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# The South China Sea and U.S. Policy Options

Michael McDevitt

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**ABSTRACT** Since the summer of 2010, the Obama administration has clearly signaled through a combination of diplomacy and greater military presence that creating rules-based stability in the South China Sea (SCS) is an important U.S. national objective. Washington has become much more involved in the day-to-day security dynamic between China and SCS littoral states—and, while remaining neutral about the merits of respective sovereignty claims, it is not neutral about assertive behavior. This stance has brought the United States to a strategic cul-de-sac when it comes to the complex SCS issues because Washington has little-to-no direct leverage on the most important issues: sovereignty, China’s nine-dashed line, and fishing disputes. The article does allow that the administration does have some policy options that might play an important role in achieving its objective of a rules-based regime in the SCS that would eliminate tension and preserve long-term regional stability.

**KEYWORDS** nine-dashed line; Philippine legal challenge; rebalance; resources in South China Sea; South China Sea; UNCLOS; U.S. strategy in Southeast Asia

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## INTRODUCTION

The past five years have been filled with friction between China and its neighbors involving disputed sovereignty claims over islands, more properly islets in most cases, in the South China Sea (SCS). These confrontations have raised concerns throughout Southeast Asia that these events foreshadow a future in which a “risen” China is quick to “throw its weight around” the region. This is a possibility that poses a direct challenge to the central premise of U.S. policy in East Asia—namely, that the United States is a stabilizing presence in the region.

U.S. policy about the sovereignty disputes and associated issues in the SCS is clear. According to former Secretary of State Clinton:

The United States has a national interest, as every country does, in the maintenance of peace and stability, respect for international law, freedom of navigation, unimpeded lawful commerce in the South China Sea. The United States does not take a position on competing territorial claims over land features, but we believe the nations of the region should work collaboratively together to resolve disputes without coercion, without intimidation, without threats.<sup>1</sup>

While this article addresses the SCS, the current tension between China and Japan in the East China Sea illustrates how the United States, in support of a treaty ally, could become involved in a crisis with China about issues of sovereignty over small islands.<sup>2</sup> This is particularly ironic because for decades Washington has assiduously avoided becoming embroiled in any competing claims of sovereignty throughout East Asia by adhering to a position of not voicing an opinion on the merits of the sovereignty claims.

This article addresses the issues associated with the SCS and speculates on whether current policies are likely to achieve the Obama administration's objectives of a rules-based regime in the SCS that would eliminate tension and preserve long-term regional stability.

## THE POTENTIAL FOR U.S. INVOLVEMENT

The SCS is a complicated policy issue because of the overlapping sets of concerns associated with it. Sovereignty disputes in the SCS involve six countries—China, Taiwan, Vietnam, the Philippines, Malaysia, and Brunei—of which five (all but Brunei) occupy some of the islands with military or paramilitary forces. The SCS picture is further muddled because China also makes claims based on assertions of “historic waters” that are delimited by a vague dashed line with no precise coordinates on maps. Known as the “U-shaped” or “nine-dashed” line, it encompasses virtually the entire SCS. This line is the cause of significant confusion because Beijing has so far refused to define what it thinks this line means legally and because the line overlaps the legitimate exclusive economic zone (EEZ) and the continental shelf claims of the other SCS coastal states.

In April 2012, the SCS was the site of a confrontation between the Philippines and China over the uninhabitable Scarborough Shoal. This dispute has quieted down but has not yet been resolved; the dispute carries with it a possibility, admittedly slim, that the United States could become directly involved in a crisis with China because of our treaty obligations to the Philippines. In this case, the mutual defense treaty with the Philippines does not obligate Washington to take sides over the sovereignty question of Scarborough Shoal, but the treaty does include

language related to attacks on “its [the Philippines] armed forces, public vessels or aircraft in the Pacific.”<sup>3</sup> If China were to attack a Philippine naval or coast guard ship, Washington could find itself in a difficult position regarding its willingness to live up to treaty obligations and its perceived reliability as a security provider in East Asia.

Finally, an issue that is separate but related to the question of sovereignty is the major disagreement between Washington and Beijing over “freedom of navigation” in the SCS. The United States argues that China is trying to obstruct navigation. This issue has to do with what military activities are permitted in the EEZ of China, which, based on China's claims, could potentially encompass much of the SCS. Washington argues that the UN Convention on the Law of the Sea (UNCLOS) permits nations to exercise “high seas freedoms” in the EEZs of coastal states.<sup>4</sup> These “freedoms” include the right to conduct peaceful military activities, which includes, inter alia, surveillance and military surveys. China disagrees. It claims that these are “hostile” activities. This disagreement about surveillance has already caused two serious incidents: the 2001 midair collision between a U.S. Navy surveillance aircraft (EP-3) and an intercepting Chinese navy fighter, and the 2009 harassment by Chinese fishermen and paramilitary ships of USNS *Impeccable*, which was conducting undersea surveillance.<sup>5</sup>

## STRATEGIC CONTEXT

In many ways, the Obama administration has placed the SCS and Southeast Asia into a broader strategic context that involves the United States and China. Even in the earliest days of President Obama's first term, a focus on Southeast Asia was apparent. This was evidenced by Secretary Clinton's visit to the Association of Southeast Asian Nations (ASEAN) secretariat in February 2009 and Washington's accession to ASEAN's Treaty of Amity and Cooperation in 2009, which then made it possible for the United States to attend the annual heads of state meeting called the East Asian Summit (EAS). In addition, in 2009, the United States opened a mission and named an ambassador to ASEAN in Jakarta; it also held the first U.S.–ASEAN summit that year.

Secretary Clinton publicly involved the United States in South China Sea issue at the July 2010

meeting ASEAN Regional Forum (ARF) in Hanoi. She surprised China by indicating that Washington was willing to facilitate multilateral discussions on the disputed territories of the South China Sea. She also said that the United States is opposed to any use of coercion or threats of force to resolve conflicting claims. Clinton justified her statement of concern by averring that, “The United States, like every nation, has a national interest in freedom of navigation, open access to Asia’s maritime commons and respect for international law in the South China Sea.”<sup>6</sup>

*This policy step directly involved the United States in the South China Sea in a strategic rather than tactical fashion.* Not surprisingly, China was furious about Clinton’s comments, not least because previously it had succeeded in keeping the sovereignty issue off the ARF agenda and the agendas of other Asian multinational meetings. Chinese officials denounced Clinton’s efforts to “internationalize” the issue; both the Chinese foreign and defense ministries criticized her for intervening in the South China Sea dispute.<sup>7</sup>

By inserting itself more directly into SCS sovereignty issues, Washington was responding to a perceived demand signal from Vietnam and the Philippines, which were concerned about Chinese assertiveness in the SCS.<sup>8</sup> Washington was also worried about Chinese behavior following the USNS *Impeccable* incident in the spring of 2009.<sup>9</sup> The Clinton statement at the Hanoi ARF meeting accomplished two objectives. First, it reminded the participants, including China, that the United States intended to remain a serious strategic player in East Asia and that peace and stability in the SCS were U.S. interests. Second, it added one more policy landmark along the path leading to the unveiling of America’s new Asia strategy. That unveiling took place 15 months later, when Secretary Clinton provided the most comprehensive written description available about the administration’s Indo-Pacific strategy in her *Foreign Policy* article “America’s Pacific Century.”<sup>10</sup> This strategy has been characterized as the “pivot” or “rebalance” toward Asia. Her article included an integrated mix of diplomatic, economic, budgetary, and security-related initiatives. The specifics of military posture changes tended to be focused on Southeast Asia. Changes intended to significantly increase U.S. presence included rotational deployment, more

frequent port visits, and improved military-to-military engagements and training exercises with the Philippines, Vietnam, and Singapore. The rotational deployment of U.S. Marines to Darwin, Australia, also signified a desire to more widely distribute the U.S. presence in East Asia away from its Northeast Asia focal point.<sup>11</sup>

In sum, starting in the summer of 2010, the Obama administration has clearly signaled through a combination of diplomacy and greater military presence that the United States does consider creating rules-based stability in the SCS an important U.S. national objective. The United States has become much more involved in the day-to-day security dynamic between China and SCS littoral states—and, while remaining neutral about the merits of respective sovereignty claims, it is not neutral about assertive behavior.

## CHINA AND THE SOUTH CHINA SEA

China’s interests<sup>12</sup> are a complex mix of the desire to exploit the South China Sea’s natural resources (real and imagined), the wish to prove its sovereignty, and the desire to maintain its security. Sovereignty and resources are closely intertwined. Sovereignty over the land features—lands and rocks—creates the basis for claiming the resources in the water and on and below the bottom of the ocean.

Beijing claims sovereignty over all of the land features in the SCS—the Xisha (Paracel), Zhongsha (Macclesfield Bank and Scarborough Shoal), and Nansha (Spratly) islands—and maritime rights over the related waters of these island groups. China occupies the entire Paracel Island chain, having, in 1974, driven out the South Vietnamese from the westernmost islands of the Paracel archipelago. As mentioned above, as of the summer of 2012, China also exercises effective control of Scarborough Shoal.

In the Spratly chain, physical control is more mixed; some 45 to 50 of these features are occupied by the various claimants. Vietnam is far and away the largest “landholder” in the Spratlys, occupying between 21 and 25 specific features. The Philippines and Malaysia each occupy seven or eight features, China holds seven, and Taiwan (the Republic of China) holds one.<sup>13</sup>

China’s problem is that it does not occupy any of the largest islands in the Spratly group. This is an important concern for Beijing since only a handful of the 230-odd

features in the Spratly Islands would rate a 200-nautical mile EEZ under the provisions of Article 121 of UNCLOS and, as a result, be able to claim the resources within that zone. (This is addressed in greater detail below.) The three best bits of real estate are in the hands of Taiwan (Itu Aba or Taiping Island), the Philippines (Thitu Island), and Vietnam (Spratly Island).

Taiwan's holding is the best of the lot; it has its own fresh water supply and facilities for its small garrison of the Taiwan Coast Guard. During World War II, the Imperial Japanese Navy used it as bare-bones submarine base. In 2007, Taiwan completed an airfield capable of handling a C-130 transport.<sup>14</sup>

The Philippines' Thitu Island (Pagasa in Tagalog) is the administrative hub of its Spratly holdings. It, too, has a C-130-capable airfield, as well as a garrison of about 30 soldiers/marines. It has a civilian population of 300 (apparently only 200 live on the island at any one time). It has facilities for all these people, including a clinic, a school, and a municipal center.<sup>15</sup>

Spratly Island, Vietnam's largest holding, has a helicopter pad, a 700-yard air strip that can accommodate small fixed-wing propeller aircraft, and a small jetty with two piers. Energy sources include solar panels and wind turbines. A clinic, a cultural house, a meteorological station, a radio tower, and a Buddhist pagoda are also on the island.<sup>16</sup> According to a Chinese source, the Vietnamese have a garrison that houses a full 600-man battalion on Spratly.<sup>17</sup> That number seems high—but, given Vietnam's experience in 1988, when 64 of its men were gunned down by the People's Liberation Army (PLA) Navy on Johnson Reef, a substantial garrison on Spratly Island does not come as a surprise.<sup>18</sup>

The basis for China's territorial claims in the SCS is a statement that Chinese premier Zhou Enlai issued in August 1951 during the Allied peace treaty negotiations with Japan. In the statement, Zhou declared China's sovereignty over the Paracel and Spratly islands. In September 1958, China reaffirmed its claim to these islands. For the last 40 years, official government statements from Beijing about the SCS have referred to China's "indisputable sovereignty" over the islands of the SCS.<sup>19</sup>

## CHINESE BEHAVIOR

Chinese behavior in the South China Sea took a turn for the worse during 2012. China scholar Bonnie

Glaser captured this in a statement before the House Foreign Affairs Committee, "Beijing as an Emerging Power in the South China Sea." She wrote:

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. 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.<sup>20</sup>

In her statement, she also pointed out that China's claims, policies, ambitions, behavior, and capabilities are significantly different from those of other claimants:

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."<sup>21</sup>

In short, China is offering a choice. States that engage in actions directly challenging Chinese claims will be faced with demonstrations of Chinese power in all its various guises; if however, states pursue moderate policies or actually acquiesce to Chinese claims, they will reap mutually beneficial economic and political rewards.<sup>22</sup>

## CHINA AND THE NINE-DASHED LINE

One of the most confounding aspects of the SCS disputes is the existence of the so-called nine-dashed or U-shaped line that is drawn on Chinese maps and encompasses about 80 percent of the South China Sea. The line was the creation of the Republic of China (ROC) and first appeared officially on an ROC map in 1947. It has appeared on maps issued by the People's Republic of China (PRC) since 1949. Neither the ROC nor the PRC has ever defined exactly what the line was intended to indicate in terms of claims or sovereignty.<sup>23</sup> It certainly has no legal standing under UNCLOS, but, because it is not specifically

demarcated by latitude and longitude, it is not technically “illegal.” As portrayed on Chinese charts, however, it clearly infringes on the EEZs of the other claimants, as well as upon Indonesia’s EEZ around Natuna Island and its associated gas fields.

Is the nine-dashed line a claim to sovereignty over the entire sea, an indication of historic interests, or something else? Beijing has so far ignored requests to clarify this line, which is enshrined in Chinese domestic maritime policy. In 2009, China proffered it in submission to the UN Commission on the Limit of the Continental Shelf, but without an explanation of what the line is intended to indicate. This has led to speculation, some informed, some not, about what it is intended to portray.

In its 2009 submission, China did state:

China has indisputable sovereignty over the islands in the South China Sea and adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed subsoil thereof (see attached map). The above position is consistently held by the Chinese Government, and is widely known by the international community.<sup>24</sup>

The Republic of China (Taiwan), the originator of the nine-dashed line, indicates that it was an attempt, many decades before UNCLOS was created, to portray China’s “historic water limit that was under the jurisdiction of the Republic of China.”<sup>25</sup> Unfortunately for the ROC and those experts and others within China who share the “historic waters” interpretation, the Law of the Sea only recognizes historic waters in very limited circumstances, such as bays that have been historically under national jurisdiction of a specific government. A historic water claim does not apply to open ocean. International law has never recognized claims of historic waters that cover such a vast area of the high seas.<sup>26</sup> In fact, one of the objectives in negotiating a Law of the Sea convention in the first place was to eliminate vague constructs such as historic waters and develop a clear methodology for addressing maritime claims.

China’s Foreign Ministry asserts that the nine-dashed line is intended to indicate that China claims all of the islands and features within it and their associated maritime zones. This is the only interpretation that makes any legal sense. China could not possibly interpret the Law of the Sea in any way that would expand that claim to the entire oceanic area within the nine-dashed line. However, this straightforward interpretation is contradicted by other Chinese

behavior, such as cutting the cable of a Vietnamese geological survey ship that was in Vietnam’s EEZ and not in any conceivable Chinese EEZ drawn from any of the islands in the SCS.

A third interpretation of the nine-dashed line is that “China intends to claim the area within the line as an EEZ and continental shelf generated by the disputed Paracels, Spratlys, and Scarborough Shoal.”<sup>27</sup> This interpretation would make sense only if the EEZs associated with the claimed islands corresponded to the area enclosed by the nine-dashed line. They do not, and, in addition, the line severely infringes on the EEZs of the Philippines, Vietnam, and Malaysia in such a way that it would effectively usurp huge portions of these governments’ EEZs. This would be in violation of the “equidistant” provisions in UNCLOS that essentially split the difference when EEZs overlap.

A fourth interpretation has been discussed by Chinese scholars, which is essentially a roll-up of the three interpretations: first, China claims all the islands; second, it claims the EEZ and continental shelf generated by those islands; and, third, it claims “historic rights” over the waters not captured by the first two. The difference here is that “historic rights” do not equate to sovereignty, but rather mean the “right” to a share of the resources up to the nine-dashed line.<sup>28</sup> This interpretation might be characterized as the “having your cake and eating it too” option.

The relatively arcane topic of the nine-dashed line has major policy implications for two reasons: first, China has been attempting to stop resource exploration/exploitation by any of the coastal states in those areas that are inside both the nine-dashed line and the legitimate EEZ of one or another of the coastal states. Not only does this directly challenge the rules-based regime that the United States and its friends and allies want to put in place, it also runs the risk of triggering a conflict; second, the existence of the nine-dashed line creates an uncertainty that undercuts the willingness of the claimants to make coproduction deals with Beijing and undercuts the willingness of oil and gas firms to invest capital in developing SCS hydrocarbon resources.<sup>29</sup>

## THE ENERGY ISSUE

The prospect of vast energy resources has raised the stakes regarding sovereignty over otherwise inconsequential islets and features in the South China

Sea. The Brookings Institution's Dr. Erica Downs, one of America's leading experts on the issue of resources, has stated:

Nobody knows how much oil is in the South China Sea because it has not been fully explored. Not surprisingly, estimates of the region's resource potential vary, as they do for the East China Sea, as well. The key question then becomes whether the Chinese government views the South and East China Seas as potentially having enough oil to substantially reduce China's dependence on imported oil. There's no shortage of Chinese press reports referring to the SCS as China's "Persian Gulf." However, the views espoused by Chinese reporters and their interviewees may not be the same as those of Chinese officials. It's also worth noting that CNOOC (China National Offshore Oil Company) believes that deep-water SCS has enormous potential.<sup>30</sup>

Estimates of the scale of these resources vary wildly, especially for the South China Sea. In a recent development, the U.S.-based Energy Information Administration issued a report that throws cold water on the possibilities of huge discoveries. They had this to say about the Spratly Islands:

EIA estimates the region around the Spratly Islands to have virtually no proved or probable oil reserves. Industry sources suggest less than 100 billion cubic feet (Bcf) in currently economically viable natural gas reserves exist in surrounding fields. However, the Spratly Island territory may contain significant deposits of undiscovered hydrocarbons. USGS assessments estimate anywhere between 0.8 and 5.4 (mean 2.5) billion barrels of oil and between 7.6 and 55.1 (mean 25.5) Tcf of natural gas in undiscovered resources.

Evidence suggests that most of these resources are likely located in the contested Reed Bank at the northeast end of the Spratlys, which is claimed by China, Taiwan, and Vietnam. The Philippines began exploring the area in 1970 and discovered natural gas in 1976. U.S.-based Sterling Energy won the concession in 2002, and U.K.-based Forum Energy acquired the concession in 2005 and became its operator. However, Chinese objections halted further development, and the concession remains undeveloped.

Despite this uncertainty, China is betting that a lot of oil is there to be recovered. China's CNOOC has backed its beliefs on finding significant reserves of deep-water South China Sea oil by constructing China's first deep-water offshore oil rig at a cost of \$923 million. It is part of a \$2.3 billion CNOOC effort to construct a comprehensive deep-sea drilling system.<sup>31</sup> Known as CNOOC 981, this enormous (31,000-ton) rig is capable of undertaking offshore operations at a maximum water depth of 3,000 meters

(prior to its construction, China could drill no deeper than 500 meters).<sup>32</sup>

## CHINESE SECURITY PERSPECTIVES

For China, security along its maritime frontier has been a 150-year-old concern dating from at least 1842, when the Treaty of Nanking ended the First Opium War.<sup>33</sup> This three-year conflict with Great Britain exposed imperial China's military weakness to attacks from the sea and ushered in the so-called century of humiliation by triggering a sequence of military and diplomatic humiliations perpetrated by Westerners and the Japanese that came primarily *from the sea*.<sup>34</sup>

Today, China's concerns about security on its maritime approaches are based on four primary factors: (1) China's economic center of gravity is its eastern seaboard, which makes it vulnerable to attack from the sea; (2) the need to prevent Taiwan's independence and, if necessary, to deter or defeat an approaching U.S. Navy relief force if China elects to attack Taiwan; (3) the historically novel situation for China in which international seaborne trade is the driver of China's economic growth, including the fact that China's economic development is increasingly dependent on oil and natural gas delivered by ships; and, finally, (4) China's global economic interests have translated into global political interests that can often best be reinforced by a navy capable of sustained global operations.<sup>35</sup>

The importance of maritime-related security issues was highlighted in the December 2004 Chinese Defense White Paper, which explicitly lays out its ambitions for the PLA Navy, Air Force, and Second Artillery:

While continuing to attach importance to the building of the Army, the PLA gives priority to the building of the Navy, Air Force and Second Artillery force to seek balanced development of the combat force structure, *in order to strengthen the capabilities for winning both command of the sea and command of the air, and conducting strategic counter strikes* [emphasis added].<sup>36</sup>

For any Asia security analyst, an explicit requirement in an official document to win "command of the sea" raises the immediate question of how much of the sea, and at what distance from the mainland of China, does the PLA wish to command? No official statement has been published in open-source material that would clarify this point. However, it seems that, for

the moment, China's vision of command or control of the seas is closely related to the ability to provide land-based air cover out to about 300 nm from its coast—that being the operational radius of its fighter aircraft.<sup>37</sup>

With this distance as a template, the PLA, in times of conflict, is required to “control” the Yellow Sea, much of the East China Sea (at least up to the 100-fathom curve), the Taiwan Strait, the Tonkin Gulf, and, using an airfield in the Paracels, much of the South China Sea. In other words, the “sea control area” encompasses China's EEZ and generally follows the contour of the so-called first island chain that stretches southeast from Japan through the Ryukyus, Taiwan, and the South China Sea—the area China considers its “near seas.”<sup>38</sup> When the PLA Navy's new aircraft carrier, *Liaoning*, eventually reaches full operational capability, it should be able to provide air cover throughout the southern portion of the SCS, specifically the Spratlys.<sup>39</sup>

Controlling the SCS is particularly important because, as a “near sea,” it is both a security buffer for South China and the vital commercial route for Chinese trade, including 80 percent of its oil imports. Whether it is a “core interest,” like Taiwan or Tibet, was a hotly debated topic in 2010, after a *New York Times* report asserted that China had made this statement in a meeting with a senior U.S. government official. Although the article triggered considerable interest among American China specialists, no evidence was uncovered of this apparent expansion of China's vital interests to include the SCS.<sup>40</sup> Nonetheless, whether or not China officially includes the SCS in its formulations of “core interest,” its actions suggest that “control” of the SCS is high on its list of national interests.

In sum, from a strategic security perspective, China has three interests in the South China Sea: its desire to protect its territory and its economic center of gravity from attack from the sea; the imperative to ensure that its seaborne raw materials from the Indian Ocean region cannot be interdicted; and the glittering economic-strategic prospect that it could greatly reduce its dependence on oil and natural gas that must travel through two problematic choke-points (Straits of Hormuz and Malacca) by laying claim to and exploiting the resources of the South China Sea. Arguably, one of China's key strategic objectives is to reduce its dependency on African

and Persian Gulf oil (i.e., its so-called Malacca Dilemma). If it turns out that oil reserves match the most optimistic predictions and China is able to resolve the sovereignty disputes with its neighbors in its favor, this strategic objective will become a reality—solving the Malacca Dilemma once and for all. When viewed from this perspective, China's willingness to worry many of its neighbors, and perhaps sacrifice the goodwill developed through years of careful “peaceful development” diplomacy, by becoming increasingly assertive in its approach to sovereignty and the concomitant resource issues in the SCS is not difficult to understand.

## ASEAN AND THE SOUTH CHINA SEA

The states of Southeast Asia have a fundamental interest in freedom of navigation, the unimpeded flow of commerce, and the maintenance of a balance of power in the South China Sea. Individual members of ASEAN, however, have stressed different priorities when confronted with the necessity of choosing between close relations with China and the defense of their interests in the South China Sea.

Southeast Asian nations can be broadly divided into three camps on the issue of the SCS: those on the front lines of the sovereignty issue, especially Vietnam and the Philippines; those with significant interests in the outcome of the territorial disagreement (specifically, Indonesia, Malaysia, Singapore, and Brunei); and those inclined to accommodate China, including Cambodia, Laos, Myanmar, and Thailand. This division was on full display at the July 2012 annual ASEAN Foreign Ministers meeting in Phnom Penh, Cambodia. Pressure from China on the 2012 ASEAN chair, Cambodia, created disarray in what traditionally has been a consensus-based organization.<sup>41</sup> As a result, a communiqué that was intended to address the issue of the SCS was blocked by China.<sup>42</sup>

This split was on display again at the November 2012 East Asia Summit, which President Obama attended. The result of the summit was a split between the six countries (the Philippines, Indonesia, Malaysia, Singapore, Vietnam, and Brunei) that favored broader discussion of the SCS and the four (Cambodia, Laos, Myanmar, and Thailand) that did not; this effectively prevented ASEAN from developing a louder, clearer voice in negotiating with China as a single bloc.<sup>43</sup>

With respect to the SCS, the two most important ASEAN states are the Philippines and Vietnam. Not only do they have the most expansive claims disputes with China, but their claims also overlap with each other's and have yet to be reconciled. Both countries have been involved in skirmishes with Chinese maritime law enforcement forces.<sup>44</sup>

The Philippines has been particularly proactive within ASEAN, pushing for ASEAN specifically to find fault with China's hard-nosed approach and unwillingness to participate in multilateral dialogue aimed at resolution. Alone of all the claimants, Manila floated an ambitious proposal aimed at actually solving rather than just managing tensions. The idea was to transform the disputed area of the SCS into a "Zone of Peace, Freedom, Friendship and Cooperation" (ZoPFFC). Despite its awkward name, the proposal did have merit, but Beijing derided the concept as a "trick" and ASEAN showed little enthusiasm for backing the idea.<sup>45</sup>

Nevertheless, Southeast Asian concern is rising over the long-term geostrategic implications of China's recent behavior. As a result, many Southeast Asian countries have a more positive view of the U.S. rebalance strategy than they otherwise might have, given the important economic and trade relations that all ASEAN states have with China.<sup>46</sup>

Accordingly, each ASEAN member works carefully to hedge its relationships between Beijing and Washington. In April 2012, for instance, Thailand elevated its bilateral relationship with China to "strategic partnership," and, in July, it dispatched a senior military delegation to visit China. Vietnam, as a frontline state in the SCS disputes, has been careful to avoid making its relationship with China any worse and has seemingly "walled off" its SCS disputes from broader Sino-Vietnam relations. It continues to strictly ration U.S. Navy port calls to Cam Ranh Bay, while, at the same time, building up its own maritime defenses.<sup>47</sup>

Malaysia and Indonesia have also been careful to balance their engagements with Washington and Beijing. Malaysia held its first bilateral "defense and security consultation" with China in September 2012 and agreed to strengthen military exchanges and cooperation. Jakarta, for its part, values its "comprehensive partnership" with Washington but also emphasizes developing good defense relations with China. In August 2012, an agreement was reached

with China that permitted Indonesia to produce China's C-705 antiship cruise missile under license.<sup>48</sup>

Singapore plays an important role in enabling Washington's rebalance strategy by permitting four U.S. Navy warships to be rotationally stationed in Singapore. This provides the United States easy naval access to the SCS and suggests that a more or less permanent U.S. naval presence in the SCS is likely to begin over the next two years. That said, Singapore is very careful to remain neutral between China and the United States; it rationalizes its two-decades-old security relationship with the United States as a hedge against its neighbors, many of whom are of the Malay culture, and consistently maintains that the relationship is not to keep China contained.<sup>49</sup>

The Philippines has warmly embraced the rebalance strategy—it has had to. The April 2012 standoff with China over Scarborough Shoal highlighted the fact that it is virtually defenseless at sea. That nation cannot afford a major increase in defense expenditures. Since that time, Manila has agreed to measures that will result in stronger and closer cooperation with the U.S. military. Periodic presence of U.S. naval and air resources, which has been steadily increasing over the past 24 months, will continue. Particularly important to both parties will be increased access to the former Cubi Point Naval Air Station in Subic Bay, which will facilitate aerial reconnaissance over the SCS. According to a *Voice of America* article, Philippine officials are willing to risk political blowback about an increased U.S. presence because they want the country "to be in a better position to defend its claims in the SCS."<sup>50</sup>

Finally, Southeast Asians are acutely aware of how U.S. diplomatic and security interests in Southeast Asia have waxed and waned over the past 50 years. During the Vietnam War era, the question of whether the United States had "vital" interests in Southeast Asia was debated endlessly. Was the region itself strategically important to the United States or was communist expansion the real issue? If Southeast Asia just happened to be the locale for a fight against communism, the region itself was not intrinsically a "vital" interest.<sup>51</sup>

A retrospective examination of U.S. policy and strategy from 1975 through the start of the twenty-first century suggests the latter: Southeast Asia was a region that was important, but not vitally so. Other than worries about terrorists, it was mostly ignored

during the eight years of the Bush administration. In fact, this neglect is something that Obama's rebalance strategy intends to redress. What is unclear is whether the Obama administration has concluded that Southeast Asia and the SCS are intrinsically vital; what is clear is that they are a testing ground for the efficacy of the administration's desired rules-based regional order.

## UNCLOS AND THE SCS

No background discussion of the South China Sea would be complete without addressing the central role of UNCLOS. According to UNCLOS, at a minimum, any sovereign feature above water at high tide is surrounded by a 12-nautical-mile water column, known as its territorial sea, which endows the state possessing sovereignty with the resources within its territorial sea. UNCLOS also created a new maritime right: the right for the state with sovereignty to possess the economic resources of the ocean beyond the 12-mile territorial sea. Known as an exclusive economic zone, or EEZ, it stretches 200 nautical miles beyond the 12-mile territorial sea. Not every sovereign dot of land is entitled to a 200-nautical-mile EEZ, however.

According to article 121.3 of UNCLOS, only islands—as distinguished from rocks, shoals, banks, and other features—rate an EEZ. To be an island, a feature must meet two criteria: it must be above water at high tide, and it must be capable of sustaining human life and economic activity on its own. This second provision is ambiguous; it is not entirely clear whether effective occupation or continuous administration and control meet the definition of sustaining human life and economic activity. At issue is whether “islands” that have garrisons, permanent shelter, and other facilities, including desalinization plants to provide fresh water, satisfy the UNCLOS criterion of “sustaining human life and economic activity on its own.”<sup>52</sup>

What does seem clear is that the various claimants do believe that many of the Spratly Islands would meet UNCLOS criteria that would, in turn, justify a 200-nm EEZ or, for that matter, a continental shelf; otherwise, they would not be investing the time and resources necessary to support garrisons and population centers on “islands” that do not have a permanent water supply.

In a perfect world, all the claimants would ask the International Tribunal for the Law of the Sea (ITLOS), which sits in Hamburg, Germany, if any of the Spratlys would justify an EEZ. If none did, that would greatly simplify eventual maritime delimitations. The possibility of all the claimants agreeing to such a course of action is extremely slim. Certainly from China's point of view, such a course of action could result in its having to surrender or share the resources it covets in the Spratlys. Further, by simply making such a request, it would run the risk of legitimizing the sovereignty claims of Vietnam, the Philippines, and Malaysia.<sup>53</sup>

The United States must ratify UNCLOS if it hopes to be a more credible player in preserving stability in the SCS. Whether the United States likes it or not, UNCLOS embodies customary international law. Ratification would increase the legitimacy of U.S. efforts to pursue a rules-based approach to managing and resolving disputes over maritime jurisdiction and would further enhance the image of the United States among many states in East Asia (i.e., it would show that “we play by the same set of international rules as they do”).

## IMPLICATIONS FOR U.S. POLICY

The policy challenge in the region for the United States is complex because only one aspect of the South China Sea set of issues is a direct bilateral Sino–U.S. security issue—the question of military operations in China's EEZ. Yet, collectively, the unsettled situation in the SCS implicitly brings attention to the future role of the United States in the region. Washington directly involved itself in the fall of 2010 in Hanoi and now, whether it likes it or not, has “skin in the game.” The United States must be involved if for no other reason than the central premise of its rebalance strategy rests on a foundation of ensuring that common legally based standards of behavior are followed throughout the region.

Thomas Donilon, President Obama's national security adviser, put it succinctly in the *Financial Times*:

Security in the region requires that international law and norms be respected, that commerce and freedom of navigation are not impeded, that emerging powers build trust with their neighbors, and that disagreements are resolved peacefully without threats or coercion.<sup>54</sup>

The question is now that it is more deeply involved, what can Washington do to improve the situation? By becoming more involved, the United States has also indirectly linked the credibility of its rebalance strategy for Asia to a successful (i.e., peaceful) rules-based resolution of disputes in the SCS. Given that success hinges on the willingness (very unlikely) of the Chinese to compromise on sovereignty and its interpretation of UNCLOS rules of behavior, one can only conclude that Washington saw an opportunity to exploit Beijing's heavy-handedness, and demonstrate that Washington was still a force in East Asia, by joining with the maritime states of ASEAN in pushing back against Beijing's SCS policies. The trouble is that this seems to have placed the United States in a strategic cul-de-sac in relation to the complex issues associated with the SCS because Washington has little to no direct leverage on the most important SCS issues: sovereignty, the nine-dashed line, and fishing.

## POLICY APPROACHES

The United States could work to reduce the risk of escalation. This could involve direct U.S. mediation—for example, active involvement in trying to reconcile the competing claims of the Philippines, Vietnam, and Malaysia. By negotiating a resolution to these differences, the United States would set a positive example for subsequent resolution with China, make it easier for ASEAN to speak with one voice to China, and create useful legal precedents that could more broadly apply to other maritime disputes in East Asia.

Washington could also try to ease away from central involvement by making a serious effort to persuade a regional power such as Indonesia to take the lead, while at the same time indicating to Beijing that the Sino–U.S. relationship is more important to Washington over the long run than becoming involved in SCS territorial disputes. Washington could also make clear that such a policy is not offering a “green light” for Beijing to use force but is merely a statement of the obvious fact that the United States has no important interests at stake so long as high seas freedoms are respected. This approach seems unlikely.

Finally, while making no changes in official U.S. policy, Washington could become more explicit about its views. For example, the State Department could

issue a White Paper that spelled out what U.S. experts considered to be claims in the SCS that are beyond the writ of UNCLOS and general international law. Such a paper would address in very explicit terms what base-lines are considered excessive, what islands or islets qualify for an EEZ, and what the United States means by “freedom of navigation.” Even though the United States has not ratified UNCLOS, it can still read and interpret international maritime law.

In this regard, the January 2013 action by the government of the Philippines in taking “China to court” is very important. The Philippines has filed with the ITLOS tribunal a pleading that challenges China's claim to sovereign rights, including to all resources and navigational rights, within the maritime space encompassed by the nine-dashed line that appears on its official maps. The submission asserts that China has interfered unlawfully with the exercise of Philippine sovereign rights within its 200 nautical mile EEZ—illegal activities that have escalated since 2012. The Philippines requests ITLOS to issue a finding that, *inter alia*, declares China's maritime claims based on its nine-dashed line to be contrary to UNCLOS and therefore invalid; requires China to bring its domestic legislation into conformity with UNCLOS; declares China's occupation of certain reefs to be illegal and a violation of Philippine sovereign rights; declares that China has unlawfully claimed maritime entitlements beyond 12 nautical miles from certain features (including Scarborough Shoal); and requires China to desist from unlawful activities in the Philippines' EEZ, including exploiting living and nonliving resources.

This effort is not as quixotic as it might first appear. Legal scholars, including Singapore-based Robert Beckman, think the tribunal could find in the Philippines' favor.<sup>55</sup>

## CONCLUSION

Over the past four years, the Obama administration has invested more American diplomatic, economic, and security efforts in Southeast Asia than at any time since the end of the Vietnam War. The focus on Southeast Asia, especially the SCS littoral, was driven, in part, by the administration's desire to contrast with the Bush administration and by President Obama's own personal ties to the region. However, a major motivation was the desire to demonstrate that the

United States was not a declining power inexorably being supplanted by China.

A number of respected Southeast Asian scholars, Marvin Ott<sup>56</sup> among them, argued that China had been “eating the U.S. lunch” in Southeast Asia. Whether true or not, it was a widely shared perception among Southeast Asian elites—one that was reinforced in early 2009 when Beijing apparently decided to make the new Obama administration aware of China’s unhappiness with U.S. reconnaissance missions in its EEZ. Between March and May, Washington was presented with a series of aggressive Chinese actions against two civilian-manned U.S. Navy ocean surveillance ships (USNS *Impeccable* in the South China Sea and USNS *Victorious* in the Yellow Sea) operating in international waters but within China’s EEZ. No one knows why China decided to press its position on the EEZ in such an aggressive fashion—perhaps it was an attempt to create a “new normal” with a new administration.

Chinese behavior did, in effect, trigger a train of U.S. initiatives that have created a “new normal,” but not the one that Beijing may have hoped for. In this new normal, the United States is much more deeply engaged in security relations with all the ASEAN claimants to features in the SCS, as well as more active in encouraging ASEAN to press for a collaborative resolution to SCS disputes.

In the realm of security cooperation with individual claimants, underwriting a Philippine military and a naval modernization program adequate to deter Chinese assertiveness would be a generational effort with only a modest prospect of success. Given what appears to be the legally questionable basis for the Philippines’ claims in and to the Spratlys, agreeing that the U.S.-Philippines Mutual Defense Treaty embraces territory claimed by the Philippines in the SCS would be a very risky attempt at deterrence.

Vietnam has already begun an effort, largely supported and supplied by Russia, to defend its maritime approaches and territory.<sup>57</sup> Perhaps U.S. assistance in organizing its command and control of its new capabilities would be useful, as would U.S.-supplied real-time surveillance of its maritime areas of interest. If Vietnamese plans all come to fruition and the country is able to knit its new capabilities together and combine them to achieve effective maritime surveillance, then in a few years Vietnam could have in place an effective way to forestall a replay

in the Spratlys of Beijing’s seizure of the Parcel Islands in 1975.

The previous section suggested policy approaches that could provide Washington with increased leverage. Specifically, playing a role in reconciling the overlapping claims of Vietnam, the Philippines, and Malaysia would simplify the sovereignty question and provide a salutary example to China. Making U.S. views known about China’s dubious interpretations of UNCLOS and pointing a public spotlight on the legal absurdity of the nine-dashed line could be important steps in demonstrating America’s leadership to friends and allies in Asia and might potentially cause Beijing to bring its application of UNCLOS more into line with commonly accepted international law.

Taking these steps would not be risk-free in terms of damage to the overall Sino–U.S. relationship, and carefully assessing those risks would be necessary. Nevertheless, given that extant U.S. policy has deeply involved the United States in SCS disputes with no appreciable impact on either Chinese behavior or progress toward a diplomatic resolution, these additional initiatives do merit consideration.

## Notes

1. Hillary Clinton, “Remarks with Indonesian Foreign Minister Raden Mohammad Marty Muliana Natalegawa,” September 3, 2012, <http://www.state.gov/secretary/rm/2012/09/197279.htm>.
2. In addition to Taiwan, the Senkaku/Diaoyu Islands in the East China Sea represent the other area where the United States and China could come into conflict, because the U.S.–Japan Security Alliance covers territory under Japanese administrative control—as these islands are. Thus, if China elected to use force against Japan over these islands, the United States could very well become directly involved. See Michael A. McDevitt et al., “The Long Littoral Project: East China and Yellow Seas—A Maritime Perspective on Indo-Pacific Security,” CNA Analysis and Solutions, September 2012, <http://www.cna.org/sites/default/files/research/iop-2012-u-002207-final.pdf>.
3. Mutual Defense Treaty between the United States and the Republic of the Philippines, August 30, 1951, [http://avalon.law.yale.edu/20th\\_century/phil001.asp](http://avalon.law.yale.edu/20th_century/phil001.asp).
4. The United States has yet to ratify this but nonetheless observes.
5. The United States has yet to ratify the UN Law of the Sea but has followed its guidelines faithfully since the Reagan administration.
6. Secretary of State Hillary Clinton, remarks at press availability, July 23, 2010, Hanoi, Vietnam, <http://www.state.gov/secretary/rm/2010/07/145095.htm>.

7. Gordon Chang, "Hillary Clinton Changes America's China Policy: The Secretary of State Pulls a 180 on Beijing," *Forbes*, July 28, 2010, <http://www.forbes.com/2010/07/28/china-beijing-asia-hillary-clinton-opinions-columnists-gordon-g-chang.html>.
8. The best analysis of Chinese assertiveness in 2009–2011 was done by Dr. Michael Swaine of the Carnegie Endowment and Dr. M. Taylor Fravel of MIT. See Michael D. Swaine and M. Taylor Fravel, "China's Assertive Behavior: Part Two: The Maritime Periphery," *China Leadership Monitor* 35 (Summer 2011), <http://www.hoover.org/publications/china-leadership-monitor/8146>.
9. The incident took place 75 miles south of the island of Hainan in China's EEZ and was due to different interpretations of international law. But, more fundamentally, it underscored the lack of transparency and trust in the U.S.–China relationship. For a view that takes issue with the official U.S. position, see Mark Valencia, "The Impeccable Incident: Truth or Consequences," *China Security* 5, no. 2 (Spring 2009): 22–28. Valencia is the de facto "godfather" of work that considered the SCS a serious flashpoint. See <http://www.chinasecurity.us/pdfs/Valencia.pdf>. For a more legally accurate view, see Peter Dutton, "Three Disputes and Three Objectives: China and the South China Sea," *Naval War College Review* 64, no. 4 (Autumn 2011): 54–55.
10. Hillary Clinton, "America's Pacific Century," *Foreign Policy* (November 2011), [www.foreignpolicy.com/articles/2011/10/11/americas\\_pacific\\_century](http://www.foreignpolicy.com/articles/2011/10/11/americas_pacific_century).
11. During his November 2011 trip to Asia, President Obama announced the establishment of a U.S. Marine Corps presence in Australia. Today, that presence is only 250 strong, but it is planned to grow to 2,500—a full Marine Expeditionary Unit (MEU). This is likely to trigger an increase in the number of amphibious ships based permanently in the Western Pacific so that these Marines will have the lift necessary to be employed within the region. The Obama announcement built on the announcement that then–Secretary of Defense Robert Gates made earlier in 2011 at the Shangri-La Dialogue in Singapore that several of the U.S. Navy's newest surface combatants, known as the Littoral Combat Ships (LCSs), would be permanently stationed in Singapore. Finally, the idea of reestablishing some sort of rotation presence in the Philippines was also addressed by the U.S. Navy Chief of Naval Operations. Collectively, these posture announcements were intended to signal that the rebalance strategy includes expanding U.S. presence in Southeast Asia—which, in terms of U.S. presence, had been neglected when compared with Northeast Asia.
12. Among serious China scholars, Dr. M. Taylor Fravel's book, *Strong Borders, Secure Nation: Cooperation and Conflict in China's Territorial Disputes* (Princeton, NJ: Princeton University Press, 2008) is recognized as authoritative, and his recent article "China's Strategy in the South China Sea," in *Contemporary Southeast Asia* 33 (2011): 292–320, sets the standard for assessing China's positions on the South China Sea.
13. CIA map in CNA Library Reserves, D0026371.A1, December 2011.
14. Taiping Island, [http://en.wikipedia.org/wiki/Taiping\\_Island](http://en.wikipedia.org/wiki/Taiping_Island).
15. Thitu Island, [http://en.wikipedia.org/wiki/Thitu\\_Island](http://en.wikipedia.org/wiki/Thitu_Island); The Philippines and the Spratly Islands, [http://www.fitnesscenter.ekoregion.biz/pl/?fitness=Philippines\\_and\\_the\\_Spratly\\_Islands](http://www.fitnesscenter.ekoregion.biz/pl/?fitness=Philippines_and_the_Spratly_Islands) and <http://mabuhaycity.com/photoplog/image-pag-asa-island-spratlys-photos-images-3740/>.
16. See, for example, *Bằng Chứng Lịch Sử Và Cơ Sở Pháp Lý: Hoàng Sa, Trường Sa Là Của Việt Nam* [Historical Proof and Legal Basis: Parcel and Spratly Islands Belong to Vietnam] (Ho Chi Minh City: Youth Publishing House, 2011).
17. Yu Xiaodong and Han Yong, "Looking Forward: China Endeavors to Increase Its Civil Presence in the Nansha (Spratly) Islands to Bolster Its Territorial Claims," <http://www.newschinamag.com/magazine/looking-forward>.
18. For a video of the PLA mowing down unarmed Vietnamese, see [http://www.youtube.com/watch?v=F\\_iTs8XYhp8](http://www.youtube.com/watch?v=F_iTs8XYhp8).
19. Fravel, "China's Strategy in the South China Sea," 293.
20. Bonnie Glaser, Statement before the House Foreign Affairs Committee, "Beijing as an Emerging Power in the South China Sea," September 12, 2012, <http://csis.org/testimony/beijing-emerging-power-south-china-sea>.
21. *Ibid.*
22. This interpretation is based on Robert Sutter and Chin-hao Hunag, "China Muscles Opponents on South China Sea," *Comparative Connections: A Triannual E-Journal on East Asian Bilateral Relations* 14, no. 2 (September 2012): 62–63. See <http://csis.org/program/comparative-connections>.
23. Fravel, "China's Strategy in the South China Sea," 295.
24. The map that was attached did include the nine-dashed line without demarcation. *Note verbale* from PRC Permanent Mission to the UN, to UN Secretary General, May 7, 2009, [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/vnm37\\_09/chn\\_2009re\\_vnm.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/chn_2009re_vnm.pdf).
25. Hong Nong, "Interpreting the U-shape Line in the South China Sea," *China US Focus*, May 15, 2012, [rehttp://www.chinausfocus.com/print/?id=15964](http://www.chinausfocus.com/print/?id=15964).
26. Conversation and e-mail exchange with maritime law expert, Captain Mark Rosen, USN, JAG Corps, retired.
27. Doung Danh Huy, "China's U-shaped Line in the South China Sea," *Asia Sentinel*, September 19, 2012, [http://asiacentinel.com/index.php?option=com\\_content&task=view&id=4833&Itemid=188](http://asiacentinel.com/index.php?option=com_content&task=view&id=4833&Itemid=188).
28. *Ibid.*, 4.
29. For a complete discussion of the range of tools that China employs to intimidate and discourage economic activity inside the nine-dashed line, see Fravel, "China's Strategy in the South China Sea," 299–310.
30. Erica S. Downs, Fellow, Foreign Policy, John L. Thornton China Center, Brookings Institution, personal e-mail to the author.
31. <http://www.globaltimes.cn/NEWS/tabid/99/articleType/ArticleView/articleId/666298/Deep-ambitions.aspx>.
32. *Ibid.*
33. The most recent and extremely well-documented history that addresses this is by the English China scholar Robert Bickers in *The Scramble for China: Foreign Devils in the Qing Empire, 1832–1914* (New York: Penguin Books, 2012).
34. *Ibid.*
35. Michael McDevitt, "The PLA Navy's Anti-Access Role in a Taiwan Contingency," in *The Chinese Navy: Expanding Capabilities, Evolving Roles*, ed. Philip Saunders et al., 199 (Washington, DC: NDU Press, 2011), <http://www.ndu.edu/press/lib/pdf/books/chinese-navy.pdf>.
36. PRC Defense White Paper, December 2004, Information Office of the State Council of the PRC, December 2004, Beijing, <http://english.people.com.cn/whitepaper/defense2004>.

37. Personal conversations conducted over the past eight years between Rear Admiral Michael McDevitt, USN (Ret.), and Chinese interlocutors in both China and the United States.
38. For a brief discussion of China's near seas, Andrew Erickson and Gabe Collins, "Near Seas Anti-Navy Capabilities, Not Nascent Blue Water Fleet Constitute China's Core Challenge to U.S. and Regional Militaries," China Sign post, and e-journal, March 2012, <http://www.chinasignpost.com/2012/03/near-seas-%E2%80%9Canti-navy%E2%80%9D-capabilities-not-nascent-blue-water-fleet-constitute-china%E2%80%99s-core-challenge-to-u-s-and-regional-militaries>. For a longer analysis, see Nan Li, "The Evolution of China's Naval Strategy and Capabilities: From Near Coast and Near Sea to Far Seas," in *The Chinese Navy: Expanding Capabilities, Evolving Roles*, ed. Philip Saunders et al. (Washington, DC: NDU Press, 2011), <http://www.ndu.edu/press/lib/pdf/books/chinese-navy.pdf>.
39. For a quick overview, see Bernard Cole, "China's Carrier: The Basics," U.S. Naval Institute, <http://news.usni.org/news-analysis/news/chinas-carrier-basics>.
40. Fravel, "China's Strategy in the South China Sea," 296.
41. There are a number of excellent scholars in Singapore and Australia who closely follow and write about Southeast Asian perspectives on the territorial and associated resource exploitation disputes in the South China Sea. One of the best is Dr. Ian Storey. He is a fellow at the Institute of Southeast Asian Studies (ISEAS), Singapore. His recent article, "China Pushes on the South China Sea, ASEAN Unity Collapses," captures well the current state of ASEAN disarray occasioned by each member's own relationship with Beijing and the wide variety of interests associated with the SCS. See [http://www.jamestown.org/single/?no\\_cache=1&tx\\_ttnews%5Btt\\_news%5D=39728](http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=39728).
42. Prah Chan Thul and Stuart Grudgings, "SE Asia Meeting Disarray over Sea Dispute with China," Reuters, <http://www.reuters.com/article/2012/07/13/us-asean-summit-idUSBRE86C0BD20120713>.
43. Natasha Bererton-Fukui, "Sea Tensions Erupt at Asian Summit," *Wall Street Journal*, November 20, 2012.
44. IGC Report, *Stirring Up the South China Sea (II): Regional Responses*, International Crisis Group, Asia Report 229, July 24, 2012, 2–10, <http://www.crisisgroup.org/en/regions/asia/north-east-asia/china/229-stirring-up-the-south-china-sea-ii-regional-responses.aspx>.
45. Ian Storey, "ASEAN and the South China Sea: Movement in Lieu of Progress," *The Jamestown Foundation China Brief* XII, no. 9 (April 27, 2012): 10.
46. "The US Rebalance: Potential and Limits in Southeast Asia," *Strategic Comments* 18, comment 49 (December 2012): 1–4, <http://www.iiss.org/publications/strategic-comments/past-issues/volume-18-2012/december/>.
47. *Ibid.*, 3.
48. *Ibid.*
49. As former Singapore Prime Minister Lee Kwan Yu famously put it in his memoirs, "Singapore is a Chinese island in a Malay Sea." See Lee Kwan Yu, *From Third World to First: The Singapore Story 1965–2000* (Singapore: Times Media, 2000), 25.
50. Simone Orendain, "Philippines Readies for Increased US Presence," December 12, 2012, [www.voanews.com/articelprintview/1563453.html](http://www.voanews.com/articelprintview/1563453.html).
51. For a more extended discussion of the point, see Michael McDevitt, "U.S. Strategy in the Asia Pacific Region: Southeast Asia," in *US Strategy in the Asia-Pacific Region*, ed. Wilson Lee, Robert Hathaway, and William Wise (Washington, DC: Woodrow Wilson International Center for Scholars Asia Program, 2003), 40–53.
52. [http://www.un.org/depts/los/convention\\_agreements/texts/unclos/part8.htm](http://www.un.org/depts/los/convention_agreements/texts/unclos/part8.htm).
53. In addition, recent findings of the International Court of Justice in a dispute between Ukraine and Romania pertaining to Serpent Island and the very recent International Tribunal for the Law of the Sea (ITLOS) case between Myanmar and Bangladesh suggest that courts are unwilling to liberally apply Article 121—particularly when it results in an abridgement of the rights of a continental state to have a full EEZ or continental shelf.
54. Tom Donilon, "America Is Back in the Pacific and Will Uphold the Rules," *Financial Times*, November 27, 2011, <http://www.ft.com/cms/s/0/4f3febac-1716-11e1-b00e-00144feabdc0.html>.
55. <http://cil.nus.edu.sg/wp/wp-content/uploads/2013/03/Beckman-Asia-Society-LKY-SPP-March-2013-draft-of-6-March.pdf>.
56. Marvin Ott, "The Geopolitical Transformation of Southeast Asia," Foreign Policy Research Institute E-Note, February 2013, <https://www.fpri.org/articles/2013/02/geopolitical-transformation-southeast-asia>.
57. Vietnam is acquiring Kilo class submarines from Russia. It also has ordered four Russian-built Gepard-class corvettes. The first two, fitted for attacking surface ships, are already in operation; the second two, still under construction, will be optimized for anti-submarine warfare. Vietnam is also producing under license at least ten 550-ton fast-attack craft that are fitted with anti-ship cruise missiles. These will be combined with the so-called Bastion Coastal Defense System, also from Russia, which consists of truck-mounted anti-ship cruise missiles, along with its 20-odd Su-27/30 aircraft that are capable of maritime strike; and four very modern Dutch corvettes of the SIGMA class, the purchase of which has been announced. Altogether, Vietnam is putting into place a formidable off-shore naval force.  
All these off-the-shelf purchases must still be knit together into an integrated force, with effective surveillance and command and control, but Hanoi's intent is clear. There is little question that Chinese naval capability is the focus of these procurements. Vietnam is investing significant resources to make certain that it can defend its maritime claims, and that it will avoid a replay of the 1988 South Johnson Reef clash with the PLAN, in which two Vietnamese landing craft were sunk, a third was badly damaged, and over 80 Vietnamese were killed. Finally, Vietnam, unique among Indo-Pacific littoral states, endured over eight years of carrier-based air attacks during the Vietnam War and thus can be expected to pay particularly close attention to PLA Navy aircraft carrier developments.