

Statement before the House Foreign Affairs Committee

***“BEIJING AS AN EMERGING POWER IN
THE SOUTH CHINA SEA”***

A Statement by:

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September 12, 2012

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Beijing as an Emerging Power in the South China Sea
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Madam Chairman, Ranking Member Berman, distinguished members, thank you for inviting me to appear before your committee today to provide testimony on China as an emerging power in the South China Sea.

The South China Sea encompasses a portion of the Pacific Ocean stretching roughly from Singapore and the Strait of Malacca in the southwest, to the Taiwan Strait in the northeast. The United States has a great deal at stake in the South China Sea. China, Taiwan, Indonesia, the Philippines, Vietnam, Malaysia, and Brunei assert overlapping sovereignty claims over land features and adjacent waters in the South China Sea. Failure to peacefully manage and ultimately resolve these conflicting claims could result in spiraling tensions and military conflict.

The waters of the South China Sea are among the world's primary trade arteries. Over half of the world's merchant fleet, by tonnage, sails through those sea-lanes each year. In addition, the South China Sea region contains an abundance of fish, and potentially contains significant quantities of oil and gas resources strategically located near large energy-consuming countries.

Skirmishes took place periodically in the South China Sea from the mid-1970s to the mid-1990s. A decade of relative quiescence followed, but tensions have flared since 2007, with a marked increase in incidents and provocations. The main causes of growing tensions are 1) rising interest in surveying and exploiting the South China Sea's oil and gas deposits; 2) intensified competition for fish as fish stocks in close proximity to coastlines are depleted; 3) the May 2009 deadline for submission of claims by coastal states of extended continental shelf rights beyond 200 nautical miles to the UN Commission of the Limits of the Continental Shelf; and 4) growing nationalistic pressures on governments to defend their territorial and maritime claims.

Below are some examples of destabilizing activity in the region in the past few years¹:

- China challenged, and in some cases threatened, foreign oil companies, including American companies, investing in Vietnam's offshore oil and gas blocks
- China detained hundreds of Vietnamese fishermen and allegedly shot at Vietnamese fishing boats near the Chinese-held Paracel Islands
- Chinese maritime surveillance ships cut the cables of Vietnamese oil exploration ships conducting seismic surveys within Vietnam's 200-mile exclusive economic zone (May and June 2011)

- The China National Offshore Oil Corporation (CNOOC) offered oil exploration leases in nine blocks located within Vietnam's EEZ and overlap with blocks offered for development to foreign energy corporations by state-owned PetroVietnam (June 2012)
- Vietnam initiated military surveillance flights over the Spratly Islands (June 2012)
- China's military announced the commencement of combat-ready naval and aerial patrols to the Spratly Islands to "protect national sovereignty and [China's] security development interests." (June 2012)
- China dispatched a flotilla of 30 fishing trawlers escorted by a 3,000 ton Fishery Law Enforcement Command ship to disputed waters in the Spratly Islands (July 2012)
- Vietnam's National Assembly adopted the Law of the Sea of Vietnam covering the country's baseline, internal waters, territorial sea, contiguous zone, EEZ, continental shelf, the Paracel and Spratly archipelagos and other claimed areas (June 2012)
- In response to Vietnam's action, China upgraded the administrative status of Sansha city on Hainan Island (June 2012) and established a military garrison on Woody Island (July 2012)
- The Philippines Navy dispatched a frigate to Scarborough Shoal to investigate the presence of eight Chinese fishing boats (April 2012)
- Responding to the Philippines action in Scarborough Shoal, China a) deployed at one point nearly one hundred surveillance ships, fishing boats, and utility craft in the lagoon; b) extended its annual unilateral fishing ban to cover the waters around Scarborough Shoal; c) quarantined tropical fruit imports from the Philippines; d) failed to abide by a verbal agreement reached with Manila to withdraw vessels from the lagoon; and e) roped off the mouth of the lagoon to prevent other fisherman from entering (April – August, 2012)
- Beijing used its influence with Cambodia, the current ASEAN chair, to prevent reference to the Scarborough Shoal and EEZ issues in the text of the joint communiqué at the annual meeting of ASEAN foreign ministers, which led to a failure of ASEAN to issue a final communiqué for the first time in the organization's 45-year history.

It is evident from the above that there is a negative action-reaction cycle underway in the South China Sea. However, it is important to note that China's claims, policies, ambitions, behavior, and capabilities are significantly different from those of other actors. China's nine-dashed line claim based on initial discovery, historical records, and international law is expansive and vague. Beijing refuses to engage in multilateral discussions on the territorial and maritime disputes in the region, preferring bilateral mechanisms where it can apply leverage over smaller, weaker parties. China rejects a role for the International Court of Justice (ICJ) or the International Tribunal on the Law of the Sea (ITLOS) in resolving the territorial and maritime disputes in the South China Sea. Although Beijing has agreed to eventually enter into negotiations to reach a Code of Conduct for the South China Sea, Chinese officials have recently stated that discussions can only take place "when conditions are ripe."ⁱⁱ Instead, Chinese officials emphasize the

2002 Declaration on the Conduct of Parties in the South China Sea, which has no dispute resolution mechanism and is not legally binding.

China's behavior in the South China Sea is deliberate and systematic; its actions are not the unintentional result of bureaucratic politics and poor coordination. In fact, the spate of actions by China in recent months suggests exemplary interagency coordination, civil-military control and harmonization of its political, economic and military objectives.ⁱⁱⁱ The clear pattern of bullying and intimidation of the other claimants is evidence of a top leadership decision to escalate China's coercive diplomacy. This has implications not only for the Philippines and Vietnam, the primary targets of China's coercive efforts, but also has broader regional and global implications.

First, China's propensity to flout international law and norms is worrisome and sets bad precedents. The result of Beijing's deliberate refusal to abide by its verbal agreement with Manila to withdraw all its ships from the lagoon and the area around Scarborough Shoal is that a new status quo has been established that favors Chinese interests. China is maintaining regular patrols and preventing Filipino fisherman from fishing in those waters. No country has publicly condemned this action. This has set a dangerous precedent.

Second, China's increased willingness to employ economic leverage to coerce countries to modify their policies in accordance with Beijing's wishes is a worrying trend.^{iv} China's move to quarantine imported tropical fruit from the Philippines to pressure it to cede control over the Scarborough Shoal was a flagrant breach of international norms. Chinese customs officials cited baseless claims that the fruit was infested. The Philippines economy suffered immediate harm since the country exports nearly one third of its banana crop to China, as well as papayas, pineapples, mangoes, and coconuts. In addition, Chinese travel agencies cancelled tourist charter flights to the Philippines on the grounds that the safety of Chinese tourists was endangered.

This episode is but one example of China's growing penchant to use economic coercion. In September 2010, Beijing blocked shipments of rare earth minerals to Japan in retaliation for Tokyo's detention of the captain of a Chinese fishing trawler in an incident near the Senkaku Islands. Later that year, following the announcement that the Nobel Peace Prize would be awarded to Chinese dissident Liu Xiaobo, China took a series of steps to punish Norway, even though the decision to whom to award the prize is made by the Nobel Committee, which is independent from the Norwegian government. China froze FTA negotiations with Norway and imposed new veterinary inspections on imports of Norwegian salmon that resulted in 60% cut in salmon imports in 2011 from Norway even as the Chinese salmon market grew by 30 percent. Beijing also halted normal diplomatic interaction with Norway, which has yet to resume.

Beijing views these cases as diplomatic successes. If China's economic coercion continues to go unchallenged, undoubtedly such tactics will be used again and again. Countries that are vulnerable to such pressure may be compelled to alter their policies in ways that are detrimental to their interests; China is thus likely to have sway over a

growing number of nations in the world whose economies are increasingly dependent on trade with China.

Third, China's unwillingness to undertake serious diplomacy to resolve disputes should be cause for concern along with its rejection of a rules-based framework that would restrain the actions of all parties. Beijing calculates that time is on its side; it does not want to be constrained by binding agreements. In the future, China will not only be a major economic power, but also a major political and military power. Other nations, large and small, will be compelled to adapt to China's rise and to respect China's "core interests and major concerns." At the same time, Beijing shows virtually no willingness to accommodate to the interests and concerns of other nations. In the absence of a Code of Conduct in the South China Sea that has teeth, tensions are likely to continue to rise. The use of military force by claimants to protect their interests with the attendant risks of escalation cannot be ruled out.

China's Naval Modernization and Ambitions

Emerging world economic and political powers have usually also been rising world naval powers. China is likely to be no exception. The growing dependence of the Chinese economy on trade and imported energy will impel China to develop greater naval capabilities and over time this will likely include the ability to project power over great distances. In the near term, however, China's priorities on disputed territories and resources, and deterring Taiwan independence will likely keep it primarily regionally focused. China's "near seas"—the Yellow Sea, East China Sea, and South China Sea—represent areas of special strategic importance to China. These seas are regarded as a security buffer in addition to a potential source of oil and gas.

China is developing a range of naval and other capabilities in support of what it refers to as the "counter intervention" mission. The U.S. Department of Defense describes these as "anti-access" and "area denial" capabilities. The objective appears to be to acquire the means to strike, at distances far from China's coast, military forces that might deploy or operate within the western Pacific. According to the DOD report to Congress on China's military capabilities in 2011, China's current and projected force structure improvements will provide the PLA with systems that can engage adversary surface ships up to 1,850 km from China's coast. These include anti-ship ballistic missiles, conventional and nuclear-powered submarines, surface combatants, and maritime strike aircraft. In the future, these capabilities will be enhanced by newer systems including the J-20 stealth fighter and longer-range conventional ballistic missiles, UAVs, ground- and air-launched land-attack cruise missiles, and cyber warfare capabilities.^y

China's first aircraft carrier (a KUZNETSOV-class aircraft carrier Hull acquired from the Ukraine) began sea trials in 2011. It will provide an important training and evaluation platform, and eventually a limited capability for carrier-based air operations. Chinese military analysts have speculated the carrier will be based at China's new naval base at Yalong on the southern tip of Hainan Island, close to the disputed Spratly and

Paracel Island groups.^{vi} Efforts are underway to build China's first indigenous carrier that could be completed and achieve operational capability after 2015 and be followed by "multiple aircraft carriers and associated support ships over the next decade."^{vii}

Although China is vigorously modernizing its armed forces, including its naval forces, it has remained reluctant to employ them. In the South China Sea, for example, China has relied primarily on civilian maritime agencies to assert and defend Chinese claims, not the Chinese navy. These agencies include the maritime police, the Border Control Department, State Oceanographic Administration, Fisheries Law Enforcement Command, and Coast Guard. Nevertheless, the PLAN has increased deployments and patrols and stands behind the white-hulled ships, ready to intervene if other means fail to protect Chinese sovereignty, security and maritime rights and interests.

China's Leadership Transition and Future Chinese Assertiveness

It is my estimation that China's pattern of assertive behavior on issues related to sovereignty will continue after the Chinese leadership transition takes place at the 18th Party Congress this autumn and the National People's Congress next spring for the following reasons:

1. Because the party bases its legitimacy in large part on its nationalist credentials, no Chinese leader is likely to take early steps to curb the surge in pressure from various domestic sources to firmly defend Chinese sovereignty and territorial integrity. Popular sentiment in favor of a tougher Chinese stance toward the South China Sea has already been stoked. The incoming leadership will undoubtedly be aware of the risks of further stoking these sentiments, but the temptation will be irresistible because of the benefits for their legitimacy.
2. Xi Jinping, Hu Jintao's likely successor, is widely believed to have a high degree of self-confidence—certainly far more than Hu had ten years ago when he assumed power. Whereas Hu Jintao focuses on China's weaknesses, Xi is from a new generation that grew up in the era of reform and opening up to the outside world and believes that China is rising quickly. Confident in the belief that China's power is growing and the gap between US and Chinese power is narrowing, Xi is likely to stand up for Chinese interests in the international arena, especially those deemed to be China's "core interests," which include issues related to sovereignty.
3. To some extent scholarly debate in China has been artificially repressed in the run-up to the leadership transition. Debates are likely to intensify next year over a) whether or not the U.S. is in decline and the global balance of power is shifting inexorably in China's favor; and b) whether China's 20 year period of strategic opportunity that began in the turn of the century is prematurely coming to an end. These debates will put additional pressure on the Chinese leadership to assertively defend Chinese interests.

4. According to informed Chinese analysts, Beijing has drawn the conclusion that Deng Xiaoping's policy toward managing the South China Sea disputes has failed. That policy stated: a) sovereignty belongs to China; b) the disputes can be set aside; and c) joint development can be pursued. The Chinese maintain that while China has refrained from extracting oil and gas in disputed waters, other countries have not been similarly restrained. A new policy has yet to emerge and will likely be postponed until after the leadership transition. It is almost certain that the new policy will be tougher.

Policy Recommendations

The Obama administration has rightfully enunciated a set of principles to guide behavior in the South China Sea. In July 2010, Secretary of State Hillary Clinton called for "a collaborative diplomatic process by all claimants for resolving the various territorial disputes without coercion." She stated that the U.S. opposes the use or threat of force by any claimant and insists on unimpeded commerce, freedom of navigation, and open access to Asia's maritime commons. Clinton maintained that claimants should pursue their territorial claims and accompanying rights to maritime space in accordance with the UN Convention on the Law of the Sea. She urged all parties to reach agreement on a Code of Conduct and offered to facilitate initiatives and confidence building measures.^{viii}

It is important that the US adhere to these principles and censure any party that acts contrary to them. Being objective and fair will give credibility to U.S. policy. An exemplary even-handed statement was made by Secretary of Defense Leon Panetta at the Shangri-La Dialogue in Singapore in June. After re-stating U.S. principles, he noted that the U.S. had "made our views known and very clear to our close treaty ally, the Philippines, and we have made those views clear to China and to other countries in the region."^{ix}

The August 3, 2012 State Department Press Statement on the South China Sea marked an unfortunate departure from this even-handed and objective approach. The Statement rightfully noted the increase in tensions in recent months, citing coercive economic actions, the use of barriers to deny access to Scarborough Shoal, and the establishment of new military garrison by China covering disputed areas of the South China Sea.^x However, by singling out China for reproach by name and not mentioning the provocative actions of other claimants, the U.S. provided Beijing with ammunition to argue that Washington has taken sides against China and undermined the U.S. stance that the South China Sea disputes should be managed based on a principled approach. There is no doubt that China's behavior has been the most egregious of all the actors in the South China Sea; however, the U.S. damages its credibility by not acknowledging the violations of other parties.^{xi}

Going forward, the U.S. should hew closely to its principled approach to managing the South China Sea territorial disputes and maintain its longstanding position of neutrality on those disputes. At the same time, emphasis should be placed on the

shared interests of the U.S. and other nations in international norms that are threatened by China's assertive policies.

Second, the U.S. should urge all claimants to the South China Sea to bring their maritime claims in conformity with the UN Convention on the Law of the Sea (UNCLOS). It should then encourage joint development agreements to extract resources.

Third, the U.S. should continue to press China and ASEAN to initiate negotiations on a Code of Conduct that is legally binding and contains a dispute settlement mechanism. Once the process of negotiations begins, it is likely to have a calming effect that will defuse tensions.

Fourth, the smaller states of the region are anxious that the new type of major power relationship that is being discussed by Washington and Beijing will lead to increased U.S.-China cooperation at the expense of the interests of other countries, including the members of ASEAN. These concerns should be promptly dispelled and the U.S. should continue to promote ASEAN centrality as an anchor of regional stability.

Fifth, it is imperative that the U.S. continue to strengthen our economic, diplomatic, and military engagement in East Asia. The rebalancing of U.S. strategic priorities to Asia is essential to ensure that the peace and stability that has prevailed in the region for the past two decades and from which all regional nations have derived benefit endures.

Sixth, the United States should ratify UNCLOS to increase the effectiveness of U.S. efforts to pursue a rules-based approach to managing and resolving disputes over maritime jurisdiction.

ⁱ See Carlyle A. Thayer, "A New Wave of Chinese Assertiveness: Roping off Scarborough Shoal, Oil Leases in Vietnam's EEZ, Military Garrison on Land, and Fishing Armada at Sea," paper presented to the 2nd South China Sea Conference Geo-Strategic Developments and Prospects for Disputes Management, Kuala Lumpur, Malaysia, September 4-5, 2012.

ⁱⁱ "South China Sea Issue Should Only be Resolved by Concerned Parties," Xinhua, August 5, 2012, <http://english.sina.com/china/2012/0805/493210.html>.

ⁱⁱⁱ Oriana Skylar Mastro, "The Sansha Garrison: China's Deliberate Escalation in the South China Sea," Center for a New American Security, September 2012.

^{iv} Bonnie S. Glaser, "China's Coercive Economic Diplomacy – A New and Worrying Trend," PacNet no. 46, Pacific Forum, CSIS, July 23, 2012, <http://csis.org/publication/pacnet-46-chinas-coercive-economic-diplomacy-new-and-worrying-trend>.

^v *Military and Security Developments Involving the People's Republic of China 2011*, Department of Defense, http://www.defense.gov/pubs/pdfs/2011_cmpr_final.pdf.

^{vi} David Lague, "Analysis: China's Aircraft Carrier: in Name Only," Reuters, August 28, 2012.

^{vii} *Military and Security Developments Involving the People's Republic of China 2012*, Department of Defense, http://www.defense.gov/pubs/pdfs/2012_CMPR_Final.pdf.

^{viii} Remarks at Press Availability, Hillary Rodham Clinton, Hanoi, Vietnam, July 23, 2010, <http://www.state.gov/secretary/rm/2010/07/145095.htm>.

^{ix} Speech by Secretary of Defense Leon E. Panetta, Shangri La Dialogue, Singapore, June 2, 2012, <http://www.defense.gov/speeches/speech.aspx?speechid=1681>.

^x Press Statement on South China Sea, August 3, 2012,

<http://www.state.gov/r/pa/prs/ps/2012/08/196022.htm>.

^{xi} See Douglas H. Paal, "Dangerous Shoals: U.S. Policy in the South China Sea," Carnegie Endowment for International Peace, August 11, 2012, <http://www.carnegieendowment.org/2012/08/11/dangerous-shoals-u.s.-policy-in-south-china-sea/dc0d>.