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SOUTH CHINA SEA MARITIME DISPUTES

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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SOUTH CHINA SEA MARITIME DISPUTES

HOUSE OF REPRESENTATIVES, COMMITTEE ON ARMED SERVICES, SUBCOMMITTEE ON SEAPOWER AND PROJECTION FORCES, MEETING JOINTLY WITH THE COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEE ON ASIA AND THE PACIFIC, *Washington, DC, Thursday, July 7, 2016.*

The subcommittees met, pursuant to call, at 3:30 p.m., in room 2118, Rayburn House Office Building, Hon. J. Randy Forbes (chairman of the Seapower and Projection Forces Subcommittee) presiding.

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

Mr. FORBES. I want to welcome the members of the House Armed Services Seapower and Projection Forces Subcommittee and the House Foreign Affairs Asia-Pacific Subcommittee to a special joint hearing on the topic of maritime disputes in the South China Sea.

I also want to extend a warm welcome to our two witnesses, Ms. Colin Willett, Deputy Assistant Secretary [DAS] for Strategy and Multilateral Affairs in the State Department's Bureau of East Asian and Pacific Affairs, and Mr. Abraham Denmark, Deputy Assistant Secretary of Defense for East Asia. I thank you both for being here to testify at this special joint hearing.

Our topic today is a timely and critically important one. Early next week, the Permanent Court of Arbitration is expected to rule on the legitimacy of China's expansive territorial claims in the South China Sea.

In the aftermath of that ruling, the world will be watching two things. First, to see whether China behaves like a responsible stakeholder in the international system, and if not, to see how America responds. For decades, the United States has sought to facilitate China's integration into the global economy and the rules-based international order that has benefitted Asia so well. China's reaction to next week's ruling will provide a clear indicator of how that is going and whether Beijing's quest for regional dominance can be curbed by international law and world opinion.

America's response will also send a powerful signal. While the United States does not take sides in territorial disputes, we can and should stand up for those parties that pursue their peaceful resolution. The Philippines is one such party but not the only one. And what we do or don't do to support our allies in the rules-based international system in the weeks ahead will have echoes across the region and in other corners of the globe.

With so much at stake in the South China Sea, it is critically important that the United States has a clear policy toward the region and a strategy to sustain peace, prosperity, and the rule of law in Asia. Diplomacy will play a crucial role in avoiding and resolving conflict, and I am pleased to have Ms. Willett and members of the House Foreign Affairs Committee [HFAC] with us here today to discuss that critical aspect of any interagency approach to the region.

If China continues to flaunt international law and world opinion, however, I firmly believe that the surest way of averting another devastating conflict in the Asia-Pacific region will be for the United States to remain present, engaged, and capable of projecting decisive military power in the region. Might does not make right, but it can be used to deter threats to peace, prosperity, and the rule of law.

That is why I have been pleased to see an increase in U.S. naval and military presence in the region and an increase in the frequency of our freedom of navigation operations. I look forward to hearing from Mr. Denmark about what the Department of Defense is doing to deter Chinese aggression, reassure our allies and partners, and maintain a favorable military balance in the Asia-Pacific region going forward.

I now turn to my good friend and colleague, Mr. Courtney, the ranking member of the Subcommittee on Seapower and Projection Forces, for any comments that he may have.

Mr. Courtney.

[The prepared statement of Mr. Forbes can be found in the Appendix on page 33.]

STATEMENT OF HON. JOE COURTNEY, A REPRESENTATIVE FROM CONNECTICUT, RANKING MEMBER, SUBCOMMITTEE ON SEAPOWER AND PROJECTION FORCES, COMMITTEE ON ARMED SERVICES

Mr. COURTNEY. Thank you, Mr. Chairman, and thank you to yourself and to Mr. Salmon for organizing today's hearing, which again, as you stated, could not be more timely, given the fact that a proceeding that the eyes of the world have been watching for over a year or so is about to come to a climax with the decision by the U.N. [United Nations] Hague Convention in terms of resolving this question about maritime claims in the South China Sea.

Again, the stakes are huge. Trillions of dollars of commercial sea traffic and products pass through the South China Sea every single year. There are numerous stakeholders in terms of different nations, maritime nations that are adjacent to it, and obviously, the U.S. Navy and the U.S. as a nation has huge interests at stake in terms of making sure that international norms are followed that have been followed for the last 70 years in the wake of World War II and that hopefully we are going to continue to see that rule of law continue after The Hague's decision.

I think a nice—I have a written statement, which I am going to ask to be submitted, and I am just going to briefly end by saying that one way to sort of frame this question is that in September of 2015, five Chinese naval ships entered U.S. territorial waters off the coast of Alaska. In acknowledging the transit of these vessels,

the United States made clear we viewed this action as well within the rights of China and any other nation to conduct innocent passage through legitimately established territorial seas and non-threatening military activities within exclusive economic zone of another country.

The question is whether or not that same standard, which we scrupulously followed, is going to be adhered to in the South China Sea. And again, the Navy, as we have heard on the Armed Services Committee, has been conducting these freedom of navigation operations over the last 6 months, 12 months or so, again, well within our rights under UNCLOS [United Nations Convention on the Law of the Sea], and really, that is what I think our policy should be, which is to just basically have a single standard across the board, whether it is up in the Alaskan waters or in the South China Sea.

And you know, obviously, you know, we have a huge amount at stake, as I said earlier, but we are also, I think, the nation that really a lot of our allies in the region are looking towards in terms of leadership, and really, again, following through on what I think is really the only path forward in terms of assuring that international maritime activity is going to continue peacefully and productively for all the stakeholders that are affected.

So again, I have a written statement which I would ask to be entered into the record, and with that, I would yield back.

[The prepared statement of Mr. Courtney can be found in the Appendix on page 35.]

Mr. FORBES. Without objection, all the written statements will be entered as part of the record. And now it is my privilege to recognize another good friend and colleague, the chairman of the Subcommittee on Asia and the Pacific, Mr. Matt Salmon of Arizona, for any remarks he may have.

OPENING STATEMENT OF HON. MATT SALMON, A REPRESENTATIVE FROM ARIZONA, CHAIRMAN, SUBCOMMITTEE ON ASIA AND THE PACIFIC, COMMITTEE ON FOREIGN AFFAIRS

Mr. SALMON. Thank you very much, Chairman Forbes. I appreciate you giving me the opportunity to join you in convening this important and timely joint hearing.

The territorial disputes in the South China Sea may represent the most significant long-term security challenge in our shared jurisdiction. Our conversations about this topic are often complicated by the minutia of territorial sea's baselines and high tide elevations, but it is important for us to remember today what the South China Sea dispute boils down to. One nation turning away from the peaceful mechanisms of international law and peaceful coexistence and instead embracing belligerence.

Congress, the administration, and other counterparts across the world, recognize the severity of the threat posed by China's aggressive coercive actions in the South China Sea that undermine international norms. Our Secretary of Defense and the President himself regularly list the South China Sea among the world's most concerning international friction points and raise it at the highest levels with their Chinese interlocutors, including Chinese President Xi Jinping.

Analysts around the world pour over the disputes, and the United States has undertaken a series of highly publicized freedom of navigation operations to contest China's outrageous claims. Alarmingly, all of this attention seems to have had little effect. Tensions in the sea continue to mount, and China has established effective control of many areas by building capable military facilities on top of disputed features.

In light of these trends, today's hearing could not come at a better time. In the coming days, weeks, and months, the South China Sea territorial disputes will present a series of especially important challenges. Our response to these challenges has the potential to reverse the trend of escalating tensions or to cause further injury to the peaceful rules-based international order. I would like to touch briefly on a few of these challenges.

First, the arbitral tribunal deciding the Philippines' legal case against China recently announced it will conclude its decision on July 12. Although China is legally bound, and I repeat, they are legally bound to its result, it has refused to participate and has clearly said it will not comply. I am concerned that many seem to have written off China's noncompliance as a foregone conclusion.

You must remember that this case is the most significant substantial approach to settling disputes in the South China Sea through a peaceful, equitable process. China should be held accountable to the tribunal's ruling. The Scarborough Shoal represents another critical test. China and the Philippines have come to the physical confrontation over this site before, and recent rumors hint that China may soon extend its island building campaign to the Shoal.

Despite how near Scarborough is to Philippine shores, its disputed status makes it unclear whether it is covered by the U.S.-Philippines Mutual Defense Treaty. This uncertainty means that if aggression around Scarborough Shoal is not handled properly, the very credibility of such treaties could be damaged. These treaties are anchors of hub-and-spoke alliance system in the Pacific and damage to them could have dire consequences on American influence and security in the region.

Finally, I want to mention the continuing threat posed by China's ability to declare an Air Defense Identification Zone [ADIZ] over the South China Sea. I am concerned we have few direct options to counter this type of escalation if China chooses to pursue it. China's network of airstrips, radars, missile batteries constructed across the South China Sea while the rest of the world watched, may prove a capacity—excuse me—may provide a capacity to enforce such an ADIZ.

While the United States military would never recognize such a zone, commercial carriers will likely comply with China's notification requirement as they have under China's ADIZ in the East China Sea. China will once again unilaterally have changed the status quo. These countless other challenges posed by the South China Sea territorial disputes will continue to test the United States and our allies.

Though the answers are sometimes not easy to find, I am really glad we came together today to hold this joint hearing and working towards solutions, and keeping the issue at the forefront of foreign

policy and national security agendas is critical, and I appreciate the opportunity. I yield back.

Mr. FORBES. Mr. Chairman, thank you. And with that, I would like to yield to the ranking member of the Subcommittee on Asia and the Pacific, Mr. Sherman, for any comments he might have.

STATEMENT OF HON. BRAD SHERMAN, A REPRESENTATIVE FROM CALIFORNIA, RANKING MEMBER, SUBCOMMITTEE ON ASIA AND THE PACIFIC, COMMITTEE ON FOREIGN AFFAIRS

Mr. SHERMAN. Thank you. Mr. Chairman, I will be a little bit of a contrarian, but if I just agreed with everybody who had just spoken, it would be so boring.

It is my view that the power in making decisions in any important area of our policy is often under the control of the domestic organization that has power and cares about that policy.

So when it comes to the Trans-Pacific Partnership [TPP], Wall Street wants it, Wall Street will probably get it. When you look at the Pentagon and its needs, we see that for 150 years every time our military forces have confronted a worthy symmetrical uniformed adversary, it has ended with glory for our Armed Forces, from the Spanish-American War through the victory over the Soviet Union without a major conflagration. And every time we have faced a non-uniformed asymmetrical opponent, it has been a terrible experience for our military from the Philippine insurrection right up until the operations in Iraq and Afghanistan, not that we are always unsuccessful, but it has never been gloriously easy.

And so it is not surprising that the Pentagon is looking for a worthy adversary, and there is only one available in the world, and that is China. And so we are told that we should spend hundreds of billions of dollars focused on developing new technologies and procuring new weapons systems for the purpose of confronting China in the South China and East China Sea.

Not only are we subject to this, but China is subject to it as well. In China, there is one institution at the center of making decisions, that is the Communist Party, and that Communist Party suffers a great crisis of legitimacy. People all over China are asking, "Why are these guys running things?" Their old answer was they are running things because they are the vanguard of the proletarian. Not so much. Then they said: "Shut up. We are giving you 10 percent economic growth." I would be inclined to switch political parties if I could achieve 10 percent annual economic growth, but the Communist Party can no longer do that. So the Communist Party of China is retreating into the last refuge of scoundrels and illegitimate governments, and that is exaggerated nationalism, and the best way for them to do that is to focus on these islands.

The amount of cost that we are incurring as we build toward this confrontation, again, is hundreds of billions of dollars. We don't have a good cost accounting system for our military to tell us what weapons systems relate to what international threats and what foreign policy objectives, but every time I talk to the Pentagon about research and procurement, they say: "Sherman, we are not interested in doing research on anything unless it shoots down Chinese planes over the South China Sea." There are other things that we

confront, particularly a war on terrorism where research is called for.

Now, we are told that these islands are of such great importance. They have remained uninhabited, even though they are off the shore of the most teeming and populated continent, they have been uninhabited for millennia. We are told that trillions of dollars of trade goes through these islands. That is all trade going in and out of Chinese ports, which means if China were able to militarize these islands, they would be able to blockade their own ports.

We are told that there is economic value in minerals, and none of which have happened, but we are sure of one thing, and that is, if there is any oil, it doesn't belong to us. It belongs to Japan, the Philippines, China, whoever owns these islands. And keep in mind, all of our allies want us to spend hundreds of billions of dollars defending their islands which may or may not have any economic value at all, but they are never willing to spend more than 1, maybe 2 percent of their GDP [gross domestic product] to defend their islands or their countries.

So I am not saying we should surrender to China, but we should not surrender to the urge to exaggerate. We should be careful, and we should relax. I am not pro-China. I am pro-Ambien, America's leading sleep product.

There are many situations in the world where countries make outlandish claims that can be quietly resisted without turning the Pentagon on its head, spending hundreds of billions of dollars developing new lethal technologies and reorienting our foreign policy and our military policy toward dealing with one particular outlandish claim.

So we need to resist calmly China's claims in the South China Sea. I yield back.

Mr. FORBES. The gentleman yields back.

Ms. Willett, we are glad to have you with us today, and Mr. Denmark. And before I turn to your testimony, I want to make one procedural motion.

I ask unanimous consent that non-subcommittee members be allowed to participate in today's hearing after all subcommittee members have had an opportunity to ask questions. Is there an objection?

Hearing none, non-subcommittee members will be recognized at the appropriate time for 5 minutes.

And with that, Ms. Willett, we want you to take all the time you want as long as you can get it within that 5-minute allotment that we have given there to give us your thoughts and your comments, and again, your written testimony will be made part of the record, so thank you for being with us, and we turn the floor over to you.

STATEMENT OF COLIN WILLETT, DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU FOR EAST ASIA AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Ms. WILLETT. Well, thank you very much, Chairman Forbes and Chairman Salmon. It is a great opportunity to appear before this——

Mr. FORBES. Ms. Willett, I am going ask you to do what they asked me to do. Can you get a little closer to that mic. Sometimes they just aren't very sensitive and don't pick up. Thank you.

Ms. WILLETT. Sure. So thank you, Chairman Forbes and Chairman Salmon for the opportunity to appear before this joint subcommittee hearing today. It is a very timely issue. It is a very important issue. The importance of the South China Sea to global commerce and to regional stability, I think is well known. Its economic and strategic significance means the United States has a vested interest in ensuring that territorial and maritime issues are managed peacefully.

Next week will present an important milestone in the South China Sea dispute. On July 12, the arbitral tribunal convened under the Law of the Sea Convention is set to issue a decision on the Philippine submissions relating to the application of the convention to the South China Sea.

The Philippines has asked the tribunal to rule on a number of issues, particularly on the validity of China's nine-dash line and on the maritime entitlements generated by various land features in the South China Sea. Such a ruling has the potential to narrow the areas which can legitimately be considered subject to dispute based on maritime zones generated from contested land features as well as the undisputed mainland coast of Southeast Asian claimants.

While the tribunal will not address the underlying sovereignty claims to land features, the decision does have the potential to crack the door open to a new modus vivendi among the parties that would help manage tensions in those disputed spaces.

It is possible to envision a diplomatic process among the claimants that would explore different ideas for managing marine resources in areas that all relevant parties agree are subject to competing claims.

Such a path towards cooperation is achievable if claimants have the political will, flexibility, and creativity to find reasonable and practical arrangements that could serve as starting points for addressing these longstanding tensions. Conversely, an adverse reaction to the tribunal ruling could become a source of increased tension.

The Law of the Sea Convention makes clear that the absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings, and that a decision by the tribunal shall be complied with by the parties to the dispute; in this case, China and the Philippines.

The world will be watching to see whether China chooses a path of diplomacy and cooperation or continues to walk along one of confrontation with its neighbors. The U.S. approach to the dispute aims to reduce the risk of conflict and preserve space for diplomatic solutions, including by pressing all claimants to exercise restraint, maintain open channels of dialogue, lower their rhetoric, and behave responsibly in the sea and in the air, and acknowledge that the same rules and standards must apply to all.

The international community has an interest in maintaining a peaceful and stable South China Sea and preserving a rules-based regional system. As such, we will keep the South China Sea and maritime cooperation at the top of the agenda in the region's multi-

lateral forum while also working bilaterally with the relevant countries. We will continue to ensure that problematic behavior is exposed and censured. We are engaging closely with all of the claimants at all levels of government, as President Obama did in his recent trip to Vietnam, and Secretary Kerry did at the strategic and economic dialogue in Beijing last month.

We are working with Southeast Asian coastal states to improve their maritime domain awareness, maintain effective presence in their claimed waters, and enable them to increase communication and collaboration amongst themselves. A common operating picture can help prevent unintended escalations and improve levels of cooperation. For these countries, having a steady and consistent presence is an important demonstration that they have no intention of relinquishing their legitimate maritime rights.

These diplomatic and capacity building efforts rest on top of our robust and durable U.S. military presence in the region, which my colleague will discuss in greater detail. But let me underscore that the United States will not hesitate to defend our national security interest and to honor our security commitments to our allies and partners.

The United States has been an important partner in protecting the security and stability of the Asia-Pacific region for decades, and we will continue to protect our rights and the rights of all nations to fly, sail, and operate wherever international law allows.

I thank you for the opportunity to appear before you today and look forward to discussing.

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

Mr. FORBES. Ms. Willett, thank you.

Mr. Denmark, we look forward to your comments.

STATEMENT OF ABRAHAM M. DENMARK, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR EAST ASIA, U.S. DEPARTMENT OF DEFENSE

Mr. DENMARK. Thank you, Chairman Forbes, Chairman Salmon, ranking members, distinguished members of the committee. Thank you for——

Mr. FORBES. Mr. Denmark, could you do the same thing, could you get a little closer?

Mr. DENMARK. Thank you for inviting me and Deputy Assistant Secretary Willett to testify before you today on this important issue.

I would like to thank both of the committees for your leadership in supporting our Nation's robust engagement across the Asia-Pacific. South China Sea is an area of immense economic and strategic importance. For decades, it has been a critical operational area for our military and is central to our strategy of strengthening a principled rules-based order that enables regional stability and prosperity.

This afternoon I will describe a region at a crossroads with the upcoming U.N. arbitral tribunal and what actions the Department of Defense is taking to preserve regional stability for decades to come.

At the center of the South China Sea disputes are a series of competing claims among Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam. While the U.S. takes no position on competing territorial sovereignty claims, we do take a strong position on protecting and in upholding the rights, freedoms, and lawful uses of the sea and airspace guaranteed to all, and we seek to uphold key principles at the heart of a rules-based international order, including customary international law, unimpeded lawful commerce, freedom of navigation and overflight, and the peaceful resolution of disputes.

We do have concerns about the actions by any claimant that may have an effect of eroding these principles. China in particular has undertaken a series of initiatives that set it apart from other claimants, reclaiming 3,200 acres in the Spratly Islands, building harbors, logistical facilities, and military-grade airfields as it deploys military assets to these features, and using low-intensity coercion to enhance its presence and ability to control the South China Sea.

At the same time as China has been building outposts, another process has also been playing out. In just 5 days, on July 12, a United Nations Permanent Court of Arbitration tribunal will issue a ruling on these disputed features. The ruling will mark an important crossroads for the region. It will present an opportunity for those in the region to determine whether the Asia-Pacific's future will be defined by adherence to international laws and norms that have enabled it to prosper, or whether the region's future will be determined by raw calculations of power.

In light of this key inflection point, I would like to briefly describe what we are doing in the region to preserve regional stability. The United States has undertaken a whole-of-government approach in the South China Sea with the Department of Defense [DOD] working in lockstep with the State Department and others to support our diplomacy with a robust military capability.

I would like to outline the four broad DOD efforts that have supported the broader USG [U.S. Government] strategy. First, the Department of Defense has been providing a credible capability in the South China Sea and the region to deter conflict and to create space for our diplomatic efforts to succeed. We have increased our military presence, and we are ensuring our presence is geographically distributed, operationally resilient, and politically sustainable.

Second, we have enhanced our tempo of military operations. From exercises, to freedom of navigation operations and presence operations, DOD continues to fly, sail, and operate wherever international law allows so that others can do the same.

Third, we are enhancing our regional security network through building partner capacity, training, and exercises, particularly through our engagement with ASEAN [Association of Southeast Asian Nations].

And finally, we are engaging China directly to reduce risk. We consistently encourage China to take actions that uphold the shared principles that serve so many in the Asia-Pacific so well. We seek to keep lines of communication with Beijing open to improve our cooperation in areas of mutual interest and to speak candidly and constructively, manage differences when we disagree.

These efforts have set the stage for engagements following the upcoming decision from the U.N. arbitral tribunal. DOD will provide critical support to our diplomacy by providing a credible deterrent against the use of force and in favor of the peaceful resolution of these disputes. We will continue to defend ourselves, our allies and partners, our interests, and our principles.

Mr. Chairman, ranking members, distinguished members of the committees, the upcoming U.N. arbitral tribunal ruling provides an opportunity for the region to stand firm in our enduring commitments to a principled order in the Asia-Pacific and the rest of the world. And it is an opportunity for us to reconfirm our commitment to work with the region to ensure a principled future, one in which all people have the opportunity to live in peace and prosperity.

I thank you very much, and I look forward to our questions.

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

Mr. FORBES. Ms. Willett, Mr. Denmark, thank you both for being here.

Let me ask you this, Mr. Denmark. Is there any military significance to Scarborough Shoal to the United States?

Mr. DENMARK. Thank you, Mr. Chairman. The military value of Scarborough is not intrinsic to the feature itself. It is highly variable, dependent on if a country—if a claimant were to place military capabilities on Scarborough, it will be highly valuable, depending on the specific capabilities that have been in place.

So to my mind, the value of Scarborough is one of strategic importance in that it would increase a claimant's ability, de facto ability to control the South China Sea and would, I think, marginalize a principled international order in which countries refrain from occupying, and constructing, and deploying military assets to previously unoccupied features.

Mr. FORBES. Ms. Willett said that we will do everything necessary to defend the national security interest of the United States and allied defense rights. If you did have a militarization of the Scarborough Shoal, would that have any impact on our national interest or our allied defense rights?

Mr. DENMARK. Well, Mr. Chairman, it is very difficult for me to comment to any degree of specificity on potential future hypotheticals.

Mr. FORBES. Well, we need to—don't we need to know? I mean, don't we need a strategy to be able to answer those kinds of questions, or—I mean, are we saying we don't have a position based on the Department of Defense right now as to whether or not there is any military significance there and if it does have military significance as to whether or not it would impact our national security interests?

Mr. DENMARK. Well, Mr. Chairman, as I said, the military significance of Scarborough is not intrinsic to the feature itself but rather what would be in place upon it. So it is difficult for me to react, to guess as how I would react because there is such a wide degree of variability.

Mr. FORBES. Is there anything you could tell us as to what would constitute the militarization of Scarborough Shoal?

Mr. DENMARK. Militarization is not a term that we have used. The term was introduced, as you know, sir, during diplomatic exchanges with the Chinese. We look to resolve these issues through diplomacy.

Mr. FORBES. I understand. We want everybody to take a breath and be calm, but at some point in time, they don't always do that. And so if we were to have a situation, they say they are not going to militarize those islands. If they were to militarize those islands, would that be contrary to the national security interest of the United States?

Mr. DENMARK. Again, sir, I think it is too—the variability in what could be placed on various——

Mr. FORBES. So the Department of Defense or you can't give us an opinion as to whether or not you think the militarization of the Scarborough Shoal would be against the national security interest of the United States?

Mr. DENMARK. Well, in terms of—you asked me, sir, what I can comment upon is the military implications of this.

Mr. FORBES. Okay.

Mr. DENMARK. And in terms of military implications, as I said, the variability, based on what could be in place on any of these features, is extremely broad, and so therefore it is difficult for me to hypothesize about how we may react or respond to what may be put on any one of these features.

Mr. FORBES. Okay. Let me ask you this then. The 1951 Mutual Defense Treaty finds the United States and the Philippines were bound to respond to attacks on the armed forces, public vessels, or aircraft of the other party as well as island territories under its jurisdiction.

Has the United States or—either through the Department of Defense or the State Department even made an analysis of whether or not it thinks the Scarborough Shoal is an island territory under the jurisdiction of the Philippines?

Mr. DENMARK. Sir, treaties tend to be—the specific meaning of treaties tend to be handled by the State Department, so let me—before I turn things over——

Mr. FORBES. Okay.

Mr. DENMARK [continuing]. To my colleague, let me just say, as I have said in my written testimony, as DAS Willett mentioned in her statement, that we are—we retain an ironclad commitment to the defense of our allies, and that is something that we will not hesitate to follow through with.

Mr. FORBES. Ms. Willett.

Ms. WILLETT. Absolutely. Mr. Chairman, the United States does not take a position on disputes over land features, and the Scarborough Shoal is disputed.

Mr. FORBES. How would you interpret your treaty responsibilities if it says "island territories under the Philippine jurisdiction," how would you make the determination as to whether that was or was not under the jurisdiction of the Philippines?

Ms. WILLETT. Scarborough Reef is a disputed feature, and we don't take a position on whose claim is more legitimate.

Mr. FORBES. So if there was a dispute with China over whether or not one of their vessels belonged to them or to the Philippines, the United States wouldn't make a decision over that?

Ms. WILLETT. I think the language in the Mutual Defense Treaty is clear in terms of its applicability to persons and vessels from the——

Mr. FORBES. Is it not clear about island territories under its jurisdiction?

Ms. WILLETT. Scarborough Reef is a disputed feature that we don't recognize any country's sovereignty over. That said, our treaty commitment to the Philippines is absolutely ironclad. This is something that we would take very seriously, and any move to occupy a currently unoccupied feature, or further militarize a currently occupied feature, is very dangerous and it is very destabilizing and I think something that would concern not just us but the other countries in the region.

Mr. FORBES. And I am going to try one more bite at this, and then I am going to give it to Mr. Courtney. I understand it would be very destabilizing. Military actions always are. What my concern is, we have a treaty, and at some point in time, we have to make an analysis or determination what is in that treaty and what is not in that treaty. We specifically state in here armed forces, public vessels, aircraft, and we talk about island territories under its jurisdiction.

At some point in time, the United States has to make its own legal determination as to whether or not they think those vessels belong to the Philippines or the aircraft belong to the Philippines. Are you saying that anytime somebody just puts that in dispute that the United States is going to step back and not defend that?

Ms. WILLETT. No. I mean, I think the language in the treaty is clear. In the specific case of Scarborough Reef, the land feature itself is disputed.

Mr. FORBES. Okay.

Mr. Courtney.

Mr. COURTNEY. Thank you, Mr. Chairman.

Ms. Willett, I would just like to drill down with you a little bit about UNCLOS and its history and just sort of the structure of how that treaty operates.

Again, in terms of how past cases have played out, I think your testimony mentioned India and Bangladesh had a dispute which went through the arbitration process, and it ended up with a peaceful resolution. Is that correct?

Ms. WILLETT. Yes, that is correct.

Mr. COURTNEY. And it had been a longstanding claim over many years that led up to that decision. But again, the sort of moral and global force of the UNCLOS kind of prevailed at the end of the day to have a positive outcome?

Ms. WILLETT. Yes. I think that is correct. I mean, I think there are actually numerous examples within the region where countries have effectively used legal dispute resolution mechanisms to settle territorial, including maritime territory, disputes amongst themselves. And so it can be a very effective tool for upholding that rules-based system.

Mr. COURTNEY. But there is no sort of, you know, UNCLOS SWAT [special weapons and tactics] team that is out there, so that, again, in terms of enforcing a ruling. I mean, it is really something that sort of uses, as I said, sort of the international, you know, standing as a way of trying to get people to work within the rule-based system that it created. Is that correct?

Ms. WILLETT. Yes, it is. UNCLOS protects the rights of all nations, whether they have maritime entitlements themselves or not, to a specific standard for use of the seas. So it protects globally everyone's right to legally use international waters around the world. And so I think the pressure comes from an understanding that we all benefit from having an international system for regulating how seas can be used that benefits all of us.

Mr. COURTNEY. All right. So over, you know, the last year or so, though, I mean, it appears that China has been trying to sort of step outside that structure and sort of negotiate sort of on a bilateral basis with countries in the region there to sort of, again, establish their own agreements regarding, you know, the issues that are really under the jurisdiction of UNCLOS.

Is that sort of the pattern that you have seen, the salami slicing, as they call it?

Ms. WILLETT. Yes, Congressman. I think you hit on it exactly that the fundamental issue at stake in the South China Sea is it is not about the rocks. It is about the rules. Is China, as it becomes a global sort of player and as its interests expand, is it going to play by the same rules as the rest of the globe does, whether that is in terms of the Law of the Sea or trade law or what have you? The question that is posed right now, is China going to play inside that rules-based system that has benefitted all of us so much over the last 70 years?

Mr. COURTNEY. All right. So and during the course of this proceeding—I mean, it is my understanding that the U.S. actually tried to obtain observer status in the, you know, the litigation that took place there, and we actually were denied that opportunity because the U.S. Senate has never ratified UNCLOS. Is that your understanding, or is that your testimony?

Ms. WILLETT. Yes. The Obama administration, like all previous administrations, believes very firmly that our interests would be served by ratifying the Convention on the Law of the Sea. We did request observer status at the hearings under—held by the arbitral tribunal, but because we are not a party to the Convention, we are not able to participate, and it does harm us that we have not yet ratified the Convention. It is a common criticism when we speak out about the importance of these rules when we, ourselves, have not——

Mr. COURTNEY. Right.

Ms. WILLETT [continuing]. Signed up.

Mr. COURTNEY. And that is, frankly, an observation that has been made by our military leadership as well. I mean, Admiral Richardson, you know, has testified to that effect. General Dunford has testified to that effect, and Admiral Harris, who is out there in the middle of all this with the 7th Fleet in PACOM [U.S. Pacific Command] has said that, really, it is time for this country to move forward and ratify UNCLOS.

And again, as we get closer to the decision, frankly, I think hopefully our friends in the upper chamber will understand that, you know, this is not just some sort of parlor game in Washington. I mean, it has real life effects in terms of trying to, again, maintain, you know, what I think has been a rules-based system of maritime law and that we benefit from it in many respects even more so than other countries.

Mr. CONNOLLY. Would my friend yield?

Mr. COURTNEY. Sure.

Mr. CONNOLLY. My understanding is that by not being a member, and the Chinese being a member, they actually can influence all the committees and subcommittees and we can't. And so in terms of doing the actual work of the law of the seas, we are day to day at a disadvantage and they are day to day at an advantage. I don't know if Ms. Willett wants to confirm that, but I thank my friend for yielding.

Mr. COURTNEY. Well, all I would just point out is there is a House Resolution 631 urging the Senate to ratify, and hopefully today some Members will take a look at that and maybe have them sign onto it because, as I said, next week, the eyes of the world are going to be on this treaty and its benefits.

And certainly, I mean, I think what we have heard without specifics this morning or this afternoon is really that, you know, we are going to be part of whatever that sort of international, you know, force to make sure that the decision is really adhered to. And again, we have that single standard that really, I think, is so important and that UNCLOS, you know, is really focused on creating. We all benefit from that. With that, I yield back, Mr. Chairman.

Mr. FORBES. Chairman Salmon.

Mr. SALMON. Thank you.

When I first started serving on the Foreign Affairs Committee, it was 1995, Warren Christopher was the Secretary of State, and I remember asking the question in a hearing like this, what was our State Department policy toward China, and the answer kind of astounded me, yet it has been a policy of many administrations. He called it strategic ambiguity. I thought that was the oddest policy I had ever heard.

And having been to China myself probably close to 50 times and speaking the language, living in Taiwan for a couple of years, being around them a lot of time, I think this is a country we need to have some real strategic clarity with, and I think one of reasons that things are getting so out of control in the South China Sea is that everybody is kind of dancing around, you know, the 800-pound gorilla in the room. China has stated pretty openly that with this arbitral tribunal decision that is expected in a couple of weeks that they don't intend to adhere to it.

So then what? I guess that is my question. What are our options then? A lot of our allies in the region are extremely concerned about China's land grabbing. And as the chairman of the HAS [House Armed Services] Committee said that, you know, not only island grabbing but putting military installations on those islands, and so virtually all of our allies in the region have expressed grave

concerns about what China is doing, and they are waiting on us to do something.

What is that something? If they flout the decision by the tribunal, what is our next move? Because I think all eyes are going to be watching us, and though we don't specifically have any land disputes ourselves but our allies do, the other concern I have is that I think that the South China Sea is a real tinderbox. Whenever President Obama or Secretary Kerry talks about, or Ash Carter talks about the South China Sea, it is always one of the top national security concerns that we have. It is always delineated as such.

And so what I am wondering, you know, with a lot of the close encounters with the ships and the planes, you know, just one wrong move at any given time could escalate into a major conflict, a major problem. What is our recourse if they just flout that decision?

Ms. WILLETT. So to your point about China, Mr. Chairman, it is a big and obviously very strategically important relationship to the United States. It is one that has grown dramatically over the last several years, but one that contains disagreements but also contains a great deal of areas where we have common interests and can cooperate fairly effectively.

And I would say that that dialogue, that cooperation has grown quite a bit over the last several years. It is true that we still have areas of disagreement, but part of that is our continued dialogue and our continued cooperation has allowed us to be able to deal with those areas pretty frankly.

Now, there are areas, and the South China Sea is a clear example, where we continue to have a very significant difference of opinion and a great deal of friction. Our strategy overall, from day one, has been multifaceted. It includes diplomatic, military, capacity building, and economic tools aimed at shaping the strategic environment such that flouting the rules-based order and not playing by the same rules as others, the incentives aren't there, and ensuring that the effects of coercion, or you know, lawbreaking aren't positive.

The net effect of what we are seeing is a situation where, you know, no claimant can expect to flout the law, flout the ruling in a way that doesn't draw international approbation and interest and a great deal of scrutiny, and in fact, has resulted in a situation where we are seeing a much greater demand for U.S. security presence, U.S. security cooperation, U.S. engagement, and we have seen much greater interest in economic diversification, including interest in TPP, expanded security ties to other regional players such as India and Japan, such that flouting international law, pushing back, behaving in a way that is not consistent with the rules-based order isn't paying the dividends that it might otherwise. And I believe that our intensive diplomatic, economic, and military engagement has played an important role in creating an environment where the payoff just isn't worth it.

I think it is clear that Southeast Asian claimants continue to stand up for their rights and push back against efforts to coerce and bully them. We have seen a great deal of growth in multilat-

eral cooperation on these big strategic issues, and I would expect that to continue.

Mr. SALMON. What can we do to encourage ASEAN to step up to the plate in a bigger way, because heretofore—I know that most of the ASEAN members, because I have met with them, they are all very concerned about what is going on in the South China Sea and Chinese belligerence, but ASEAN as a group has yet to be incredibly effective as one strong voice to deal maybe some reputational harm to China. What can we do to help maybe make that stronger, that response from them?

Ms. WILLETT. Well, thank you. ASEAN has actually been a consistent voice for international law and an international rules-based system for the nearly 50 years that they have existed. But you are correct, Mr. Chairman, that their institution has some limitations. There have been some instances and some limitations to their ability to speak out, but on this issue, they have actually spoken out fairly clearly fairly recently both in their joint statement with the President at the Sunnylands Summit in February where they made a clear statement in support of the Convention on the Law of the Sea and the right of countries to pursue dispute resolution through all peaceful processes, including legal and diplomatic processes.

They have made their own standalone statements through their foreign ministers at their foreign ministerial in April, and we expect them to continue to take that principled line on the importance of the rule of law and international conventions such as the Law of the Sea.

Mr. SALMON. Finally, is imposing reputational harm the absolute best that we can do? Other than upgrading the maritime security capabilities of our partners in the region, do we have any other tools for inducing behavioral change in the South China Sea?

Ms. WILLETT. Thank you, Mr. Chairman. As I said, our strategy is multifaceted. It is diplomatic, it is military, it is about capacity building with the other claimants, it is about economic tools, but it is a cumulative long-term strategy aimed at making clear that the strategic environment is such that it is not in any claimant's or any nation's interest to violate international law.

Mr. SALMON. Thank you, Mr. Chairman.

Mr. FORBES. Mr. Sherman.

Mr. SHERMAN. Thank you. There is only one significantly inhabited island in dispute in the South and East China Sea called Taiwan, a lot more people than all the—and one way to defend Taiwan would be to spend a few hundred billion dollars on more naval assets; but there is something else that would be just as effective, probably more effective, and that is with a clear law that would immediately eliminate China's "most favored nation" [MFN] status if they blockade or invade Taiwan.

Under those circumstances, the missiles that China could use on any day to just threaten Taiwan and close its ports would, I think, become inoperative. Ms. Willett, would you oppose or would the State Department oppose an effort by Congress to just say if you invade or blockade Taiwan, at that moment you automatically lose MFN?

Ms. WILLETT. Thank you, Congressman. I am happy to take your question and consult with my colleagues who cover Taiwan policy and come back to you with an answer.

Mr. SHERMAN. Can I count on a clear unambiguous answer for the record?

Ms. WILLETT. I have to take your question back to my colleagues who cover Taiwan.

[The information referred to can be found in the Appendix on page 57.]

Mr. SHERMAN. I think it was my—the chairman of our subcommittee that talked about ambiguity. It might be good to be ambiguous toward China but maybe not ambiguous toward Congress on this issue. I hope to get a clear answer.

Mr. Denmark, there has been a massive increase in the world's attention to disputes between Japan and China over islands. Has Japan massively increased its defense budget over the last 4 years? And don't they spend well less than a quarter of what we spend as a percentage of GDP?

Mr. DENMARK. Thank you, sir. I don't have the specific numbers in front of me. I do believe it is a percentage of how much——

Mr. SHERMAN. It is about 1 percent of their GDP.

Mr. DENMARK. In terms——

Mr. SHERMAN. They keep claiming they are going to increase it, they never actually increase it, and they want us to spend hundreds of billions of dollars to develop and deploy naval assets to defend islands that don't have any oil, but if they do have oil, it is Japan oil or Chinese oil, it is not American oil.

Mr. DENMARK. To answer your question, sir, in terms of absolute numbers, I do believe that Japan's defense budget has increased in recent years, although not dramatically, as you said, sir. But we have seen, I think, very important developments in our alliance with Japan in the last few years with our agreement on new defense guidelines, the passage of new legislation that enables their——

Mr. SHERMAN. They are not willing to put their money where they want us to put our money. They are not willing to put their lives where they want us to put our lives, and it is nice that they will issue joint communiques, but joint communiques don't cost anything.

Ms. Willett, I want to return to the UNCLOS. I agree with you. It is not about the rocks. It is about the rules. China seems to have it the best of both worlds. They join UNCLOS, serve on the subcommittees, as the gentleman from Virginia pointed out, and yet they are not going to follow the outcome of this arbitration provision. Should we join—I mean, there are various arguments about us not joining UNCLOS, but it seems like China has demonstrated that you can join, participate, and if you disagree with anything they do, well, you just say they don't have jurisdiction.

Is there any mineral rights or fishing rights or anything of value that the United States claims that someone is objecting to in a way that we could lose in UNCLOS, and if so, would we have to recognize the binding power of its decision?

Ms. WILLETT. On the China question, Congressman, it is true that China has indicated that it does not accept the jurisdiction of the tribunal.

Mr. SHERMAN. You can be sure they will accept it if they happen to win.

Ms. WILLETT. Our focus is on their behavior following the tribunal decision. Actions matter in this case.

Mr. SHERMAN. This question more is about why shouldn't we join UNCLOS? It seems China is demonstrating that you can participate, you can influence, and you don't really have to follow their rulings, so what is—can you think of any disadvantage to joining UNCLOS? Is there anything we could lose?

Ms. WILLETT. Disadvantage to joining UNCLOS?

Mr. SHERMAN. Yes.

Ms. WILLETT. No. Our position is that it materially benefits us to be a part of the Convention of the Law of the Sea.

Mr. SHERMAN. So we get the benefits, you can't think of anything we could lose, but even if we lost in an arbitration on UNCLOS about some arctic resource, China is demonstrating that you don't have to follow the ruling. It sounds like a great organization to join.

Ms. WILLETT. China has not yet demonstrated that you don't have to follow the ruling. There hasn't been a ruling.

Mr. SHERMAN. They have demonstrated that if the ruling goes against them, they will not feel it binding on them.

Ms. WILLETT. I am concerned with their actions after we have an actual decision from the tribunal.

Mr. SHERMAN. I mean, they may scale back what they do voluntarily for a host of reasons, but it is clear that they have laid the legal foundation to win if they win at UNCLOS and not to feel bound by it if they lose.

Ms. WILLETT. They have presented an argument asserting that they are not bound by the tribunal if—when it rules. That is not——

Mr. SHERMAN. And it is an incredibly weak argument.

Ms. WILLETT. That is correct.

Mr. SHERMAN. If we ever needed to present an argument, we could certainly present one that strong. Their argument is that some other government that they don't recognize once drew a line claiming something. That is like a Confederate general claiming Cuba, and so we claim all of Cuba. It is—so again, there are the advantages that the gentleman from Virginia pointed out.

What could we possibly lose by joining UNCLOS? I don't know if Mr. Denmark has a comment. I will see if you have a comment, and then I believe my time has more than expired.

Ms. WILLETT. The Convention on the Law of the Sea protects our maritime interests around the world. It is an important legal framework that ensures all countries are able to make use of the seas based on a rules-based system. We firmly believe that it is in the United States' interests to ratify, and we expect all parties to the Convention to fulfill their obligations under it.

Mr. SHERMAN. I will just yield to the gentleman from Connecticut to remind us of the H.R. resolution that allows us to reg-

ister our belief. That would be 631, and you are allowed to cosponsor that, right? Good to find out. Thank you.

Mr. FORBES. The gentleman yields back his time.

The distinguished gentleman from Alabama, Mr. Byrne, is recognized for 5 minutes.

Mr. BYRNE. Thank you. Several of us on these two panels were in China together a couple months ago, and we had the opportunity to have a number of briefings and actually got to hear the Chinese position. And the Chinese position is that we are a weakening power in the Pacific. Now, I don't know that we necessarily have to agree with their assessment, but I think it is important we understand that is their assessment. They got me to thinking about what Teddy Roosevelt always said, which is, "Walk softly but carry a big stick." A lot of what we have heard today has been about using discretion and the use of power, which is certainly appropriate in any environment, particularly in a sensitive environment like the South China Sea. But I guess the question I have is, do we have a big enough stick over there? Do we have the right military assets in place in the right place to do what we need to do to fulfill the objectives of the United States, both militarily and otherwise? We keep having these incidents. The Chinese are clearly pushing very hard. You are from the Department of Defense. Do you have the assets that you need to carry out your mission?

Mr. DENMARK. Yes, Congressman, I believe we do. It is interesting, you mentioned, you referenced President Roosevelt in that, several months ago, I had the opportunity to accompany Secretary of Defense Carter to the USS *Teddy Roosevelt* operating in the region, which the ship calls itself "America's Big Stick," which I think is a nice example——

Mr. BYRNE. I have also been on that vessel. It has a motto stenciled all throughout it saying "putting warheads on foreheads." I love that. It is a good motto.

Mr. DENMARK. As I mentioned in my testimony, Congressman, we have increased our presence in the region over the last several years, and this is responding to a fairly ubiquitous and loud demand signal that we have been hearing from across the region from our allies and our partners stating that they are concerned about activities and actions happening in the South China Sea and asking us to work with them. And we have answered that call. We are working with them to enhance their capabilities. We are conducting exercises. We are conducting training. We are building our own capabilities in the region. Our operations tempo has increased, and we see that all these actions are providing for the common good. They are increasing maritime domain awareness and maritime security in the region, supporting our allies and our partners as well as our own national interests. And all of our missions are done meticulously to ensure that everything that we do is done in a way that is compatible and supports international law and maintains safety.

Mr. BYRNE. Well, a number of us are going with Mr. Courtney to the RIMPAC [Rim of the Pacific] exercise in a couple weeks.

I want to go back to that Chinese perception. If we believe we have the appropriate number of assets, how do we cure that problem? Because a misperception is as dangerous to us as anything

else. How do we cure that misperception with the Chinese? Do exercises like RIMPAC help with that, or does there need to be more direct communication between us and them? What is the source of their misunderstanding, and what can we do about it?

Mr. DENMARK. Well, Congressman, I do think that RIMPAC is a very good demonstration of American leadership and American power in that no other country is able to bring together so many countries to work together in pursuit of a common objective. So I think RIMPAC is a terrific example of that. In terms of our interactions with China, we have pursued for several years very consistently a robust military-to-military relationship with them, which includes military diplomacy in which our senior leaders, their senior leaders from our two militaries, interact with each other, both in person and over communications. We visit each other's countries. We visit each other's militaries. And from the U.S. perspective, we try to enhance that sort of transparency as a way to ensure, to reduce the potential for misunderstanding and miscalculation.

We have also recently agreed to several confidence-building measures on rules of behavior in airspace and on the high seas, which we see as a very important aspect of our efforts to reduce risk. As our militaries operate in closer proximity to one another to a greater degree of regularity, we see that efforts of risk reduction are very important.

In terms of managing Chinese perceptions, as somebody who has studied China for a long time, I find that task to be very complicated and very difficult. What we can be responsible for is to make sure that we are doing the right things, to make sure that we have the capabilities in the places that we need to make sure that we are building the capabilities of our allies and partners and make sure that we are able to defend ourselves, defend our allies, and defend our interests. And I believe we are.

Mr. BYRNE. Thank you.

I yield back.

Mr. FORBES. The gentleman yields back.

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

Mr. BERA. Thank you, Mr. Chairman.

Throughout the opening statements and certainly throughout the witnesses' opening statements, there is a theme of the importance of recognizing global rules and norms and understanding the mechanisms by which to resolve disputes. So I think many of us in Congress have been concerned when we look at China's unilateral moves, whether in the East China Sea or in the South China Sea, which really go against international norms, unilateral moves, whether it is Scarborough Shoals, or, you know, declaring an ADIZ over the East China Sea, which really go outside the norms—so if we just think about the next steps and what is in our toolbox as the United States to help deescalate tensions, I think it is reasonable to go ahead and—we should certainly—I do wish we were a part of UNCLOS. We are not. But we are going through the process of recognizing international norms and international mechanisms by which to resolve disputes, so a ruling will come out shortly.

I think it behooves us to make sure, as an international community, when we see that ruling, we do everything we can to enforce that ruling. Now, what I would say is, you know, let's say that ruling is not the one China is looking for, and they choose to ignore that ruling. We look at, I think Ms. Willett, you talked about the tools that we have. We are already engaged diplomatically in the sense that we have gone to UNCLOS. I would consider that a diplomatic tool by which to resolve this dispute. We can continue to engage them diplomatically, but we have already used that tool. None of us is interested in a military or kinetic engagement. We certainly are posturing by having some of our assets in the region. And the importance of the South China Sea, the reason why these small reclaimed islands are so important is that is one of the most important trade routes in the world right now. It is of incredible economic importance to not only the United States but to our allies in the region. And the number of goods that move through that region are very important, so they are very strategic.

We can try to use economic tools to get China back to the table, but the worry here is, you know, China increasingly is moving assets to that island, and the more assets they have, the harder it will be to move them off of those islands. And it is much easier for us to deal with this today than it will be a decade from now.

So, Mr. Denmark, outside of that, what are our options?

Mr. DENMARK. Well, thank you, Congressman.

I think you can understand why I would be reluctant to discuss military options to any degree of specificity in an open hearing. What I do feel comfortable saying in an open setting is that we remain very committed to continue to defend our allies, to defend critical principles that we see as necessary to the continued peace and stability of the region, and to continue to defend our national interests. In terms of what happens after a decision, I would refer you to the statement that I submitted in that we see the military role in this as being essential to deter conflict and ensure that diplomacy has space to succeed, and we are going to continue to play that role.

Mr. BERA. And certainly there is no desire for a military option here. I mean, we want diplomacy, and we certainly want China to understand that it is in China's economic benefit to have open seaways and the free movement of goods and services. They obviously see that as well. So, from our perspective, let's hope adhering to international norms and international mechanisms by which to resolve dispute, that China will take that mechanism as a member of UNCLOS and adhere to whatever ruling we do see next week. Otherwise, I think we ought to come back into a joint committee here and really, you know, send a strong message that we have got to adhere to these international norms.

With that, I yield back.

Mr. FORBES. The gentleman yields back.

The gentleman from Alabama, Mr. Brooks, is recognized for 5 minutes.

Mr. BROOKS. Thank you, Mr. Chairman.

Looking at the South China Sea, there appear to be a number of nations that have significant economic and, perhaps, security interests. How would you rank those in terms of importance? Let's

talk about it in terms of economics. Which countries use the South China Sea the most perhaps for fishing, food, commerce, oil, things of that nature?

Ms. WILLETT. Thank you, Congressman.

It is a big, complicated question. There are a number of claimants. They all have different, or not all, but they have varying claims. They have varying ways that they assess the values of those claims. I think——

Mr. BROOKS. I am not asking about claims. I am talking about who uses them.

Ms. WILLETT. No, I understand. But the geographic scope of individual claims impacts how they assess the value of the resources and the importance of those spaces, which is all to say it is a complicated answer.

Mr. BROOKS. What is your judgment?

Ms. WILLETT. From a U.S. perspective, what is most important and what is driving these disputes vary much from country to country; from our perspective, what is most important is whether or not they are going to pursue those claims in a way——

Mr. BROOKS. Mr. Denmark, I am not getting an answer. Perhaps you can share with me your insight on which countries have the greatest amount of economic interest in the South China Sea. It might be oil being shipped through the South China Sea that they are dependent on. It might be unfinished or finished products. It might be food in the form of fishing. Do you have a judgment as to which countries have the greatest economic interest in the South China Sea?

Mr. DENMARK. Well, Congressman, it is a very interesting question. I don't believe I have seen an academic analysis that tries to rank these. What I have seen, though, is that the complexities of international trade in this region means that it is not just the claimants that are affected, although obviously they have a critical interest in it, but countries outside of even the immediate area of the South China Sea, like Japan, like South Korea, like the United States, also have a critical interest——

Mr. BROOKS. Let's talk about it for a moment. South Korea, what is their interest in the South China Sea?

Mr. DENMARK. Well, obviously, I can't speak for them.

Mr. BROOKS. I understand you cannot speak for them. Do you have no judgment?

Mr. DENMARK. What I would say is my sense is that all countries in the region—I wouldn't want to identify one specifically. I would say all countries in the region——

Mr. BROOKS. I thought this was an easy question. South Korea, do they rely on their oil shipments from the Persian Gulf and from other areas to go through the South China Sea?

Mr. DENMARK. So what I was going to say is that South Korea, Japan, most of the countries of the region rely tremendously on international trade, much of which flows through the South China Sea.

Mr. BROOKS. Okay. Let's try to get to some specifics, and I have already lost about 70 percent of my time. South Korea, oil shipments through the South China Sea, do they have other commerce

that is shipped to or from South Korea through the South China Sea?

Mr. DENMARK. Congressman, I am not trying to not answer your questions. As a representative of——

Mr. BROOKS. The answer is yes or no or you don't know.

Mr. DENMARK. What I will say, as a representative of the Department of Defense, I don't have those figures with me here.

Mr. BROOKS. Well, I am not asking for specific figures.

Ms. Willett, are you familiar with whether or not South Korea ships or receives products through the South China Sea, other than oil? We have already established oil.

Ms. WILLETT. All countries in East Asia receive and ship goods and services—oil, liquid and natural gas—through the South China Sea.

Mr. BROOKS. Is it fair to say that South Korea has a significant interest, then, in the South China Sea?

Ms. WILLETT. Yes. I believe about 30 percent of the liquid natural gas that gets shipped to South Korea and Japan goes through the South China Sea. About 25 percent of the world's goods——

Mr. BROOKS. And Japan also has a significant economic interest?

Ms. WILLETT. Yes, Congressman.

Mr. BROOKS. And the Philippines has a significant economic interest?

Ms. WILLETT. Yes, sir.

Mr. BROOKS. Vietnam has a significant economic interest?

Ms. WILLETT. Yes.

Mr. BROOKS. Taiwan has a significant economic interest?

Ms. WILLETT. Yes, all countries in East Asia have a significant economic interest.

Mr. BROOKS. And would it be fair to say that their economic interest on a percentage of GDP is greater than that of the United States of America, economic interest?

Ms. WILLETT. I would have to go back and look at the specifics because a great deal of this trade is also bound for the United States.

Mr. BROOKS. What can the United States of America do to encourage these other countries that have a greater reliance on shipping through the South China Sea to step up to the plate and absorb more of the defense costs associated with those shipping lanes?

Ms. WILLETT. We work very closely with all of these countries on diplomatic, military, economic approaches to ensuring that the rules are followed in the South China Sea.

Mr. BROOKS. But they aren't stepping up to the plate like the United States of America is. My question is, what can we get them to do to step up to the plate to measures that are commensurate with their economic interests?

Ms. WILLETT. We continue to engage with all of our partners in the region to ensure that we are all playing a part in ensuring that a rules-based order is protected in the South China Sea.

Mr. BROOKS. If the United States of America were to withdraw its military assets in the South China Sea, would that encourage these other countries to step up to the plate?

Ms. WILLETT. I think that is a question for those other countries. I am sorry, sir.

Mr. BROOKS. All right. Thank you.

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

The gentlelady from Guam is recognized for 5 minutes.

Ms. BORDALLO. Thank you very much, Mr. Chairman, Chairmen Forbes and Salmon, for holding this important and timely hearing.

Two weeks ago, I had the pleasure of meeting with the Prime Minister of Timor-Leste to discuss a variety of bilateral issues. In particular, Secretary Willett, I would like to briefly note my concern regarding the outstanding maritime dispute between Australia and Timor-Leste. I believe the United States should use our diplomatic power and influence to bring about a swift resolution to this matter, and the lack of an agreement on this maritime dispute undermines our credibility when discussing the issue of the China-South China Sea maritime issues with the Chinese. I do know the Chinese raise this very often, so I hope that we can use some of our influence to encourage a swift resolution to the matter, and I think the political will exists in the region if we just need—of if we can just nudge this along. So I know Mr. Courtney has introduced a resolution to this matter, and I will also add my name to the chorus of people who believe the Senate should ratify UNCLOS.

Now my first question is for, I guess, Secretary Denmark. I believe that an asymmetric advantage we have in countering Chinese influence in the South China Sea is the partnerships that we have in the region, and we should continue to cultivate them. Are programs such as the Maritime Security Initiative [MSI] a helpful tool for building partner capacity, and what areas can be improved? I am particularly concerned that we can find over $3 billion for the European Reassurance Initiative program, but we struggle to find $100 million for the Maritime Security Initiative. Now, you briefly touched on MSI in your testimony, Secretary Denmark, but I think this disparity sends the wrong message about our rebalance strategy, especially given your commentary on the need for building partner capacity. Do you agree? If you could just give it a brief answer. I have very little time.

Mr. DENMARK. We believe that MSI is very important. It is something that we have been working very actively to help train and equip our allies and partners. I agree with you that our allies and partners are a critical advantage to us in the region. And we are just in the beginning of this effort, and we are looking to continue to advance it.

Ms. BORDALLO. So you do agree then. Secretary Denmark, my final question is for you. On Guam, we are particularly concerned with the PLA [People's Liberation Army] Navy's increased presence in the South China Sea and the high number of unsafe aerial and maritime intercepts they are conducting. Could you elaborate on the steps that the Department is taking to, one, A, reduce Chinese intercepts and, B, create a roadmap for deescalating potential conflicts resulting from a botched Chinese reaction?

Mr. DENMARK. Sure. Yes, of course. As I have mentioned before, we have recently concluded several confidence-building measures with the Chinese, which are designed to reduce risk in terms of setting rules of behavior for interactions between our aircraft and our

surface vessels based on existing international laws and norms. And we have seen an increase in the number of interactions between our forces in recent years, primarily because both sides are more active in the region militarily, but at the same time, we have seen a decrease in unsafe intercepts between our two sides, which I think demonstrates the effectiveness of these efforts.

So we are going to continue to work with China to continue to advance these efforts to reduce risk, to enhance our ability to communicate with one another.

Ms. BORDALLO. Thank you very much.

And I yield back, Mr. Chairman.

Mr. FORBES. The gentlelady from Missouri, Ms. Hartzler, is recognized for 5 minutes.

Mrs. HARTZLER. Thank you, Mr. Chairman. Thank you.

I was just wondering, has China adopted the U.N. Convention on the Law of the Sea?

Ms. WILLETT. Yes, Congresswoman. They were integral in the drafting of the Convention on the Law of the Sea and have ratified it.

Mrs. HARTZLER. Ratified it. Okay. So they should abide by that, no question, obviously. Has the International Tribunal for the Law of the Sea ever ruled for a shared claim between countries? Could that be something potentially they would do next week?

Ms. WILLETT. The tribunal in this instance won't rule on the underlying question of sovereignty over the individual land features. What it will do is potentially clarify what maritime entitlement those features are entitled to, among other issues. I would have to go back and look at the history of previous tribunals and get back to you on your question. But at the moment, the issue at question isn't who owns the land feature, but what maritime space is generated from a land feature. Is it a territorial sea or an exclusive economic zone?

Mrs. HARTZLER. Okay. Very good. How avoidable have recent near misses between U.S. and Chinese air- and seacraft been, and do you believe these incidents indicate that we are likely to see additional tense military encounters?

Mr. DENMARK. Congresswoman, as I mentioned, we have actually seen, the number of interactions between our aircraft and vessels in international places have increased in recent months and years. We have seen a decrease in the number of unsafe interactions between our two sides, as a result, I believe, of the risk reduction efforts that we have conducted. But as our forces continue to operate in relatively close proximity to one another, it is an issue that we are going to continue to be focused on, and these efforts at risk reduction are something that we are going to continue to pursue with the PLA.

Mrs. HARTZLER. So, back to the claim, a lot of my colleagues have advocated that the Senate adopt UNCLOS, and how would you respond to the concerns that I have heard that it would jeopardize American sovereignty by subjugating some of our rights to the U.N. and also perhaps jeopardize our fishing industry and the ability to fish certain areas? How would you respond to those concerns?

Ms. WILLETT. It is our view, the Obama administration and the previous administrations, that the legal framework offered by the

Convention on the Law of the Sea protects U.S. maritime interests and protects our rights around the world. On the specifics of what our accession and a ratification of the treaty might look like, I wouldn't want to speculate. That is something, I think, that would be part of the Senate deliberations.

Mrs. HARTZLER. Would you like to add anything?

Mr. DENMARK. If I could just add, from a DOD perspective, our military forces, even though we have not ratified UNCLOS, our military forces do operate in accordance with its guidelines, and we are very meticulous to make sure that all of our operations are conducted within the bounds of international law.

Mrs. HARTZLER. Thank you very much.

I yield back, Mr. Chairman.

Mr. FORBES. The gentlelady from Florida, Ms. Graham, is recognized for a little less than 5 minutes.

Ms. GRAHAM. I won't even take that long, Mr. Chairman. I appreciate it. Both of the chairmen, thank you for this opportunity.

Ms. Willett, you mentioned that the United States will be looking at China's actions following conclusion of arbitration. Aside from the obvious—and I will say it has surprised me somewhat this hearing—and I have been here from the beginning—because it seems like the witnesses, that you all are somewhat hesitant, and I am assuming because of the sensitivity of the subject we are discussing, so I don't know if this would be maybe better addressed in a classified, Mr. Chairman. But aside from the obvious, what actions will you all be looking at from China's perspective that would signal noncompliance?

Ms. WILLETT. Thank you, Congresswoman.

I think the hesitance comes in part from the fact that it is a complicated legal question that has been put before the tribunal, and we do not have a ruling yet from the body that we could evaluate or even assess, you know, what noncompliance might look like. Thus far, our efforts have been focused on engaging intensively with China, with the other claimants, with the other parties in the region, to ensure that, following the ruling, everyone behaves with restraint, everyone is looking for ways to use the tribunal decision as a jumping-off point to restart diplomatic discussions about a common way forward that avoids conflict but looks for commonalities that can be built on so that in these disputed spaces, we can reduce the risk of misunderstanding and find a way for all of the parties involved to benefit and to behave in a manner that is consistent with international law and that isn't in violation of whatever the ruling is. But until we see the ruling, it is difficult to speculate on just what its implications are.

Ms. GRAHAM. And I think that is a fair comment. However, I will segue to something Mr. Denmark said. I certainly hope—and I will end with this—that if, in fact, there is a failure to live up to what our expectations are following the decision, unknowing what the decision is at this point, but I think we can all extrapolate out what would be a violation, that we do have—and you said, Mr. Denmark, that we are making sure we have the capabilities where we need them, and I wrote that down, make sure we have the capabilities where we need them. I think that is a key statement because, clearly, this is an area in the world where there are a lot

of potential international implications if, in fact, they do not fulfill their obligations, being China.

I will end with that. I don't really think there is a need to have a follow-up response, and I appreciate you all being here. Thank you very much.

Mr. FORBES. We want to thank you both for being here. I told you at the beginning that we would allow you time to have any final comments. Unfortunately, these votes are called, so what I am going to allow you to do if you would like is to submit anything for the record to clarify any statement you have made or to put anything else in there that you feel we didn't cover that you thought was important. Is that okay with both the ranking members and with the chairman?

With that, the other members have said that they do not need to return to ask their questions, so we are going to let you guys go. Thank you so much for being here.

With that, we are adjourned.

[Whereupon, at 4:59 p.m., the subcommittees were adjourned.]

A P P E N D I X

July 7, 2016

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

JULY 7, 2016

Opening Remarks of the Honorable J. Randy Forbes
for the
House Armed Services Seapower and Projection Forces and
House Foreign Affairs Asia-Pacific Subcommittee Hearing on
South China Sea Maritime Disputes
July 7, 2016

I want to welcome members of the House Armed Services Seapower and Projection Forces Subcommittee and the House Foreign Affairs Asia-Pacific Subcommittee to a special joint hearing on the topic of Maritime Disputes in the South China Sea. I also want to extend a warm welcome to our two witnesses:

Ms. Colin Willett, Deputy Assistant Secretary for Strategy and Multilateral Affairs in the State Department's Bureau of East Asian and Pacific Affairs; and

Mr. Abraham Denmark, Deputy Assistant Secretary of Defense for East Asia

I thank you both for being here to testify at this special joint hearing.

Our topic today is a timely and critically important one. Early next week, the Permanent Court of Arbitration is expected to rule on the legitimacy of China's expansive territorial claims in the South China Sea.

In the aftermath of that ruling, the world will be watching two things: first, to see whether China behaves like a responsible stakeholder in the international system, and, if not, to see how America responds.

For decades, the United States has sought to facilitate China's integration into in the global economy and the rules-based international order that has benefitted Asia so well. China's reaction to next week's ruling will provide a clear indicator of how that is going, and whether Beijing's quest for regional dominance can be curbed by international law and world opinion.

America's response will also send a powerful signal. While the United States does not take sides in territorial disputes, we can and should stand up for those parties that pursue their peaceful resolution. The Philippines is one such party, but not the only one, and what we do—or don't do—to support our allies and the rules-based international system in the weeks ahead will have echoes across the region and in other corners of the globe.

With so much at stake in the South China Sea, it is critically important that the United States have a clear policy toward the region, and a strategy to sustain peace, prosperity, and the rule of law in Asia. Diplomacy will play a crucial role in avoiding and resolving conflict, and I am pleased to have Ms. Willett and members of the HFAC committee with us here today to discuss that critical aspect of any interagency approach to the region.

If China continues to flaunt international law and world opinion, however, I firmly believe that the surest way of averting another devastating conflict in the Asia-Pacific region will be for the United States to remain present, engaged, and capable of projecting decisive military power in the region. Might does not make right, but it can be used to deter threats to peace, prosperity, and the rule of law.

That is why I have been pleased to see an increase in U.S. naval and military presence in the region and an increase in the frequency of our Freedom of Navigation Operations. I look forward to hearing from Mr. Denmark about what the Department of Defense is doing to deter Chinese aggression, reassure our allies and partners, and maintain a favorable military balance in the Asia-Pacific region going forward.

I now turn to my good friend and colleague, the Chairman of the Subcommittee on Asia and the Pacific, Mr. Matt Salmon of Arizona, for any remarks that he may have.

Ranking Member Courtney's Opening Remarks for House Armed Services Subcommittee on Seapower and Projection Forces and Foreign Affairs Subcommittee on Asia and the Pacific Joint Hearing on South China Sea Maritime Disputes

July 7, 2016

Thank you Chairman Forbes and Chairman Salmon for holding today's joint hearing on South China Sea Maritime Disputes. This is an important topic for our two panels, and I am pleased to have our colleagues here with us today to hear from our witnesses.

The South China Sea has been a source of considerable interest for our committee in recent years. The excessive maritime claims made by China in the region, both on the basis of their alleged historical claims to the area and the more recent construction of manmade islands, are a concern not just for the interest of the United States. They have the potential to have significant impact on our allies in the region and the world as a whole, given the centrality of this region to global maritime commerce. Given the implications of these excessive claims, it is critical that the United States play a central and constructive role in ensuring order and access on the seas.

Challenging excessive maritime claims in the South China Sea requires a comprehensive approach using all the tools at our disposal to protect the interest of the United States and our allies. One way we have seen this occur is through maritime patrols known as "Freedom of Navigation Operations" in the region by the United States Navy. These operations send the clear signal that the United States adheres to the norms and rules that guide international maritime rules and practices – and does not recognize those actions that contravene these norms, such as the construction and militarization of man-made islands in the South China Sea.

While we conduct these operations, another effort is playing out at The Hague. In just a few short days, a tribunal convened under the United National Convention on the Law of the Sea, or UNCLOS, is preparing to release a critical ruling that will determine the course of events in the area. The outcome of this case, brought by the Philippines, will help to determine whether China will work cooperatively with its neighbors to resolve these disputes – or continue to aggressively assert dubious maritime claims that have the potential to destabilize this key region of the world.

I am deeply frustrated, however, that throughout this maritime arbitration process the U.S. has been left on the sidelines. This is a direct result of the U.S. failure to ratify the Law of the Sea Treaty. UNCLOS is ratified by 166 nations, including China and the Philippines, and provides the international rule set for maritime boundary claims. The U.S. asked to be

included in the proceedings as observers, and was denied participation during the proceedings because we have not ratified this treaty.

Our military officials have been steadfastly supportive of U.S. approval of UNCLOS and warned for years about the consequences of continued inaction on ratification. For example:

- Chief of Naval Operations John Richardson told the Senate Armed Services Committee that **"by not acceding to UNCLOS, we deny ourselves the ability to challenge changes to international law as a result of the practice of nations at the local, regional, or global level."**

- Commander of PACOM Admiral Harry Harris told the House Armed Services Committee earlier this year that **"In the 21st Century our moral standing is affected by the fact that we are not a signatory of UNCLOS."**

- Chairmen of the Joint Chiefs, General Joe Dunford has also said, **"We undermine our leverage by not signing up to the same rule book by which we are asking other countries to accept."**

We are seeing in real time in the South China Seas the consequences of continued refusal to allow the US to join 166 other nations around the world in ratifying UNCLOS. I firmly believe that it is long past time for this Congress to heed advice of presidents and members of Congress on both sides of the aisle, a steady stream of military officials dating back to the 1980s, and a broad coalition with stakeholders from business, industry and trade to adopt this international agreement. Doing so will put us on solid legal, diplomatic and moral ground when we uphold the freedom of navigation for the United States and our partner nations in Pacific.

That is why I have introduced a bi-partisan resolution, H.Res. 631, urging the Senate to ratify the treaty. I am hopeful that members of the two panels here today, and our colleagues in the House, will consider signing on to this effort to ensure that our nation can use all the tools at our disposal to resolve these disputes and protect our interests, and those of our allies, in the region.

I look forward to a productive discussion and hearing from the witnesses as they share their expertise and experience on this issue. Again, thank you to the witnesses and everyone on both subcommittees for being here today.

Statement of

Colin Willett
Deputy Assistant Secretary of State for Multilateral Affairs
Bureau of East Asian and Pacific Affairs
U.S. Department of State

Before the

House Armed Services Committee
Seapower and Projection Forces Subcommittee

and

House Foreign Affairs Committee
Subcommittee on Asia and the Pacific

"South China Sea Maritime Disputes"
July 7, 2016

Chairman Forbes and Chairman Salmon, thank you for the opportunity to appear before this joint Subcommittee hearing today to testify with Abraham Denmark, Deputy Assistant Secretary of Defense for East Asia, on this very important and timely topic. I would also like to thank both Committees for their leadership in supporting and promoting bipartisan engagement with the Asia-Pacific and advancing U.S. interests there.

The importance of the South China Sea to global commerce and regional stability cannot be overstated, with estimates of more than half the world's merchant fleet tonnage passing through these waters. The sea lines of communication are lifelines to the dynamic economies of Northeast Asia; the bulk of the energy supply for Japan, the Republic of Korea, and Taiwan pass through this body of water, as well as a significant amount of China's trade volume. The South China Sea also serves as an important transit route and operational theater for the U.S. and other regional militaries, including those of our allies and partners. It allows us to shift military assets between the Pacific to the Indian Ocean regions to respond efficiently to transnational challenges ranging from natural disasters to the outbreak of armed conflict.

The United States has a vested interest in ensuring that territorial and maritime issues are managed peacefully. We view it as in our interests to see all claimants find diplomatic and other peaceful approaches to manage, and ultimately resolve these disputes.

The region abounds with examples of neighbors finding peaceful ways to resolve difference over overlapping maritime zones. Indonesia's and the Philippines' successful conclusion of negotiations to delimit the boundary between their respective exclusive economic zones (EEZs) and India's and Bangladesh's acceptance of the decision from an arbitral tribunal with regard to their overlapping EEZ in the Bay of Bengal are just a couple that come to mind.

In our view, these are emblematic of the acceptable ways for South China Sea claimants to handle these disputes. As is typically the case in the resolution of disputes, the method of first resort is for claimants to use negotiations and other diplomatic means to try and resolve the competing territorial and maritime claims. But when these processes become stalled or lead to irreconcilable positions, parties may consider other peaceful processes available to them. And sometimes, this may include utilizing third-party dispute settlement mechanisms.

The Philippines, for example, chose to exercise its treaty rights under the 1982 Law of the Sea Convention (the Convention) to submit for compulsory dispute settlement certain questions relating to the interpretation or application of the Convention in the South China Sea. Among other issues, the Philippines has sought a decision from an international arbitral tribunal regarding the validity of China's nine-dash line as a maritime claim under the Convention, as well as the clarification of maritime entitlements under the Convention of South China Sea islands and other geographic features.

By its terms, the Philippines case did not ask the Tribunal to rule on the question of which country had a right to exercise sovereignty over the contested land features under international law. Instead, it sought clarification regarding maritime issues – specifically, certain issues involving the Philippines' and China's rights and obligations as parties to the Law of the Sea Convention.

Having ruled in an October 29, 2015, decision that it has jurisdiction to rule on the merits of several of the Philippines' submissions, the arbitral tribunal that was convened under the Convention has announced that on July 12 it will issue a decision on the remaining jurisdictional questions and on the merits of those issues over which it has jurisdiction.

Although China chose not to participate in the case, the Law of the Sea Convention makes clear that "absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings." It is equally clear under Article 296 of the Convention that a decision by the tribunal in the case will be binding on both China and the Philippines. For this reason, we, along with many members of the international community, expect both the Philippines and China to respect the ruling.

The arbitral decision could crack the door open for a modus vivendi among the parties that would help manage tensions in disputed spaces until all are ready to engage in negotiations over the actual claims. To date, Southeast Asian claimants have been wary about agreeing to enter into provisional arrangements for managing marine resources, in large part due to the ambiguity of China's expansive maritime claims. The Philippines has asked the tribunal to clarify the scope of China's and the Philippines' maritime entitlements in the South China Sea by ruling on the validity of China's nine-dash-line claim and on the maritime entitlements generated by various South China Sea features. Such a ruling may clarify and limit the scope of the geographic areas subject to overlapping maritime entitlements. The ruling will not delimit any maritime boundaries in these areas or resolve sovereignty disputes over islands, but it does have the potential to make clear and to narrow which maritime areas in the South China Sea are legitimately subject to dispute, based on maritime zones derived from contested land features and the undisputed mainland coasts of Southeast Asian claimants.

It is possible to envision a diplomatic process emerging among claimant states to explore different ideas for managing marine resources in areas that all relevant parties can agree are legitimately subject to competing claims. Having a geographic starting point, even a relatively small one, could also help reignite dormant Code of Conduct discussions by identifying areas where both ASEAN and China could agree to implement confidence building measures for different naval and coast guard vessels, such as the Code for Unplanned Encounters at Sea (CUES).

A path towards cooperation could be opened in the next few months if claimants have the political will, flexibility, and creativity to find reasonable and practical arrangements that could serve as starting points for addressing longstanding tensions. China's record of resolving land boundary disputes with a number of its neighbors offers some encouragement.

Conversely, an adverse reaction by any party to the arbitral tribunal's decision could become a source of increased tension. China continues to insist it will not respect the tribunal's decision. There will be significant international focus on China's and the Philippines' response to the ruling. How they choose to respond will inevitably shape international perceptions of China's and the Philippines' strategic intentions. We view it as in our interests, as well as the interests of China and the Philippines, for both parties to be seen as upholding international treaties to which they are a party.

For our part, we seek to persuade China to opt for the path of international cooperation. We welcome the rise of a strong and prosperous China, but one that plays by the same rules that have helped facilitate its economic growth and military power over the last several decades. China was very much involved in negotiating the Law of the Sea Convention and consented to the dispute settlement procedures set forth in the Convention when it became a party to this treaty. And, as we have seen, China has not been shy in invoking its maritime rights and freedoms under the law of the sea in areas of the world where it is not a littoral state, but where it aspires for a greater role, such as the Arctic or in the Indian Ocean. This type of double standard is not sustainable. As China's economic and strategic interests expand, so too will its interest in ensuring the universal application of international principles such as freedom of navigation and overflight.

Nations cannot simply pick and choose where in the world's oceans and seas international maritime law applies and where it does not; it cannot demand the rights and freedoms under the law of the sea in some parts of the globe while denying them to other countries closer to home. And the United States cannot accept having rights and freedoms apply differently in the South China Sea than they do everywhere else in the world.

For our part, the United States will continue to play an active and constructive role in maintaining stability and promoting a rules-based maritime order in the South China Sea. Our strategy aims to preserve space for diplomatic solutions, including by pressing all claimants to exercise restraint, maintain open channels of dialogue, lower rhetoric, behave responsibly at sea and in the air, and acknowledge that the same rules and standards apply to all claimants, without regard for size or strength.

We will continue to keep the South China Sea and maritime cooperation at the top of the agenda in the region's multilateral forums where we participate, while also working bilaterally with relevant countries to encourage progress toward peaceful resolution of disputes. We have played an important role in shining a spotlight on

problematic behavior, including massive land reclamation and construction of dual-use facilities in the Spratly Islands, and we will continue to do our part to help ensure that problematic behavior is exposed and censured. We are also engaging closely with all of the claimants at all levels of government, through both major multilateral meetings like the East Asia Summit and ASEAN Regional Forum and bilaterally, as President Obama did in his recent trip to Vietnam. The South China Sea was a primary focus of Secretary Kerry and Deputy Secretary Blinken during the Strategic and Economic and Strategic and Security Dialogues in Beijing last month. In each of these meetings, we have encouraged restraint and pushed back against destabilizing behavior; we will continue to emphasize respect for the rules and for countries to take advantage of the opening the arbitral tribunal's decision could offer.

We have developed strong partnerships with Southeast Asian coastal states to improve their maritime domain awareness so they have a clearer picture of what is developing in waters off their mainland coasts and improve their ability to work together. By developing a common operating picture, claimants can work together to avoid unintended escalations and identify potential areas of cooperation. We have also encouraged the sharing of information and enhanced coordination amongst the claimants and others in the region to ensure that they are aware of events taking place in the South China Sea, thus helping reduce the potential for miscalculations at sea.

Such maritime capacity building and information sharing efforts will also help claimants' ability to develop a more effective and continuous presence in their respective maritime zones, particularly given China's problematic usage of civilian fishing and other vessels to assert its presence in areas of the South China Sea. Enhancing maritime domain awareness and maintaining a steady and consistent presence are important means for countries to demonstrate that, though they may seek to avoid confrontation, they have no intention of being bullied into relinquishing their own legitimate maritime rights and freedoms, along with those of the international community as a whole.

All of these efforts rest on top of our of robust and durable U.S. military presence, in particular the steady presence of the Seventh and Third Fleets and our recent force posture movements. These include recent steps to implement the Enhanced Defense Cooperation Agreement with the Philippines and other efforts to strengthen our security partnerships with other allies and partners in the region. Though tensions have risen in recent years, I believe that our consistent but

increasingly visible presence has played an important role in preventing open conflict between claimants.

In sum, we are pursuing a three-pronged strategy comprised of diplomacy, a steady military presence, and partner capacity-building and maritime domain awareness. The objective of this strategy is to lower the risk of unintended escalation, to fortify the determination of the region to resolve disputes peacefully and without use of coercion, and ultimately, to create more favorable conditions for claimants themselves to identify a mutually acceptable path to peacefully resolve disputes. The simple truth is that the current state of tensions in the South China Sea benefits no one, and if not properly managed, could lead to unwelcome escalation that would erase the historic gains that this region has achieved over the past 70 years. We do not want to see that happen, and we do not believe that any other country in the region does either.

My colleague, Deputy Assistant Secretary of Defense Denmark will elaborate further on U.S. military posture and operations in the region. But let me also underscore that the United States will not hesitate to defend our national security interests and to honor our commitments to allies and partners in the Asia-Pacific.

At their core, these disputes are about rules, not rocks. We have no territorial claims or ulterior motives in the South China Sea. We will continue to champion respect for international law, freedom of navigation and overflight and other internationally lawful uses of the sea related to those freedoms, unimpeded lawful commerce, and the peaceful resolution of disputes. We have an interest in seeing the Asia-Pacific, including Southeast Asia, remain a rules-based region, where countries are free to exercise their rights and freedoms under international law without fear of coercion. Militarized reclaimed outposts will not keep us from transiting and operating in the South China Sea. To the contrary, it is creating a greater demand in the region for a strong and sustained U.S. presence. As the President and others in the Administration have made clear, we are resolved to ensure that we have made the necessary military, diplomatic, and economic investments to continue protecting our rights, and the rights of all nations to fly, sail, and operate wherever international law allows.

I thank you for this opportunity to appear before you today to discuss this important issue. I look forward to answering any questions you may have.

Colin Willett
Deputy Assistant Secretary for Strategy and Multilateral Affairs
BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS
Term of Appointment: 03/06/2016 to present

Colin Willett is the Deputy Assistant Secretary for Strategy and Multilateral Affairs in the East Asia and Pacific Bureau. Ms. Willett served as the Director for Southeast Asia at the National Security Council staff from May 2011 to December 2014. In that position, she advised the President and senior White House officials on a range of issues, including U.S. engagement with Burma, the United States' strategic cooperation with ASEAN, the East Asia Summit, the South China Sea, and U.S. relations with the countries of Southeast Asia. Ms. Willett had previously served as an Asia analyst at the Central Intelligence Agency, and has nearly 16 years of experience working on political, economic, and security issues in East Asia.

Ms. Willett received her M.A. in Economics at Tufts University, and her B.A. in Economics at the College of William and Mary.

Testimony of
Abraham M. Denmark, Deputy Assistant Secretary of Defense for East Asia
U.S. Department of Defense

House Committee on Armed Services
Subcommittee on Seapower and Projection Forces
and
House Committee on Foreign Affairs
Subcommittee on Asia and the Pacific
Hearing on "South China Sea Maritime Disputes"
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2118 Rayburn House Office Building

Chairman Forbes, Chairman Salmon, Ranking Members, and Distinguished Members of the Committees—thank you for inviting me and Deputy Assistant Secretary Willett here today to testify on this important issue. I would like thank both Committees for your leadership in supporting our nation's robust engagement across the Asia-Pacific region in general, and the South China Sea in particular.

The South China Sea is an area of immense economic and strategic importance. For centuries, it has been a major crossroads of international trade and commerce that connected cultures and economies from East Africa and the Middle East, through South and Southeast Asia, to Japan and the Korean peninsula in Northeast Asia. For decades, it has been a critical operational area for the U.S. military and central to our strategy to strengthen a principled order that enables stability and prosperity across the region.

More recently, as several countries around the region have prospered and their militaries have grown larger and more capable, the South China Sea has become increasingly congested and contested. Conflicting maritime claims have exacerbated long-simmering territorial disputes and threaten to disrupt the remarkable stability and economic gains the region has enjoyed for decades.

REGIONAL DISPUTES AT A CROSSROADS

At the center of the South China Sea disputes are a series of competing claims among Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam. The United States takes no position on competing territorial sovereignty claims among the parties to naturally formed land features in the South China Sea. The United States does, however, take a strong position on protecting and upholding the rights, freedoms, and lawful uses of the sea and airspace guaranteed to all countries, and that all maritime claims must comply with international law as reflected in the Law of the Sea Convention.

The key issue here, however, is not the existence of such territorial disputes themselves; rather, it's how the countries involved choose to protect their interests, protect their claims, and ultimately resolve their disputes. The United States seeks to uphold key principles at the heart of the rules-based international order: upholding customary international law, unimpeded lawful commerce, freedom of navigation and overflight, and peaceful resolution of disputes. We see growing support for upholding these principles throughout the Asia-Pacific region.

We have concerns about actions by any claimant that have the effect of eroding these key principles. China, in particular, has undertaken a series of initiatives that set it apart from all other claimants. Examples of concerning Chinese behavior in the past few years include:

- Between December 2013 and October 2015, China reclaimed approximately 3,200 acres of land in the Spratly Islands in the South China Sea—a development we detailed in our *Annual Report to Congress on the Military and Security Developments Involving the People's Republic of China 2016*. For context, over the same time period, other claimants reclaimed approximately 50 acres.

- China has used low-intensity coercion to enhance its presence and control in disputed areas of the South China Sea. China continues to employ China Coast Guard and People's Liberation Army (PLA) Navy ships to implement its claims by maintaining a near-continuous presence in disputed areas in an attempt to demonstrate some form of continuous administration. These efforts have included issuing fishing regulations that

covered disputed areas, blocking access of non-Chinese registered fishing vessels to disputed areas, and issuing warnings to civilian and military aircraft to depart the area while they were operating in international airspace.

- China has continued to build harbors, communications and surveillance systems, logistical facilities, and three military-grade airfields on many of the features it occupies. In the past year, China also has deployed radar systems, anti-ship cruise missiles, surface-to-air missiles, and has rotated fighter jets through features it claims in the South China Sea. Furthermore, the construction of hangars, anti-aircraft guns, and fuel and water underground storage facilities would support extended deployments of multiple aircraft and ships. And finally, in April, China's most senior military officer led a delegation on a tour of China's occupied features in the Spratly Islands to inspect the construction and visit the soldiers stationed on each feature.

Although the United States has noted these developments and expressed our objections to China's unilateral changing of the strategic landscape of the South China Sea, our primary concern revolves around risk of unintended escalation or conflict among claimants. Once completed and outfitted, these facilities will greatly improve China's capabilities to enforce its maritime and territorial claims, and project power further from China's shores.

At the same time as China has been building outposts, another process also has been playing out. In just five days—on July 12 —an international Arbitration Tribunal on the Law of the Sea will issue a ruling clarifying entitlements related to the disputed features in the South China Sea. Our longstanding ally, the Philippines, brought a case against what it claimed where China in the South China Sea in 2013. China has taken a position of non-acceptance and non-participation in the arbitration. The Arbitral Tribunal's upcoming ruling will present an opportunity for those in the region to determine whether the Asia-Pacific's future will be defined by adherence to international laws and norms that have helped keep the peace and enabled it to prosper, or whether the region's future will be determined by raw calculations of power.

China, in particular, will face an opportunity to stand within an open and principled regional architecture. The path of pursuing the peaceful resolution of disputes and the adherence to international law has been chosen in the past by those in China's position. For example, India—an increasingly important partner to the United States in Asia and globally—is an exemplar of how a proud and increasingly powerful country can handle such disputes with its neighbors in accordance with international law. In 2014, the Permanent Court of Arbitration—the same court that will issue a ruling on the South China Sea next week—ruled against India in favor of Bangladesh in a three-decade-old maritime dispute. To India's great credit, it accepted the decision and has abided by it, noting at the time that settlement of the issue would enhance mutual understanding and goodwill between the two countries. This is an example we would encourage China to follow.

With the South China Sea at a crossroads, there is a degree of uncertainty surrounding how some claimants will act in the coming months. However, I can assure this committee that the United States will play an active role in shaping the region's future.

THE U.S. ROLE

Since the end of World War II, the United States has worked with the international community to build and sustain a regional order based on key principles—such as freedom of navigation and overflight, the importance of international laws and norms, and the peaceful resolution of disputes—that have been the foundation for the remarkable stability and prosperity the Asia-Pacific region has enjoyed for decades. This approach has helped ensure that countries can make their own security and economic choices free from coercion and intimidation. And we've promoted free trade and the rule of law to support development and unprecedented growth. These efforts were informed by the histories of the 18th, 19th, and 20th centuries, where calculations of national power drove countries to challenge one another, with catastrophic consequences for humanity.

As a result of this system, the region has evolved in remarkable ways. And as it does, our approach must evolve as well. The region's economic realities are changing, as is the region's distribution of geopolitical and military power. Although the United States remains the dominant

power in the region by any measure, we do not seek to freeze the region's security architecture in place. To sustain the region's stability and prosperity, we are adjusting our approach in a way that supports our key principles and enables us to defend ourselves, our allies, and our interests. We seek to make the regional security architecture more open and inclusive, yet ensure that it remains founded upon the key principles that have been critical to the region's past success.

As the region continues to change, and becomes more interconnected politically and economically, the region's militaries are also coming together in new ways. They're building connections for a common purpose: upholding the security and stability critical to a principled and prosperous future. And these connections are now helping our countries plan together, exercise and train together, and operate together, more effectively and efficiently than ever before. As Secretary Carter discussed in Singapore, this growing Asia-Pacific security network includes but is more than some extension of existing alliances. It weaves everyone's relationships together—bilateral, trilateral, and multilateral—to help all of us do more, over greater distances, with greater economy of effort. It enables us to take coordinated action to respond to contingencies like humanitarian crises and disasters; to meet common challenges, such as terrorism; and to ensure the security of and equal access to the global and regional commons, including vital waterways.

Most importantly, this is a principled security network. It is inclusive, since any country gets a voice, no one is excluded, and hopefully, no one excludes themselves. And as this security network reflects the principles our countries have collectively promoted and upheld for decades, it will help us realize the principled future that many in the region have chosen, and are working together toward.

Our concern is that without this network, without these principles, and without a robust and credible U.S. presence, there is a real risk that this region—now the engine of the global economy—could devolve into rivalry, stagnation, tension, and instability. That would have profound implications for the global economy, and would prove destructive to our national interests as well as to the security of our allies and partners.

Again, we are not standing still in the face of a rapidly changing Asia-Pacific region. This is especially true in the South China Sea, where we have undertaken a whole-of-government approach, in which the Department of Defense has worked in lock step with the Department of States and our other Interagency colleagues to ensure that our diplomacy is supported by a robust military capability.

To this end, the Department of Defense is taking action. We remain committed to the defense of our interests, our allies, and our principles. We continue to see our longstanding alliances—and our deepening partnerships in the region—as the foundation on which to build the principled security network that will enable us to help build an open, dynamic, stable, and prosperous Asia-Pacific in the coming years. We aim to support the emergence of a regional architecture that gives all countries an equal opportunity to enjoy peace and prosperity.

Although I will leave it to my colleague, Deputy Assistant Secretary Willet, to describe our broader national strategy, I would like to describe the four areas in which the Department of Defense has contributed to the broader U.S. Government strategy toward the South China Sea:

- First, strengthening our own military capacity and presence in the region;
- Second, enhancing the tempo of military operations in the region;
- Third, enhancing our regional security network; and
- Fourth, leveraging military diplomacy to reduce risk with China.

One of the lessons of the post-war era has been that our sustained and enduring military presence in the region is the cornerstone of deterrence. The first line of our efforts in the South China Sea has therefore been to provide a credible capability in the South China Sea and the region more broadly in order to deter conflict and create space for diplomatic efforts to succeed. As a result of these efforts, our military presence in the region has increased significantly. In fact, the Department of Defense has operationalized the defense part of the President's strategy to rebalance to the Asia-Pacific region by sending our most advanced capabilities to the region, from F-22 stealth fighter jets and other advanced tactical strike aircraft, to P-8A Poseidon

maritime surveillance aircraft, to our newest surface warships including our cutting-edge stealth destroyers.

We have also undertaken several initiatives across the region to ensure that our presence in the region is geographically distributed, operationally resilient, and politically sustainable. These include new posture initiatives—in places like Guam, the Northern Marianas, the Philippines, Australia, and Singapore, as well as modernizing our existing footprint in Korea and Japan—and continuing to strengthen existing partnerships and develop new ones, from India to Vietnam.

For example, through the U.S.-Philippines Enhanced Defense Cooperation Agreement, or EDCA, the United States is supporting the modernization of the Philippine Armed Forces and strengthening our mutual defense, an arrangement that will allow U.S. forces, at the invitation of the Government of the Philippines, to conduct high-impact, high-value rotational training exercises and activities. The EDCA provides the opportunity for U.S. and Philippine military personnel to train, exercise, and operate together regularly, including through new joint maritime patrols.

Second and related to the expansion of our military capabilities and presence in the region is an enhanced tempo of military operations. From a multitude of exercises across the region, to freedom of navigation operations and presence operations, the Department of Defense continues to fly, sail, and operate wherever international law allows so that others can do the same. Examples of this enhanced tempo include a persistent and scalable Command and Control Detachment in the Philippines, dual carrier operations in the Philippine Sea, and a deployed rotational air component to the Philippines that recently included five EA-18G (Growlers). We've also completed a successful U.S.-Japan-India trilateral exercise MALABAR, and the Ronald Reagan Strike Group is conducting routine operations in the South China Sea this summer.

The third critical line of effort in the South China Sea entails enhancing our regional security network by building partner capacity, training, and exercises. A key facet of this has been our active engagement of the Association of Southeast Asian Nations (ASEAN), which shares our

commitment to shared principles. We believe ASEAN should be at the center of the regional security architecture, which is why we have invested in ASEAN, the East Asia Summit, and ASEAN Defense Ministers Meeting-Plus. And it's not only principles—it's action to back them up. We are deepening multilateral regional security architecture through the ADMM-Plus and its Experts Working Groups, through which we are pursuing practical initiatives and exercises to address challenges that affect us all more effectively.

Additionally, we are moving forward on the Maritime Security Initiative that the Secretary announced last year. This is a $425 million, five-year U.S. commitment to multilateral security cooperation that will help build a maritime security network in Southeast Asia to uphold our shared principles. In the Initiative's first year, we're helping the Philippines enhance its National Coast Watch Center and improving reconnaissance and maritime sensors; helping Vietnam train to develop future unmanned maritime capabilities; providing Indonesia and Malaysia with communications equipment and training; and working with Thailand on processing information at fusion centers.

We also continue to conduct several bilateral and multilateral exercises, such as BALIKATAN with the Philippines, which advance our efforts to strengthen our network and continue to build interoperability. The Rim of the Pacific (RIMPAC) Exercise includes 27 nations focused on building maritime cooperation, security, and disaster response. PACIFIC PATHWAYS builds partner capability and interoperability with Thailand, South Korea, the Philippines, Indonesia, and Malaysia. The 22nd Cooperation Afloat Readiness and Training Exercise focused on maritime security and interoperability with nine partner nations, and the 11th PACIFIC PARTNERSHIP focused on humanitarian assistance and disaster response.

In addition to building capacity and exercising together, we are also seeing Asia-Pacific countries come together on their own to strengthen bilateral and trilateral ties. For example, Malaysia, the Philippines, and Indonesia are coming together to counter maritime threats in coastal waters. We have also recently decided to hold additional U.S.-Japan-Australia trilateral exercises. And Indonesia has proposed trilateral joint maritime patrols with Malaysia and the Philippines, including counter-piracy patrols in the Sulu Sea. The United States welcomes and

encourages these burgeoning partnerships among like-minded partners who share our vision of a principled regional order. By networking security together, we believe we strengthen the ability of all countries to enjoy stability and prosperity in a dynamic region.

This brings us to the final line of effort in the South China Sea I would like to highlight, which is to engage China directly in order to reduce risk. As Secretary of Defense Carter described in his speech in Singapore, China has an important role to play in the region, and we welcome a China that plays a responsible role in the region's principled security network. We know China's inclusion makes for a stronger network and a more stable, secure, and prosperous region. Therefore we consistently encourage China to take actions that uphold—and do not undercut—the shared principles that have served so many in the Asia-Pacific region so well. We seek to keep lines of communication with China open, to improve our cooperation in areas of mutual interest, and to speak candidly and constructively manage differences in areas when we disagree.

Our military-to-military relationship with China is an important aspect of our broader bilateral relationship. Where our interests converge, we seek to cooperate responsibly and effectively. Where our interests diverge, we seek to reduce disagreements when possible and otherwise attempt to reduce the risk of misunderstanding or miscalculation.

This has been an important feature of our diplomacy in the South China Sea: through a series of robust diplomatic engagements with China this year, we have been able to manage the real and complex differences between us while broadening our cooperation. Although a great deal of attention has been placed on China's participation in RIMPAC, I would like to highlight briefly the confidence building measures (CBMs) that we have reached with China in recent years. Through these CBMs and the Military Maritime Consultative Agreement process we have set standards for encounters between ships and aircraft that are in accordance with international rules and norms, reduced the occurrence of unsafe and unprofessional encounters, and established mechanisms to manage situations where friction occurs. This has held true in the South China as it has in other areas, where our forces with increasing frequency have operated in close proximity to one another.

LOOKING AHEAD

These lines of effort have set the stage for our engagements following the upcoming decision from the UN Arbitral Tribunal. Although I will not speculate on what decision the Tribunal will issue, I will reiterate our strong support for the rule of law, the binding nature of this decision on the parties, and the peaceful resolution of territorial and maritime disputes. We urge both parties to comply with the ruling and urge all claimants to avoid provocative actions or statements.

From the perspective of the Department of Defense, we will continue to do what we always do. We will provide critical support for diplomacy by providing a credible deterrent against the use of force, in order to support the emergence of favorable conditions for claimants to peacefully resolve their disputes. We will continue to defend ourselves, our allies, our interests, and our principles. More broadly, DoD will continue to work with our allies and partners to build a future where every country in the region is free to make its own choices free from coercion where disputes are resolved peacefully, customary international law is upheld and where freedoms of navigation and overflight are respected. Our strategy is guided by the principles we—along with the broader region—are committed to upholding.

Mr. Chairmen, Ranking Members, Distinguished Members of the Committees, the upcoming UN Arbitral Tribunal ruling provides an opportunity for the region to stand firm in its enduring commitments to a principled order in the Asia-Pacific region and the rest of the world. And it is an opportunity for us to reconfirm our commitment to work with the region to ensure a principled future—one in which all people have the opportunity to live in peace and prosperity.

Thank you.

Abraham M. Denmark
Deputy Assistant Secretary of Defense for East Asia

Abraham M. Denmark currently serves as Deputy Assistant Secretary of Defense for East Asia, where he supports the Secretary of Defense and other senior U.S. government leaders in the formulation and implementation of defense policy for China, Japan, Mongolia, North and South Korea, and Taiwan.

Previous positions include Senior Vice President for Political and Security Affairs at The National Bureau of Asian Research, Fellow at the Center for a New American Security, and several positions within the U.S. government. He has authored several reports and edited several books on geopolitical dynamics in the Asia-Pacific, and has been featured in major media outlets in the United States and across Asia.

Mr. Denmark was named a 21st Century Leader by the National Committee on American Foreign Policy, and received an Award for Excellence from the Office of the Secretary of Defense in 2009.

A Colorado native, Mr. Denmark studied history and political science at the University of Northern Colorado, and earned a master's degree in international security from the Josef Korbel School of International Studies at the University of Denver. He has also studied at China's Foreign Affairs College and Peking University. He currently lives in Maryland with his wife and son.

WITNESS RESPONSES TO QUESTIONS ASKED DURING THE HEARING

JULY 7, 2016

RESPONSE TO QUESTION SUBMITTED BY MR. SHERMAN

Ms. WILLETT. We remain committed to preserving Taiwan's democracy and ensuring the freedom of the people on Taiwan from coercion, threats, and intimidation. In accordance with the Taiwan Relations Act, the United States would consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts and embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States. [See page 17.]

QUESTIONS SUBMITTED BY MEMBERS POST HEARING

JULY 7, 2016

QUESTIONS SUBMITTED BY MR. FORBES

Mr. FORBES. Under the terms of the 1951 Mutual Defense Treaty between the United States and the Philippines, each party is bound to respond to attacks on the "armed forces, public vessels or aircraft" of the other party, as well as "island territories under its jurisdiction." Do the terms of this alliance cover Philippine forces in the disputed areas of the South China Sea? Do they cover the Scarborough Shoal?

Ms. WILLETT. President Obama has been clear that we will stand by our commitments to the Philippines, as we do any mutual defense treaty ally. The long-standing, ironclad alliance between the Philippines and the United States has contributed to peace, stability, and prosperity in the Asia-Pacific region for more than 70 years. We do not comment on specific hypotheticals. We believe the language in the Mutual Defense Treaty is clear.

Mr. FORBES. China has claimed that the outposts it is constructing in the Spratlys are for civilian purposes only, and that China will not "militarize" the islands. In the view of the United States government, what would count as "militarization?"

Ms. WILLETT. The United States opposes efforts by any claimant to use force or threat of force to advance its territorial or maritime claims. We have consistently voiced support for the peaceful resolution of disputes in accordance with international norms. We consistently call on claimants to cease further land reclamation, construction of new facilities, and militarization of their outposts in the South China Sea. We would consider the introduction and rotation of military assets, including but not necessarily limited to offensive weapons systems and combat aircraft, on occupied outposts as militarization.

Mr. FORBES. As to China's maritime claims in the South China Seas, has the State Department or the Department of Defense performed an analysis, either officially or unofficially, as to the validity of China's territorial claims and reclamation activities? If so, can the administration provide such analysis to our committees?

Ms. WILLETT. The Department conducted an analysis of China's maritime claims in the South China Sea in volume no. 143 of its longstanding publication Limits in the Seas, which was released December 2014. It is currently available on the Department of State website. The United States does not take a position on competing sovereignty claims over land territory in the South China Sea.

Mr. FORBES. According to press reports, China has declared that it will be holding a week of naval exercises on the eve of the court's ruling, and has designated approximately 40,000 square miles of the South China Sea—an area roughly the size of Kentucky—as a no-go zone for foreign shipping. Are these reports accurate? How do you interpret China's actions?

Mr. DENMARK. The People's Liberation Army continues to conduct routine military operations—including military exercises—in the South China Sea. We were aware of China's naval exercise in the South China Sea that occurred during the timeframe that the arbitral tribunal announced its ruling. We recognize the right of any State to conduct exercises in accordance with the established international laws and norms. We understand this particular exercise was part of China's annual naval training plan and would refer you to the Chinese government for further information.

U.S. forces operate in the Asia-Pacific on a regular basis, including in the South China Sea, and have done so for decades. All operations are conducted in accordance with international law. The establishment of a Warning Area in international waters for the conduct of an exercise does not give any country the right to prohibit the entry of ships or aircraft into that area. The United States and China agreed to these international standards as part of the Confidence Building Measures signed in 2014 and will discuss lessons learned from this event during our relevant diplomatic dialogues.

Mr. FORBES. In 2013, China declared an Air Defense Identification Zone or ADIZ over the East China Sea. Some observers have suggested that China may intend to declare a similar zone over the South China Sea, and enforce it from its artificial island bases. How would the United States respond to the declaration of such an ADIZ?

Mr. DENMARK. When China announced its 2013 East China Sea (ECS) Air Defense Identification Zone (ADIZ), the United States made it clear that a unilateral and uncoordinated ADIZ over politically sensitive areas was provocative and raised tensions. This declaration has not affected U.S. military operations in any way.

A Chinese declaration of an ADIZ over disputed territories and water space in the SCS would not grant it any new authority or strengthen its claims over the area. In fact, such a declaration would only serve to increase tensions with China's neighbors. Just as in the East China Sea, an ADIZ in the South China Sea would not change how the United States conducts military operations in the region. The United States will continue to fly, sail, and operate in accordance with international law, as U.S. forces do all around the world. U.S. forces will continue to be present and active in and around the SCS on a regular basis.

Mr. FORBES. Some observers have suggested that rather than trying to achieve legal jurisdiction over the South China Sea, Beijing may simply strive for de facto control, and use its paramilitary forces, fishing boats, and "maritime militia" to achieve dominance in the region without crossing the threshold into outright conflict. How should the United States respond to and counter that kind of "gray zone" aggression against our partners? Do we have a strategy to do so, or the forces, tactics, and capabilities required?

Mr. DENMARK. To address security concerns in the region, including those referred to as "gray zone" aggression, the Department of Defense has executed a four-part strategy to achieve our broader national objectives:

- First, we have strengthened our own military capacity and presence in the region through efforts such as the Enhanced Defense Cooperation Agreement (EDCA) with the Philippines.
- Second, we have enhanced the tempo of our military operations in the region increasing our visible presence in the region. U.S. military forces are present and active in and around the Western Pacific on a daily basis. U.S. ships and aircraft operate routinely throughout the Western Pacific—including the South China Sea, East China Sea and Philippine Sea—and have for the last 70 years. In the past year, U.S. aircraft carriers, Ronald Reagan and John C. Stennis Strike groups, conducted routine operations in the international waters of the South China Sea and the Philippine Sea. The Stennis operated in the South China Sea for three months before joining the Reagan in the Philippine Sea for combined training and exercises. These routine operations were conducted in accordance with international law and demonstrated continued U.S. freedom of navigation in international waters in accordance with international norms, standards, rules and laws.
- Third, we continue to network our security relationships by enhancing our engagements and cooperation with and among our allies and partners, and thorough building partner capacity efforts such as the Southeast Asia Maritime Security Initiative.
- Finally, we have sought to leverage our military diplomacy with partners, including China, to reduce the possibility of misunderstanding and miscalculation between our forces.

These efforts, combined with the strategic investments we are making at home, will ensure that we are ready to address all contingencies in the region.

QUESTIONS SUBMITTED BY MR. LARSEN

Mr. LARSEN. China has stated that it neither accepts nor recognizes the Permanent Court of Arbitration's ruling against its claims in the South China Sea. This has led to media speculation as to potential Chinese provocations and U.S. military responses. However, given the mutual goals of resource extraction and fishing among claimants to the contested waters, resolving these conflicting claims is primarily a diplomatic question. How can the State Department play a constructive role in this process?

Ms. WILLETT. The Administration employs a comprehensive and multifaceted approach to the South China Sea that includes intense bilateral and multilateral diplomacy, a consistent military presence and operations, defense engagement and partner capacity building, and sustained economic engagement. As a non-claimant, one of our primary interests is in helping shape a rules-based strategic environment so that disputes are settled peacefully and in accordance with international law. Our consistent and steady presence in the South China Sea plays an important role in deterring any claimant from employing the use or threat of force to assert their claims, leaving open the door for constructive diplomatic or other peaceful processes among claimants. We are strengthening our defensive presence in the South China

Sea. As part of a long term strategy, we are moving 60 percent of our naval fleet to the Pacific and rotating more of our forces through friendly countries in the region. We are also strengthening maritime domain awareness and law enforcement capabilities in the region. This includes new security cooperation agreements with allies and partners in Southeast Asia and providing equipment and training to help partners better patrol offshore and ensure their ability to maintain an effective presence. On the diplomatic front, we are advocating for peaceful dispute resolution and compliance with international law. We continue to engage in intense, high-level diplomacy with all claimants, including advocating for them to take advantage of the July 12 Arbitral Tribunal's ruling to find a workable modus-vivendi in areas subject to dispute. President Obama, Secretary Kerry, and Secretary Carter continue to make our interests and concerns clear to all claimants in an open and frank manner. In addition, we have consistently called on all parties to negotiate a Code of Conduct in the South China Sea, which would build on the Declaration on the Conduct they negotiated in 2002.

Mr. LARSEN. What is the U.S. military's assessment of China's long-term goals as a naval power in Asia and beyond? Are there any ways a more powerful Chinese navy is in the U.S. national interest?

Mr. DENMARK. China's Navy is shifting its mission from "near sea" defense to "far seas" protection, which was espoused as the Navy's objective in China's most recent Defense White Paper. China's maritime emphasis and attention to missions guarding its overseas interests has increasingly drawn the PLA beyond China's borders and its immediate periphery. The PLAN is increasingly conducting operational tasks outside the so-called "first island chain" with multi-mission, long-range, sustainable naval platforms that have robust self-defense capabilities. Over the past 15 years, China's ambitious naval modernization program has produced a more technologically advanced and flexible force. The PLAN now possesses more than 300 surface ships, submarines, amphibious ships, and patrol craft. China is rapidly retiring legacy combatants in favor of larger, multi-mission ships equipped with advanced anti-ship, anti-air, and anti-submarine weapons and sensors.

As China's capabilities improve, we consistently encourage China to be a constructive partner in the region and to contribute positively to regional stability. China's contributions to global and regional public goods—such as humanitarian assistance and disaster relief—would be in the interests of the entire Asia-Pacific, including the United States.

Mr. LARSEN. Does the U.S. military believe that China's building up of "islands" and installation of military facilities in the South China Sea are the result of PLAN pressure and influence on China's civilian leadership, or are these the result of a centrally-directed strategy from China's top civilian leadership?

Mr. DENMARK. I would refer you to Chinese authorities to address questions about China's internal policy coordination process.

QUESTIONS SUBMITTED BY MR. SALMON

Mr. SALMON. Since the hearing, the tribunal deciding the Philippines v. China arbitration has issued its ruling, largely invalidating China's claims in the South China Sea. China, predictably, has made clear that it refuses to recognize or abide by this ruling. As the tribunal lacks an enforcement mechanism, what will be the ramifications of China's noncompliance? Does this noncompliance stand to damage the credibility of international law? How can we hold them accountable?

Mr. DENMARK. As provided in the Law of the Sea Convention, the Arbitral Tribunal's decision in this case is legally binding on both the Philippines and China. China's stated non-compliance with the ruling does not negate the legitimacy of the ruling.

Although the United Nations Permanent Court of Arbitration does not have a mechanism to enforce the ruling, this is common to all international maritime law. The expectation in this and other cases relating to international maritime law is that both parties will comply with their obligations and exercise restraint. We have encouraged China and all claimants to clarify their claims in accordance with international law as reflected in the Law of the Sea Convention, and to work together to creatively and peacefully manage and resolve their differences. The United States will continue to provide a credible presence in the region to create the diplomatic space for China and the Philippines to resolve their differences. Our military operations, though not intended to enforce the ruling, will continue to uphold freedom of navigation and overflight in the South China Sea, as we do around the world.

Mr. SALMON. Our strategy towards the South China Sea has been limited to imposing reputational harm on China, rather than actually attempting to elicit a

change in its behavior. Our freedom of navigation operations have shown that we will not recognize China's excessive claims, and our statements in support of international law show that China's noncompliance with the arbitral ruling is wrong; but this strategy hasn't stopped Chinese militarization of the area. Is imposing reputational harm really the best we can do? Other than upgrading the maritime security capabilities of our partners in the region, do we have any tools for inducing behavioral change in the South China Sea?

Mr. DENMARK. We are committed to defending our allies and protecting the rights, freedoms, and lawful uses of the sea and airspace guaranteed to all countries. The United States will continue to conduct routine and lawful operations in the South China Sea in order to protect the rights, freedoms, and lawful uses of the sea and airspace guaranteed to all countries.

We have a multi-pronged strategy to defend and uphold these interests and principles and set the stage for change. First, the United States has strengthened our own military capacity and presence in Southeast Asia though such efforts as rotationally basing ships, aircraft and Marines in Singapore and the Philippines. Second we have enhanced the tempo of our military operations in the region which included a persistent and scalable Command and Control Detachment in the Philippines, dual carrier operations in the Philippine Sea and a deployed rotational air component to the Philippines. Third, we have enhanced our regional security network by building partner capacity through the Southeast Asia Maritime Security Initiative, training regional forces, and conducting multilateral exercises such as BALIKATAN and RIMPAC. Finally we have leveraged military diplomacy to reduce risk with China utilizing Confidence Building Measures, high level dialogues, and existing structures such as Western Pacific Naval Symposium (WPNS) and ASEAN Defense Ministers Meeting (ADMM) Plus.

In combination with the broader United States Government diplomatic engagement strategy these lines of effort have provided an increased set of tools for creating more favorable conditions for claimants to lower tensions and take steps to peacefully resolve disputes, including through peaceful dispute mechanisms such as arbitration.

Mr. SALMON. ASEAN is the multilateral body most directly involved in the South China Sea disputes, but has had trouble making forward progress due to its consensus-based procedures. Some members of ASEAN continue to ask for U.S. assistance to secure the region. The Maritime Security Initiative was recently implemented to assist coastal states' abilities to address challenges in the area, including China's belligerence. What more can we do to work with our friends in ASEAN to move toward a secure region? How can we facilitate progress within the framework of ASEAN? Will the disputes cause fractures in the ASEAN community and what can we do to prevent it?

Mr. DENMARK. The Association of Southeast Asian Nations (ASEAN) is critical to the regional security architecture. The United States supports ASEAN centrality, and has focused on enhancing ASEAN through engagement, building partner capacity, training and exercises. This is why DOD has invested in ASEAN thorough multiple high-level dialogues such as the East Asia Summit and ASEAN Defense Ministers Meeting-Plus (ADMM-Plus). In addition to the dialogue, DOD has taken action to back up the principles we espouse. We are deepening multilateral regional security architecture through the ADMM-Plus and its Experts Working Groups, through which we are pursuing practical defense cooperation, initiatives, and exercises to address challenges that affect us all more effectively.

Additionally, we have begun implementing the Southeast Asia Maritime Security Initiative, which Congress authorized in Section 1263 of the FY16 NDAA. This is a comprehensive, multi-year effort that will reinforce our partners' and allies' maritime security efforts and address shared challenges. In the Initiative's first year, we're helping the Philippines enhance its National Coast Watch Center and outfitting a previously provided excess high endurance cutter with reconnaissance and maritime sensors, advising Vietnam on maritime patrol capabilities, providing Indonesia and Malaysia with communications equipment and training, and advising Thailand on fusion center operations.

In addition to building partner capacity, we also conduct several bilateral and multilateral exercises. Examples include BALIKATAN with the Philippines, and the Rim of the Pacific (RIMPAC) Exercise includes 27 nations focused on building maritime cooperation, security, and disaster response capacity. Additionally, PACIFIC PATHWAYS builds partner capability and interoperability with Thailand, South Korea, the Philippines, Indonesia, and Malaysia.

In recent years, we have also seen Asia-Pacific countries come together to strengthen bilateral and trilateral ties. For example, Malaysia, the Philippines, and Indonesia, members of ASEAN, are coming together to counter maritime threats in

coastal waters. And Indonesia has proposed trilateral joint maritime patrols with Malaysia and the Philippines, including counter-piracy patrols in the Sulu Sea. The United States welcomes and encourages these burgeoning partnerships among like-minded partners who share our vision of a principled regional order. By networking security together, we believe we strengthen the ability of ASEAN and all countries to enjoy stability and prosperity in a dynamic region.

Mr. SALMON. Secretary Kerry recently warned that the United States would treat a Chinese ADIZ over the South China Sea as a "provocative and destabilizing act." Tensions were high when China declared an ADIZ in the East China Sea in 2013, and much of that strain has shifted south. Given China's militarization of the South China Sea, does China now have the infrastructure in place to declare an ADIZ? Would the United States and the international community comply with a Chinese South China Sea ADIZ? How would it differ with the Chinese ADIZ in the East China Sea?

Mr. DENMARK. When China announced its 2013 ECS ADIZ, we made it clear that declaring a unilateral and uncoordinated ADIZ in a politically sensitive area was provocative and raised regional tensions.

A unilateral and uncoordinated declaration of an ADIZ over disputed territories and water space in the SCS would not grant China any new authority over the region and only serves to increase tensions with China's neighbors. Just as in the East China Sea, an SCS ADIZ would not change how the United States conducts military operations in the region. The United States will continue to fly, sail, and operate in accordance with international law, as U.S. forces do all around the world. U.S. forces will continue to be present and active in and around the SCS on a regular basis.

Mr. SALMON. The Philippines v. China arbitral tribunal's award has defined the Scarborough Shoal as a rock under the Law of the Sea treaty. What implications does this definition have for the U.S.-Philippines alliance? What does this settling of the Shoal's status mean for the U.S.-Philippines Mutual Defense Treaty?

Mr. DENMARK. As President Obama and Secretary Carter have stated, our commitment to the Philippines is ironclad. This alliance has been nurtured over decades; tested in crisis; and is built on shared interest, values, and sacrifice. Our alliance relationships form the bedrock of our role in the Asia-Pacific, and accordingly, the stability and security that have helped so many in the Asia-Pacific to rise and prosper.

The United States takes no position on competing sovereignty claims to features in the South China Sea and encourages all parties to seek a peaceful diplomatic resolution to their disputes.

QUESTIONS SUBMITTED BY MR. LOWENTHAL

Mr. LOWENTHAL. Ms. Willett, last month the Foreign Ministers of ASEAN released a strong statement of concern on Chinese activities in the South China Sea. In what I think is a pretty extraordinary move, however, the ministers retracted the statement after coming under heavy pressure from China.

What can the United States do to build greater consensus among the nations of Southeast Asia? Will ASEAN ever be able to speak with one voice on the Sea?

Ms. WILLETT. The United States values ASEAN's role at the center of the region's multilateral security architecture, and believes that ASEAN centrality plays an important role in maintaining regional stability. We continue to invest in ASEAN institutions, including a commitment toward helping ASEAN further implement its own goals to become a more integrated and effective economic, political, and socio-cultural community. We also continue to diplomatically engage all ten members at all levels, using these opportunities to impress upon them the importance of ASEAN speaking out in favor of international law, rules, and standards.

Our relationships throughout Southeast Asia are strengthening, support for a common vision of a rules-based regional order is deepening, and demand for us to play a more active role in upholding regional stability is increasing.

If thwarting ASEAN consensus to prevent a specific mention on the July 12 Arbitral Tribunal ruling was meant as a means to draw attention away from the decision and its legally binding effect on the Philippines and China, those actions achieved the opposite result. In fact, the region and international community are increasingly vocal about calling for compliance with international law and against activities that raise tensions and complicate the situation. Last month, ASEAN foreign ministers jointly called for disputes to be resolved peacefully, with full respect for diplomatic and legal processes. The United States and ASEAN Member States

also stressed the importance of international law, including freedom of navigation and overflight.

Mr. LOWENTHAL. In the case that the UNCLOS tribunal rules in favor of the Philippines and China completely ignores the ruling, as signs have indicated, what would this mean for China's general commitment to international law?

Ms. WILLETT. The tribunal's ruling will be final and binding on both China and the Philippines under the Law of the Sea Convention, an international treaty that both countries helped negotiate and willingly joined. China's public rejection of the tribunal's decision would certainly raise questions about China's commitment to honoring its international obligations and commitments. But we're especially watching China's actions, and whether it acts in a manner consistent with the arbitral decision or acts in violation of its treaty obligations. Actions by China that violate the tribunal's decision or otherwise escalate tensions would send a worrying signal to the international community about China's attitude to international rules and norms.

As a result, we are working, together with allies, to convince China to act in accordance with international law—not just in the South China Sea, but on other issues as well. To this end, we engage directly with the Chinese government to underscore the importance of respecting and upholding the rules-based international order and to highlight the risks and costs of undermining it. We also engage with other countries in the region, as well as the broader international community, to build support for common principles and set shared expectations for Beijing.

Mr. LOWENTHAL. Should we be worried about China's potential rejection of an unfavorable tribunal ruling as setting a precedent to ignore international legal commitments in the future?

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We have made real progress. We have demonstrably strengthened our relationships throughout the Asia Pacific region, deepened regional support for a common vision of a rules-based regional order, and seen an increase in regional demand for us to play an active role in upholding regional stability. The region and international community are increasingly vocal against activities that raise tensions. Instead, they are in favor of respect for international law and restraint among all claimants, including China.

Mr. LOWENTHAL. What other avenues are available to the United States or the international community to pressure China to respect the tribunal's decision?

Ms. WILLETT. As a non-claimant, our vital interest lies in helping shape a regional environment in which disputes can be settled peacefully and in accordance with international law. To this end, the Administration is pursuing a comprehensive and multifaceted approach to the South China Sea.

Our consistent and steady presence in the South China Sea plays an important role in deterring claimants from employing the use of force to assert their claims, leaving open the door for constructive diplomatic or other peaceful processes among claimants. We are strengthening our security posture in the South China Sea. As part of a long term strategy, we are moving 60 percent of our naval fleet to the Pacific and rotating more of our forces through friendly countries in the region.

We are also strengthening maritime domain awareness and law enforcement capabilities in the region. This includes new security cooperation arrangements with allies and partners in Southeast Asia and providing equipment and training to help partners better patrol the maritime domain and ensure their ability to maintain an effective presence.

On the diplomatic front, we are advocating for peaceful dispute resolution and compliance with international law. We are engaging in intense, high-level diplomacy

with all claimants, including advocating for them to take advantage of the July 12 Arbitral Tribunal's ruling to advance a modus vivendi in disputed areas. President Obama, Secretary Kerry, and Secretary Carter make our interests and concerns clear to all claimants in an open and frank manner.

Mr. LOWENTHAL. Mr. Denmark, the United States has conducted several "freedom of navigation" operations in the South China Sea to ensure that these essential waterways continue to remain open for all. Australia has also conducted freedom of navigation flights in the sea, can we expect our other allies in the region, like the Philippines or Singapore, to also contribute to these efforts?

Mr. DENMARK. Our Freedom of Navigation Operations (FONOPs) demonstrate the commitment of the United States to operate wherever permitted under international law, and to uphold the rights, freedoms, and lawful uses of the sea that are enjoyed by all nations in accordance with international law. They are designed to support and sustain the principled rules-based order in the Asia-Pacific. The United States will continue to conduct FONOPs around the world, including in the South China Sea.

Questions on the specific response by individual countries must be answered by their respective governments.

Mr. LOWENTHAL. Should we be encouraging our allies to conduct these exercises?

Mr. DENMARK. The United States welcomes all states to exercise their rights, freedoms, and lawful uses of the sea and airspace.

Mr. LOWENTHAL. With so many different actors and militaries operating in the region, how can we be sure that there are open lines of communication and misunderstandings do not lead to violent confrontations?

Mr. DENMARK. We actively seek to reduce the risk of miscommunication and miscalculation at sea through a variety of mechanisms. These include our bilateral and multilateral defense dialogues, such as ASEAN Defense Ministers Meeting (ADMM) Plus, combined exercises such as Rim of the Pacific 2016, and participation in multilateral organizations such as the Western Pacific Naval Symposium (WPNS).

In 2014, the member states of WPNS agreed to the Code of Unplanned Encounters at Sea (CUES), which standardizes basic communications between naval ships and aircraft in an effort to minimize the risk of miscommunication and miscalculation. This, and other efforts such as our bilateral Confidence Building Measures with China, provide the practical mechanisms to mitigate risk of unintended incidents.

We also maintain a robust military-to-military relationship with China that seeks to reduce risk and enhance mutual understanding. As part of this effort, U.S. military leaders regularly engage their Chinese counterparts and maintain regular channels of communications with them through the use of the Defense Telephone Link.

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