

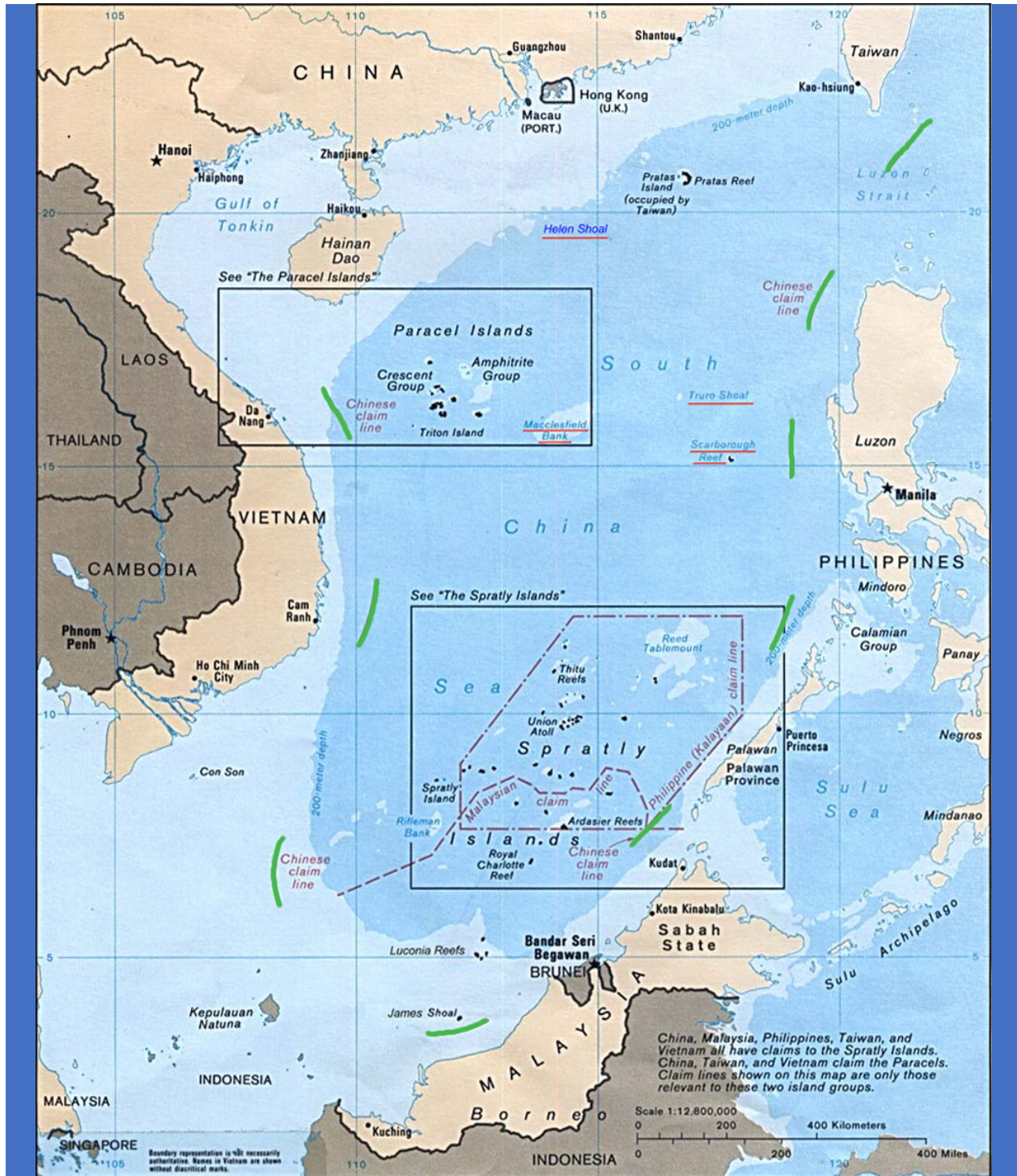
Troubled Waters - 10 Flashpoints in the South China Sea

-Friction Points that may lead to War-

Views from the United States and China on the most contested issues in the South China Sea

Professor Michael A. Marra, US Army War College

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**Michael A. Marra, Col, USAF (Ret.) “Mike”
Assistant Professor, US Army War College
Director of Security Force Assistance
Department of Military Strategy, Plans and Operations
Department of the Army Civilian**

Professor Mike Marra, Colonel, US Air Force Retired, has been a member of the US Army War College faculty since June of 2011. He is a 27-year combat veteran of the United States Air Force who has served in a wide variety of command, staff, planning, flying and educational positions through his military career, with multiple overseas tours and Joint/Coalition wartime experiences during Operation Desert Storm, conflicts in Somalia, Bosnia, Haiti, Liberia, and of late, in Central Asia and Iraq during Operations Enduring Freedom and Iraqi Freedom.

He joined the faculty after retiring as a colonel from the National Defense University (NDU) in 2011 where he was a Professor at the Industrial College of the Armed Forces (ICAF) teaching the Military Strategy and Logistics Course. Professor Marra also has previous experience teaching at the Army War College, as he was a uniformed faculty member here from 2006 – 2010, teaching a variety of core and elective courses on strategy, logistics, operational warfighting, Cyber warfare, Landpower and Airpower.

Mike is currently the Director of Security Force Assistance for the war college and as such, developed a course in “Building Partner Capacity.”

He is a graduate of the American University, Washington, DC with a BS in Business Administration, and also attended Howard University, Washington, DC simultaneously to earn his USAF commission through Air Force Reserve Officer Training Program in 1984. He also earned a Master of Public Administration degree from Troy University, Troy AL, in 1994, and a Master of Strategic Studies degree from the Army War College in 2004.

Troubled Waters - 10 Flashpoints in the South China Sea – Friction Points that may lead to War

Panda-Hugger or Dragon-Slayer? People who watch China are often put into two categories of thought – those who believe China is merely a “competitor” and sometimes partner in the ever-growing symbiotic economies of both nations, or on the other hand, those who perceive China as a growing military “adversary” which must be contained and confronted. While people generally fall in one of the other camp or the other, everyone who studies China comes to the discussion with biases concerning this most consequential relationship that are exacerbated when “hot-button” issues come to the forefront.

The purpose of this study is to examine one discrete part of a much larger, complex and expansive relationship between the US and China, the most consequential relationship in the world today. That one area considered here is the collection of current friction points between the US and PRC in the South China Sea. This report will try to unpack the perspectives from each side as objectively as possible using contemporary statements and actions from both sides to provide a balanced view.

In this study, “10 Flashpoints” will be discussed providing both the US and Chinese position to allow the reader to determine the merits of the arguments. These “10 Flashpoints” include the positions concerning the International Order, The Nine-Dashed Line, claimed sovereignty over the entire South China Sea, territorial and maritime disputes, freedom of navigation, artificial islands, claims to natural islands, reefs and low-tide elevations, the South China Sea Arbitration, the militarization of the South China Sea, alleged damage to the environment, and finally, assertiveness and aggressiveness in the South China Sea from both sides.

Following an examination of theses, a framework for how to ameliorate them is offered as a way forward for consideration. The cost of learning and understanding these issues is high, but the price of ignorance and inappropriate actions are incalculable, thus the reason for this study.



U.S. Vice President Mike Pence speaks during a news conference in Singapore on Nov. 15. © Reuters

Flashpoint 1. International Order

Observation: China's actions indicate their strategic intent is to change the status quo in the South China Sea. (With regard to the prevailing international order) The paradox to many China watchers is the question of why China would select to reject the international order that has benefited them with so much prosperity over the last 50 years – as the alternative could lead them to economic ruin. The Chinese position seems to be one of entitlement with their rise to economic giant status, and that they should have a much greater “say” in how the international order should operate in Asia.

US Position: 

“We must reject threats to sovereignty, from the Ukraine to the South China Sea. We must uphold respect for law, respect for borders, and respect for culture, and the peaceful engagement these allow. And just as the founders of this body intended, we must work together and confront together those who threaten us with chaos, turmoil, and terror.” *President Donald Trump, address to the United Nations General Assembly, New York, Sep. 19, 2017*

“Consider that China recently had an intelligence collection ship operating near Alaska in America's exclusive economic zone, or E.E.Z. China was acting in accordance with international law, so no criticism there. Yet, after this week's unsafe Chinese fighter intercept, I read in the press that they complained about our U.S. aircraft operating in international airspace in the South China Sea in accordance with international law. As Admiral Scott Swift recently opined, why does China believe there's a different rule-set with respect to the P.L.A. operating in international water and airspace, while at the same time, believing this rule set doesn't apply to other nations operating in international waters and air space? Ladies and gentlemen, China can't have it both ways. In my opinion, Beijing's desire to pick and choose when it comes to international law demonstrates the kind of nation China is. To me, China is a strategic competitor for the United States. That doesn't mean that conflict is inevitable – I don't believe Japan, China, or the U.S. want that. But because we are in competition, I've advocated dealing with China realistically – as it is, and not as we would wish it would be. My goal remains to convince China that its best future comes from peaceful cooperation and meaningful participation in the current rules-based international order. But I've also been loud and clear that we won't allow the shared domains to be closed-down unilaterally. So, we'll cooperate where we can, but remain ready to confront where we must.” *Adm. Harry Harris, PACOM Commander, Japan-U.S. Military Statesmen Forum, Wash DC, July 27, 2017*

“Large nations, small nations, and even shrimps can all thrive in a rules-based order. Such an order benefits all nations. America's engagement is also based on strong military partnerships, robust investment and trade relationships, and close ties between the peoples of our countries. Ultimately, we all share this mighty Pacific Ocean, an ocean named for peace. In the security arena we have a deep and abiding commitment to reinforcing the rules-based international order. This order, as we all know, is a product of so many nations' efforts to create stability. And these efforts, we must remind ourselves so we don't take them for granted, these efforts grew out of lessons learned the hard way from an economic depression and catastrophic wars. The international order was not imposed on other nations. Rather, the order is based on principles that were embraced by nations trying to create a better world and restore hope to all. Those principles have stood the test of time, like equal respect for international law, regardless of a nation's size or wealth, and freedom of navigation and overflight, including keeping shipping lanes open for all nations' commercial benefit. These principles underwrite stability and build trust, security and prosperity.” *Jim Mattis, Secretary of Defense, Shangri-La Dialogue, Singapore, June 3, 2017*



Photo Source: Fourth Annual Chinese Academy of Military Science and US Army War College Annual Seminar on the International Security Environment. (Prof Michael A. Marra)

PRC Position: 

Before 2013, the term rarely featured in diplomatic discussions on the South China Sea disputes. Then came the US strategy of “Pivot to the Pacific” followed by “Rebalance to the Pacific” and other such efforts. Shortly afterward, claimants in the area began to embrace the idea of defending the “status quo” of this area being up for negotiation. It should be clear China does not recognize the so-called “status quo” of the Philippines and other countries that are occupying China’s islands and reefs through illegal means. Furthermore, China’s recent statements on the International Order underpin our belief we want no change. “China upholds the principle of equal treatment of all countries and is a staunch force in maintaining the international order.” *Source: Statements by General Wei Fenghe, Chinese State Councilor and Defense Minister, at the 8th Beijing Xiangshan Forum, http://eng.mod.gov.cn/news/2018-10/26/content_4827963.htm*



The BRP Sierra Madre, a marooned transport ship which Philippine Marines live on as a military outpost, is pictured in the disputed Second Thomas Shoal, part of the Spratly Islands in the South China Sea. File Photo: Reuters

Flashpoint 2. The Nine-Dashed Line

Observation: China’s unprecedented “Nine-Dashed Line” in the South China Sea appears to be a way to lay claim to enormous swaths of territory for security and economic reasons. It is based on historic legacy and is generally not accepted by others in the region and the world.

US Position: 

The “Nine-Dash Line does not comply with the Law of the Sea.

“While the U.S. has no claims in the South China Sea – it’s our policy not to take positions on sovereignty over disputed land features – we resolutely oppose the use of coercion, intimidation, threats, or force to advance claims. These differences should be resolved by international law.” *Adm. Harry Harris, PACOM Commander, International Military Operations and Law Conference, Brisbane, Australia, June 28, 2017*

As a Pacific nation, the U.S. has a national interest in the maintenance of peace and stability, respect for international law, freedom of navigation and unimpeded lawful commerce, including the South China Sea where there are numerous territorial and maritime disputes. The U.S. has long encouraged all sides to avoid steps that raise tensions and increase the risk of miscalculations that could undermine peace and stability in the region. Claimants are encouraged to resolve this matter peacefully through dialogue. The U.S. opposes the use of coercion, intimidation, threats, or force by any claimant to advance its claims. The U.S. supports efforts by ASEAN and China to make meaningful progress toward finalizing a comprehensive Code of Conduct in order to establish rule of the road and clear procedures for addressing disagreements. The U.S. military has and will continue to operate consistent with the rights, freedoms and lawful uses of the sea in the South China Sea. Freedom of navigation and overflight is a lynchpin of security, peace and commerce in the Pacific and no claimant should impede lawful activities by others. We also note potential for instability posed by long-standing territorial disputes. Although the U.S. takes no position on sovereignty over disputed land features, we have a vested interest in ensuring claims are resolved peacefully and without conflict or coercion. We also note all maritime claims in the South China Sea must be based on naturally- derived land features. We encourage claimants to use diplomatic methods to resolve disputes. China could help to lower tensions by halting land reclamation, clarifying its ‘9-Dash Line’ claim in accordance with international law as reflected in UNCLOS and concluding a South China Sea Code of Conduct with ASEAN. The U.S. encourages ASEAN and China to make rapid, meaningful progress toward a Code of Conduct to help reduce tensions arising from territorial and maritime disputes in the South China Sea. The U.S. maintains that maritime claims in the South China Sea must be based on claims to naturally formed land features. We encourage all claimants to clarify their maritime claims in accordance with international law. International law is also clear that maritime claims can only be derived from naturally formed land features. Artificial islands are not entitled to their own maritime zones. There should be no doubt that the U.S. will maintain the necessary military presence and capabilities to protect our interests and those of our allies and partners against potential threats in the maritime domain.

U.S. State Department position from a synthesis of LIMITS IN THE SEAS, No. 143, CHINA MARITIME CLAIMS IN THE SOUTH CHINA SEA, December 5, 2014, Office of Ocean and Polar Affairs Bureau of Oceans and International Environmental and Scientific Affairs U.S. Department of State



Soldiers in Mission-Oriented Protective Posture (MOPP) gears withdraw after erecting a DF-21A medium-range ballistic missile system during a training exercise on September 10, 2018. They are assigned to a launching detachment of the PLA Rocket Force. (eng.chinamil.com.cn/Photo by Zhang Hongliang)

PRC Position: 

The allegation that our Nine-Dashed Line does not comply with the Law of the Sea is false. The Nine-Dash Line predated the Law of the Sea. In 1948, for example, the Chinese government published this dotted line to reaffirm China's sovereignty and relevant rights in the South China Sea. In addition, the convention does not exclude historical rights; its repeated references to "historical bays" and "historical titles" speak volumes about its respect for historical rights. Furthermore, the preamble of the Law of the Sea mentions the desirability to "establish through this Convention, with due regard for the sovereignty of all states, a legal order for seas and oceans." This makes clear that the issue of territorial sovereignty is not subject to the Law of the Sea. Therefore, it cannot be used as a basis to judge China's Nine-Dash Line. *Synthesis of various sources from Chinese policy statements and speeches.*



Photo Source: Fourth Annual Chinese Academy of Military Science and US Army War College Annual Seminar on the International Security Environment. (Prof Michael A. Marra)

On Sept. 14, 2015, at a defense conference in London, Chinese Vice Admiral Yuan Yubai said that “the South China Sea, as the name indicates, is a sea area that belongs to China,” according to defense media. The commander of the Chinese navy’s North Sea fleet added that the vast waterway has been Chinese from the time of the Han dynasty, which ruled from 206 B.C. to A.D. 220. China claims nearly all of the South China Sea’s rocks, shoals, reefs and islets as its own, carving out the waterway with a so-called Nine Dash Line that extends southward toward Borneo to include 2 million sq km of sea. However, five other governments — those of Taiwan, Vietnam, Malaysia, Brunei and the Philippines — are also vying for ownership of various bits of sand and rock in the resource-rich waters. *By Hannah Beech / Shanghai September 15, 2015, reported in TIME online <http://time.com/4034455/south-china-sea-admiral-yuan-yubai-maritime-dispute/>*



Credit: <http://www.theglobalist.com/wordpress/wp-content/uploads/2016/02/WAR-BookMap.jpg>

Flashpoint 3. Sovereignty over the Entire South China Sea

Observation: Many nations are claiming sovereignty in the South China Sea, with some claiming all of it as their territory. Historic claims creating future conflict appear to be intractable.

US Position: 🇺🇸

China claims sovereignty over the entirety of the South China Sea, which is a complete rejection of other nation's claims to the same areas, and is using military strength and coercive gradualism to push other nations into accepting China as the hegemon.

"While the U.S. has no claims in the South China Sea – it's our policy not to take positions on sovereignty over disputed land features – we resolutely oppose the use of coercion, intimidation, threats, or force to advance claims. These differences should be resolved by international law." *Adm. Harry Harris, PACOM Commander, International Military Operations and Law Conference, Brisbane, Australia, June 28, 2017*

"As a Pacific nation, the U.S. has a national interest in the maintenance of peace and stability, respect for international law, freedom of navigation and unimpeded lawful commerce, including the South China Sea where there are numerous territorial and maritime disputes. The U.S. has long encouraged all sides to avoid steps that raise tensions and increase the risk of miscalculations that could undermine peace and stability in the region. Claimants are encouraged to resolve this matter peacefully through dialogue. The U.S. opposes the use of coercion, intimidation, threats, or force by

any claimant to advance its claims. The U.S. supports efforts by ASEAN and China to make meaningful progress toward finalizing a comprehensive Code of Conduct in order to establish rule of the road and clear procedures for addressing disagreements. The U.S. military has and will continue to operate consistent with the rights, freedoms and lawful uses of the sea in the South China Sea. Freedom of navigation and overflight is a lynchpin of security, peace and commerce in the Pacific and no claimant should impede lawful activities by others. We also note potential for instability posed by long-standing territorial disputes. Although the U.S. takes no position on sovereignty over disputed land features, we have a vested interest in ensuring claims are resolved peacefully and without conflict or coercion. We also note all maritime claims in the South China Sea must be based on naturally- derived land features. We encourage claimants to use diplomatic methods to resolve disputes. China could help to lower tensions by halting land reclamation, clarifying its '9-Dash Line' claim in accordance with international law as reflected in UNCLOS and concluding a South China Sea Code of Conduct with ASEAN. The U.S. encourages ASEAN and China to make rapid, meaningful progress toward a Code of Conduct to help reduce tensions arising from territorial and maritime disputes in the South China Sea. The U.S. maintains that maritime claims in the South China Sea must be based on claims to naturally formed land features. We encourage all claimants to clarify their maritime claims in accordance with international law. International law is also clear that maritime claims can only be derived from naturally formed land features. Artificial islands are not entitled to their own maritime zones. There should be no doubt that the U.S. will maintain the necessary military presence and capabilities to protect our interests and those of our allies and partners against potential threats in the maritime domain."

Synthesis of U.S. State Department position from a synthesis of LIMITS IN THE SEAS, No. 143, CHINA MARITIME CLAIMS IN THE SOUTH CHINA SEA, December 5, 2014, Office of Ocean and Polar Affairs Bureau of Oceans and International Environmental and Scientific Affairs U.S. Department of State



Special operations soldiers assigned to a brigade under the PLA Navy's Marine Corps board a transport helicopter in preparation for a fast-roping training exercise on September 8, 2018. (eng.chinamil.com.cn/Photo by Zhang Yan)

PRC Position: 

The fact is, there is no country, including China, claiming sovereignty over the whole South China Sea. The core of the South China Sea issue relates to the disputes over sovereignty and maritime administration of parts of the Nansha Islands (Spratly Islands) between China and other claimant countries. China's position is clear and consistent: it has indisputable sovereignty over the South China Sea islands, and their adjacent waters, but not the entire South China Sea. Meanwhile, China seeks to maintain peace and stability in the South China Sea and calls for adherence to the principle of "putting aside disputes and seeking joint development" in the region. *Synthesis of various policy statements by Chinese officials and written press releases.*

State Councilor General Wei Fenghe, who is also China's defense minister, said that the country will never give up "one single piece" of its territory, warning that "repeated challenges" to its sovereignty over Taiwan are extremely dangerous and will result in relentless action from the Chinese military. Recently, China's Minister of National Defense Wei Fenghe spoke to the ASEAN defense ministers during a meeting at the ASEAN Defense Ministers' Meeting in Singapore, on Oct 19, 2018. Wei told the opening ceremony of the 8th Beijing Xiangshan Forum in Beijing on Thursday morning that the Chinese armed forces are determined to safeguard the country's sovereignty, security and development interests, and will never abandon even one tiny piece of territory. President Xi Jinping sent his congratulations to the forum, which more than 500 people from 67 countries and seven international organizations are attending. In his letter, read by Wei, Xi said China is willing to work with other countries to boost development and security and that the Chinese military will always remain a defender of world peace and stability. Wei told the audience the Taiwan question concerns China's sovereignty and territorial integrity and is a core national interest. *Source: China News; http://eng.mod.gov.cn/news/2018-10/26/content_4827960.htm*



Subi Reef in the South China Sea. Source: DigitalGlobe via Getty Images.

Flashpoint 4. Freedom of Navigation

Observation: Tensions are rising over “freedom of navigation” exercises and accusations in the South China Sea, leading to US and PRC warships to be in close-proximity, resulting in potential military escalation. The two axioms of “absolute freedom” and “absolute sovereignty” are creating dangerous friction between the two most powerful nations in the South China Sea.

US Position: 

China is a threat to Freedom of Navigation and Overflight in the South China Sea.

U.S. forces operate in the Indo-Asia-Pacific region on a daily basis, including in the South China Sea. All operations are conducted in accordance with international law and demonstrate that the United States will fly, sail, and operate wherever international law allows. For more than a century, the US Navy has guaranteed the free navigation of international waters for all nations. We have a global Freedom of Navigation Operations program that challenges excessive maritime claims in order to preserve the rights, freedoms, and uses of the sea and airspace guaranteed to all nations under international law. FONOPS are not about any one country, nor are they about making political statements. In FY 2016, we conducted FONOPS challenging excessive maritime claims of 22 coastal states, including allies and partners. FONOPs never challenge sovereignty or territorial claims. They guarantee all nations are able to operate consistent with international law as reflected in the Law of the Sea Convention. FONOPs always comply with international law and never pose a threat to the lawful security interests of coastal States.

We are continuing regular FONOPS, as we have routinely done in the past and will continue to do in the future. Summaries of these operations will be released publicly in the annual FONOPS report, and not sooner. The rights, freedoms, and uses of the sea, air, space and cyberspace guaranteed to all nations in international law are essential to prosperity, stability and security in the Indo-Asia-Pacific. In 2016, FONOPS challenged 22 claimants worldwide; 12 in PACOM AOR including Cambodia, China, India, Indonesia, Japan, Malaysia, Maldives, Philippines, South Korea, Taiwan, Thailand, and Vietnam. In 2015, it was 8 (PACOM) of 14 (worldwide). The U.S. maintains that claims in the South China Sea must be based on naturally formed land features. We encourage all claimants to clarify their maritime and territorial claims in accordance with international law. U.S. military forces are present and active in and around the South China Sea and East China Sea on a daily basis. Our recent Freedom of Navigation Operations (FONOPS) in the South China Sea have been routine, lawful and consistent with how we have conducted FONOPS for decades around the world. The U.S. Freedom of Navigation Program is a whole-of-government effort to protect long-standing principles of freedom of navigation. The program involves both diplomatic and operational challenges to protest excessive maritime claims wherever they occur. We do not comment on future operations and we won't speculate about future FONOPS in the South China Sea except to say that the U.S. will continue to fly, sail and operate anywhere that international law allows.

The U.S. takes no position on competing sovereignty claims to land features in the South China Sea. However, as a Pacific nation, a Pacific leader, and a Pacific power, the U.S. has a national interest in maintaining peace and stability, adherence to freedom of navigation and overflight, and unimpeded lawful commerce throughout the shared domains of the Indo-Pacific. Therefore, we do take a strong position on encouraging all South China Sea claimants to solve disputes peacefully, without coercion, and in accordance with international law. The Department of Defense conducts freedom of navigation operations around the world on a regular basis. Our goal is to support and sustain the rules-based international order, and that applies on maritime issues and it applies on a

whole range of other issues. We're looking to uphold these larger principles of international law, such as freedom of navigation; freedom of overflight; unimpeded, lawful commerce; and peaceful resolution of disputes. And as a maritime nation, that's why we carry out these activities on a regular basis – to make clear that everyone is subject to these rules, both large and small countries and, of course, including the United States. We encourage all countries to uphold freedom of navigation and overflight in the South China Sea and around the world. *Source: US Under Secretary of Defense for Policy, US Dept of Defense annual DoD Freedom of Navigation (FON) Report, 2018. Oceans Policy Advisor, 2900 Defense Pentagon, Washington, DC 20301-2900*



The guided-missile frigate Meizhou (Hull 584) attached to a frigate flotilla with the navy under the PLA Southern Theater Command fires its main gun at mock sea targets during a maritime live-fire test from October 24 to 27, 2018. (eng.chinamil.com.cn/Photo by Cai Shengqiu)

PRC Position: 

These waters are among the busiest sea lines of communication and commerce in the world, accounting for up to 80% of China's maritime transport of energy and goods, which pass through this region. Ensuring freedom of navigation and overflight in this region meets not only the requirements of international law, but also of China's fundamental interests. All nations have unimpeded access to normal navigation and flight activities in the South China Sea under international law, over which there is no disagreement. China is also ready to offer other nation's joint use of it facilities in the South China Sea for humanitarian rescue and disaster. In the same spirit, countries should act in accordance with international law when exercising freedom of navigation and overflight, and respect the sovereignty, security and relevant rights and interests of coastal states, including China.

Recently, the "...USS Decatur guided missile destroyer arbitrarily entered waters off China's islands and reefs in the South China Sea on Sept. 30," said Wu Qian, spokesperson with the Ministry of National Defense, noting that a Chinese navy vessel carried out identification and verification procedures in accordance with law and warned the U.S. vessel off. China has indisputable sovereignty over the islands in the South China Sea and their adjacent waters. Currently, with the joint efforts by China and ASEAN countries, the situation in the South China Sea is developing towards a stable and positive direction. However, the U.S. side has sent warships into waters near China's islands and reefs in South China Sea time and again, which has posed a grave threat to China's sovereignty and security, severely damaged the relations between the two militaries, and significantly undermined regional peace and stability. The

Chinese military resolutely opposes such actions. China respects and safeguards the freedom of navigation and overflight in the South China Sea in accordance with international law, but resolutely opposes any illegal provocation in the name of 'freedom of navigation.' The Chinese military will fulfill its defense duty and continue to take all necessary measures to firmly safeguard the sovereignty and security of the country, as well as the regional peace and stability." *Source: Xinhuanet Editor: Li Jiayao 2018-10-02*



Image Credit: U.S. Navy photo by Mass Communication Specialist 3rd Class Adam K. Thomas/Released

Flashpoint 5. Artificial Islands

Observation: Small outcroppings of sand and rock in international waters are being built into habitable installations in the South China Sea, ostensibly changing the facts and providing the basis for more territorial claims, in addition to military outposts.

US Position:

China is building “artificial islands” in the South China Sea.

China's construction of military facilities on artificial islands, coupled with its efforts to enforce expansive and ambiguous maritime claims, raises legitimate concerns. We encourage all claimants to take steps to lower tensions and peacefully manage and resolve their differences in accordance with international law, including the Law of the Sea Convention. The United States remains committed to protecting the rights, freedoms, and lawful uses of the sea and airspace guaranteed to all countries. We will continue to both operate wherever international law allows and demonstrate our resolve through

credible operational presence in the South China Sea and throughout maritime Asia. We watch China's actions in the South China Sea closely. The United States remains committed to maintaining peace, security, and safety, including freedom of navigation and overflight, unimpeded lawful commerce, and non-militarization in the South China Sea.

China's continued construction in the South China Sea is part of a growing body of evidence that it continues to take unilateral actions which are increasing regional tensions and are counterproductive to peaceful resolution of disputes. We have consistently called on China, as well as other claimants, to refrain from further land reclamation, construction of new facilities, and militarization of disputed features, and to commit to managing and resolving disputes peacefully with other claimants. The further militarization of outposts will only serve to raise tensions and create greater distrust among claimants. The United States will continue to fly, sail, and operate in the South China Sea wherever international law allows, in the same way that we operate everywhere else around the world. This will not change.

Several claimants have engaged in land reclamation and outpost construction activities in the Spratly Islands, but the scale of China's activities far exceed those other claimants. When one considers China's ambiguous and sweeping maritime claims, as well as its restrictions on freedom of navigation and overflight and other lawful uses of the sea, the construction of these outposts raise legitimate concerns about long term Chinese intentions in the South China Sea. The U.S. does not take a position on the question of territorial sovereignty, but we do take a position on whether maritime claims accord with the international law of the sea, as well as the manner in which countries pursue such claims. The United States has consistently called on claimants to clarify their territorial and maritime claims in accordance with international law. All maritime claims, including those in the South China Sea, can only be derived from naturally formed land features. *Synthesis of US State Department statements and speeches with primary source material from the U.S. State Department position from a synthesis of LIMITS IN THE SEAS, No. 143, CHINA MARITIME CLAIMS IN THE SOUTH CHINA SEA, December 5, 2014, Office of Ocean and Polar Affairs Bureau of Oceans and International Environmental and Scientific Affairs U.S. Department of State*



Source: Fourth Annual Chinese Academy of Military Science and US Army War College Annual Seminar on the International Security Environment. (Prof Michael A. Marra)

PRC Position: 

The Nansha Islands are part of the People’s Republic of China. These construction activities on our islands are conducted on natural features over which China has sovereignty and which are actually part of these islands. This construction is very different from “artificial islands, installations and structures” defined by the Law of the Sea. As part of a periodic press conference, a Chinese military spokesperson again voiced their position on this issue. "China has indisputable sovereignty over the islands in the South China Sea and their adjacent waters. Currently, with the joint efforts by China and ASEAN countries, the situation in the South China Sea is developing towards a stable and positive direction. However, the U.S. side has sent warships into waters near China's islands and reefs in South China Sea time and again, which has posed a grave threat to China's sovereignty and security, severely damaged the relations between the two militaries, and significantly undermined regional peace and stability. The Chinese military resolutely opposes such actions. China respects and safeguards the freedom of navigation and overflight in the South China Sea in accordance with international law, but resolutely opposes any illegal provocation in the name of 'freedom of navigation.' The Chinese military will fulfill its defense duty and continue to take all necessary measures to firmly safeguard the sovereignty and security of the country, as well as the regional peace and stability." *Source: Xinhuanet Editor: Li Jiayao 2018-10-02*



Photo Asia Maritime Transparency Initiative, 2018



Observers and participating troops attend the opening ceremony of the ASEAN-China Maritime Exercise-2018 on Oct. 22 in the city of Zhanjiang, south China's Guangdong Province. The joint exercise is the first of its kind held between China and ASEAN countries and is important in expanding exchange and cooperation between China and ASEAN armed forces. (eng.chinamil.com.cn/Photo by Zhang Lei)

Flashpoint 6. Claims to natural islands, reefs and low-tide elevations

Observation: Many nations, including China, are making claims to sovereign territory over pieces of land, rocks and other reefs that were previously deemed having no territorial status. These claims can be used as a basis for more territory under the claimant's control.

US Position:

China's relevant island and reefs are low-tide elevations with no territorial status.

"Amidst contested maritime claims and in contravention to decisions by an accepted international authority, China is using its military and economic power to dampen freedom of navigation in the South China Sea, and in turn erode the rules-based international order. It seems readily apparent that the Chinese are building up combat power and positional advantage in an attempt to assert de facto sovereignty over disputed maritime features and spaces in South China Sea. In so doing, they are fundamentally altering the physical and political landscape by creating and militarizing man-made bases, using tone-deaf propaganda to justify these unprovoked aggressions as measures intended to rescue some wayward fisherman. As Admiral Harris has said, fake islands should not be believed by real people." Maj. James Hartsell, PACOM Mobilization Asst., Indian Ocean Conference, Sri Lanka, Aug. 31, 2017



Colonel Ren Guoqiang, spokesperson for the Ministry of National Defense (MND) of the People's Republic of China (PRC), answers reporters' questions at a regular press conference on May 25, 2017. (mod.gov.cn/Photo by Feng Kaihua)

When questioned if the allegation reported by the Defense Times that China has employed rocket launchers on China's Yongshu Reef in the South China Sea, Colonel Ren Guoqiang, spokesperson for the Ministry of National Defense, stated, "...the Defense Times as you mentioned is not run by the Ministry of National Defense. What I'd like to emphasize here is that China's construction of its islands and reefs in the South China Sea are within the sovereignty of China and besides necessary defense purpose, the relevant construction is mainly for civil use."

In short, China adheres to international law. China's sovereignty over the Nansha Islands covers the islands themselves, and the islands, reefs, cays and sands that from the entirety of the Nansha Islands and related waters. The Chinese government published the names of these islands in 1935, 1947, and 1983. China's sovereignty over these territories has full legal authority based on historical facts. *Defense Ministry's Regular Press Conference on May 25, Source; MOD Editor; Dong Zhaohui 2017-05-26*



Small rock outcropping of land transformed into a military outpost. Image Credit: REUTERS/Stringer, 2015

Flashpoint 7. South China Sea Arbitration

Observation: The recent South China Sea Arbitration resulted favorably on the side of the Philippines regarding territorial claims against China and others. While most of the world accepts this decision, China does not.

US Position: 

The United States agrees with the Permanent Court of Arbitration (PCA) Tribunal Ruling on the South China Sea as the following statements clearly indicate.

“Fake islands shouldn't be believed by real lawyers. Now, I'm not a lawyer, obviously, but even I know that China's 9-dash line claim and unprecedented land reclamation in the South China Sea were invalidated by the Permanent Court of Arbitration's tribunal ruling last year. While the U.S. has no claims in the South China Sea – and it's our policy not to take positions on sovereignty over disputed land features – we resolutely oppose the use of coercion, intimidation, threats, or force to advance claims. These differences should be resolved by international law.” Adm. Harry Harris, PACOM Commander, International Military Operations and Law Conference, Brisbane, Australia, June 28, 2017

“The 2016 ruling by the Permanent Court of Arbitration on the case brought by the Philippines on the South China Sea is binding. We call on all claimants to use this as a starting point to peacefully manage their disputes in the South China Sea.” *Jim Mattis, Secretary of Defense, Shangri-La Dialogue, Singapore, June 3, 2017*

The South China Sea Arbitration Ruling.

“Consistent with our longstanding policy, we support the peaceful resolution of disputes in the South China Sea, including the use of international legal mechanisms such as arbitration. As provided in the Law of the Sea Convention, the Tribunal’s decision in this case is legally binding on both the Philippines and China. It is our expectation that both parties will comply with their obligations and exercise restraint. We encourage all South China Sea claimants to clarify their maritime claims in accordance with international law, as reflected in the Law of the Sea Convention, and to work together creatively and peacefully to manage and resolve their disputes. Our overriding interest is in ensuring that maritime disputes are resolved peacefully, without coercion, and in a manner that is consistent with international law. Given the complexity of the various disputes, we support claimants having the ability to avail themselves of all available tools to peacefully and lawfully resolve differences, including peaceful disputesettlement mechanisms such as arbitration.”

Press Release on the Ruling from the Hague-based PCA, July 12, 2016:

<https://pcacases.com/web/sendAttach/1801>



A KJ-500 airborne early warning (AEW) aircraft attached to an aviation brigade of the air force under the PLA Theater Command takes off for a combat sortie during the flight training exercise in the hinterland of the Kunlun Mountains in early September, 2018. (eng.chinamil.com.cn/Photo by Xi Bobo and Ma Peng)

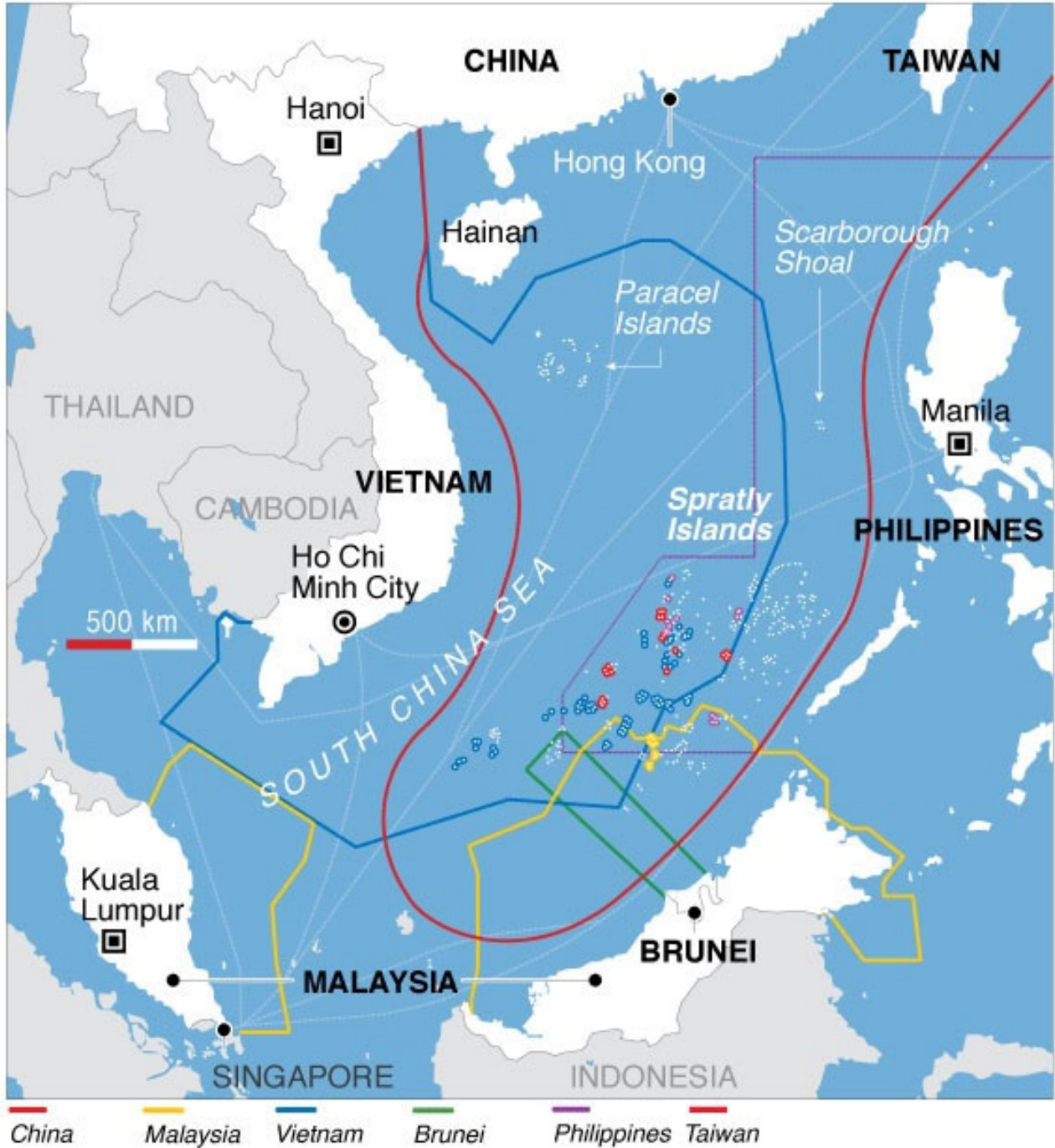
The PRC Position:

China’s position is against the South China Sea Arbitration, as they feel it violates international law (aka The Philippines decision). By initiating the arbitration case, the Philippines was the one who broke its own commitment made in the Declaration on the Conduct of Parties in the South China Sea, signed between China and members of the Association of Southeast Asian Nations, which states that disputes should be resolved by those countries directly involved, through friendly consultations and negotiations.



Photo Source: Second and Fourth Annual Chinese Academy of Military Science and US Army War College Annual Seminar on the International Security Environment. (Prof Michael A. Marra)

China's Foreign Minister Wang Yi echoed the theme, calling the judicial decision a "political farce under the pretext of law." The nation's President Xi Jinping noted, in a state media paraphrasing of his words, that "China will not accept nor recognize the decision, while the country's territorial sovereignty and maritime interests in the South China Sea will not be affected under any circumstance." Xi has made a national rejuvenation of the Chinese people a slogan of his tenure, assuming personal responsibility for lifting China up from a long period of humiliation by foreign powers. Attacks on the tribunal's legitimacy continued Wednesday. Chinese Vice Foreign Minister Liu wondered why the arbitration panel included no Asians — although state media earlier had decried the fact that a Japanese, clearly an Asian, had appointed some of the arbitrators because China had boycotted the entire proceedings and declined to choose panel members itself. (Japan, a wartime foe of China, is also embroiled in a maritime dispute with Beijing in another body of water.) "The arbitral tribunal acts as a lackey of some outside forces," said a Wednesday commentary in the Chinese Communist Party mouthpiece, the *People's Daily*. "They will be remembered as a laughing stock in human history." A nearly 14,000-word white paper that China issued in the wake of the July 12 PCA award dismissed the Philippines for having "concocted a pack of lies." *China Slams the South China Sea Decision as a 'Political Farce'* By Hannah Beech / Shanghai July 13, 2016



Map by Voice of America - <http://blogs.voanews.com/state-department-news/2012/07/31/challenging-beijing-in-the-south-china-sea/>, Public Domain, <https://commons.wikimedia.org/w/index.php?curid=47176473>

Flashpoint 8. Militarization of the South China Sea

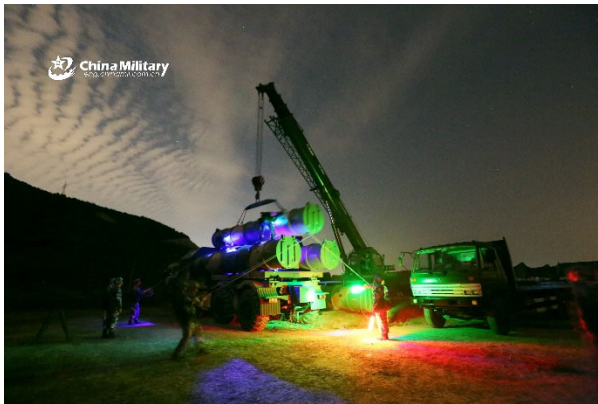
Observation: China is accelerating the militarization of the South China Sea. Large runways are appearing on previously small, uninhabited islands, and there is evidence of modern missile systems being installed and made operational over the last five years.

US Position: 

China has stationed surface-to-air missiles on a contested island in the South China Sea and is expanding its footprint in the waterway through energetic island-building. New runways allow Chinese fighter jets to land on disputed turf, while Chinese fishermen are encouraged by the state to ply waters claimed by five other governments. But on Friday, the spokesperson for China's National People's Congress, the legislature that will begin its annual meeting on March 5, placed the blame on the U.S. for escalating tensions in a marine expanse through which more than \$5 trillion in trade passes through each year. *Hannah Beech / Shanghai March 4, 2016*

"The reality is that China has militarized the South China Sea. If you look at a graphic of Fiery Cross Reef, you'll see a 10,000-foot runway, weapons in placements, fighter aircraft hangers and barracks for troops. Clearly, that facility, which is, you know, 700 acres, a military facility with all that capability doesn't exist to rescue the odd fisherman that gets lost out there." *Adm. Harry Harris, PACOM Commander, SASC testimony Apr. 27, 2017*

"The United States is not pursuing a Cold War or containment policy with respect to China," U.S. Secretary of State Mike Pompeo told a joint news conference." *Economic Times, Oct 2018*
[//economictimes.indiatimes.com/articleshow/66563972.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst](http://economictimes.indiatimes.com/articleshow/66563972.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)



Soldiers assigned to the coastal missile troops with the navy under the PLA Eastern Theater Command operate a crane to hoist and load the anti-ship missiles onto a missile launching truck prior to a night live-fire training exercise on October 30, 2018. (eng.chinamil.com.cn/Photo by Liu Yong and Wu Zhijie)

PRC Position: 

To accuse China of militarizing the South China Sea is groundless. On the contrary, the South China Sea is being militarized by high-profile displays of military strength and frequent and large-scale military drills by certain countries and their allies. China is committed to a path of peaceful development. This stance is consistent and clear-cut. The construction in the South China Sea are mainly for civilian purposes, and with the acknowledged goal of better safeguarding China's territorial sovereignty and maritime rights and interests. *Synthesis of Chinese policy statements and White Papers*

The Chinese position is clear: the U.S. — despite its vows that it only wants to keep the peace, as it has done for more than half a century in the Pacific — is spooked by China's rise. "With the expansion of China's military power, China will gradually gain dominance in the South China Sea but America will not

tolerate China's dominance in this area," says Zhao Chu, another Chinese military commentator. "There is no mutual strategic trust between China and America. It's a zero-sum game for both countries." *China Accuses the U.S. of 'Militarizing' the South China Sea, By Hannah Beech / Shanghai March 4, 2016*



Soldiers of China's People's Liberation Army Navy patrol near a sign in the Spratly Islands, known in China as the Nansha Islands, on February 9, 2016. The sign reads "Nansha is our national land, sacred and inviolable." Reuters

Flashpoint 9. Damage to the Environment

Observation: Human development of natural reefs, elevations and rocks is having a negative impact on the environment in the region. Some of the damage already inflicted upon the environment is irreversible and permanent. Combined with China's building artificial islands around disputed rocks and reefs, it has paved over another 22 square miles of coral.

US Position:

China's construction activities damage coral reefs and marine ecology.

The United States (and almost every other nation in the region) agrees with the ruling from the UN Permanent Tribunal for Arbitration (Netherlands) strongly condemning China for serious and permanent environmental damage caused by the development of small land masses into major government/military bases. In the verdict, the judges roundly condemned the "recent large-scale land reclamation and construction of artificial islands at seven features in the Spratly Islands". Assisted by three independent experts on coral reef biology and the Philippines' own expert reports, the Tribunal's damning conclusion is that "China had caused severe harm to the coral reef environment and violated its obligation to preserve and protect fragile ecosystems and the habitat of depleted, threatened, or endangered species." In addition, "Chinese fishermen have engaged in the harvesting of endangered sea turtles, coral, and giant clams on a substantial scale in the South China Sea, using methods that inflict severe damage on the coral reef environment. The Tribunal found that Chinese authorities were aware of these activities and failed to fulfill their due diligence obligations under the Convention to stop them."

As such China "had violated its obligation under Articles 192 and 194 of the United Nations Convention on the Law of the Sea to preserve and protect the marine environment with respect to fragile ecosystems and the habitat of depleted, threatened, or endangered species."

The tragedy is that the South China Sea "includes highly productive fisheries and extensive coral reef ecosystems, which are among the most biodiverse in the world." The marine environment around Scarborough Shoal and the Spratly Islands, in particular, "has an extremely high level of biodiversity of species, including fishes, corals, echinoderms, mangroves, seagrasses, giant clams, and marine turtles, some of which are recognized as vulnerable or endangered."

As well as using cyanide, dynamite and trawling to extract the marine wealth from the coral reefs, Chinese vessels have also resorted to less conventional techniques. These include towing anchors across the reefs, in effect 'ploughing' them and reducing them to rubble in order to dislodge large coral pieces and giant clams.

Specially adapted marine vessels have also been driven directly across reefs in order to break up the coral with their propellers. This alone has been responsible for destroying some 70 square kilometers of coral, of around 124 square kilometers of reef destroyed by China. This enables the removal of valuable giant clams and coral pieces, while the rubble can be used for artificial island construction.

In conclusion the Tribunal finds that:

- "China's land reclamation and construction of artificial islands, installations, and structures at Cuarteron Reef, Fiery Cross Reef, Gaven Reef (North), Johnson Reef, Hughes Reef, Subi Reef, and Mischief Reef has caused severe, irreparable harm to the coral reef ecosystem; "China has not cooperated or coordinated with the other States bordering the South China Sea concerning the protection and preservation of the marine environment concerning such activities; and "China has failed to communicate an assessment of the potential effects of such activities on the marine environment, within the meaning of Article 206 of the Convention; and "China has breached its obligations under Articles 123, 192, 194(1), 194(5), 197, and 206 of the Convention."

Oliver Tickwell, 12 July, 2016, "China Condemned for massive coral reef destruction", the Ecologist Magazine

PRC Position: 

As the owner of the Nansha Islands (Spratly Islands), China cares more than any other nation on earth about the ecological preservation of the islands, reefs, surrounding waters, and living creatures. All of China's construction activities take into account and place equal importance on environmental preservation. Our island building efforts are a 'Green Project.' The Chinese government claims is using techniques to simulate the natural processes of weather as sea storms blow away and move biological scraps which gradually evolve into an oasis on the sea. *China defends land reclamation in South China Sea, Associated Press, November 24, 2014*



Credit: Digital Globe overview imagery comparing Fiery Cross Reef from May 31, 2014, to June 3, 2016. Fiery Cross is in the western part of the Spratly Islands group.

Flashpoint 10. Assertiveness and Aggressiveness in the South China Sea

Observation: Tensions are rising in the South China Sea with various sides asserting their positions in the region through both words and deeds, which are perceived as combative to other actors in the region and in the world, creating tension and possible security dilemmas and arms buildups.

US Position: 🇺🇸

China is becoming assertive in the South China Sea. Like previous conflicts triggered by a single event, the probability is growing that a relatively minor incident in the proximity of an unimportant, remote and barren islet in the East China or South China seas could plunge Asia, and perhaps even the world, into another confrontation. Since 2011, there have been five cases of China acting assertively in the South China Sea: the cable-cutting incidents in 2011-2012, the Scarborough Shoal stand-off in 2012, the Second Thomas Shoal stand-off since 2013, the oil rig incident in 2014 and the land reclamation, constructions, and militarization of the outputs since 2014. Recently, a Chinese warship sailed within 45 yards of the front of the USS Decatur, forcing it to change course to avoid a collision. This action occurred in international waters and was a wanton breach of international law. Indeed, it was an outrageous breach: The Spratly Islands chain where the incident occurred is 700 miles from Chinese soil. China is behaving this way because it claims the South China Sea as its sovereign waters. Constructing artificial islands and positioning increasingly advanced weapons systems on those islands, China wants to give its regional neighbors and international exporters a simple choice: submit in political fealty to Beijing or stop transiting international waters. *by Tom Rogan | October 02, 2018 04:10 PM, Washington Examiner*

PRC Position: 🇨🇳

Chinese aggression seems to be the consensus opinion in the western media, academic journals, and other professional venues. In fact, China's actions in the South China Sea are necessary to protect its legitimate interests, and are justified reactions to provocations by other claimant states. The tensions in

the region can be attributed to collusion between the United States and regional claimant states. It is popularly believed that, without Washington's backing and high-profile policy of "returning to Asia" (rebalance to the Pacific), regional states would not be so eager to challenge China's interests in the South China Sea. China will continue to safeguard peace and stability in the South China Sea and promote the development of neighboring countries. Regardless of the result of the arbitration, China will continue to work closely with ASEAN countries to safeguard peace and stability, and uphold freedom of navigation in the South China Sea, so as to eventually turn it into a "sea of peace, friendship and cooperation." The U.S. side repeatedly sends military ships without permission into seas close to South China Seas islands, seriously threatening China's sovereignty and security, seriously damaging Sino-U.S. military ties and seriously harming regional peace and stability. China's military is resolutely opposed to this," it said. The Chinese armed forces will continue to take all necessary steps to protect the country's sovereignty and security. China's Foreign Ministry said in a separate statement it strongly urged the United States to stop such "provocative" actions and to "immediately correct its mistakes". *Synthesis of Chinese Defense Minister Wei Fenghe policy statements.*



Filipino activists protest Chinese reclamation in the South China Sea outside the Chinese embassy in Manila on April 17, 2015.



Analysis, conclusions and recommendations.

While this list of the “Top 10 Flashpoints” in the South China Sea is not exclusive, these are the issues that can most-likely lead to unintended escalation in both rhetoric and military reality. So, what can both sides do to decelerate the negative trends and possibly find some middle ground to keep the peace and stability in the area?

There are six areas of consideration the US and China can examine to find common understanding.

1. Think. Rush to think, not to reflexive action. We really need to think strategically –50 years out as a start, to clarify our interests in the area which should be underpinned by our values. Which areas can we find some middle ground and which ones are “red lines” we simply cannot compromise. Certainly, not everything here is a “survival, vital, important or peripheral” US interest. We have to come to consensus as a nation which issues we will “die for, kill for, fight for, and pay for” before devising a public policy or implementing a strategy for this region. As Michael Porter once said, “The essence of strategy is choosing what not to do.” In this case, that is certainly sage advice.

2. Talk, and keep talking. Colin Powell is famous for stating, “Diplomacy is listening to what the other guy needs. Preserving your own position, but listening to the other guy. You have to develop relationships with other people so when the tough times come, you can work together.” The US must keep the dialog open, and not just at the highest levels of government, but down through the operational and tactical levels as well. When we talk, we humanize the relationship even when we don’t necessarily agree. We have had times where we had more open dialog, and now times where are selecting to step back and restrict communications. When we talk, if we choose to listen, we learn, and this is the basis for good judgement and decisions. There may be many areas of compromise and negotiation we have not considered yet. Let’s keep talking.

3. Network. Build a consensus of nations in the South China Sea with the understanding that we must avoid conflict there. The relationship in the South China Sea is obviously not just with China, or our traditional allies in the area, but with the entire region. Even when dealing with nations who are not traditional security partners, we will find an openness in the subject of “preserving the peace” as this is in everyone’s best interests. Should we pursue a UN South China Sea treaty of some sort? Would something this novel even be considered? It is certainly worth a try to be able to “freeze” this situation while time is allowed to provide all stakeholders with an interest in the South China Sea to pause and think through the “next state” of this region.

4. Time. Consider time a key element in any strategy. While China considers “time” on its’ side, this is not necessarily a fact. China is certainly trying to change the facts on the surface of the earth by

creating what they claim to be “sovereign territory” with its’ “sand castle” strategy of militarizing small islands, but this is a largely untried strategy that will probably not work. In time these islands will not be considered “military outposts pushing the limits of China’s sovereignty” but most likely just very simple locations to target or overfly or sail around using future weapons technology. Keep in mind the US used to have hundreds of coastline fortifications and outposts heavily armed with long-range artillery...now all slowly being transformed to shoreline attractions at best, and at worst, corroding back into the earth. The short-term advantage the Chinese believe they have with these islands have caused long-term strategic distrust in the region and are undermining China’s legitimacy of a great power. Between the environmental damage and the threat they pose, this militaristic strategy over time is acting against, and not for, the People’s Republic of China.

5. Build Partner Capacity – slowly and transparently. The U.S. and its Asian partners should cultivate multilateral defense agreements in a slow, transparent and gradual manner so as not to destabilize the current fragile peace or alarm China. Initially, such arrangements could continue with joint military training, coordinated weapons purchases through the Foreign Military Sales and Foreign Military Financing Program, shared national intelligence, common radar and air-defense capabilities, joint military exercises, cooperative military medicine, and inter-operability of systems and equipment -- all while leveraging regional defense discussions through ASEAN-centered institutions such as ADMM+ (ASEAN Plus Defense Ministerial Meeting), ARF and the East Asia Summit.

6. Assess. The basis of all strategic communication and action rests on accurate and timely assessments. The US should develop a coalition assessment center to observe report and hold accountable each nation violating the current treaties, laws and generally prescribed behaviors in line with the international order that has provided the basis of prosperity for all nations in the region. All parties involved need to view real, perceived and contrived threats in context. This may take something as elaborate as a UN Observer Mission, but the relative cost to maintain such an organization would pale in comparison to any conflict there. The current “international order” all nations have lived with since the end of WW II has served the world very well in terms of raising the standard of living through trade, and access to markets and resources. This current status needs to be continually monitored, protected and strengthened so future generations in this region and all affected by it continue to prosper.

Clearly there are no easy answers or solutions to these friction points in the South China Sea, but pausing to study both sides of the issue will better equip us to understand the strategic intent of China and other claimants in this contested region. None of these flashpoints represent a fundamental military problem, so military solutions in this area will not work today, tomorrow or into the future, adding “heat” but not much “light” on the issues. Military solutions offer the most expedient reaction, but by no means the best option in ameliorating these animosities. This study recommends deep, long-term thinking and strategizing as the primary approach, using networks, time, and partners underpinned by accurate and consistent assessments to address the issues.