the subject of fierce speculation outside of China—to what degree are provocative actions by Chinese forces the result of initiatives taken by local commanders, and to what degree are they orchestrated by China's senior political leadership? I frequently encountered this question when conducting research for my book on China-India relations, as it related to border incursions across the Line of Actual Control by Chinese border patrols. In this case, and in the case of our multiple maritime incidences at sea, a convincing body of circumstantial evidence suggests the behavior is encouraged and condoned by the senior leadership. Were these limited to a handful of incidents the possibility of rogue behavior by a local commander would be more credible. Unfortunately, U.S. Navy ships have been harassed on nearly one dozen occasions, as documented in my testimony, and in the case of Chinese incursions across the China-India border, happen several hundred times a year. We are unaware of local commanders facing any consequences for this provocative behavior. The most insightful China watchers I am in contact with are in fairly uniform agreement that the behavior is encouraged and condoned by the senior leadership.

Mr. FORBES. As to the establishment of the Air Defense Identification Zone by the Chinese in the East China Sea, it appears that our response was not well coordinated with our partners. I understand that FAA included a Notice to Airman to our commercial airline industry that required them to abide by the Chinese notice. I also understand that the Japanese and the South Korean initially blocked implementation of this notice and the Japanese remain opposed to using the notice. While I applaud the PACOM's decision to send a B–52 flight without notice into the Air Defense Identification Zone thereby establishing our intent to follow international law, I am concerned that the executive branch did not effectively coordinate an international response with our partners and allies for our commercial sector. From your perspective, can you elaborate what you believe would have been an appropriate response to this incursion and did the U.S. effectively coordinate a response with our partners and allies?

Mr. SMITH. As you rightly point out, our policy regarding the protocols for civilian airliners operating in China's ADIZ was both ambiguous and poorly coordinated with U.S. allies like Japan. In many respects, the episode boiled down to a question of semantics. The Obama administration was able to claim that, like Japan, it did not "require" civilian carriers to comply with China's ADIZ regulations. Instead, it merely "advised" them to do so. According to the State Department: "The U.S. government generally expects that U.S. carriers operating internationally will operate consistent with NOTAMs (Notices to Airmen) issued by foreign countries." An FAA spokesman also said they were "advising for safety reasons that [U.S. civilian carriers] comply with notices to airmen, which FAA always advises." While technically not a demand, in practice the policy was perceived as very much at odds with Japan's. This created the impression of distance between the two treaty allies and caused Tokyo a great deal of discomfort in the process. Our poor coordination with the Japanese government was evident in Japanese Prime Minister Shinzo Abe's response to the announcement: "We have confirmed through diplomatic channels that the U.S. government didn't request commercial carriers to submit flight plans." This confirms the suspicion that Washington only consulted with Japan after the fact.

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