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Naming and Shaming: U.S. Surveillance over China's Land Reclamation Projects and Regional Reactions

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Background

On May 20, 2015, a U.S. Navy P-8A Poseidon surveillance plane flew from Clark Air Base in the Philippines to three South China Sea reefs—Subi Reef, Mischief Reef, and Fiery Cross Reef—where China has been undertaking extensive land reclamation projects in an apparent attempt to bolster its territorial claims and establish a permanent military presence in its near seas. CNN reporter Jim Sciutto accompanied the crew and reported on the mission. Over the course of the flight, the crew received eight warnings by radio, and were told, “This is the Chinese navy.... Please leave immediately to avoid misunderstanding.” At one point, the Chinese radio operator’s warnings grew more urgent, and he yelled “You go!” According to Mr. Sciutto, the P-8 crew had been flying such missions for months¹ and were accustomed to similar warnings, but they noted the warnings had become more aggressive as China’s land reclamation projects progressed.² A U.S. defense official told the *New York Times* the decision to allow a news organization to publicize the mission was deliberate, saying, “It’s important that the American public, and the Asian public, too, understands what’s going on out there.”³

The flight and subsequent media reports come amid growing concern in the United States and elsewhere regarding China’s swift progress on seven land reclamation projects in the Spratly Islands since 2014. China is not the only South China Sea claimant to conduct land reclamation to consolidate a territorial claim, but its land reclamation activities have been by far the most extensive and fast-paced.⁴ Some of these reclaimed islands boast military infrastructure—such as airstrips long enough to accommodate any of China’s air force aircraft, artillery, radars, satellite communication equipment, antiaircraft and naval guns, helipads, and docks—enhancing China’s ability to sustain its naval and coast guard presence and project power far from its coast.⁵

Regional Reactions since the Publicized U.S. Surveillance Flight

Already simmering regional tensions over China’s land reclamation activities spiked following the May 20 flight, and the topic was widely discussed at the 2015 Shangri-La Dialogue, a high-profile meeting of regional defense leaders, in Singapore from May 29–31.

China

Chinese officials reacted strongly to news of the P-8 mission. A Chinese Foreign Ministry spokesperson called U.S. reconnaissance flights near the islands “dangerous and irresponsible” and asserted “the recent surveillance activity by a U.S. plane posed potential threats to China’s islands and reefs, making it highly possible to lead to misjudgment, which could cause maritime or air accidents.”⁶ In the days that followed, the topic received heavy coverage in Foreign Ministry press briefings, which emphasized that China’s reclamation work is “lawful, justified, and reasonable.”⁷ Several transcripts, such as the following excerpt from June 3, convey the spokesperson’s frustration and aggravation over the issue:

*The international law has been constantly brought up by some countries when it comes to the South China Sea issue. If they did read closely the international law, then please tell us which article in the international law forbids China to carry out justified construction on its own islands and reefs? Which article allows the vessels and aircraft of one country to monitor the islands and reefs of another country at a close distance? Which article gives the green light to one country's infringement upon another country's sovereignty and legitimate rights and interests with the excuse of navigation freedom? We are against the arbitrary distortion of the international law. If it is not a practice of double standard, then it must be driven by some hidden motives.*⁸

China's envoy to the Shangri-La Dialogue, Deputy Chief of the People's Liberation Army General Staff Department Admiral Sun Jianguo, avoided commenting on the incident at the conference. Instead, he emphasized China's respect for freedom of navigation, explaining how China's land reclamation is "geared to better perform China's international responsibilities" and provides services like search and rescue, disaster prevention and relief, environmental protection, and safety of navigation.⁹

The Philippines

Several days after the incident, Philippine Secretary of National Defense Voltaire Gazmin told reporters he would speak with U.S. Secretary of Defense Ashton Carter about procuring additional military assistance for the Philippines, saying, "I will ask about the extent of the assistance they will give us, what they can do to help us because right now we are being oppressed."¹⁰ The two defense officials were already scheduled to meet at the Shangri-La Dialogue, so the extent to which the new revelations about China's land reclamation informed Secretary Gazmin's request is unclear.

Referring to the Chinese navy's communications with the P-8 crew during the May 20 flight, a Philippines Department of National Defense spokesperson said, "The incident shows the extent to which China is willing to disregard international laws and freedom of flight and navigation. It is highly regrettable that they are imposing their self-serving rules even in clearly established international airspace."¹¹

Singapore

Singaporean Prime Minister Lee Hsien Loong remarked in his keynote speech at the Shangri-La Dialogue, "Actions provoke reactions. The US is responding to Chinese activities with increased overflights and sailings near the disputed territories to signal that it will not accept unilateral assertions of sovereignty in the South China Sea. Each country feels compelled to react to what others have done in order to protect its own interests."¹²

Australia and Japan

In a speech at the Shangri-La Dialogue, Australian Minister of Defense Kevin Andrews said, "Australia has made clear its opposition to any coercive or unilateral actions to change the status quo in the South and East China Seas. This includes any large scale land reclamation activity by claimants in the South China Sea. We are particularly concerned at the prospect of militarization of artificial structures."¹³ In an interview on the sidelines of the conference, Minister Andrews noted that Australia conducts surveillance flights in the South China Sea regularly, although he did not specify whether those flights traverse airspace close to China's reclaimed islands.¹⁴

Separately, a joint statement from a United States-Japan-Australia Defense Ministers Meeting on the sidelines of the Shangri-La Dialogue notes Secretary Carter, Minister Andrews, and Japanese Defense Minister Gen Nakatani "expressed strong opposition to the use of coercion or force to alter the status quo in the East China and South China Seas unilaterally and their serious concern over Chinese land reclamation activities in the South China Sea."¹⁵

Washington's New Response to China's Land Reclamation Activities: Naming and Shaming

The decision to embed a journalist from a major U.S. news organization on the P-8 flight appeared to be part of a growing effort by the United States to impose reputational costs on China as its land reclamation activities continue unabated.

- In his keynote speech at the Shangri-La Dialogue, Secretary Carter asked for “a lasting halt” to land reclamation in the South China Sea and harshly criticized China’s land reclamation, saying, “Turning an underwater rock into an airfield simply does not afford the rights of sovereignty or permit restrictions on international air or maritime transit.” He also reaffirmed the United States’ right and intention to “fly, sail, and operate wherever international law allows.”¹⁶
- On May 12, the *Wall Street Journal* reported that Secretary Carter was contemplating sending U.S. Navy surveillance aircraft and ships within 12 nautical miles (nm) of China’s land reclamation projects,¹⁷ citing “growing momentum within the Pentagon and the White House for taking concrete steps in order to send Beijing a signal that the recent buildup in the Spratlys went too far and needed to stop.”¹⁸ At the time of this writing, the U.S. Navy does not appear to have operated within 12 nm of the reclaimed islands.
- Throughout May, the Obama Administration revealed several details related to China’s land reclamation. On May 22, the *Washington Free Beacon* reported that unnamed U.S. officials said China had attempted to electronically interfere with U.S. Global Hawk unmanned aerial vehicle (UAV) flights near the land reclamation projects.¹⁹ On May 28, the *Wall Street Journal*—citing an unnamed U.S. official—reported that U.S. surveillance imagery showed China had positioned artillery on one of the reclaimed islands.²⁰
- In addition to Secretary Carter, several other Obama Administration officials have criticized China’s land reclamation projects recently. U.S. Vice President Joseph Biden is the highest-level U.S. official to do so; in an address on May 22, he said that principles of freedom of navigation and equitable and peaceful resolution of territorial disputes “are being tested by Chinese activities in the South China Sea. They’re building airstrips... [and progressing with] the reclamation of land, which other countries are doing, but not nearly on the massive scale the Chinese are doing.”²¹ This followed a more detailed statement by Assistant Secretary of Defense for Asian and Pacific Security Affairs David Shear in his testimony to the Senate Committee on Foreign Relations on May 13, in which he outlined the military implications of China’s land reclamation:

*China’s land reclamation could enable it, if it chose, to improve its defensive and offensive capabilities, including: through the deployment of long-range radars and ISR [intelligence, surveillance, and reconnaissance] aircraft to reclaimed features; ability to berth deeper draft ships at its outposts and thus to expand its law enforcement and naval presence further south into the South China Sea; and, airstrips will provide China with a divert airfield for carrier-based aircraft, enabling China to conduct more sustained air operations. Higher end military upgrades, such as permanent basing of combat aviation regiments or placement of surface-to-air, anti-ship, and ballistic missile systems on reclaimed features, would rapidly militarize these disputed features in the South China Sea.*²²

It remains to be seen whether the Obama Administration’s recent “naming and shaming” efforts will prompt a lasting or practical shift in China’s current endeavors in the South China Sea. Regardless, Washington’s efforts can be valuable to its friends and allies in the region for two reasons: First, the United States is the only country in the region with the technological and military means to continuously observe and document the extent of China’s land reclamation in near-real time. By sharing this information, the U.S. government provides Southeast Asian policymakers and defense analysts with information they cannot acquire on their own. Second, by publicizing this information, Washington offers Southeast Asian countries a unique opportunity to collectively and publicly seize the moral high ground and coalesce around a unifying position.

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This report is the product of professional research performed by the staff of the U.S.-China Economic and Security Review Commission, and was prepared at the request of the Commission to support its deliberations. Posting of the report to the Commission's website is intended to promote greater public understanding of the issues addressed by the Commission in its ongoing assessment of U.S.-China economic relations and their implications for U.S. security, as mandated by Public Law 106-398 and Public Law 109-7. However, it does not necessarily imply an endorsement by the Commission, any individual Commissioner, or the Commission's other professional staff, of the views or conclusions expressed in this staff research report.

Endnotes

- ¹ A U.S. defense official said U.S. Navy surveillance missions over China's land reclamation projects occur on an almost-daily basis. Helene Cooper and Jane Perlez, "U.S. Flies over a Chinese Project at Sea, and Beijing Objects," *New York Times*, May 22, 2015. <http://www.nytimes.com/2015/05/23/world/asia/us-flies-over-a-chinese-project-at-sea-and-beijing-objects.html>.
- ² Mr. Sciutto reported that the U.S. Navy crew responded calmly and professionally throughout the flight. Jim Sciutto, "Behind the Scenes: A Secret Navy Flight over China's Military Buildup," CNN, May 26, 2015. <http://www.cnn.com/2015/05/26/politics/south-china-sea-navy-surveillance-plane-jim-sciutto/>.
- ³ Helene Cooper and Jane Perlez, "U.S. Flies over a Chinese Project at Sea, and Beijing Objects," *New York Times*, May 22, 2015. <http://www.nytimes.com/2015/05/23/world/asia/us-flies-over-a-chinese-project-at-sea-and-beijing-objects.html>.
- ⁴ According to U.S. Assistant Secretary of Defense for East Asian and Pacific Security Affairs David Shear, China has reclaimed 2,000 acres of land in the Spratly Islands since 2014, "more land than all other claimants combined over the history of their claims." Senate Committee on Foreign Relations, *Hearing on Safeguarding American Interests in the South and East China Seas*, testimony of David Shear, May 13, 2015.
- ⁵ U.S.-China Economic and Security Review Commission, *2014 Annual Report to Congress*, November 2014, 247–250; Jim Sciutto, CNN: *Chinese Military Confronts U.S. Spy Plane*, Television, May 21, 2015. <http://www.cnn.com/2015/05/21/opinions/rapp-hooper-china-island-building/index.html>; and Julian A. Barnes and Gordon Lubold, "U.S. Surveillance on Island in South China Sea Reveals Chinese Arms," *Wall Street Journal*, May 28, 2015. <http://www.wsj.com/articles/u-s-surveillance-on-island-reveals-chinese-arms-1432864632>.
- ⁶ Brad Lendon, "U.S. Threatens Peace in South China Sea, Beijing Says," CNN, May 22, 2015. <http://www.cnn.com/2015/05/22/politics/south-china-sea-dispute/>.
- ⁷ China's Ministry of Foreign Affairs, *Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on June 3, 2015*, June 3, 2015; China's Ministry of Foreign Affairs, *Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on May 28, 2015*, May 28, 2015.
- ⁸ China's Ministry of Foreign Affairs, *Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on June 3, 2015*, June 3, 2015. See also China's Ministry of Foreign Affairs, *Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on May 25, 2015*, May 25, 2015; China's Ministry of Foreign Affairs, *Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on May 27, 2015*, May 27, 2015; China's Ministry of Foreign Affairs, *Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on May 28, 2015*, May 28, 2015; and China's Ministry of Foreign Affairs, *Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on May 29, 2015*, May 29, 2015.
- ⁹ Sun Jianguo, "Strengthening Regional Order in the Asia-Pacific," (2015 Shangri-La Dialogue, Singapore, May 30, 2015).
- ¹⁰ Reuters, "Philippines Seeks Stronger Commitment from U.S. in South China Sea Dispute," May 25, 2015. <http://ca.reuters.com/article/topNews/idCAKBN00A0T820150525?pageNumber=1&virtualBrandChannel=0>.
- ¹¹ Jose Katigbak, "Phl, US Assert Rights, Ignore China Warning," *Philippine Star*, May 23, 2015. <http://www.philstar.com/headlines/2015/05/23/1457778/phl-us-assert-rights-ignore-china-warning>.
- ¹² Lee Hsien Loong, "Keynote Address" (2015 Shangri-La Dialogue, Singapore, May 29, 2015). <https://www.iiss.org/en/events/shangri-la-dialogue/archive/shangri-la-dialogue-2015-862b/opening-remarks-and-keynote-address-6729/keynote-address-a51f>.
- ¹³ Kevin Andrews, "114th IISS Asia Security Summit: The Shangri-La Dialogue," May 31, 2015. <http://kevinandrews.com.au/latest-news/2015/05/31/114th-iiss-asia-security-summit-the-shangri-la-dialogue/>.
- ¹⁴ David Tweed and Rosalind Mathieson, "Australia to Continue Surveillance in Disputed China Seas," Bloomberg, May 31, 2015. <http://www.bloomberg.com/news/articles/2015-05-31/australia-to-continue-south-china-sea-surveillance-says-andrews>.
- ¹⁵ Australian Ministry of Defense, *Minister for Defense – Joint Statement – Japan-US-Australia Defense Ministers Meeting*, May 30, 2015. <http://www.minister.defence.gov.au/2015/05/30/minister-for-defence-japan-us-australia-defense-ministers-meeting-joint-statement/>.
- ¹⁶ U.S. Department of Defense, *IISS Shangri-La Dialogue: 'A Regional Security Architecture Where Everyone Rises'*, May 30, 2015. <http://www.defense.gov/Speeches/Speech.aspx?SpeechID=1945>.
- ¹⁷ For the U.S. Navy to sail or fly within 12 nm of China's land reclamation projects at Mischief Reef and Subi Reef would firmly signal that the United States does not recognize them as Chinese territory under the UN Convention on the Law of the Sea (UNCLOS). UNCLOS stipulates that only a country's coastlines and islands can generate a 12 nm zone of "territorial sea" over which the country enjoys full sovereignty, but "low-tide elevations," which are submerged at high tide, may not generate a territorial sea (unless they are located within the territorial sea of another island or mainland coastline). UNCLOS further specifies that artificial islands do not have the status of UNCLOS-defined islands and thus cannot generate a territorial sea. Both Mischief Reef and Subi Reef were originally "low-tide elevations," and thus would not seem to be afforded a 12 nm territorial sea under UNCLOS. UNCLOS provides for "innocent passage" through a territorial sea, a concept enshrined in international law since the *Corfu Channel* case heard by the International Court of Justice in the 1940s. UN Convention on the Law of the Sea § Part II: Territorial Sea and Contiguous Zone (1994); UN Convention on the Law of the Sea § Part V: Exclusive Economic Zone (1994); and Gregory Poling, "Carter on the South China Sea: Committed and (Mostly) Clear," *Center for Strategic and International Studies Asia Maritime Transparency Initiative*, June 3, 2015. <http://amti.csis.org/carter-on-the-south-china-sea-committed-and-mostly-clear/>.
- ¹⁸ Adam Entous and Julian A. Barnes, "U.S. Military Proposes Challenge to China Sea Claims," *Wall Street Journal*, May 12, 2015. <http://www.wsj.com/articles/u-s-military-proposes-challenge-to-china-sea-claims-1431463920>.

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- ¹⁹ Bill Gertz, “Chinese Military Using Jamming against U.S. Drones,” *Washington Free Beacon*, May 22, 2015. <http://freebeacon.com/national-security/chinese-military-using-jamming-against-u-s-drones/>.
- ²⁰ Julian A. Barnes and Gordon Lubold, “U.S. Surveillance on Island in South China Sea Reveals Chinese Arms,” *Wall Street Journal*, May 28, 2015. <http://www.wsj.com/articles/u-s-surveillance-on-island-reveals-chinese-arms-1432864632>.
- ²¹ White House Office of the Vice President, *Commencement Address by the Vice President at the United States Naval Academy*, May 22, 2015. <https://www.whitehouse.gov/the-press-office/2015/05/22/commencement-address-vice-president-united-states-naval-academy>.
- ²² Senate Committee on Foreign Relations, *Hearing on Safeguarding American Interests in the South and East China Seas*, testimony of David Shear, May 13, 2015.