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Before the

**Senate Foreign Relations Committee
Subcommittee on East Asian and Pacific Affairs**

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Maritime Territorial Disputes and Sovereignty Issues in Asia

Chairman Webb, Members of the Subcommittee, thank you for the opportunity to testify today on these critically important issues.

Before I begin, I would like to take this opportunity to thank you, Chairman Webb, for your leadership on this issue and for your work to enhance our engagement with the Asia-Pacific region, particularly Southeast Asia. Your strong voice on this Committee and in the Senate to draw attention to East Asian and Pacific issues is greatly appreciated. You and your Subcommittee have played a fundamental role in sustaining the rich bipartisan tradition of engaging the Asia-Pacific and advancing U.S. interests in the region. Working together, it is as important as ever to demonstrate without question the enduring nature of this bipartisan commitment.

The United States is and will remain a Pacific power, bound to the Asia-Pacific region by virtue of our geography, history, alliances, economic ties and people. Much of the history of the 21st century will undoubtedly be written in this dynamic region, which today accounts for more than half the world's GDP and nearly half of its trade, is a key driver of innovation, and houses some of the fastest growing economies in the world. The Asia-Pacific holds vast opportunity, but still faces tremendous challenges that, if not addressed, will pose significant risk to the future of the region and America's interests as well.

The United States is intensifying its focus on the Asia-Pacific, recognizing that greater strategic investment in the region will be essential to both seize opportunities and address challenges. We are taking steps to strengthen our alliances with Japan, the Republic of Korea, Australia, Thailand and the Philippines. We are deepening partnerships with new and emerging partners, like Singapore, India, Indonesia, New Zealand, Malaysia, and Vietnam and taking steps to strengthen unofficial relations with Taiwan. As Secretary Clinton noted in her recent visit to Beijing, we are also working tirelessly to build a positive, cooperative, and comprehensive relationship with China and write a new, constructive answer to the age-old question of what happens when an established power and an emerging power meet.

Beyond our bilateral relationships, a critical evolution in American strategy in the Asia-Pacific has been an unprecedented commitment to engaging the region's multilateral institutions – principally, ASEAN, the Pacific Island Forum and APEC – and supporting their evolution into more effective, solutions-oriented bodies. We have taken systematic steps to elevate our economic statecraft in the region to help fuel the U.S. recovery, as exemplified by July's U.S.-ASEAN Business Forum, which brought together the largest grouping of U.S. and ASEAN governments and business leaders ever to discuss shared opportunities. We are expanding our economic ties to the region and refocusing our efforts to build a level playing field so that American companies can compete and win. In addition, as you know, we have embarked upon a comprehensive defense strategy to develop a force posture in the region that can better respond to non-traditional security threats, protect allies and partners, and ultimately defend U.S. national interests. Finally, we remain steadfast in our commitment to advance freedom, democracy, and the rule of law. Senator Webb, your efforts with respect to Burma have played an essential role in this regard. Each element of this strategy is mutually reinforcing and meant to positively affect the Asia-Pacific strategic environment and to advance peace, prosperity, and security.

As the United States pivots to the Asia-Pacific region, the recent spate of disputes in the South China Sea, the East China Sea, and the Sea of Japan are sending reverberations throughout the region, threatening instabilities that could undermine U.S. interests.

Let me begin by noting recent developments in the South China Sea. The South China Sea is a vital thoroughway for global commerce and energy. Half the world's merchant tonnage flows through the South China Sea and over 15 million

barrels of oil per day transited the Straits of Malacca last year. We cannot afford to allow disputes in the South China Sea to endanger the global economy, our recovery, or regional security: diplomatic approaches must prevail.

Brunei, China, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam each claim sovereignty over parts of the South China Sea, including its land features. The parties vary widely in their claims, as well as the intensity and manner in which they assert them.

Despite the fact that tensions in the South China Sea have ebbed and flowed for decades, the most important feature of these disputes is that, with rare exceptions, countries have chosen the path of peace, diplomacy, and shared prosperity to address them. Even following heightened tensions in the 1990s, including the events at Mischief Reef in 1995, ASEAN and China resolved to reach agreement on a Declaration on the Conduct of Parties in the South China Sea. While non-binding, the 2002 Declaration was an important milestone, built upon the 1992 ASEAN Declaration on the South China Sea and unequivocally signaling a willingness among the parties to approach disputes multilaterally. In the 2002 Declaration, ASEAN and China committed to respect freedom of navigation and over-flight in the South China Sea in accordance with international law, as reflected in the 1982 Law of the Sea Convention, and to resolve their disputes through peaceful means, without resorting to the threat or use of force. They also committed to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including steps to inhabit presently uninhabited land features.

Nevertheless, the region entered into a new period of heightened tensions beginning in 2007, stemming in part from the combination of an increasingly intense demand for natural resources, including hydrocarbons, and rapidly improving capabilities to extract resources in deep water. Additionally, fishing stocks in coastal and inland areas have significantly declined due to overfishing and environmentally harmful techniques, pushing fishing fleets further offshore into the South China Sea.

Complex domestic political dynamics in each of these countries are also a significant factor in efforts to build lasting and peaceful solutions. The separate incidents this year involving the Philippines, Vietnam and China, underscore this deeply complex environment.

U.S. policy toward the South China Sea has been both consistent and well-coordinated. Our strategy strives to set a context for peaceful approaches to disputes in the region, with the long-term goal of supporting a rules-based order, undergirded by agreements and strong institutions, that can support the management and, ultimately, resolution of the disputes. In order to promote a stable environment in the region, the United States has clearly articulated our principles and interests in accordance with long-standing policy. As Secretary Clinton has made clear, as a Pacific nation and resident power, the United States has a national interest in the maintenance of peace and stability; respect for international law; unimpeded lawful commerce; and freedom of navigation in the South China Sea. The United States does not take a position on the competing sovereignty claims over land features in the South China Sea, and we continue to encourage all parties to take steps to address these disputes diplomatically and in a collaborative manner. We oppose the use of coercion, intimidation, threats, or force by any claimant to advance its claims. We believe that claimants should explore every diplomatic and other peaceful means for dispute resolution, including the use of arbitration or other international legal mechanisms. In order to decrease the risk of misunderstanding and miscalculation, we continue to urge all parties to clarify and pursue their territorial and maritime claims in terms consistent with international law, including the 1982 Law of the Sea Convention.

For our part, we can strengthen our hand in engaging disputes in the South China Sea by joining the Law of the Sea Convention. As the Secretary emphasized when she testified before the full Committee in May, “[O]ur navigational rights and our ability to challenge other countries’ behavior should stand on the firmest and most persuasive legal footing available, including in critical areas such as the South China Sea. . . . [A]s a party to the convention, we would have greater credibility in invoking the convention’s rules and a greater ability to enforce them.”

Over the past several months, we have closely watched incidents and activities by multiple parties that have raised tensions in the region. We have maintained close, direct dialogue with the Philippines, Vietnam, China, other ASEAN members, and ASEAN as a whole, facilitated by our Mission and Resident Ambassador to ASEAN located in Jakarta. In the past several years, we have substantially increased the level and frequency of our engagements with ASEAN which has significantly improved our ability to address tensions. We have also sustained substantial dialogue with other countries that have critical interests in the region, including India, Japan, Australia, Russia, as well as the European Union, to explore how we can work together to foster a peaceful, stable

environment. In multilateral channels, we remain committed to advancing a collaborative and diplomatic course of action in ASEAN-based meetings, particularly the ASEAN Regional Forum and the East Asia Summit.

We have also coordinated closely with our colleagues at the Department of Defense to ensure that our South China Sea diplomacy is supported by an effective and well-calibrated defense strategy.

A consistent and critical element of our approach has been exercising U.S. leadership and maintaining public engagement when necessary to underscore the importance of peaceful and diplomatic approaches to disputes. Most recently, the United States released a statement on August 3 which reaffirmed U.S. interests, raised concerns about recent incidents, and urged the parties involved to take necessary steps to lower tensions. The statement was eagerly welcomed by key ASEAN states, contributing to a cooler political environment and helping to set the stage for progress on ASEAN-China Code of Conduct discussions.

We support ASEAN and China's efforts to develop an effective Code of Conduct, as called for in the 2002 ASEAN-China Declaration. History has shown that a region united by rules and norms enjoys greater peace and stability, and a Code of Conduct can be an important element of the emerging rules-based order in the region. While it is up to the parties to agree to the terms of a Code of Conduct, we believe that it should be based on the widely accepted and universal principles of the UN Charter, the international law of the sea, as reflected in the Law of the Sea Convention, the Treaty of Amity and Cooperation, and the 2002 Declaration on Conduct. An effective Code of Conduct would also create a rules-based framework for managing and regulating the conduct of parties in the South China Sea, including preventing and managing disputes.

We also encourage relevant parties to explore new cooperative arrangements for managing the exploitation of resources in the South China Sea. For example, as Secretary Clinton discussed at the ASEAN Regional Forum this July in Cambodia, this could include equitable joint exploration and exploitation arrangements for hydrocarbon resources in areas of unresolved claims. Joint exploration would not only allow claimants to reap material benefits, but could also help to build the habits of cooperation and collaboration that will ultimately be needed to resolve these disputes.

I would now like to say a word about other maritime disputes that are currently roiling the region, different but equally complex situations, where

territorial disputes over the Senkaku Islands and Liancourt Rocks (known to the Japanese as Takeshima, and Korea as Dokdo) have flared up in recent months. In both cases, as with the South China Sea disputes, the United States has reiterated its long-held position that it does not take a position on the ultimate sovereignty of the land features in question, and that the claimants should address their differences peacefully. The United States has an interest in peaceful relations among all of our Northeast Asian partners and allies, and has nothing to gain from seeing the situation escalate.

Given the intense level of commerce and people-to-people ties among these three great Northeast Asian nations of China, Japan, and the Republic of Korea, and the extraordinary potential costs of conflict, we are hopeful that all involved will make sincere efforts to settle their disputes amicably. These economies account for a fifth of global GDP and if not appropriately managed these tensions can pose risk to the necessary foundation of global economic recovery: security and stability. As Secretary Clinton said when meeting with the APEC nations in Vladivostok this month, now is the time for everyone to make efforts to reduce tensions and strengthen diplomatic involvement. We have made this point both publicly and privately to all of the countries involved.

The United States has no better or closer allies than Japan and the Republic of Korea (ROK). For more than half a century, our alliances with both countries have undergirded peace and stability in the Asia-Pacific and have provided a context for regional and global economic growth and prosperity. As the United States increases its strategic investments in the Asia-Pacific, our close and enduring ties with the ROK and Japan will remain the fulcrum of this pivot, and tensions between our closest allies damage our strategic interests.

Over the past several years, the U.S.-Japan-ROK trilateral relationship has become an increasingly important engine for promoting our mutual national security goals both in the region and around the world. From our cooperative efforts to put a stop to North Korea's nuclear ambitions and promote the human rights of its people, to our coordinated actions to address Iran's nuclear program, to our efforts to address maritime piracy off the Horn of Africa, to our shared work to promote democracy and good governance in Burma and around the world, the United States, Japan, and South Korea enjoy an active and growing partnership on a global scale.

A key pillar of this trilateral partnership is the ROK-Japan relationship. The United States welcomes both countries' efforts to strengthen their political,

economic, security, and people-to-people ties, as well as to address in a constructive and future-oriented manner the differences between them. As we enter the second decade of the Asia-Pacific century, we have every hope and expectation – and we will do what is necessary to ensure – that the ties and cooperation between and among the United States, Japan, and the ROK will continue to strengthen in every way.

A stable and productive Japan-China relationship is also in the strategic interest of the United States and the region as a whole. We have been concerned by the rising tensions in Sino-Japanese relations over the Senkaku Islands, the violence of anti-Japanese protests in China, and the potential for miscalculation or accidents in the East China Sea that could lead to even greater tension. We have consistently urged both sides to take steps to defuse the situation and resolve their differences peacefully.

In conclusion, Mr. Chairman, I would underscore that the United States is deeply engaged in the region – diplomatically, economically, and militarily – all of which support our interests and advance peaceful progress.

Thank you for giving me the opportunity to testify today. I am pleased to answer your questions.