

**U.S. POLICY OPTIONS  
IN THE SOUTH CHINA SEA**

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON EAST ASIA, THE  
PACIFIC AND INTERNATIONAL  
CYBERSECURITY POLICY**

OF THE

**COMMITTEE ON FOREIGN RELATIONS  
UNITED STATES SENATE**

**ONE HUNDRED FOURTEENTH CONGRESS**

**SECOND SESSION**

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## **U.S. POLICY OPTIONS IN THE SOUTH CHINA SEA**

**WEDNESDAY, JULY 13, 2016**

U.S. SENATE,  
SUBCOMMITTEE ON EAST ASIA, THE PACIFIC, AND  
INTERNATIONAL CYBERSECURITY POLICY,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:32 a.m., in Room SD-419, Dirksen Senate Office Building, Hon. Cory Gardner, chairman of the subcommittee, presiding.

Present: Senators Gardner, Rubio, Johnson, Flake, and Cardin.

### **OPENING STATEMENT OF HON. CORY GARDNER, U.S. SENATOR FROM COLORADO**

Senator GARDNER. This hearing will come to order. Let me welcome you all to the seventh hearing of the Senate Foreign Relations Subcommittee on East Asia, the Pacific and International Cyber Security Policy for the 114th Congress, and our second hearing in 2016.

Thank you both for being here.

I want to thank Ranking Member Cardin, and, of course, for his work on the full committee as well. It is a heavy schedule that you are carrying, so thank you, and thanks for your cooperation as we continue to look into these important issues and the work we are doing together on this subcommittee. This subcommittee has been very productive on a lot of great work that we have been able to do together, so thank you, Senator Cardin, for that.

We have a full slate this morning with a full committee hearing on nominees to follow at 11:30. I hope everybody stays for that. I know there is a lot of family here as well, so thank you and welcome to the committee. So I will keep my opening remarks short on the first half of this hearing.

Today's hearing at 10:30 discusses the issues concerning the South China Sea and comes on the heels of a very important ruling that could reshape the Asia-Pacific region and global security in general.

Yesterday, an international tribunal issued an important ruling in favor of our allies the Philippines and against the People's Republic of China. The panel ruled that China breached the sovereign rights of the Philippines with regard to the maritime disputes between those two nations and invalidated China's sovereignty claims over almost the entirety of the South China Sea called the nine-dash line.

In the last several years, China has significantly upped the ante and undertaken a massive effort to reclaim a number of disputed features in the South China Sea and to militarize these features. According to the Department of Defense, since Chinese land reclamation efforts began in December 2013, China has reclaimed more than 2,900 acres of land and has deployed artillery, aircraft, runways, and buildings, and positioned radars and other equipment.

While the United States is not directly a party to this dispute and takes no position on the sovereignty claims among the various claimants, this ruling is important to our national security for several reasons.

First, the South China Sea is one of the most strategically important commercial waterways in the world. Almost 30 percent of the world's maritime trade transits the South China Sea annually, including approximately \$1.2 trillion in shipborne trade and shipborne trade bound for the United States.

Second, the ruling reinforces the rights of our military to operate freely in the region, utilizing our longstanding international rights of innocent passage and transit on the high seas, the rights long-established by international law.

Since October 2015, the United States Navy has conducted three freedom of navigation operations in the area to assert these very rights and to challenge China's groundless sovereignty claims.

Last month, I attended the Shangri-La Dialogue, along with a number of my colleagues, and we heard a tremendous amount of concern from regional leaders not only about the South China Sea, but also whether the United States can endure as a regional and global leader.

There should be no mistake, the South China Sea and what happens there is, thus, an important test of American leadership and our ability to support our close allies in the face of aggression that is outside of international norms.

So today we have two very highly distinguished former officials, Admiral Blair and Dr. Campbell, to help us gauge the latest developments in U.S. policy options following the ruling.

With that, I would like to recognize the distinguished ranking member for his comments, Senator Cardin.

**STATEMENT OF HON. BENJAMIN L. CARDIN,  
U.S. SENATOR FROM MARYLAND**

Senator CARDIN. Thank you, Chairman Gardner. It is a pleasure to work with you on this subcommittee. Your leadership has been very much important for our national security and raising the importance of the Asia-Pacific area to U.S. interests. So I thank you. And, of course, the maritime security issues are very much part of that.

I am going to abbreviate my statement and put it in for the record.

But let me start by quoting from the Baltimore Sun editorial this morning, because you raised a very good point, and that is the ruling under the tribunal is not unexpected. China's claims are hard to understand under the rule of law. The United States, as you point out, takes no position in regards to the legal claims, but we

do take a strong position against unilateral action and to use rule of law and diplomacy to resolve these issues. And we will not only continue to promote that policy, but we also have legal commitments with other countries as they relate to those commitments, and we also have our rights in regards to navigation on China seas.

So China has to make a decision. They have to make a decision as to whether they are going to adhere to the rule of law and be a world leader with great respect or whether they are going to go their own course.

So the Baltimore Sun said this morning China's immediate response was to double down on its stance, and officials have been holding out the threat of military maneuvers for months. In the long run, the country and the world would be better off if China took this chance to show it can, indeed, be a good global neighbor and leader.

And I could not agree more. Thirty years ago, we were debating whether or not China would rise to be a major power. Well, they are a major power. There is no question about that. What kind of power are they going to be?

To me, this is their key test and key moment. Will China help to support peace and stability in Asia? Will they seek to overturn the order? Will China become a trade partner committed to enforcing international law? Or will it see 19th century behavior and the flouting of international norms? Will China open up its conduct, allowing its people to express their views? Or will they continue down a path of repression?

These are issues that I think are very much tied to how they respond to the tribunal decision.

The last point I would make, Mr. Chairman, I was asked a question this morning whether we are somewhat hypocritical in criticizing China since we are not a member of the Law of the Sea Treaty.

I think we should be a member of the Law of the Sea Treaty. I think it would help the United States. We have had hearings before this committee where it is lopsided with our generals saying it is important to our national security. We have the Arctic areas that are opening up more and more navigable rights, and we are not at the table, the only Arctic country not to be a party to the Law of the Sea. We disadvantage American businesses who need the mineral rights on the seabeds.

We should be a member. But America stands for the rule of law, and we will continue to stand up for the rule of law, and we will continue to pursue our claims under the rule of law. And we have an obligation to point out that China must adhere to the rule of law, if it is going to have credibility internationally on these issues.

[Senator Cardin's prepared statement follows:]

PREPARED STATEMENT SUBMITTED BY SENATOR BENJAMIN L. CARDIN

Mr. Chairman, thank you for calling today's timely hearing to discuss US policy options in the South China Sea. And I thank our witnesses, Dr. Campbell and Admiral Blair, for joining us today to share their wisdom, insight and perspective. We could not ask for two better witnesses to help us think through these issues, both the immediate tactical questions and considerations and the broader strategic landscape.

Yesterday, as you know the long-awaited ruling by the arbitral tribunal in the case of *The Republic of Philippines v. The People's Republic of China* was delivered. I believe that this ruling—and how the regional and international community reacts—represents a watershed moment for the region and the world, reinforcing efforts to build a rules-based order and the sort of regional architecture that supports stability and prosperity in the region and the world.

As I said yesterday, the ruling is binding on both parties involved. And it is my hope that they will abide by the ruling. The choices of the Philippines, China and other members of the regional community with regards to the ruling will in large measure determine whether or not the Asia-Pacific region is to be guided by international law, institutions, and norms.

I believe the ruling is a good precedent for other South China Sea claimants to seek resolution of maritime disputes through peaceful means, whether through diplomatic processes among the parties or through third-party mechanisms such as arbitration.

Although the United States is not a claimant in the South China Sea and takes no position on competing maritime and territorial claims, we do have a position on how the claims are adjudicated, and how questions related to the different features—reefs, rocks, shoals and islands—are classified under international law. We must continue to be clear and consistent in our policy to oppose unilateral actions by any claimant seeking to change the status quo through the use of coercion, intimidation, or military force, engaging in land reclamation activities on disputed features in the South China Sea, or the militarization of any reclaimed features.

In keeping with the international law of the sea as reflected in the Law of the Sea Convention, we expect that the United States military will continue to fly, sail, and operate wherever international law allows, both in the South China Sea and elsewhere around the world.

The ruling also underscores the need for the Senate to take action to ratify the 1982 Convention on the Law of the Sea. As we seek to work with our partners in the region to construct a twenty-first century architecture for the governance of Asia's maritime domains consistent with international law, the United States cannot, and should not, risk marginalization by remaining on the outside of this critically important global agreement.

This is particularly important as we consider not just the immediate issues surrounding the arbitral ruling, but also the broader strategic issues at play with the "rise of China." Thirty years ago we were debating whether or not China would rise to be a major power. That debate is now settled. But the question of what sort of power China will be remains uncertain.

Will China help to support peace and stability in Asia? Or seek to overturn the order? Will China become a trade partner committed to the enforcement of international law? Or will we see 19th century mercantilist behavior and the flouting of international norms? Will China open space for its citizens to express their own views and ideas? Or will it continue to brutally repress its own people?

We may not yet know all the answers to the question of what sort of China is emerging as a major power on the international stage. But we are starting to receive some answers to some of these questions—including, now, how China will react to the tribunal ruling.

Despite its negative rhetoric rejecting the arbitral process over the past several months, with a ruling now made, will China respect its terms? Or will it ignore it, or worse, seek to undermine it, posing a serious challenge to the idea of international law, norms, and institutions in the Asia-Pacific? Will China seek to work with ASEAN on maritime security issues and build regional architecture, or will it seek to "break" ASEAN, and take-down the structures and institutions that are vital to regional peace and stability.

Quite frankly, I am more than a little concerned by what we have seen thus far. China has thus far stated, repeatedly and vociferously, that it will disregard the tribunal ruling. And, in its regional diplomacy, it has sought to bend and break the functioning of ASEAN.

In doing so it has elevated this case into a test for the regional and international community: If the arbitral ruling is disregarded and not upheld by China or the states of the region, if the Law of the Sea is tossed onto the trash-heap, and if China breaks the functioning of one of the world's most successful regional organizations—an organization whose very existence correlates with the end of interregional war in Southeast Asia—it will be a grave blow to the international system and the regional order.

China's provocative actions in the South China Sea, in particular, its aggressive island-building campaign and the tacit militarization of these features threaten not just regional stability but also long-standing U.S. interests in the free-flow of com-



merce, freedom of navigation—and in the peaceful diplomatic resolution of disputes consistent with international law.

More than half of the world's annual merchant fleet tonnage and a third of all global maritime traffic passes through these chokepoints. The oil transported through the Malacca Strait from the Indian Ocean and through the South China Sea is triple the amount that passes through the Suez Canal and fifteen times the amount that transits the Panama Canal.

Given our profound national security interests in the free flow of commerce and freedom of navigation, we have a deep and abiding interest in how claims are dealt with, and how international law applies to high tide and low tide elevations and the territorial and economic claims that flow from how these features are defined.

Earlier this year, Senator Gardner and I introduced the Asia-Pacific Maritime Security Initiative Act of 2016, which builds on the Administration's Maritime Security Initiative and provides the Department of State and Defense with the strategic context and resources they need to take clear and concrete measures to support a rules-based order for the Asia-Pacific region.

So I look forward to today's testimony, and to having the opportunity to discuss with our witnesses their views on China's broader strategic orientation, as well as more specific and concrete questions relating to US policy options as we think through the issues at play with maritime security in the South China Sea.

Thank you.

Senator GARDNER. Thank you, Senator Cardin. For the information of the witnesses and the attendees here today, there is a vote scheduled for 11 o'clock. We will continue the hearing during the vote. We will just have people go back and forth to the vote and take over the hearing.

I would kindly ask the witnesses to keep their remarks to 5 minutes. Your full statements will be entered into the record.

Our first witness is Admiral Dennis Blair, who currently serves as chairman of the board and CEO of the Sasakawa Peace Foundation USA. During his distinguished 34-year Navy career, Admiral Blair served on guided missile destroyers in both the Atlantic and Pacific fleets, and commanded the Kitty Hawk battle group.

From 1999 to his retirement from the Navy in 2002, Admiral Blair served as Commander in Chief to the U.S. Pacific Command, the largest of the combatant commands. As Director of National Intelligence from January 2009 to May 2010, Admiral Blair led 16 national intelligence agencies, managed a budget of \$58 billion, and provided integrated intelligence support to the President, Congress, and operations in the field.

Welcome, Admiral Blair. Thank you for your service to our Nation, and we look forward to your testimony.

**STATEMENT OF ADMIRAL DENNIS C. BLAIR, CHAIRMAN AND CEO, SASAKAWA PEACE FOUNDATION USA, FORMER COMMANDER, U.S. PACIFIC COMMAND, WASHINGTON, DC.**

Admiral BLAIR. Thank you very much. It is good to be here, and it is good to turn on my talk button.

Let me use my short oral remarks to describe the fundamental components of a successful American policy in the South China Sea, one that combines our diplomacy, our military activities, and our relations with the other countries in the region.

What we see playing out now in East Asia is China's third attempt to expand its eastern and its maritime border.

The first attempt, which has gone on for decades, has been to add Taiwan to its territory. This attempt has included some Chinese tactics that are now familiar to us: unyielding rhetoric; cartography, Taiwan is always shown as part of China on Chinese maps;

international diplomatic competition. China goes around to other countries in the world to try to sign them up to recognize its claim and to reject Taiwan.

The second attempt was the Senkaku Islands. Again, China used a variety of means to advance its claim and extend its maritime border: the use of its fishing fleet and its coast guard vessels, rather than its military and naval vessels; the use of offshore drilling rigs in disputed waters; punitive economic measures—cutting off the supply of rare earth metals to Japan.

Chinese activities in recent years in the South China Sea represent the third attempt of China to extend its maritime borders, and they evolve a full array of past tactics, and it adds some new ones: naval blockades of vessels of other countries around disputed islands, land reclamation, the installation of logistics facilities that are potential military facilities.

So what is going on in the South China Sea today is not new in concept for China or the region, but the geography, the number, the military inferiority of other claimants, and American history in the region make it all different and require a tailored policy from the United States. We need to fashion a response to Chinese aggression that supports our basic interests and is tailored to the circumstances.

What has worked in the past to restrain Chinese aggression on its maritime border has been patient diplomacy along with the establishment of military deterrence.

The Taiwan Relations Act provided a good blueprint for American actions on that first attempt by China to absorb Taiwan. It called for a buildup of Taiwan's own defense capability through assistance, American development of, and the demonstration of the ability to support Taiwan if called on; persistent diplomacy with China to emphasize other areas of relations and to make them understand the high cost of aggression in Taiwan.

For the Senkakus, the same pattern has proved successful: cooperation with a strong ally, Japan; Japanese development of its own military capabilities to defend its interests; American declarations of support to Japan; persistent diplomacy by both Japan and the United States to keep overall relations with China as positive as possible, while emphasizing our interests.

The South China Sea has similarities to these two earlier cases, but also important differences. The area is larger, there are more conflicting claimants, and they are much weaker than China. However, American policy should mix the same ingredients of diplomatic patience, support for allies and partners, and direct military protection of our own interests that has contributed successfully to stabilizing the other two regions.

Now, until about a year ago, our policy was wandering. We chanted that we took no position on the territorial disputes themselves. We made few military deployments to the region. And we simply urged restraint on all parties. This feckless set of policies did nothing but encourage China to try to expand its influence.

But even without a clear U.S. policy, China's aggressive moves were not very successful. Although China was expanding the capability of the islands it occupied in the region, they added very little to its military capability in the event of serious conflict. They had

the effect of stoking suspicion and distrust of China, and sent these countries to the United States, Japan, and other more powerful countries for support. These countries offered the United States access to their bases and ports. None of these countries made any territorial concessions to China.

Within the past year or so, we are seeing the emergence of a more robust American policy along the lines of what we have seen work previously. We made it clear that there are vital U.S. interests at stake, namely our ability to operate air and naval forces freely in the region.

We have peacefully deployed significant military forces there. We have started to provide support to other claimants in the region, the Philippines and Vietnam.

The policy component that is lacking is the establishment of our bottom line. That is, we have not made it clear where we stand on any of the territorial claims of China and the other parties. Until we do, it will be difficult to relate our military deployments to our overall foreign policy and diplomatic objectives.

I believe that the issue on which we can clearly draw a bottom line would be at Scarborough Shoal, where we should make it clear that the U.S. will support the Philippines to oppose Chinese aggression, if necessary, by military force.

The decision yesterday of the Permanent Court of Arbitration has provided a clear legal foundation for the United States to take a position.

I would also add, echoing Senator Cardin, that the decision makes it very clear that the U.N. Convention on the Law of the Sea is very much in the American interests, and I hope that this committee can move it forward again.

Our objective is not to pick a fight with China, not to contain it, but simply to set credible limits to Chinese military coercion, to encourage it to pursue its objectives by peaceful means. No matter what decisions are made, China will remain powerful in the region.

Peace in East Asia has been a tremendous benefit both to the United States and to countries there, including China, and it will take smart and persistent American policies to maintain it.

Thank you.

[Admiral Blair's prepared statement follows:]

#### PREPARED STATEMENT OF DENNIS C. BLAIR

Chairman Gardner, Ranking Member Cardin, and members of the Subcommittee, thank you for the opportunity to testify before you today.

##### 1. HISTORY OF AMERICA'S INVOLVEMENT IN THE REGION.

For much of its history, the U.S. armed forces have operated actively and freely in the South China Sea, as well as other areas in East Asia. Sometimes the actions have been independent and sometimes with friends and allies. The United States deployed its naval power into the South China Sea to defeat the Spanish fleet at Manila in 1898 and liberate the Philippines from Spain; later that year American maritime forces captured Guam. During World War II, the United States Navy operated throughout the Pacific Ocean, including the South China Sea, to defeat Imperial Japan through a combination of economic warfare against Japanese supplies and recapture of the territory that Japan had occupied in the Asia-Pacific region. The United States Navy operated throughout the South China Sea, the East China Sea, the Yellow Sea and the Sea of Japan during the 1950s Taiwan crises and the Korean War. In the 1960s and 1970s American armed forces operated freely sometime in conjunction with allies, throughout the South China Sea during the Vietnam

War. Since the end of that war in 1975, U.S. forces have operated freely and routinely throughout the region in support of treaty and partnership commitments and American interests, responding to crises such as the end of the Marcos regime in the Philippines in 1986, in the Yellow Sea in 1994 and 2010, and around Taiwan in 1996. There have been numerous U.S. and allied military and civil deployments during this period in support of humanitarian objectives, from the evacuation of South Vietnamese refugees in 1975 through the response to the tsunami that devastated Aceh, Indonesia, in 2004, to the relief operations in the Philippines for super-typhoon Haiyan in 2013.

## 2. TRADITIONAL AMERICAN INTERESTS AND OBJECTIVES.

For more than one hundred years, the basic historical American objective in the Southeast Asia region has been to balance the influence of destabilizing countries and ideologies so that states in the region can develop independently and maintain good economic and political relations with the United States. Thus, the United States opposed attempts at regional aggression, both political and military, by Germany (1898-1919), Japan (1941-45), the Soviet Union (1963-75) and, more recently, China. Freedom of mobility and maneuver in oceans and international airspace has always been a core interest of the United States. The U.S. Congress authorized the Gulf of Tonkin Resolution in 1964 after U.S. warships were attacked on the high seas, and President Ford ordered U.S. Marines to free U.S. mariners on board SS Mayaguez in 1975, which was seized by Cambodia.

## 3. CURRENT AMERICAN INTERESTS AND OBJECTIVES.

a. In addition to the traditional American policy of balancing the influence of destabilizing countries and opposing attempts at regional aggression, the United States maintains the following specific interests in the South China Sea and in surrounding areas:

i. Defense treaty and legislative commitments with the Philippines, Thailand, Australia, Republic of Korea, and Japan. Legislation, the Taiwan Relations Act, mandates U.S. provision of “defense articles and services” in response to aggression against Taiwan.

ii. “Strategic Partnership” agreements with ASEAN, Singapore, India, and Vietnam.

iii. A core interest in freedom of navigation and the maintenance of naval mobility and maneuverability and access in the all of the world’s oceans, including the South China Sea. Freedom of navigation is principally a naval and military right, and includes innocent passage of warships in the territorial sea, and the right of military aircraft and ships to conduct archipelagic sea lanes passage through the archipelagic states of Indonesia and the Philippines, transit passage through straits used for international navigation, and to exercise high seas freedoms and overflight throughout the EEZ under article 58(2) and 87 of UNCLOS. Freedom of navigation and naval and military access is the basis for American continuous and transparent military exercises and other routine activities in support of its own interests and its alliance and partnership commitments, and for responses to crises in the region that affect its interests. When American ships and aircraft operate in the vicinity of those of other nations, they observe, and expect others to observe, the Collision Regulations and customary international law, which apply to state vessels and civil shipping, and the Chicago Convention on Civil Aviation and customary international law, which exempt military aircraft from foreign jurisdiction and provide the only mechanism for the lawful management of civil aircraft.

b. The United States supports all mechanisms for peaceful dispute settlement in East Asia, including disputes involving the Korean Peninsula, Taiwan, Japanese island and maritime claims and the South China Sea. The United States welcomed the 2002 Declaration of Conduct and the pledges that all ASEAN countries and China will negotiate all disputes in good faith, and to refrain from actions that would make negotiation more difficult. The United States favors all peaceful means of dispute resolution, including bilateral and multilateral negotiation, mediation, arbitration, and adjudication (litigation). The compulsory dispute resolution process in UNCLOS is an ideal mechanism for resolving maritime disputes, especially after bilateral negotiations have failed. The United States opposes military aggression or coercion as a means to settle sovereignty or maritime disputes. When disputes have involved allies (ROK, Japan), or former allies (Taiwan) the U.S. has made military commitments to deter aggression. To this point, the United States has not invoked

its treaty or partnership commitments to make military commitments in support of specific territorial positions in the South China Sea.

#### 4. AMERICA'S VISION FOR THE SOUTH CHINA SEA.

a. The United States supports strong, free, sovereign, independent, and prosperous states in the region of the South China Sea, free of coercion from powerful states.

b. The United States supports the peaceful resolution of disputes and insists that all states, large and small, comply with their obligations under international law. Compliance with international law is a foundation for the peaceful, stable, and prosperous international system that benefits all states in Asia.

c. International law reflects universal values, and the same rule of law applies to every country similarly situated. The "rule of law" means that law must be followed by the strong as well as the weak.

d. The United States supports settlement of territorial disputes based upon adherence to the rule of law and application of accepted principles of international law and based upon transparent, documented and accepted historical facts. In areas with genuinely overlapping claims of equal strength and validity, the United States encourages joint development of resources, such as in the Vietnam-China zone in the Gulf of Tonkin.

#### 5. CHINA'S CLAIMS AND ACTIVITIES IN THE SOUTH CHINA SEA

For the past twenty years, China has steadily built up its air and maritime military forces in the vicinity of the South China Sea. It has consolidated its civil maritime forces into the State Ocean Administration, and has organized its fishing fleet in the South China Sea to act as a "maritime militia," an auxiliary of its government maritime forces. It has claimed that virtually the entire South China Sea belongs to China, although it has not specified exactly what that claim entails. It has established an administrative governing body for the entire South China sea, issuing regulations that China claims governs the action of all states. China has sent an oil rig from a state-owned oil company to drill in waters claimed by Vietnam, it has virtually blockaded two islands claimed by the Philippines, and it has attempted to enforce its own fishing regulations in the Natuna Sea, well within Indonesia's EEZ. It has in the past several years undertaken major improvements of seven islands it had previously occupied, greatly enlarging them, and building runways, harbors and logistic facilities.

#### 6. CHINA'S DIPLOMACY IN THE SOUTH CHINA SEA

a. As it steadily built up its power and capability in the South China Sea, China's diplomatic approaches have alternated between moderate and reasonable contentions—publicly it favors peaceful negotiated solutions of differences with the other claimant states, however then issues truculent threats that it will make no concessions to the claims of others, and will use its power to enforce its claims. Under President Xi, its diplomacy has been relatively harsh and unyielding.

b. China's hard line and aggressive action have been completely unsuccessful in gaining concessions from rival claimants in the South China Sea. On the contrary, the other claimants have all reached out to other countries for support, primarily to the United States. China has paid a heavy price for its aggressive activities in the hostility of the other claimant states and the strengthened American position in the region for the relatively minor gains it has made in island enlargement and naval coercion. Vietnam, the Philippines and Malaysia have all welcomed American military exercises using their bases. They have also strengthened their own military and maritime law enforcement organizations, although none of them is a match for China's, and they have been partially successful in forming a unified front against China in ASEAN.

#### 7. EFFECTIVENESS OF AMERICAN ACTIVITIES AND POLICIES IN THE SOUTH CHINA SEA.

a. The United States has taken advantage of China's heavy-handed and aggressive actions in the South China Sea to strengthen its bilateral relations, including its defense cooperation, with the other claimant countries. It is cooperating closely with the Philippines in maritime exercises, it has removed its prior prohibitions on the sales of lethal military equipment to Vietnam, and it routinely deploys surveillance aircraft to Malaysian bases. Both the United States and Japan are pursuing assistance programs to the air and maritime forces of the other claimant countries. China believes that the United States is orchestrating a sophisticated South China

Sea strategy using China's rival claimants to constrain China's growing power in the region.

b. The United States has not prevented Chinese enlargement of seven of the Spratly islands it occupies, and has not disrupted the Chinese blockade of Scarborough and Second Thomas Shoals. However, it has used military deployments to violate Chinese territorial sea and EEZ claims, and it has demonstrated decisively that it will not be deterred from exercising full freedom of maneuver for its military forces under its interpretation of the UN Convention on the Law of the Sea.

#### 8. POTENTIAL IMPROVEMENTS IN AMERICAN ACTIVITIES AND POLICIES.

a. The primary weakness in the American strategy in the South China Sea is that it takes no position on the conflicting claims, while urging restraint and negotiation on all parties. Its military maneuvers in the region accomplish the purpose of maintaining the U.S. position that it will operate its military forces throughout the South China Sea. They provide no restraint on Chinese aggression against the claims of other countries, even when the Chinese claims are extremely weak. For the sake of time, I'll truncate my testimony and just read through a list of Chinese claims that are inconsistent with UN articles and UNCLOS; however I am happy to go into further detail about why these claims are unlawful during questioning:

i. The unlawful invasion of the Paracel Islands in 1974, which was a violation of the proscription against "armed attack" against Vietnam, under article 2(4) of the Charter of the United Nations.

ii. Straight baselines along the coast of mainland China and in the Paracel Islands. The straight baselines along the Chinese coast are unlawful because they do not connect a coastline that is deeply indented and cut into or a fringe of island, that follows the general direction of the coast. The straight baseline system in the Paracel Islands is unlawful because China is not an archipelagic state and may not use straight baselines to connect mid-ocean island groups (analogous to the United States using straight baselines around its mid-Pacific territories and the Hawaiian Islands). These claims violate the rules on straight baselines in UNCLOS articles 7, 13, and 47.

iii. Claims to historic waters that do not comport with the three-part test in international law as restated by the United Nations in 1962: (1) exercise of authority over the waters; (2) continuity of the exercise of authority; and (3) acquiescence or acceptance by neighboring states. China's "nine-dash line" claim does not pass this three-part test. Sovereignty over land features may be claimed under international law only in five circumstances: (1) accretion, that is a build-up through natural geologic processes, such as a volcanic eruption, (2) cession, or voluntary transfer via treaty, (3) conquest, but only before adoption of the UN Charter in 1945, (4) occupation of terra nullius, that is not mere inchoate discovery, but actual occupation, and (5) prescriptive exercise of authority that is public, peaceful and extending over a long period of time. The burden of proof is on the claimant state to present facts and law in support of the claim.

iv. China's apparent claim of a territorial sea and other sovereign rights and jurisdiction in the vicinity of its newly constructed artificial islands, in violation of article 60. All maritime claims derive from land territory: "the land dominates the sea." In accordance with UNCLOS and customary international law, coastal state sovereignty over oceans is limited to a 12-mile territorial sea, typically measured from normal baselines running along the low water mark of the coast of a rock, island or mainland. The United States rejects conditions on innocent passage in the territorial sea in violation of articles 19 and 21 of UNCLOS.

v. Sovereignty claims within its EEZ. No state may claim sovereignty over oceans or airspace beyond 12 miles of territory. The coastal State enjoys certain specified, limited and enumerated sovereign rights and jurisdiction in the EEZ under Part V of UNCLOS, including exclusive rights to exploit and develop natural resources, require consent for civilian marine scientific research, and for offshore and seabed installations related to those purposes. China illegally denies high seas freedoms and other internationally lawful uses of the sea associated with the operation of ships and aircraft in its exclusive economic zone (EEZ) in violation of articles 58(2) and 87. Coastal States may not claim any right to regulate the airspace above the EEZ, or the operation of warships, military activities, or military aircraft in the EEZ. China has hampered other states from enjoyment of the exclusive right and jurisdiction in their own EEZs in violation of UNCLOS article 56.

vi. Chinese claims to the continental shelf of Japan in the East China Sea and Vietnam and Malaysia in the South China Sea in violation of its duties under article 83. Overlapping EEZ and continental shelf claims shall be resolved by beginning from an equidistant line between the two states and then making equitable adjustments based upon the length of contiguity of the opposing coastlines.

vii. Chinese disruption of the laying of foreign submarine cables and pipelines in its EEZ, in violation of articles 112 and 113 of UNCLOS and other legally binding instruments relating to submarine cables on the continental shelf.

b. The United States needs to decide which claims in the South China Sea it recognizes and which it does not, so that it can use its superior military force to set limits on Chinese aggression, as it has done in Taiwan, and in the Senkaku Islands in the East China Sea. It would be ideal if there were a multilateral adjudication of the conflicting claims in the South China Sea, since there are many disputed claims beyond China's. Such a multilateral adjudication should ideally be undertaken by the claimant countries themselves, with or without China's participation. However, even without such a comprehensive settlement, the United States should oppose some of China's most extreme claims, if necessary, by the use of military force. One of those extreme claims is Scarborough Shoal. China has no claim to this feature except for its bogus Nine-Dash Line map; it is much closer to the Philippines than to China; the United States used it for a bombing range for many years, and even paid the Philippines for its use. The United States should support Philippine opposition to further Chinese aggression against Scarborough Shoal using military force if necessary.

c. The objective of American military opposition to China's aggressive actions in the South China Sea is not to contain China, but to encourage China to settle its claims with its neighbors in an equitable manner, rather than seeking always to expand its own local power through its superior local military and law enforcement forces. No matter which country owns which islands, China will be the greatest local power in the region, and will be able to operate its military forces freely throughout the region. However, it is in the American interest for China to negotiate a peaceful settlement of its conflicting claims with its neighbors and to observe that settlement.

#### 9. EFFECT OF THE 12 JULY DECISIONS OF THE PERMANENT COURT OF ARBITRATION.

The decision of the Permanent Court of Arbitration on July 12 was a significant defeat for China. The Court asserted its jurisdiction in the matters it decided, reminded China that as a party to UNCLOS, it was bound by the decision, and completely rejected the Nine-Dash line as a basis for Chinese claims to any waters of the South China Sea. While carefully avoiding opinions on sovereignty disputes about the ownership of the features in the Spratly Islands, the Court made it clear that the Philippines has jurisdiction over the marine and seabed resources of most of the Spratly Islands. The decision declared illegal China's actions to interfere with the fishing activities of the Philippines and other countries, its failure to prevent harmful fishing by its own fleet, its interference with Philippine exploration of hydrocarbon deposits, and the environmental damage done by the dredging around the islands it expanded.

Most important will be China's considered reaction to the decisions of the Permanent Court of Arbitration. As a party to UNCLOS, China has no right to reject a ruling of the court. Should it do so, it will call into question China's adherence to any of the international treaties it has ratified. China will find it much more difficult to gain the trust of both its neighbors and other more distant countries with which it deals.

Senator GARDNER. Thank you, Admiral Blair.

Our second witness is the Honorable Kurt Campbell, who currently serves as chairman of the board for the Center for a New American Security. From 2009 to 2013, he served as the Assistant Secretary of State for East Asian and Pacific Affairs, where he played a key role in developing this administration's pivot to Asia, or rebalance strategy.

Dr. Campbell also briefly served as Deputy Assistant Secretary of Defense for Asia and the Pacific, and as director on the National Security Council staff. In 2013, Secretary Hillary Clinton awarded

him the Secretary of State's Distinguished Service Award, the Nation's highest diplomatic honor.

Dr. Campbell also served as an officer in the U.S. Navy Reserves, serving on surface ships, the Joint Chiefs of Staff, and the Chief of Naval Operations Strategic Advisory Unit.

Welcome, Dr. Campbell, and thank you very much for being here. We look forward to your testimony today.

**STATEMENT OF HON. KURT M. CAMPBELL, CHAIRMAN, CENTER FOR A NEW AMERICAN SECURITY, FORMER ASSISTANT SECRETARY OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, WASHINGTON, DC.**

Dr. CAMPBELL. Thank you very much. I would ask that my full testimony be submitted for the record, as you indicated.

Senator GARDNER. Without objection.

Dr. CAMPBELL. I also want to thank your excellent staff, who I think provide an enormous service to you and the Nation.

I will say, just before we get started, if you will allow me, Senator Gardner, I actually think the most important thing in this hearing has already happened. And I just do not think people realize how much we appreciate the graciousness and respect with which you and Senator Cardin have interacted. It sends an enormous message of good will that is appreciated in a very divisive, difficult time.

So I want to personally thank you for how you have run the committee. And I also want to thank you for coming out to Shangri-La and making clear American strategic commitment in the Asia-Pacific region.

I also want to thank Admiral Blair, if I can, for his service and the opportunity to serve with him when he was serving on Hawaii. He taught me something very important. Once we were talking about something, and he turned to me and said, Kurt, sometimes it is better to ask forgiveness than permission. So it is something to keep in mind as we struggle bureaucratically occasionally.

So, again, thank you very much for this opportunity. Very quickly, I will just make a couple quick points, because I know you are going to want to get to questions and answers.

About the ruling itself, I think some elements of it were expected. But to be honest, it is much more resounding. It is much more decisive than I think any of us anticipated. Its unanimous quality, its very clear statement, about how to think about the South China Sea really invalidates virtually every aspect of Chinese claims around the nine-dash or previously the 11-dash line.

So I think I agree very much with what has been said in terms of this is an important statement of international law. I would also underscore not only have there been good statements from the United States, but many of our allies in other countries have chimed in to support this effort. I would draw your attention particularly to what the Australians have said most recently, in addition to other countries in Northeast Asia.

I think this sends a very clear signal of warning and care to Chinese interlocutors as they contemplate next steps.

I also just want to say, a lot of people say, well, how can you trace American strategic purpose in the world? Are there any con-



stants? I would simply say to you, if you look at the issue of preservation of maritime commerce, freedom of the seas, freedom of navigation, the first use of American power abroad was in the Barbary pirates of the 17th century. You can draw a line from there to here of essentially what is going on in the South China Sea.

There are others that would suggest, and I think Admiral Blair and you all, Senator Gardner and Senator Cardin, very forcefully made clear that this is not some distant backwater. This is a very important strategic waterway, in many respects more important than the Gulf of Hormuz, because it involves not only the transshipment of energy resources but also most of the manufacturing goods that are moving across Asia more generally.

So in fact, no country has a greater interest in the peace and stability of that arena than China, in addition to the United States.

This ruling in many respects is about a fundamental struggle that is ongoing in the Asia-Pacific region right now in which we play a key part. What the United States and other countries have done has created an operating system in Asia, right? And that operating system is composed of many facets: freedom of navigation, trade, peaceful resolution of disputes.

It has benefited all the countries in the region, and it has led to the most dramatic period of economic growth in our history. That is a 21st century system that we seek to adapt and develop over time. It has been very good for every country, including China.

Now what we have seen in China of late are some tendencies to want to go back to really a 19th century spheres of influence approach in which they demark arenas and areas as no-go areas or belonging to them, as Admiral Blair has indicated. That is profoundly not in our interests and, I believe, fundamentally, are actually not in China's interests over the long term because it will undermine the very system that has led to enormous prosperity and peace.

So I just want to conclude by saying, when people ask, well, show us evidence of success, I think what we are experiencing, this multifaceted effort, which is bipartisan in quality, Republicans and Democrats, the administration and others, underscored at the Shangri-La Dialogue, have seen many elements that are coming into play. First, very strong statements of American purpose, that it is in the national interest to sustain freedom of navigation, peaceful resolution of disputes; making clear that these issues are raised and discussed in an arena with allies and friends; making sure allies speak out independently; also taking steps to build more partnerships with countries in the region that are threatened by these steps, what we are doing in Vietnam and the Philippines is very important; and to make sure that our attention does not wane.

We have difficulties here in the United States. I will tell you, gentlemen, that the issue that worries Asians the most right now is not what is going on in China but what is going on in Washington. They are most concerned about the conduct of our election and whether we are going to sustain our commitment to our allies, our defense, and trade going forward. That is going to be critical for us as we proceed into the 21st century.

Thank you very much. I will stop there, Senator.

[Dr. Campbell's prepared statement follows:]

## PREPARED STATEMENT OF DR. KURT M. CAMPBELL,

Senator Gardner, Senator Cardin, it is an honor to testify today before the Senate Committee on Foreign Relations, East Asia Subcommittee, on the recent developments in and future U.S. policy for the South China Sea. I commend your leadership on U.S. national security priorities in Asia and welcome the opportunity to discuss the way forward. Yesterday was a historic day, with the Permanent Court of Arbitration issuing an expansive and much-anticipated ruling in the Philippines vs. China case. The long-awaited ruling is a triumph for the rule of law as a tool of peaceful dispute management in this vital waterway. But it also lays bare the need for the United States to remain deeply engaged in the South China Sea, drawing upon all instruments of national power if the South China Sea is to remain a peaceful and prosperous part of the global commons. These disputes are not simply sovereignty standoffs over uninhabited territories; they raise fundamental questions about the nature of the rules-based international order in Asia in the 21st century. The United States and its partners must answer those questions with determination and clarity if they seek to preserve that order and U.S. leadership in Asia in the years and decades to come.

## U.S. INTERESTS AND CHINA'S STRATEGY

The United States has several clear national interests in the South China Sea. The first is commerce and freedom of the seas. Five trillion dollars worth of trade passes through the South China Sea annually, with a quarter of this bound for the United States. The same shipping routes are also the economic lifelines for regional partners who are dependent on the South China Sea for trade and energy. Inextricable from this is the U.S. interest in freedom of the seas. In the early days of the republic, the U.S. Navy was created to protect American commercial interests abroad, and the principle of freedom of the seas has been a closely held national interest ever since. Freedom of the seas comprises all those freedoms that are guaranteed by international law, including, but not limited to freedom of navigation and freedom of overflight. American economic security depends on the ability of all nations to use the global commons freely.

Second, the United States has an abiding national interest in the security of its treaty allies. The Philippines, which sits on the front lines of the South China Sea disputes and has longstanding claims there is the most directly involved. But so too are the direct interests of treaty allies, including Japan, Australia, and South Korea. As part of the Pivot to Asia, the United States has also strengthened its ties with Vietnam, Malaysia, and Indonesia, all of which have abiding interests in the South China Sea. And we remain committed to the security of Taiwan, which is also a claimant. If the United States is to assure its allies of its security guarantees, it must be deeply engaged in the quickly evolving dynamics in the South China Sea.

Third, the United States has long maintained an interest in preserving peace and stability in East Asia. This has been a guiding principle of U.S. strategy for decades, as it is essential to securing its other interests. China's recent maritime assertiveness is of particular concern for this reason. Like many other South China Sea claimants, Beijing's sovereignty claims are not new. But as a result of its rapid rise, China has gained the ability to press those claims and has been doing so in an aggressive manner. From its land reclamation and installation of military facilities in the South China Sea, to its pressure on Japan's administration of the Senkaku Islands in the East China Sea, China appears to be quickly expanding its reach in the waters close to its shores. Particularly worrisome is the fact that China has attempted to impose so-called "military alert zones," which seek to hive off international waters and airspace around its artificial islands, despite the fact that these territories are not so entitled under international law. Many speculate that Beijing wants to be able to maneuver unimpeded inside the First Island Chain and beyond, and to limit the ability of others to do the same. If true, there is little question that these objectives are dangerous and destabilizing for the United States and all trading nations.

Now, the United States and China can and must cooperate in areas of mutual interest, such as on climate change and the Iran nuclear deal, but the developments of the last few years are concerning, and pose challenges to the United States' long-standing regional priorities. China's actions pose a unique challenge because the United States does not have sovereignty claims in the South China Sea, yet has an abiding interest in it remaining a peaceful part of the global commons. Further, China's activities raise real questions about whether or not Beijing intends to play by the rules of the global order—the very order that has helped to facilitate its rise.

## CURRENT LINES OF EFFORT IN THE SOUTH CHINA SEA

U.S. policy in the South China Sea rightly recognizes that we must work closely with regional partners if we are to succeed in our objectives of preserving the rules-based order. As part of its Pivot or Rebalance to Asia, the Obama Administration has pursued a whole-of-government approach to the South China Sea. The administration has transformed its partnerships, beginning with its relationship with ASEAN, engaging more broadly and deeply with the organization than ever before. Those efforts are bearing fruit: In their February joint statement with President Obama at Sunnylands, ASEAN leaders expressed their support for the UN Convention on the Law of the Sea and use of international law to resolve disputes. They have also raised concerns about challenges to freedom of navigation and overflight in the region. These statements will not halt China's maritime assertiveness, but they represent considerable progress for the consensus-based ASEAN, and demonstrate that China is beginning to pay some regional reputational costs for its actions. As the tribunal decision has approached, however, China has sought to scuttle ASEAN consensus in support of the ruling, which serves as a reminder that we must remain closely and constantly engaged.

The United States has also invested in its bilateral relationships with South China Sea states, forming new partnerships with Malaysia, Indonesia, and Vietnam, and most recently announcing an end to the Vietnam arms embargo. It has also overhauled its longstanding alliance with the Philippines and is finally able to press ahead with the implementation of the Enhanced Defense Cooperation Agreement, which will give the United States rotational base access to several military sites that abut the South China Sea. The administration has encouraged U.S. partners to build ties among themselves in hopes of realizing a more networked regional security architecture. Japan is working more closely with the Philippines and Vietnam; Vietnam and the Philippines are forging ties among themselves; Australia and South Korea have both been engaged in partner capacity building efforts in Southeast Asia. This serves as a reminder that America's partnerships are among its greatest assets, and that these relationships should continue to serve as force multipliers in this critical waterway.

Recognizing the value of these partnerships, the Pentagon has begun to implement the Maritime Security Initiative, with the important support of this committee. This partner capacity building program seeks to help states improve their maritime domain awareness capabilities so that they can monitor their waters more effectively and share information with other actors. This program is laudable because it not only gives much-needed maritime aid, but because it encourages recipients to network those capabilities. In so doing it seeks to enable and empower regional partners to contribute to regional stability.

As China has increased its island building activities, however, the administration has also rightly recognized the role of the U.S. military instrument in sending signals of deterrence and in upholding international law. In October 2015 it resumed Freedom of Navigation Operations in the South China Sea to contest China's spurious claims—as well as those of other claimants. It has been conducting regular aerial patrols, including from new locations in the Philippines. Importantly, the Pentagon has also been conducting significant presence operations in the South China Sea, including with the John C. Stennis carrier strike group. These operations are all necessary and valuable as the United States reinforces its interests and the global order in Asia, and this whole-of-government approach will remain vital in the months and years ahead.

## THE ARBITRATION AND BEYOND

Yesterday's arbitration decision represents an important step forward in the United States' multifaceted approach to the South China Sea. Despite the fact that it is no match for China's economic or military might, the Philippines was able to obtain a resounding, unanimous judgment under the UN Convention on the Law of the Sea that should be viewed as legitimate by the region and the world. The tribunal's decision has injected important clarity into the disputes between the Philippines and China, substantially bounding their scope. The world now has a stronger sense of what constitutes legal activities and legal claims in the South China Sea, and this ruling may serve as important precedent for other claimants. This decision is binding on both parties, despite China's nonparticipation, and is now part of the body of international law. But the tribunal's decision also leaves important questions unresolved.

We welcome this decision despite the fact that China has given notice that it will not comply with it. From its refusal to participate in the case in 2013, to its recent efforts to marshal global opinion against the judgment, to its reactions in the after-

math of the judgment, China has put the world on notice that it will not embrace this ruling. In all likelihood, it will not decamp from its artificial islands or cease its efforts to claim zones around them. A critical question for the United States and its partners, then, is how to legitimize this ruling and ensure that it has some power, given China's noncompliance? How do we help to ensure that after the Philippines has spent three long years in court, might does not ultimately make right in the South China Sea?

Analysts have long worried that China will use the decision as an opportunity to declare an Air Defense Identification Zone in the South China Sea, as it did in the East China Sea in 2013. And in the last several months, there have been reports that China may intend to move into Scarborough Shoal, conduct land reclamation, and install military facilities at this location as it has on other land features. It could also take more incremental steps in an effort to establish some administrative authority in the Spratly Islands area, despite the court's ruling. These could include the declaration of baselines around the Spratly Islands, as it has announced in the Paracels, or some new form of domestic law or regulation that it seeks to apply to the area to try to justify some jurisdiction. If Beijing takes these actions, they will be aimed at its domestic audience as well as an international one, and will seek to send signals to China's people that it will not relent on its sovereignty claims despite an adverse decision.

China may not embrace the Permanent Court of Arbitration ruling, but it is still subject to the court of international opinion and sensitive to its judgments. This administration and the next will need to take concrete steps to ensure that the decision has lasting power and that South China Sea tensions do not escalate. These include the following:

*1. Conduct Robust Public Diplomacy in Support of the Decision.*

U.S. officials have already begun to express their strong support for this legal process, despite the fact that the United States is not a claimant. Officials from the executive and legislative branches should be conducting rigorous outreach to their counterparts in the region, reinforcing the significance of this process and decision and making plain what is at stake if it is not upheld. Washington should also support Track 1.5 efforts so that think tank and university scholars can amplify the official U.S. message in the region and beyond.

*2. Warn China Against Taking Destabilizing Actions.*

U.S. policymakers at all levels must continue to impress upon Chinese counterparts in public and in private that an ADIZ declaration or land reclamation at new locations will be taken as dangerous and destabilizing, and would require a serious U.S. response. U.S. officials should also work with Chinese counterparts to discuss how they can make the most out of the PCA's extremely expansive ruling.

*3. Seek Greater Internationalization of the South China Sea Disputes.*

This administration has made meaningful progress in engaging like-minded, non-claimant countries on South China Sea issues. India is a prime example. The more countries speak out against artificial island building and militarization and in favor of freedom of navigation and overflight in the global commons, the more China will pay reputational costs for its noncompliance. Europe is mired in its own Brexit-induced crisis, but represents a natural partner in legitimizing the rule of law in the South China Sea. Indeed, in late May, France suggested that the E.U. might conduct occasional patrols of its own in the South China Sea. This should be welcomed and encouraged. In the coming months, the United States must engage with European partners and encourage them to play a constructive and vocal role in reinforcing the rules-based order in the South China Sea.

*4. Encourage Other Claimants to Seek Arbitration.*

The PCA decision will have the farthest-reaching effects if it serves as precedent for other South China Sea claimants. The United States can help partners, including Vietnam and Malaysia, contemplate the value of arbitration with respect to their own maritime claims. The State Department should issue a paper that explores the potential implications of the tribunal's landmark decision for other claimants as part of its Limits in the Seas series. It should also engage closely with regional counterparts in other claimant countries to build a common understanding of how this decision may affect other claims.

*5. Set Concrete Goals for the Maritime Security Initiative.*

The Department of Defense and the U.S. Senate should both be commended for their commitment to partner capacity building in the Asia-Pacific region. If the program is to succeed in meaningfully improving maritime domain awareness, it will

need to set specific goals and benchmarks. The Pentagon and Congress should work together to determine what they hope to see from MSI five years from now, to identify intermediate objectives, and the steps the United States and its partners will need to take to achieve them. Additionally, the United States will need to ensure that newer partners, like Vietnam and Malaysia, as well as longstanding ones, like the Philippines, know how to take advantage of this aid and can put it to good use. Just as important, the United States will need to sustain a parallel diplomatic initiative to ensure that recipients of MSI aid commit to building the trust necessary amongst themselves to share the critical information they obtain through MDA platforms. This effort is not just about sharing technology, but building the political will to support it.

*6. Issue an Interagency Report on the Rebalance and the South China Sea.*

Like the Rebalance itself, the United States approach to the South China Sea employs multiple instruments of national power and is an interagency effort. A new administration will be better able to explain its progress to Congress, the American people, and to regional partners if it issues an annual Rebalance report, detailing its progress and laying out objectives for the following year. That report should include a special section on the South China Sea and would improve accountability and oversight for the many stakeholders in the next administration's Asia policy.

*7. Reinforce the Decision with Freedom of Navigation Operations—Quietly.*

The tribunal decision has provided some important clarity on the status of land features in the South China Sea. Going forward, the United States should reinforce the decision through its conduct of FONOPS, making manifest that it does not recognize territorial seas or airspace around those features that have been ruled to be low-tide elevations. This is one of the clearest ways that we can communicate to China that the rule of law will rule in the South China Sea, even if China does not embrace the ruling. Washington need not publicize these operations or conduct them with much fanfare, however, given the expansiveness of yesterday's ruling and China's need to save some face in its aftermath. The United States must nonetheless make good on its pledge to fly, sail, and operate wherever international law allows, and to encourage partners to do the same.

*8. Ratify UNCLOS.*

This administration and many before it have recognized a clear U.S. national interest in ratifying the UN Convention on the Law of the Sea. Our top military leaders, including those who are on the front lines of Asia's maritime disputes, including Admirals Harry Harris and John Richardson, have given this treaty their full-throated endorsement. We are approaching a watershed moment and it is no longer enough to profess our respect for UNCLOS as customary international law. If the United States truly seeks to reinforce the existing rules-based order in maritime Asia, it cannot remain outside of this critical part of the global architecture. It must lead from within.

*9. Stay the Course in Asia.*

Amidst many competing claims for international attention and concern over the underlying domestic consensus in the United States for continuing robust engagement in Asia, it is of manifest importance that the United States remain principally engaged in the region going forward. Purposeful involvement from Japan to Korea, China to Southeast Asia, Australia to India will send a reassuring message to a region in doubt about the future. The lion's share of the history of the 21st Century will be written in Asia, and the United States must contribute responsibly and constructively to this developing narrative.

I harbor no illusions that meaningful progress on these disputes will be easy, and I know my distinguished colleagues in this chamber share this concern. But yesterday's decision is a reminder that there are rules-based responses to these immense geopolitical challenges, and the United States is far better positioned to confront them than it was seven years ago. With a whole-of-government approach and alongside our indispensable regional partners, we can safeguard U.S. interests in the South China Sea and reinforce the international order in Asia.

Senator GARDNER. Thank you, Dr. Campbell.

I know we are approaching the time for the vote, so I will keep my questions short so we can get to Senator Cardin and other members who are attending today.

Obviously, there is a lot of discussion that we have to have in light of the tribunal decision yesterday, this very strong decision

that goes to the very heart of a rules-based system and a rules-based order of international law, and nations that are obviously rising powers and a power in and of themselves, whether they are going to be a part of that rules-based system or flout those rules and continue to ignore the very law that they agree to.

So I want to get into what you believe the next steps are for China. But before I do that, I want to just ask this question.

What consequence should be carried out right now for China's activities? If you just have a ruling that is ignored, it is only as good as the paper that they issued in the press release yesterday. What consequence, what act of reparation, should take place for violation of the sovereign rights?

Admiral BLAIR. I think some people do not understand the price that China is already paying by the actions that it has been taking. When it began these individual island reclamations and drilling rig deployments and maritime militia deployments, it expected the other countries of the region to roll over and say, "Oh, China, you are big. Here, go ahead and take this island. We cede the sovereignty."

Nothing of that sort happened. In fact, what has happened is the countries of the region have begun to spend more on their own defense. They have reached out to other countries like the United States and Japan. And China is paying an extremely heavy price militarily. These countries have opened up access to their ports and airfields to the United States.

If you ask me, as the former Commander in Chief of the Pacific Command, which would I rather have, five islands that have airbases or access to seven airbases in the Philippines, ports and airfields in Vietnam, as far as serious military capability in the region, I would take the access that we have gained from the other countries in rather China's relatively vulnerable built-up islands every time.

So China has paid a high price. Now it is paying one more price as the Permanent Court of Arbitration has discredited the nine-dash line, which has basically been the basis of all Chinese claims.

So the hill is getting steeper and steeper for China. And my experience with the Chinese is they are practical people. When it gets too steep, they will think of something else. I think if you look at Chinese actions over the last 6 or 7 months, they, in fact, have been tapering off from the aggressive activities of last year or 2.

So let's hope that in the rhetoric of the other countries, the United States, the Philippines and Vietnam, we leave China some room to back itself off the ledge in its own way, and China realizes it is in its interests that there is another way to support its interests rather than these blatant, naked militarily based aggressive forces. If that happens, then we have something to work with.

So I think we have to watch China's reaction. If not, then we can take some stiffer actions ourselves.

Senator GARDNER. Dr. Campbell?

Dr. CAMPBELL. I really like Admiral Blair's answer. I would stand behind him on that. I think that is good. It is prudent. It is careful.

There are other costs as well, though, that are being paid. So we often think about our own challenges and troubles here in the

United States. President Xi is trying to do a lot of things right now in China. He has essentially dismantled collective leadership in China. He makes all the decisions.

He is involved in a massive effort to try to retool the Chinese economy, to move it more from just export-led, state-driven growth to more consumer-led. It is a very hard challenge. It is going to take years. It should be taking all of his time, frankly. A lot of party issues he is trying to work on.

And I think it is undeniable that he is trying to use nationalism to kind of propel his efforts forward. I think this is actually part of this effort.

One of the things that is striking, and I think those of you who visited China know this, you can talk to people across-the-board, hard-liners, democrats, others. There is pretty much uniform view around these issues. They take the Chinese line on the South China Sea.

So I think, in a way, Xi tried to use these to basically assist in the nationalist drive in his own domestic efforts. But now I think, in some respects, he has now faced with international opposition from the tribunal, strong support from others, and the kind of steps that Admiral Blair indicates. I do not think it has gone in the direction that he had hoped.

Very few countries are better at changing approaches carefully. They may not signal it in public. They may not say, "Our bad. We are going to move away." But I think what Admiral Blair indicates is the case here. I think, over time, China will start to adjust its position because they will realize that, right now, it is not in their best strategic interests.

Senator GARDNER. Thank you.

Senator Cardin?

Senator CARDIN. Admiral Blair, I understand what you said, that China did not anticipate that the regional and international resolve would be as strong as it has been in reaction to their unilateral activities, but they are not changing their actions. They are continuing to make their assertions. They have certainly seen very direct military actions in regard to the China seas, so I am not sure that the international reaction has changed the calculation in China.

The second point is that now with the ruling from the tribunal, I think we are playing on a different level now. We have a ruling. It is going to be likely ignored at least in the short term by China. And if their statements are accurate, they will probably do something that will demonstrate their sovereignty over this area by additional building or activities or military actions.

So I am not sure they have paid a price for their activities to date. And I can tell you that the countries of the region, this is what they focus on. This is their issue, maritime security. For the United States, obviously, it is a critical point for many, many reasons.

Couple that with the fact that ASEAN, an organization that was set up at the end of the interregional Southeast Asia conflicts, is being pretty much discredited by China.

How should the United States and our alliance partners respond to the next wave of activities that are likely to come from China that disregard the ruling that we saw yesterday?

Admiral BLAIR. Senator, the ruling only took place yesterday, so it is a little quick for China to react.

Senator CARDIN. They knew it was coming yesterday. They were prepared.

Admiral BLAIR. Well, clearly, what they were prepared for was a much more favorable ruling than what they got. If you look at their—

Senator CARDIN. They should hire different lawyers if they thought they were going to get different results.

Admiral BLAIR. Well, they are not the only country that has wish-think as part of its policy sometimes.

But, no, the talking points that they are running on now were written a week ago. They could have been written a month ago. I think it is important to look at actions rather than the immediate—

Senator CARDIN. Well, we have had actions. We have military airfields that have been built. We have rocks that have been turned into military assets. We have—

Admiral BLAIR. Well, you need to be careful there, Senator, because those facilities in the Spratlys, as opposed to the Paracels, which are up north and much closer to China, are currently potential military assets—10,000-foot runways, POL storage, ports, logistics facilities.

But President Xi, when he was here last September, said he has no intention of militarizing those potential assets in the Spratlys. Militarization would involve the deployment of uniformed forces and military equipment there. And so far, China has been true to its word.

I saw a news report this morning that aircraft visited some of those Spratly Islands, but they were civil aircraft. They were not military aircraft. The one military aircraft that has been there in the past 9 months was for a medevac to take an injured—

Senator CARDIN. They changed the landscape to have Chinese presence on an area that is contested.

Admiral BLAIR. I do not want to be an apologist for China, but those were features which China had already occupied. They made them bigger.

Senator CARDIN. But they changed them.

Admiral BLAIR. Yes, they made them bigger, and they put potential military capability on them. But they have not militarized them in the sense of putting anti-aircraft batteries and—

Senator CARDIN. How long would that take to change?

Admiral BLAIR. Well, it has not happened yet, which is, I think, significant.

Senator CARDIN. But if you are a country in that region, knowing what they have done there, as far as not only jeopardizing your territorial claims, but also giving a beachhead in the event they decide to be even more aggressive, wouldn't you, if you were the military adviser to that country, tell them that they are at higher risk today than they were before?



Admiral BLAIR. I pretty much would do what the Philippines and Vietnam have done, which is invite the United States to use our bases that are on land and much more powerful and capable.

Senator CARDIN. I do not mean to shortcut your answer. You are saying there is nothing direct you would think that the United States and our willing partners should be considering other than what we have done in the past?

Admiral BLAIR. No, as I said in my statement, I think we should be prepared to take military action on Scarborough Shoal if China should undertake some of the same activities that it has undertaken in Subi Reef and the others. We should draw the line there.

I think we should be taking advantage of the ruling to foster a multilateral solution of the settlement of the contending claims with or without China, and then we should use our military power to support that solution.

Right now, we do not have a specific position so that we can use our military power to support our diplomacy. We just conduct freedom of navigation exercises, which are fine, military maneuvers. I think we need to draw some specific lines and encourage China to compromise on some of its objectives, as they have in other regions, as I said.

Dr. CAMPBELL. Senator, could I just amplify on the things to really be concerned by? I think Admiral Blair is giving you a very good laydown.

The key here is some of the steps that China has taken are on islands that they have held for decades, right? The question really from here on out is, are they going to take steps on islands that they have not had previous control or access to? That is why there is so much focus on the Scarborough Shoal.

If I may, just something to think about, the real issues that I think the United States has to be concerned by are challenges to American or international overflight over this area, or ships that their passage is contested. Those are the areas where the United States has to be much firmer and much clearer, and we need to get other partner countries to exercise the rights of free passage and open access in a manner that makes clear that this determination to try to turn the South China Sea—it is not so much the island dots. It is the effort to turn it into territorial waters that denies international open access of the kind that we have underwritten for decades, and it is the very base of international trade and commerce.

Senator CARDIN. Just so I understand, the Obama administration has been doing that.

Dr. CAMPBELL. Yes.

Senator CARDIN. Are you suggesting they need to do more?

Dr. CAMPBELL. No, in fact—and thank you, Senator Cardin. I think you missed a little bit when you were out.

I think I would suggest that this is a bipartisan success, that what you see are multiple efforts led by the administration, but supported elsewhere, that involve diplomacy, that involve working with our allies, building up partner capacity, taking a very strong position in international organizations, supporting the rule of law, and also articulating publicly what it is that we stand for.

Senator CARDIN. I understand the verbiage. I am talking about action. When you do flyovers, when you put our vessels in the territorial waters themselves to challenge their free navigation, that is action.

Dr. CAMPBELL. Yes, very much. I think I would suggest, and I would like to hear Admiral Blair on this, the real thing here is to make this a normal element of our practice, that it is not considered something that we do occasionally. It has to be exercised regularly. It has to become a common feature of our forward engagement and deployment.

Senator CARDIN. Thank you.

Senator RUBIO. [Presiding] Senator Johnson?

Senator JOHNSON. Thank you, Mr. Chairman.

Mr. Campbell, as you talked about, further integration of the world economy has been incredibly beneficial to China, as it has been for Russia. My question is, based on that fact, why does Russia engage in its aggression? Why is China engaged in such provocative action?

I agree with you. This undermines their long-term objectives of becoming more of a consumer society, becoming a more healthy economy. You mentioned nationalism. I think, to a certain extent, that drives Putin's calculations as well.

But again, why are they doing this when a cooperative attitude within the South China Sea, from my standpoint, would be, short-term and long-term, more beneficial to them? Can you explain that to me?

Admiral Blair?

Admiral BLAIR. Well, I think, Senator, what they want is both. They want to have their strong control of this area that they call the first island chain, in which all military activity is done with their permission. That would mean no American reconnaissance flights. That would mean no American survey flights. And they want to have a strong consumer economy that other countries will have to deal with.

So not unlike other countries, they are looking for the best of both worlds, as long as they can get it. Frankly, until very recently, they have been able to get it.

Senator JOHNSON. So that would be my next question then. Why do they think they can get away with what they are doing?

Admiral BLAIR. Because they have for several years in the past. Look at—

Senator JOHNSON. So we have not shown the strength and resolve necessary to deter their actions?

Admiral BLAIR. Since we have not set any individual limits, we have had a general policy of, "We do not take a position, but don't you do anything." They have operated below the level of that warning in order to make gains.

I think that final thing is, I think the character of a country's international policy bears a large resemblance to its internal policy. Inside China, as you know, power is what controls. Not laws, not precedents. If you have the power, then you get the best of everything.

China applies the same approach to its relations with its neighbors. And to the extent that it can be successful, it will continue to do it.

Senator JOHNSON. I would like to have you answer, but I do want to reserve time because I want to ask what position we should take.

But, Mr. Campbell, if you would like to respond to my first question?

Dr. CAMPBELL. Just to answer a couple things, if I can, Senator Johnson. It is a very important question.

The interesting thing is, when you sit down and actually really discuss with China interlocutors about this, one of the first issues that they will raise is the Monroe Doctrine. They will say what about your role in your own hemisphere? Of course, our answer is that was then, this is now, a very different, a very different time. That is sometimes unpersuasive to Chinese friends.

It is not uncommon that rising great powers, particularly when they are authoritarian-led, seek these spheres of influence. They believe that they are ultimately beneficial, and they protect a ruling elite that is anxious about their legitimacy. I just think that is not uncommon.

I do also want to say one of the things—what is very different here than the Cold War is that every single one of these countries, yes, they are working more and more with the United States. We should be under no illusions. They all want a better relationship with China because of dramatic commercial interests and ties. I will say at the root of this, really, is the United States has to do much more in the Asia-Pacific region.

If you look back, the dominant issues of this period, historically, will not be Iraq, will not be Afghanistan, will not be all the blood and treasure that we have spent. It will be the rise of Asia. We are not nearly focused on this enough. And the lion share of the history of this century is going to be written, in the 21st century, is our executive branch, our Congress, our big institutions have not yet recognized, have not yet really made the rebalance, or the pivot, a way of American engagement in the world.

Senator JOHNSON. So what should our position be, and what actions should we take?

Admiral Blair?

Admiral BLAIR. Senator, I would talk a little bit differently about our maritime interests in the region. You have heard several people at this hearing talk about the volume of shipping that goes through there. China has no interest in interfering with that shipping. Most of it goes to China anyway.

Short of total war, no country has figured out yet how to apply selective pressure to shipping lanes anyway. So it is impractical.

What is really important is the American ability to maneuver its military forces in that region of the world, which we have done ever since 1898. It has basically been in support of ensuring that a power hostile to the United States or destabilizing to the region does not gain dominance, in a sense. We have thrown our weight in, whether it was against Japan when it militarily took the region, whether it was in Vietnam. At least in the opening phases of the

Vietnam War, we thought North Vietnamese was an expansion of worldwide communism.

So our overriding interest is to be able to use our military forces to support our interests in that region. China challenges that with a very expansive interpretation of what an EEZ means. To China, having an EEZ means that you control the military activities within it. They object violently to our reconnaissance flights.

When I was Pacific Commander in Chief we had the EP3 incident when they actually ran into one of our aircraft, a Chinese fighter did. Later, they cut cables of our survey ships.

So I think what we have to do is have a steady, robust American military exercise and operating presence in the South China Sea to show that China will not be able to restrict us. That is number one.

Senator JOHNSON. So our position should be to state our interests clearly. This is what we are going to do, and then we need to do it. And this would be a good time to start.

Admiral BLAIR. Let's do it. Yes, sir.

And I think that is more important than whether we run a particular destroyer within 3 miles or 4 miles of a particular rock. I think what is important is that the United States freely operates its air, naval, and, if necessary, its ground forces in that part of the world. And we do not need anybody's permission to do it, and we have allies and friends we support there. So that is kind of number one.

Senator JOHNSON. So state it clearly and operate regularly.

Admiral BLAIR. Yes.

Dr. CAMPBELL. Senator, just to underscore, we are doing that, and we should just continue it going forward.

I will also just say one of the big deterrents that we have not discussed is that if there are tensions or conflicts in the South China Sea, the first thing that will happen is insurance premiums for shipping will go through the roof. That is very bad for China and very bad for other shipping and receiving nations. It is the last thing that they want to see.

So that, among everything else, really animates a lot of actions.

Senator GARDNER. [Presiding] Senator Rubio?

Senator RUBIO. First of all, thank you both for being here.

This is actually a pretty big moment in international relations, I think, for our country. I think you would both agree with that. For people who are going to watch or are thinking about this issue, the first thing, and I think you both touched on this in your statements, is freedom of navigation of the seas has been the linchpin of this economic growth and prosperity that we have seen in the post-Second World War era. That is particularly true of the Asia-Pacific region. The South China Sea, in particular, I believe, the last time I checked, is a place where a significant percentage of global commerce is now transiting through.

So this matters in real-time to people in this country. I guarantee you there are things in this room right now that came to this country as they transited through the South China Sea, and vice versa, for our exports. So this is incredibly important.

What China is basically challenging is that world order. What China is basically doing here is they are challenging the idea that there is such a thing as freedom of navigation.

They have challenged this particular sea for a long time. If you look at their passports, for a long, long time, that nine-dash line was on there. They have claimed that they own this, among other places, for a very long time. Now they are beginning to act on it. So that is the first part.

Now, let me preface this by saying I have no quarrel with the Chinese people, who I believe are great people who by and large have the desire to move forward with prosperity and with their lives, and we engage with them constantly. I have no quarrel with China. I have a big quarrel with the Chinese Communist Party, which I believe is more interested in the future security of the Chinese Communist Party than they are of the nation itself.

This is a country who views all their neighbors as tributary states that need to be subservient to China. This is a country that views the United States as a declining power. They make the argument to the countries in the region that America cannot be counted on to live up to its security assurances. That is why this is such a critical moment.

By the way, this is also illustrative of another point, and that is all these international things that China signs on to, they are signatories to the Law of the Sea Treaty. They agreed to this process by which they lost under and now they view as illegitimate.

So how can we trust them on anything they sign when they are willing to ignore it? This is a big, big problem.

And I think and I hope that the position of the administration and the next administration will be that we will never accept these arguments; that there will be no part of these illegitimately claimed areas that we will not sail through and challenge; that we will never accept it as a matter of course, whether it is the air defense zone that they have claimed or this illegitimate claim that they make now.

Mr. Campbell, you were one of the architects of the so-called pivot to Asia, and you have written extensively about this policy. So I would just ask you, and I think you have touched on this already, but what is your assessment of the success of this policy after 5 years after it was announced, specifically? And what needs to be done next?

And on that point, I want to make one editorial comment, in addition to the 2.5-minute editorial comment I just made, which is this is why the defense sequester is so crazy. It is nuts, because we need to be able to fund our ability to project power in the region, because in the end, all the diplomatic rhetoric, all the speeches from the Senate, are worthless if we do not have the physical capability to deliver on our security assurances that we have made to our allies in the region, in South Korea, Japan, the Philippines, and others.

But what is your assessment, Mr. Campbell, of the state of affairs on the pivot to Asia? And what is the next iteration of it moving forward as we go into a new administration and new Congress?

Dr. CAMPBELL. Thank you very much, Senator. I appreciate the question, and thank you for your service.

I will say I do not mean any harm by this, but I will say what I appreciated very much is how open your office was to us. You asked us to come up to be briefed about Asia, asked very good

questions. You challenged us a lot, but you also were very respectful.

I actually would say one of the most important things that we are going to need to sustain to be effective in Asia is to maintain a bipartisan commitment. That is incredibly difficult, but I think you all, each in your own way, have laid out the enormous American stakes on what is involved here and the need to do more.

Look, I think the rebalance or pivot is proceeding in fits and starts, to be honest. Part of that is that we have a lot of domestic issues. It is impossible to leave the Middle East and South Asia, given what is going on now. That is where the focus really is.

So you have to find time in other parts of the schedule to make sure that strategic focus comes from key Senators. Very grateful for the team that came to Shangri-La. Very much noticed by friends in the region as a whole.

I think the administration has done a pretty good job in trying to make clear that this is where our future lies, but we are going to have to do much more.

I agree with you about sequester. I would like to see much more active diplomatic engagement, generally. Really, at the base of much of this, I know we focus mostly on the military dimension, but a lot of this is a diplomatic game. We have to be very effective in terms of how we pursue our interests.

No American politician in the last 25 years has given a speech in America about why Asia is important. We have not tried to convince our American people about what we are about. There have been hundreds and thousands of speeches about Falluja and Iraq and Afghanistan, all important, but no one has said, you know, this is why we engage, this is why we are out there. We give those speeches in Asia. We do not do them at home.

So I think we have our work cut out for us. And we had, at the beginning of this administration, a little childish back and forth, where some would say we are back in Asia and others would say, no, we never left.

Senator Rubio, I would take a position that both are wrong. For us to be back in Asia is going to take decades. It is going to take multiple Presidents, deep, substantial engagement. And for us to say we never left Asia, the price of admittance has gone up dramatically. What used to pass for effective diplomacy and military engagement, 15 or 20 years ago, will not get it done, will not get it done today.

Now, as we speak, we have two aircraft carriers in the Asia-Pacific region deployed. That should be a regular part of our engagement, not something that happens occasionally.

So I commend you on the work that you have done to try to undo the sequester. And I also want to see you continue your role of really focusing on the Asia-Pacific region. I will do everything I can to support that.

Thanks, Senator.

Admiral BLAIR. Senator Rubio, I listened carefully to what you said. I think one thing you perhaps are missing about the Chinese people is that they are, whether the Communist Party whips them up or not, extremely nationalistic and feel that China's destiny is much larger than what it currently is.

They believe that, for the last 150 years, they were physically carved up by outside countries, notably Japan, but also a large number of European countries and even the United States.

Now they have become the second-largest economy in the world. They have grown tremendously, and they feel their time has come. And they feel their time has come in a pretty crude way, which means that they should be the number one dog in their part of the world and everybody else should adjust.

So I think this is deeper than just the Chinese Communist Party, which is ruling them. And it is pretty understandable, in terms of their history.

So I think what the United States does has to deal with what I think are national feelings and desires by presenting military situations in which the costs of aggression are too high, channel that great Chinese energy which we have seen in so many other countries, Chinese-American citizens here in the United States, Taiwan, Singapore, other very vibrant Chinese companies, into an area in which they can make tremendous advances by their economic prowess, by their cultural attainments.

But we have to set some military lines that say this far and no further. Then I think we can move forward properly.

Senator RUBIO. Admiral, I agree with you on their nationalistic attitude and their view of history, the last hundred years has been an aberration. I understand all of that, and I do not disagree with your statement about that being a powerful sentiment in China.

I would only add that I think the people in Korea and the people in Japan have their own ambitions for the future, and that is not to be a tributary state to China.

I would also add that I want China to be prosperous. I would love to have them as a partner on all these major issues we confront around the world. Imagine what a responsible Chinese Government and the U.S. could do on the issues of global jihadism and so forth.

I can tell you what is going to be a big problem, and that is if that nationalism leads them to continue to steal secrets from our companies and our military in order to cut corners, if they aggressively act to take over international waters, and if they do to other places what they have done to Hong Kong or what they do now in the gross human rights violations.

If they treat their own people that way, just imagine what they would do to other people, if they gained any sort of power and control over them. And that cannot happen. That would be a major, major problem.

Admiral BLAIR. I think we are in violent agreement there, Senator.

Senator GARDNER. Thank you, Senator Rubio. We are coming up on the time we are going to have to adjourn. I just again want to reiterate something that Senator Rubio mentioned, actually.

When he was talking about China being a participant in UNCLOS and talking about how we cannot trust China in anything they sign because of their defiance of the law that they agreed to.

But I think, in many respects, we have a moment when the United States is going to be asked that very question by our allies.

If China continues to violate the Philippines, this ruling, and other claimants in the area, then the question our allies in the region will once again pose to the United States is how can we trust anything that you say when you are not willing to come to our aid to back up what you have agreed to do with us.

That is why it is so important that we continue to reiterate and reinforce our expressions of mutual defense and the mutual alliances that we have together, whether that is the Philippines, whether that is Japan, Korea, Taiwan. It is very important that we continue to show our allies that we are committed to not just say that we will abide by them, but that we will, indeed, act when called upon and as necessary and needed.

One of the things I wanted to get into, though, is what is next for the Philippines. The ruling comes down. The tribunal comes down. What next? Where does President Duterte go? What happens with the Philippines, now that they have this ruling?

Admiral Blair, Dr. Campbell, whoever prefers.

Admiral BLAIR. I think that an equitable solution of the claims in the South China Sea is going to be a long and difficult matter just because of the tangled nature of the claims there.

If you look at the Spratlys color-coded to show which country currently occupies which island, it looks like a bad case of Technicolor measles. As you know, they are all intertwined. The idea that you can say, well, you move off this island, you move off that island, and let's draw some nice lines is, I think, pretty impractical.

I think that it will take some imagination to come up with a multilateral settlement of claims, which gives China a recognition of some of its legitimate claims, which are generally further north in the South China Sea, which divvies up the Spratlys in an equitable format.

I think that there should be internationalization of some islands, which can be used by all; I think there should be joint development areas in which fishing activities are shared and hydrocarbon development revenues are divided up among the states; I think further work is needed on turning the declaration of conduct back in 2002 into a code of conduct in which there are peaceful expectations on all sides. I think that is the work of years.

But I think underlying progress has to be what we have been talking about here for the last hour, which is a recognition by China that it cannot gain by military aggressive, coercive means what it wishes. To do so will take a continuation of the recent stiffening of American policy along with smart policies by the other countries, and presenting that more united front to China.

ASEAN's role has been mixed. Sometimes, they have not done much. Other times, they have pulled themselves together and made some unified statements, which I think are positive.

So it is that steady combination of military deterrence, patient diplomacy, imaginative negotiations, which I think the claimant states, starting with the Philippines, including Vietnam, Malaysia, ought to pursue.

I very much feel, Chairman Gardner, this is a movie, not a snapshot, and we have to do a lot of work to have the movie have the right ending.



Senator GARDNER. Dr. Campbell, I would just ask you to follow up on that, but also perhaps to throw in a little bit of what you have heard from the other claimants in the area, what they might pursue now that this tribunal has ruled, if anything.

Dr. CAMPBELL. Thanks very much.

Senator Gardner, just in respect to the last question, I will say, honestly, I think the ruling so exceeded what was expected, I think if you read previous tribunal decisions, sometimes it is hard to make out exactly what was decided. There was a little bit of this, a little bit of that.

So in my view, I guess I agree with Admiral Blair on this question of, "Oh, they must have anticipated this." I do not think anyone in the region anticipated it. This really was clear as a bell, in terms of animating some very important strategic purposes.

So I do not think anyone was thinking about, gee, what do we do now in international law in advance of this ruling. So I think there are going to be a lot of important conversations that will take place in the coming months, and we should encourage this.

Remember, this initial decision to go to The Hague was encouraged by a number of countries, including the United States.

I would say I like the idea of imaginative solutions. We do have a few areas where countries have been able to share resources. The agreement between Taiwan and Japan on fishing was very important. There had been efforts to try to do this with China in the past. Usually you get down the line and then China says, well, of course, we will share some of these resources, but this is, of course, our territory, which then is a showstopper.

The idea is to be able to take advantage of resources in circumstances where sovereignty and territoriality are not resolved, are not clear.

I think the general point to recognize here is that, in diplomacy, there are areas that cannot be immediately resolved, and the best you can do is to have everyone, kind of cooler heads prevail, and then export some of these problems into the future where hopefully circumstances will be better.

China's practice under that rubric to basically salami slice is really not in our best strategic interests. So we are going to have to be watching very carefully as we go forward, building capabilities.

I mean, one of the things I am most proud of and that has really taken place is that there is a renaissance in the relationship between the United States and the Philippines. The Philippines are incredibly important in our own country.

But ever since we left the base, we had about 20 years of very little strategic engagement. That has changed now. The U.S. military is re-embracing their comrades.

Politically, the United States is less explosive in the Philippines. I think there is a recognition across the political spectrum that they want a better relationship with us. We have a legal instrument in which American forces can now deploy and act there, beyond the visiting forces agreement.

These are all important steps. But I think the general recognition, Senator, is that we all look for immediate responses. Asia is the long game. Asia is the long game.

So 2 years ago, when this legal process started, people pooohooed it. It is not important. It is too slow. It will not deliver the goods. Look at where we sit today—a substantial development, which I think will animate the actions of many countries around the region.

Despite this very assertive stance on the part of the Chinese, I can tell you, behind the scenes, this has caused real concern about the conduct of their own strategy, and there will be those, carefully, that will be arguing for readjusting going forward.

Senator GARDNER. Actually, Senator Cardin is here. I have been going along.

Do you have any additional questions for this panel?

Senator CARDIN. I have a lot but go ahead.

Senator GARDNER. The final question, should China proceed to Scarborough Shoal, or perhaps a blockade of a Philippines ship or action on the Second Thomas reef, what should the U.S. reaction or response be?

Admiral BLAIR. If I can just make one preliminary point, Senator Gardner, we, of course, have an obligation to allies and partners, but allies and partners are perfectly ready to fight to the last American. We need to make sure that we do not want something more than they want it themselves, in terms of their actions.

It is, I think, particularly important for you responsible members of Congress to make sure that this is not the United States doing things that allies should be, and friends and partners should be working on themselves. It has to be worked together, and we need to be aware of that.

On Scarborough Shoal, I think if China lands troops, or brings in dredges to expand the reefs, we should remove them in support of the Philippines, with military force, if necessary.

On Second Thomas Shoal, I think the situation is a little bit less clear. I would rather speak in a classified session about that one.

Senator GARDNER. Thank you.

Dr. Campbell?

Dr. CAMPBELL. I will just add to that.

Look, we have a strong security relationship with the Philippines. The conduct of our private diplomacy has become much more effective in the last couple of years, and I would anticipate that we will make very clear that we will stand with the Philippines.

I do want to say that the most important diplomacy about to happen is the diplomacy between the Chinese and the Philippines, right? So that in many respects is a positive sign, the fact that the Chinese are reaching out. They want to see what kind of relationship—we have had our own private conversations with Duterte, the new President, and we will see how this plays out over time.

But I think the Chinese have to understand that if they take the steps that the Admiral indicates, it will have a chilling effect across Asia and will undermine their interests in a way that no other action that China has taken in the last generation would.

Senator GARDNER. Thank you.

Senator Cardin?

Senator CARDIN. I just have one final question, if I might. I do not want to get into a debate on the merits of the Law of the Sea Treaty and the Senate's ratification. I have already expressed myself. I am a strong supporter of it. I think the United States hurt itself by not ratifying the treaty.

But I would like to just ask the narrow question as to the impact of us not being a member of the Law of the Sea as it relates to the repercussions of China not following the Law of the Sea and the United States active engagement in this issue as not being a member of the treaty.

Dr. CAMPBELL. I can just maybe answer on that. I appreciate, Senator Cardin, your leadership on efforts on the Law of the Sea. The Law of the Sea efforts over almost 30 years now, it is a little bit like Gallipoli, kind of run along the beach with the machine-gunners there. We have gotten close a couple times.

I will tell you an interesting thing, and I will not go into names, but at the last go-round, the second to last, we tried this a few years ago. I was asked to testify. Some Senators asked questions about a ruling like the one we had yesterday and what if it then impinged on American interests, very much in the way of what has just taken place with China.

So the concern was that we would sign ourselves onto a treaty where potentially an international group could rule on something that would impinge on our own sovereignty, which is what China has just experienced. I would say, personally, if we want to focus on the Asia-Pacific going forward, we are going to have to find a way to pass the Law of the Sea, because it does hurt us.

And it is striking to us the Chinese have signed and they are obligated, but do not want to do it. We have not signed, but we want them to do it, right? So it is ironical to many in the region.

What concerns us, though, is I am not sure what in the world could get 67 votes in the Senate now, right? If we put in something on motherhood, we would get maybe 62, 63, but there would be those who would raise real questions.

Senator CARDIN. We have gotten a lot of our bills passed by 67. Our committee has a good record going. I do not think we would—we would see how we would do on that. It might be a challenge.

Admiral BLAIR. I would add, Senator, that, to me, the biggest advantage of us joining the Law of the Sea would be to oppose the Chinese reinterpretation of what the rights of a country with an EEZ are. China is methodically, over time, attempting to give tremendous rights to EEZ countries to restrict military activities in a way that would be completely counter to U.S. interests.

Right now, we have to rely on our friends who have signed the treaty, Japan, the United Kingdom, other strong maritime nations, to carry our water for us inside that treaty instead of providing the leadership we can.

So I think it is absolutely vital.

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

Senator GARDNER. Thank you, Senator Cardin.

Senator Menendez, I think is participating in the next hearing as well, so that is the final, final question for you.

I want to thank the witnesses for being here today. Thanks to everyone for attending today's hearing.

For the information of members, the record will remain open until the close of business Friday, including for members to submit questions for the record.

Please respond as promptly as possible, and your responses will be made a part of the record.

With the thanks of the committee, this hearing is now adjourned, and we will proceed to the next hearing.

[Whereupon, at 11:38 a.m., the hearing was adjourned.]

