

# Strategic Adjustment and the Rise of China

*Power and Politics in East Asia*

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# Threading the Needle

## The South China Sea Disputes and U.S.-China Relations

*M. Taylor Fravel*

In the South China Sea, China and the United States face pointed policy dilemmas.<sup>1</sup> As a rising power with unresolved maritime disputes, China wants to defend and consolidate its claims while simultaneously maintaining good relations with its neighbors and limiting any growth of U.S. influence in the disputes.<sup>2</sup> As the dominant maritime power, the United States wants to maintain the credibility of its commitments to its allies, freedom of navigation, and peaceful dispute resolution without becoming a direct participant in the disputes against China. The challenge for China has been to assert its claims while avoiding the formation of a balancing coalition, while the challenge for the United States has been to defend its commitments without emboldening other claimant states and becoming entrapped in their disputes with China.

More broadly, the challenge for both the United States and China is to maintain regional stability and avoid elevating the role of the South China Sea disputes in an increasingly competitive bilateral relationship. The United States is already involved in two of China's other sovereignty disputes: Taiwan, through the Taiwan Relations Act, and the Diaoyu/Senkaku Islands through Article V of the U.S.-Japan Treaty of Mutual Cooperation and

1. For helpful comments and suggestions, the author thanks Ian Chong, Kacie Miura, Rachel Esplin Odell, Liselotte Odgaard, Robert S. Ross, and Øystein Tunsjø.

2. In this chapter, "South China Sea disputes" refers to disputes over the territorial sovereignty of islands, rocks, and reefs such as the Paracel and Spratly Islands as well as disputes over maritime jurisdiction. On these different kinds of disputes, see M. Taylor Fravel, "China's Strategy in the South China Sea," *Contemporary Southeast Asia* 33, no. 3 (2011): 292–319.

Security. How China and the United States approach the South China Sea matters not just for the outcome of the disputes but for the dynamics and intensity of great power competition in the region. Historically, states clash and go to war over disputed territory more than any other issue, while power transitions exacerbate tensions between the rising power and the dominant one.<sup>3</sup> The intensification of territorial disputes amid a power transition portends a period of heightened danger of great power conflict in the South China Sea.

For the United States and China, balancing the countervailing pressures that they face in the South China Sea is difficult. As Kenneth Waltz has observed, competitors in international politics face “the necessity of balancing between too little and too much strength, between too many failures that strengthen the potential enemy and too many successes that scare him unduly.”<sup>4</sup> China’s vigorous assertion of maritime claims can threaten its neighbors and push them toward closer relations with the United States. Likewise, U.S. involvement in the South China Sea can threaten China’s position in the disputes and can even embolden states facing China, creating strong incentives for Beijing to push back. Missteps by either side in its involvement in the South China Sea could exacerbate the security dilemma, elevating the role of the disputes as a source of friction in U.S.-China relations and fueling a spiral of regional instability.<sup>5</sup> The United States and China need to thread the needle of defending their interests without unduly provoking the other.

Through an examination of how the two nations have managed these pressures, this chapter yields three findings. First, actions by the United States and China have often created incentives for the other state to push back, creating negative spirals. Many of China’s actions have threatened other states in these disputes (including a U.S. ally)—many of whom have sought to strengthen their security ties with Washington to balance Beijing. Some U.S. actions—in particular, the rollout of the pivot and the strengthening of the alliance with the Philippines—have threatened China’s position in the South China Sea, eliciting strong responses from Beijing. At the same time, largely to limit further U.S. involvement, China has engaged in tactical pauses or the temporary moderation of the pursuit of its claims.

Second, China and the United States have enhanced their positions in the South China Sea. Through wielding its growing maritime capabilities, China

3. John Vasquez and Marie T. Henehan, “Territorial Disputes and the Probability of War, 1816–1992,” *Journal of Peace Research* 38, no. 2 (2001): 123–38.

4. Kenneth N. Waltz, *Man, the State, and War: A Theoretical Analysis* (New York: Columbia University Press, 1959), 223.

5. Robert Jervis, “Cooperation under the Security Dilemma,” *World Politics* 30, no. 2 (1978): 167–214; Robert Gilpin, *War and Change in World Politics* (New York: Cambridge University Press, 1981).

has been more active than ever before in asserting its claims in the region. Through these actions, its physical position in the disputes has never been stronger. China has unilaterally exploited the natural resources in contested waters, increased the presence of its naval and law enforcement vessels, seized effective control of contested features like Scarborough Shoal, and engaged in unprecedented land reclamation on seven rocks and reefs to construct harbors and airfields that can further bolster its presence. Likewise, the U.S. security posture in Southeast Asia is more robust than at any time since the end of the Cold War, with invigorated alliances, new security partnerships, and greater access for American forces in the region.

Third, actions taken by both sides have helped to shield the broader relationship from tensions and competition in the dispute. In asserting and consolidating its claims, China has taken actions below the threshold of military force and has not attacked land features occupied by other claimants. By doing so, it has avoided the United States' greatest strength in the region—its ability to project air and naval power—and forced Washington to accept Chinese actions or escalate in response. China has also mostly taken actions to deter others from challenging it rather than to compel them to vacate the features they hold or settle on terms favorable to China. Likewise, the United States has not sought to reverse or roll back Chinese gains, such as the seizure of Scarborough Shoal, that would generally require Washington to engage much more directly in the disputes and probably abandon its principle of neutrality over sovereignty. Moreover, each side has tacitly accepted the advances made by the other. The United States has effectively accepted China's consolidation of its presence, including extensive land reclamation. China has effectively accepted a greater security role for the United States in the South China Sea. In this way, a new equilibrium or balance may be forming.

### **The Years 2008–2011: The United States Enters the Fray, Tensions Subside**

In 2008, as tensions grew in the South China Sea, other claimants—especially Vietnam and the Philippines—desired an increased role for the United States to balance China. In response and to prevent further “internationalization,” China moderated the pursuit of its claims from mid-2011 until the Scarborough Shoal incident in April 2012.

#### **GROWING TENSIONS**

Tension in the South China Sea disputes has increased substantially since around 2008. A key turning point was the May 2009 deadline for states to submit claims to extended continental shelves beyond two hundred nautical miles to the UN's Commission on the Limits of the Continental Shelf

(CLCS).<sup>6</sup> If a territorial or maritime dispute exists, the commission's rules dictate that it "shall not consider and qualify a submission made by any of the States concerned in the dispute."<sup>7</sup> As a result, claimants in the South China Sea had strong incentives to challenge the continental shelf submissions that overlapped with their own claims to territorial sovereignty or maritime jurisdiction. Accordingly, China and the Philippines both objected to Vietnam's submission and to the joint Vietnamese-Malaysian submission, which sparked objections and counterclaims.<sup>8</sup>

Even though the deadline for submissions had been established ten years earlier, its impending arrival in May 2009 significantly increased the competition in the South China Sea disputes. By submitting claims to the commission, relevant states formally expanded their claims to maritime jurisdiction beyond two hundred nautical miles from their coastlines. In its May 2009 note to the CLCS, for example, Vietnam claimed a broadened continental shelf that extended into the central part of the South China Sea. In addition, in the notes submitted to the CLCS, states not only contested each other's claims to maritime jurisdiction but also their claims to territorial sovereignty over the Paracel and Spratly Islands. Finally, China's first diplomatic note contesting Vietnam and Malaysia's submissions reaffirmed its claims to the islands and included a map of the region that depicted the Paracel and Spratly Islands along with the now infamous "nine-dash line."<sup>9</sup> Although the Chinese note did not mention the line, instead affirming China's "indisputable sovereignty over the islands in the South China Sea and the adjacent waters," Vietnam viewed the map as an expansion of China's claims.

In the eyes of other claimants, China's vigorous response to the CLCS submissions reinforced a view in the region that China had become more assertive in pressing its claims. Between 2006 and 2008, tensions had already begun to increase, especially as China responded to what it viewed as challenges from Vietnam. In 2007, Vietnam announced ambitious goals

6. Under UNCLOS, a state can only exercise rights to the continental shelf if the CLCS certifies the claim.

7. UN Commission on the Limits of the Continental Shelf, *Rules of Procedure of the Commission on the Limits of the Continental Shelf* (New York: United Nations, 2008), 22.

8. For a list of all submissions, see UN Commission on the Limits of the Continental Shelf, "Submissions, through the Secretary-General of the United Nations, to the Commission on the Limits of the Continental Shelf, pursuant to article 76, paragraph 8, of the United Nations Convention on the Law of the Sea of 10 December 1982," [http://www.un.org/Depts/los/clcs\\_new/commission\\_submissions.htm](http://www.un.org/Depts/los/clcs_new/commission_submissions.htm).

9. People's Republic of China, "Note Verbale," UN Commission on the Limits of the Continental Shelf, May 7, 2009, [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/mysvnm33\\_09/chn\\_2009re\\_mys\\_vnm\\_e.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2009re_mys_vnm_e.pdf). This map resembled one originally published by the Republic of China in 1947, which had eleven dashes, with two additional dashes extending north into the Gulf of Tonkin.

for its maritime economy, which included a continuation of efforts to develop oil and gas off its coast. China viewed these actions as a threat to its claims, and responded by threatening foreign oil companies investing in Vietnamese offshore exploration blocks (including several American companies).<sup>10</sup> In April 2007, Chinese and Vietnamese government ships clashed while a Chinese vessel sought to conduct a seismic survey in waters near the Paracel Islands.<sup>11</sup> In 2009 alone, China detained over four hundred Vietnamese fishermen who had ventured into the waters around the Paracel Islands, which China controls. In early 2010, several tense standoffs between Chinese and Vietnamese and Chinese and Indonesian government ships occurred in different parts of the South China Sea.<sup>12</sup>

At the same time, the frequency and scope of China's maritime naval activities increased. In 2008, a People's Liberation Army Navy (PLAN) task force conducted a training exercise in which it circumnavigated the South China Sea for the first time. In May 2009, Chinese vessels harassed the USNS *Impeccable*, an unarmed U.S. naval auxiliary, in waters approximately seventy-five miles from Hainan Island, questioning its right to conduct surveillance in the area. In 2010, the PLAN conducted three significant exercises in these waters, involving ships from all three fleets.<sup>13</sup>

#### THE UNITED STATES GETS INVOLVED

By 2010, the administration of U.S. president Barack Obama decided that growing tensions warranted a response. According to Jeff Bader, then Obama's senior adviser on Asia policy, the situation prompted the decision "that a new, more comprehensive articulation of U.S. policy was called for."<sup>14</sup> During the July 2010 meeting of the Association of Southeast Asian Nations (ASEAN) Regional Forum, the United States persuaded twelve other countries to express concern about the tensions in the South China Sea. Secretary of State Hillary Rodham Clinton also delivered a public statement of the U.S. position, the highest-level U.S. official ever to do so.<sup>15</sup> Clinton affirmed core elements of an earlier 1995 statement, including "a national interest in freedom of navigation," opposition to "the use or threat of force by any claimant," and a commitment to "not taking sides" in the competing territorial

10. Fravel, "China's Strategy in the South China Sea."

11. Scott Bentley, "Vietnam and China: A Dangerous Incident," *Diplomat*, February 12, 2014, <http://thediplomat.com/2014/02/vietnam-and-china-a-dangerous-incident/>.

12. Fravel, "China's Strategy in the South China Sea."

13. *Ibid.*

14. Jeffrey A. Bader, *Obama and China's Rise: An Insider's Account of America's Asia Strategy* (Washington, DC: Brookings Institution Press, 2012), 105.

15. U.S. Department of State, "Remarks at Press Availability," July 23, 2010, <http://www.state.gov/secretary/20092013clinton/rm/2010/07/145095.htm>.

claims. She also introduced new elements of U.S. policy, emphasizing the need to resolve disputes without coercion via a “collaborative diplomatic process” and articulating the position that “legitimate claims to maritime space in the South China Sea should be derived solely from legitimate claims to land features.”<sup>16</sup>

The Clinton statement emphasized broadly accepted international principles relevant to maritime disputes. China was not mentioned by name, but several elements were clearly directed against China more than any other claimant. First, the language regarding “legitimate claims” suggested that the United States opposed any claim by China to maritime jurisdiction based on the nine-dash line on Chinese maps. Second, the emphasis on a “collaborative process” implied support for multilateral talks that stood in contrast to China’s preference for dealing with each claimant bilaterally. Although the United States did not take a new position on the underlying sovereignty claims, it did take a position on the legitimacy of claims to maritime jurisdiction that states in the region could pursue and the process by which the dispute should be either managed or resolved. With the 2010 statement, the United States demonstrated that it planned to walk a fine line between maintaining neutrality on sovereignty with a greater involvement to help manage growing tensions.

The United States also indicated that it would become involved in another way: by strengthening ties with Vietnam. Since 2008, the two countries had held an annual political, security, and defense dialogue at the assistant secretary of state level. In 2009, a group of high-ranking Vietnamese defense officials boarded a U.S. aircraft carrier for the first time.<sup>17</sup> Later that year, two U.S. warships made port calls in Vietnam. In August 2010, the United States and Vietnam began to hold annual defense policy dialogues, which reflected a deepening of intermilitary relations. Part of these enhanced military relations included the initiation of what the Pentagon terms “naval engagement activities,” a series of low-level exchanges and exercises. The inaugural event, held in August 2010, was noteworthy because a group of Vietnamese political and military leaders were flown to the aircraft carrier *USS George Washington* to observe its operations in the South China Sea.<sup>18</sup> In October 2010, while in Vietnam to attend the East Asia Summit, Clinton met with Vietnamese foreign minister Pham Gia Khiem and “reaffirmed our

16. For a review, see M. Taylor Fravel, *U.S. Policy towards the Disputes in the South China Sea since 1995* (Singapore: S. Rajaratnam School of International Studies, Nanyang Technological University, 2014).

17. Steve Owsley, “Vietnamese Ministry of Defense Officials Visit USS John C. Stennis,” April 24, 2009, [http://www.navy.mil/submit/display.asp?story\\_id=44660](http://www.navy.mil/submit/display.asp?story_id=44660).

18. U.S. Seventh Fleet Public Affairs, “Seventh Fleet Kicks off Vietnam Naval Engagement Activities,” August 9, 2010, [http://www.navy.mil/submit/display.asp?story\\_id=55185](http://www.navy.mil/submit/display.asp?story_id=55185)

shared interest in working toward a strategic partnership.”<sup>19</sup> This phrase implied that relations might be elevated to a whole new level.

#### U.S. EMBOLDENMENT?

Overall, the evidence suggests that the United States did not embolden other states in the South China Sea disputes before 2010, though its increased involvement in 2010 likely had that effect (especially with the Philippines, as will be discussed in the next section). Brunei, Indonesia, and Malaysia all maintained very low profiles in the disputes before and after the United States changed its involvement in the South China Sea in July 2010. Vietnam was actively asserting its claims as early as 2006, which means that its behavior cannot be attributed to the 2010 Clinton statement. As was explained above, Vietnam’s development of its offshore oil and gas fields in the South China Sea sparked a flurry of Chinese *démarches* between 2006 and 2008. In 2007, a flotilla of Vietnamese ships blocked a Chinese seismic survey vessel from operating in waters north of Triton Island in the Paracels.<sup>20</sup> Likewise, Vietnamese commercial fishing activity appeared to increase around the Paracel Islands in 2008, while Vietnam submitted two claims to the CLCS in 2009: one unilaterally, which encompassed part of the South China Sea south of the Paracel Islands, and one with Malaysia that encompassed part of the area in the Spratly Islands. Likewise, the Philippines had begun to assert its claims before U.S. involvement increased in July 2010, though not as actively as Vietnam. In November 2007, for example, the Philippine legislature began to debate a law on archipelagic baselines, which encompassed the land features Manila claimed in the South China Sea. The final version included Philippine claims to these features but dropped archipelagic baselines.<sup>21</sup>

After Clinton’s statement in July 2010, however, Vietnam and the Philippines sought to increase international and especially American involvement. In October 2010, Vietnam began to give much greater international attention to the plight of Vietnamese fishermen who had been detained by China. Even greater publicity occurred after a China Marine Surveillance vessel severed the towed sonar array of a Vietnamese seismic survey vessel operating approximately one hundred nautical miles off the Vietnamese coast, well within Vietnam’s exclusive economic zone. By contrast, the Vietnamese press had rarely commented in 2008 and 2009, when China detained hundreds of

19. U.S. Department of State, “Remarks with Vietnamese Foreign Minister Pham Gia Khiem,” October 30, 2010, <http://www.state.gov/secretary/20092013clinton/rm/2010/10/150189.htm>.

20. Bentley, “Vietnam and China.”

21. See Michael D. Swaine and M. Taylor Fravel, “China’s Assertive Behavior—Part Two: The Maritime Periphery,” *China Leadership Monitor* 35 (2011): appendix, 15–16.

Vietnamese fishermen, or in 2007, when China sought to conduct the seismic survey in waters claimed by Vietnam. Likewise, after two China Marine Surveillance vessels shadowed a Philippine survey vessel in 2011, the Philippines began to speak out. Invoking language used by Clinton in 2010, Secretary of Foreign Affairs Albert F. Del Rosario called for a “rules-based approach” toward the disputes under the framework provided by the UN Convention on the Law of the Sea (UNCLOS).<sup>22</sup> In June 2011, in the context of the disputes in the South China Sea, Philippine president Benigno Aquino invoked the role of the United States, stating, “Perhaps the presence of our treaty partner which is the United States of America ensures that all of us will have freedom of navigation, will conform to international law.”<sup>23</sup> That summer, the Philippines renamed the South China Sea as the West Philippine Sea.<sup>24</sup>

#### CHINA MODERATES ITS APPROACH

The potential for even greater U.S. involvement in the dispute attracted China’s attention, suggesting that U.S. coercive diplomacy successfully moderated China’s policy during this period. In late June 2011, a spokesperson for the Chinese Ministry of Foreign Affairs stated that the South China Sea disputes were “a matter for the directly concerned parties [and] should be resolved through direct negotiation and friendly consultation by them,” adding, “We hope the nonparties respect the concerned parties’ efforts to settle disputes peacefully through bilateral dialogue.”<sup>25</sup> Cui Tiankai, then vice foreign minister, was even more blunt: “The United States is not a claimant state to the dispute. . . . So it is better for the United States to leave the dispute to be sorted out between the claimant states.” Cui further issued a warning: “I believe the individual countries are actually playing with fire, and I hope the fire will not be drawn to the United States.”<sup>26</sup>

Accordingly, heading into the July 2011 meeting of the ASEAN Regional Forum (ARF), China wanted to prevent the United States from playing an

22. Albert F. Del Rosario, “A Rules-Based Regime in the South China Sea,” *Philippine Star*, June 7, 2011.

23. Johanna Paola D. Poblete, “Aquino Welcomes US Support on Maritime Row with China,” *Business World Online*, June 15, 2011, <http://www.bworldonline.com/content.php?section=Nation&title=Aquino-welcomes-US-support-on-maritime-row-with-China&id=33112>.

24. ABS-CBN News, “PH to call South China Sea ‘West Philippine Sea,’” June 13, 2011, <http://news.abs-cbn.com/nation/06/13/11/ph-call-south-china-sea-west-philippine-sea>’.

25. Ministry of Foreign Affairs of the People’s Republic of China, “Foreign Ministry Spokesperson Hua Chunying’s Regular Press Conference,” June 28, 2011.

26. Edward Wong, “Beijing Warns U.S. about South China Sea Disputes,” *New York Times*, June 22, 2011.

increased role and limit discussion of the South China Sea. One day before the meeting, the solution was announced: an agreement between China and ASEAN on implementing guidelines for the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC).<sup>27</sup> The agreement itself was vague and lacked substance, but it reflected a desire by both parties to reduce tensions and to restart a diplomatic process to address tensions. In particular, the signing of the agreement just before the ARF helped to preempt discussion of the South China Sea, which supported Beijing's goal of limiting internationalization of the disputes. Despite its vagueness, U.S. diplomats saw the agreement as a sign of progress. As Assistant Secretary of State Kurt Campbell remarked, "We welcome this. It's an important first step . . . I think it has lowered tensions. It has improved atmospherics."<sup>28</sup> In this way, U.S. diplomacy and China's desire to limit further involvement of the United States helped to promote limited cooperation with other claimants.

Following the agreement on guiding principles, China adopted a posture toward the South China Sea that was generally much more moderate. China's efforts at moderation included reaffirming Deng Xiaoping's idea of "setting aside disputes and pursuing joint development," reaching an agreement with Vietnam on basic principles for resolving maritime disputes, and creating a ¥3 billion (US\$476 million) China-ASEAN Maritime Cooperation Fund. China hosted several workshops on oceanography and freedom of navigation in the South China Sea in December 2011, and also a meeting with senior ASEAN officials to discuss implementing the 2002 DOC in January 2012. Finally, it halted the assertive behaviors that had attracted so much adverse attention between 2009 and 2011. Vessels from the Bureau of Fisheries Administration detained and held only two Vietnamese fishing vessels between late 2010 and March 2012. Patrol ships from the State Oceanographic Administration did not interfere with Vietnamese or Philippine hydrocarbon exploration activities after May 2011.<sup>29</sup> More generally, China did not obstruct other exploration activities, such as ExxonMobil's successful drilling of an exploratory well in Vietnamese waters claimed by China in October 2011.<sup>30</sup>

27. Qin Jize and Cui Haipei, "Guidelines Agreed with ASEAN on Sea Disputes," *China Daily*, July 21, 2011.

28. VOA, News, "Clinton Welcomes South China Sea Guidelines," July 22, 2011, <http://www.voanews.com/a/clinton-welcomes-south-china-sea-guidelines-126002064/142592.html>.

29. The only exception is an incident in December 2012, when two Chinese fishing vessels severed the towed sonar array of a Vietnamese ship. See Jeremy Page, "Vietnam Accuses Chinese Ships," *Wall Street Journal*, December 3, 2012.

30. This paragraph summarizes M. Taylor Fravel, "All Quiet in the South China Sea: Why China Is Playing Nice (For Now)," *Foreign Affairs*, March 22, 2012.

## Mid-2011 to Mid-2012: U.S. Pivot, Philippine Assertiveness, and Chinese Pushback

The reduction in tensions in the South China Sea collapsed when a standoff erupted between China and the Philippines over the control of Scarborough Shoal. The U.S. pivot to Asia likely encouraged the Philippines to assert its own claims even more vigorously than before. As its moderation in 2011 neither assuaged other claimants nor reduced the demand from states in the region for greater U.S. involvement, China had strong incentives to take new actions to consolidate its claims in the first half of 2012, such as seizing control of the shoal and establishing Sansha City.

### THE UNITED STATES PIVOTS AMID THE DISPUTES

Looking back, 2011 was a turning point in U.S.-Philippine relations. In January of that year, the United States and the Philippines held for the first time a “bilateral strategic dialogue” involving senior officials from the U.S. State Department. According to Campbell, one purpose of the talks was to discuss how to “increase the Philippines’ maritime capacity” to patrol its waters.<sup>31</sup> In May 2011, the United States agreed to sell the Philippines a decommissioned Hamilton-class coast guard cutter, which became the flagship of the fledgling Philippine navy, the BRP *Gregorio del Pilar*.

In the fall of 2011, the United States rolled out the pivot to Asia. Secretary of State Clinton fired the opening salvo in an article in *Foreign Policy* in October 2011, followed by President Obama’s speech before Australia’s parliament in November 2011. Both sets of remarks highlighted the disputes in the South China Sea as a key issue to be addressed in the region. The South China Sea featured even more prominently in President Obama’s participation in the Sixth East Asia Summit in early November 2011, which marked the first time that a U.S. president had attended the gathering. In addition, Australia, India, Malaysia, the Philippines, Thailand, and Vietnam raised the issue of the South China Sea directly, while seven more states expressed concern about maritime security, presumably in the South China Sea.<sup>32</sup> In this way the United States encouraged other states to voice their concerns and may have suggested that it would be willing to back these states in their disputes with China.

Amid the early momentum of the pivot, the United States and the Philippines held a high-profile commemoration of the sixtieth anniversary of the alliance. The centerpiece was the signing of the Manila Declaration aboard

31. Agence France-Presse, “US Pledges Help for Philippine Navy,” January 27, 2011.

32. Damian Grammaticas, “Obama’s Victory over China?,” November 21, 2011, <http://www.bbc.com/news/world-asia-china-15818863>.

the USS *Fitzgerald*, an Arleigh Burke-class destroyer, in Manila Bay. The declaration reaffirmed the 1951 treaty as the basis of the bilateral relationship, referring to cooperation in the area of maritime security, shared interests in freedom of navigation, the peaceful resolution of disputes, and the pursuit of “collaborative, multilateral and diplomatic processes.” Secretary of State Clinton offered a strong statement of support that could have been viewed as increasing the U.S. commitment to the Philippines. In a reference to Philippine boxing champion Manny Pacquino, Clinton stated, “Let me say the United States will always be in the corner of the Philippines. We will always stand and fight with you to achieve the future we seek.”<sup>33</sup> Moreover, Clinton used the Philippine name for the South China Sea, the “West Philippine Sea,” when describing U.S. policy, creating a perception in the region of greater U.S. support for the Philippines. Finally, in January 2012, a second bilateral strategic dialogue was held, further deepening the U.S.-Philippines relationship. It was announced that the United States intended to transfer a second decommissioned Coast Guard cutter to the Philippine Navy.<sup>34</sup>

#### THE STANDOFF AT SCARBOROUGH SHOAL

In early April 2012 a Philippine naval ship was dispatched to investigate reports of fishing boats inside Scarborough Shoal, a coral reef approximately 135 miles from the Philippines and 543 miles from China. Philippine soldiers searched the boats and discovered that Chinese fishermen were harvesting giant clams and other marine animals in violation of Philippine law. As the Philippines prepared to arrest the fishermen, two China Marine Surveillance vessels arrived to block the sole entrance to the shoal, thus preventing the arrest. A standoff ensued over the next three months, as both China and the Philippines used government ships to contest control of the shoal and adjacent waters.

Given U.S. diplomacy in previous months, Manila may have concluded that it would be backed by the United States if it challenged China or, alternatively, that by challenging China it could further elicit even more direct intervention from the United States. At the same time, China concluded that the United States had emboldened the Philippines. According to a Xinhua commentary written just days after the incident, “a handful of countries in the past two years have sought to use the backing of external forces to behave in excess of what is proper in the South China Sea.” Moreover,

33. U.S. Department of State, “Clinton, Philippine Foreign Secretary Joint Press Availability,” November 16, 2011, <http://iipdigital.usembassy.gov/st/english/texttrans/2011/11/20111116142331su0.4998852.html>.

34. U.S. Department of State, “Toward a Deeper Alliance: United States–Philippines Bilateral Cooperation,” January 27, 2012, <http://www.state.gov/r/pa/prs/ps/2012/01/182689.htm>.

“countries surrounding the South China Sea, including the Philippines, have vowed to conform to the DOC, while resorting to outsiders instead of bilateral talks in their efforts to resolve disputes in the region.” Finally, the commentary concluded that involvement by “outsiders” was designed “to tilt the regional balance in their favor.”<sup>35</sup>

Nevertheless, the United States appears to have tried to restrain the Philippines or at least not encourage it to take stronger actions. During the first U.S.-Philippines 2+2 ministerial meeting of secretaries of defense and foreign affairs at the end of April, the United States did not alter its South China Sea policy in response to the standoff. Instead, Secretary Clinton opened her remarks on the South China Sea by underscoring that “we do not take sides on the competing sovereignty claims to land features in the South China Sea.”<sup>36</sup> Likewise, when President Aquino met with President Obama in early May, Obama did not refer to Scarborough Shoal in his public remarks, and restated the U.S. commitment to developing strong international rules and norms governing maritime disputes in the region.<sup>37</sup> In early June, the United States also actively tried to broker an end to the standoff through a mutual disengagement of government ships from the shoal when Vice Foreign Minister Fu Ying met with Campbell.<sup>38</sup> On June 16, with reports of bad weather approaching the area, the Philippines removed its two ships in the waters around the shoal.<sup>39</sup> Although China may have also removed some ships, they had returned a week later, leaving China in control of the shoal.<sup>40</sup>

In the standoff, the United States chose to accept the outcome of China’s assertiveness. The attempt to broker a return to the status quo ante failed. Nevertheless, when Chinese ships returned, the United States did not attempt to compel the Chinese ships to leave. China’s use of fishing vessels and government ships left the United States with the uncomfortable choice between escalating its involvement in the dispute, and thus potentially tak-

35. Wu Liming, “Commentary: Do Not Deliberately Create Disputes on Issue of South China Sea,” April 12, 2012, [http://news.xinhuanet.com/english/china/2012-04/12/c\\_122970436.htm](http://news.xinhuanet.com/english/china/2012-04/12/c_122970436.htm).

36. U.S. Department of State, “Remarks with Secretary of Defense Leon Panetta, Philippines Foreign Secretary Albert del Rosario, and Philippines Defense Secretary Voltaire Gazmin after Their Meeting,” April 30, 2012, <http://www.state.gov/secretary/20092013clinton/rm/2012/04/188982.htm>.

37. White House, “Remarks by President Obama and President Aquino of the Philippines after Bilateral Meeting,” June 8, 2012, <http://www.whitehouse.gov/the-press-office/2012/06/08/remarks-president-obama-and-president-aquino-philippines-after-bilateral>.

38. Geoff Dyer and Demetri Sevastopulo, “US Strategists Face Dilemma over Beijing Claim in South China Sea,” *Financial Times*, July 9, 2014.

39. Reuters, “Philippines Pulls Ships from Disputed Shoal Due to Weather,” June 16, 2012.

40. ABS-CBN News, “Chinese Ships Seen Anew at Scarborough,” June 23, 2012, <http://www.abs-cbnnews.com/nation/06/23/12/chinese-ships-seen-anew-scarborough>

ing sides with the Philippines, or a de facto acceptance of China's control of the shoal.

#### CONTINUED CHINESE ASSERTIVENESS AFTER SCARBOROUGH

After the Scarborough Shoal standoff, China continued to assert its claims in the South China Sea, which threatened the position of other claimants. In mid-June 2012, the State Council announced the elevation of the Sansha administrative office from a county-level unit to a prefectural-level city.<sup>41</sup> The following week, the state-owned Chinese National Offshore Oil Corporation (CNOOC) invited bids from international companies for nine exploration blocks in the middle portion of the South China Sea.<sup>42</sup> A few weeks later, the State Oceanic Administration dispatched four vessels on a training exercise to the middle and southern portion of the sea to demonstrate China's claims.<sup>43</sup> In early July, a fleet of thirty fishing vessels conducted a two-week cruise in the Spratly Islands to fish at Chinese-held reefs.<sup>44</sup> Also in July 2012, China used its influence over Cambodia, then holding the ASEAN chair, to prevent direct references to Scarborough Shoal from being included in an ASEAN joint communiqué. Exercising its power as chair, Cambodia decided that for the first time in forty-five years no communiqué would be issued.<sup>45</sup> China's meddling posed a threat to the unity of ASEAN as a whole. Finally, in July 2012, China established a division-level military garrison in Sansha City, complementing the Paracels maritime garrison under the South Sea Fleet.<sup>46</sup>

China continued to press its claims for several reasons. First, Chinese leaders may have concluded that the moderate approach from mid-2011 had failed to assuage the concerns of all claimants and reduce what Beijing viewed as challenges to its claims. In particular, the Philippines conducted very active and public diplomacy regarding its claims despite China's shift to a more moderate approach, including pushing for proposals that China viewed as harming its claims at the 2011 East Asia Summit, attempting to

41. Xinhua News Agency, "China Raises Administrative Status of South China Sea Islands," June 21, 2012.

42. M. Taylor Fravel, "The South China Sea Oil Card," *Diplomat*, June 27, 2012.

43. Xinhua News Agency, "Chinese Patrol Ships Reach Nansha Islands," July 4, 2012.

44. Huang Yiming and Jin Haixing, "Fishing Vessels Set Off for Nansha Islands," *China Daily*, July 13, 2012.

45. Agence France-Presse, "ASEAN Talks Fail over China Dispute," July 13, 2012, <http://www.abs-cbnnews.com/global-filipino/world/07/13/12/southeast-asian-summit-breaks-acrimony>; Ian Storey, "China Pushes on the South China Sea, ASEAN Unity Collapses," *China Brief* 12, no. 15 (2012), [http://www.jamestown.org/programs/chinabrief/single/?tx\\_ttnews%5Btt\\_news%5D=39728&cHash=7bf80ace68960cfc12b6edf8f11556fd](http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews%5Btt_news%5D=39728&cHash=7bf80ace68960cfc12b6edf8f11556fd).

46. Dennis J. Blasko and M. Taylor Fravel, "Much Ado about the Sansha Garrison," *Diplomat*, August 23, 2012.

persuade ASEAN in April 2012 to negotiate a code of conduct without China, and seeking international support during the standoff at Scarborough Shoal. At the ASEAN ministerial meeting, the Philippines sought to include a direct reference to the Scarborough standoff in the joint communiqué, which prompted China's interference.<sup>47</sup>

Second, although China managed to improve ties with Vietnam during this time period, several Vietnamese actions in June 2012 probably strengthened the argument in China for a return to a more assertive approach. These included Vietnam's first patrol of the islands with advanced Su-27 Flanker fighter aircraft flying as low as five hundred meters over disputed features and the National Assembly's passage of a maritime law that affirmed Vietnam's claims over the Paracels and Spratlys.<sup>48</sup> These actions were largely symbolic, but may have nevertheless given China stronger incentives to consolidate its claims. Secretary of Defense Leon Panetta's early June 2012 trip to Vietnam may have also suggested even greater U.S. support for Vietnam, provoking a more assertive approach by Beijing.

### **Mid-2012 to 2013: U.S. Pushback, Mutual Restraint**

Following resistance from the United States and ASEAN after the Scarborough standoff, China and the United States exercised restraint in the South China Sea in 2013. China indicated a renewed interest in holding consultations with ASEAN states while engaging Brunei and Vietnam. The United States refrained from raising the issue as frequently as it had before.

#### **U.S. AND ASEAN PUSHBACK**

If the United States had acted to restrain the Philippines during the Scarborough standoff, it altered its policy in August 2012 after ASEAN failed to issue a joint communiqué. In response, the United States issued another policy statement on the South China Sea. Unlike past statements, this one explicitly identified China as escalating tensions. Specifically, it referred to "the use of barriers to deny access" to the shoal that China had erected at the end of June and noted that "China's upgrading of the administrative level of Sansha City and establishment of a new military garrison there covering disputed areas of the South China Sea run counter to collaborative diplomatic efforts to resolve differences and risk further escalating tensions in the

47. Manuel Mogato and Stuart Grudgings, "'ASEAN Way' Founders in South China Sea Storm," July 17, 2012, <http://www.reuters.com/article/us-asean-china-idUSBRE86G09N20120717>.

48. "Vietnam to Conduct Regular Air Patrols over Archipelago," *Thannien News*, June 20, 2012; "Vietnam Passes Law to Protect Sea and Islands," *Thannien News*, June 22, 2012.

region."<sup>49</sup> As a result, the United States appeared to embrace much more active involvement in the dispute, potentially abandoning neutrality by calling out China.

At the same time, China's actions prompted redoubled efforts within ASEAN to reach agreement on a code of conduct. In early July 2012, before the debacle involving the failed joint statement, the ASEAN Senior Officials Meeting Working Group on the Code of Conduct held its seventh meeting. The main result was that ASEAN reached agreement on elements that should be part of a code of conduct to be negotiated with China.<sup>50</sup> After the failure to issue a joint statement in July, Indonesia's foreign minister led an effort to restore unity within ASEAN, which resulted in a six-point statement on the South China Sea.

In November 2012, the South China Sea remained a contentious issue at the East Asia Summit. President Obama reiterated U.S. policy and "encouraged the parties to make progress on a binding code of conduct in the South China Sea to provide a framework to prevent conflict, manage incidents when they occur, and help resolve disputes."<sup>51</sup> Before the summit, China attempted to keep the disputes off the agenda. In October 2012, Vice Foreign Minister Fu Ying chastised ASEAN states for "internationalizing" the dispute by raising the issue with nonclaimant states such as the United States. She also said that other claimants should not engage in multilateral talks, raise the disputes with nonclaimants like the United States, engage in media interviews, or take action at the United Nations.<sup>52</sup> China also suspended efforts to continue dialogue on a code of conduct that had started in the fall of 2011. In November 2012, Fu indicated that a code of conduct could only be discussed if the DOC was fully implemented, meaning if other states exercised "self-restraint" and stopped challenging China.<sup>53</sup>

#### CHINESE AND U.S. MODERATION

By the spring of 2013, China moved back to a more moderate approach. In early April, China announced that it wanted to restart stalled talks with

49. U.S. Department of State, "South China Sea," August 3, 2012, <http://www.state.gov/r/pa/prs/ps/2012/08/196022.htm>.

50. Carlyle A. Thayer, "ASEAN'S Code of Conduct in the South China Sea: A Litmus Test for Community-Building?," *Asia-Pacific Journal: Japan Focus* 10, issue 34, no. 4 (2012), <http://apjif.org/2012/10/34/Carlyle-A.-Thayer/3813/article.html>.

51. White House, "Fact Sheet: East Asia Summit Outcomes," November 20, 2012, <http://www.whitehouse.gov/the-press-office/2012/11/20/fact-sheet-east-asia-summit-outcomes>.

52. Greg Torode, "China 'Dictatorial' in Scarborough Shoal Disputes, Says Albert del Rosario," *South China Morning Post*, November 30, 2012.

53. Fu Ying, "Carry Forward the Spirit of the DOC and Promote Peace and Stability," November 2, 2012, <http://brisbane.chineseconsulate.org/eng/zgxw/t984572.htm>.

ASEAN over a binding code of conduct.<sup>54</sup> The action was most likely taken in response to the Philippines' move to launch an arbitral tribunal under UNCLOS on China's claims in the South China Sea in January 2013.<sup>55</sup> During the July 2013 ARF meeting, Chinese foreign minister Wang Yi announced that China-ASEAN talks at the senior official and working group levels would be held to discuss how to pursue a code of conduct.<sup>56</sup> Talks held in mid-September produced a road map for further discussions for 2013–14 and the creation of an eminent persons group to discuss the issue.

In addition, China pursued a more balanced approach toward Vietnam. In early June 2013, defense ministries in each country agreed to establish a hotline between their navies.<sup>57</sup> In mid-June, during President Truong Tan Sang's visit to China, Vietnam and China agreed to establish a hotline between their fisheries departments in addition to resuming talks on the demarcation of the mouth of the Tonkin (Beibu) Gulf and pursuing a political settlement in the South China Sea.<sup>58</sup> In October 2013, during Premier Li Keqiang's visit to Vietnam, the two countries agreed to establish a joint working group on maritime development.

China also pursued joint development agreements with Brunei. In April 2013, China and Brunei agreed "to carry out joint exploration and exploitation of maritime oil and gas resources."<sup>59</sup> In October 2013, CNOOC and Brunei's state-owned oil company agreed to set up an oilfield services joint venture.<sup>60</sup>

Finally, China's top leaders signaled the importance of limiting the potential for the disputes to harm ties with these countries. During a meeting on maritime affairs at the end of July 2013, President Xi Jinping indicated that China might pursue a more moderate approach, affirming Deng Xiaoping's guidance for managing offshore island disputes by "setting aside disputes and pursuing joint development" while also underscoring the need to coor-

54. Agence France-Presse, "ASEAN, China to Meet on Maritime Code of Conduct," April 11, 2013.

55. Philippines Department of Foreign Affairs, "Statement: The Secretary of Foreign Affairs on the UNCLOS Arbitral Proceedings against China," January 22, 2013.

56. Ministry of Foreign Affairs of the People's Republic of China, "Wang Yi Stressed that the South China Sea Issue Should Be Resolved by Parties Directly Concerned through Negotiation," July 2, 2013, <http://www.fmprc.gov.cn/eng/zxxx/t1055452.shtml>.

57. Pu Zhendong and Zhang Yunbi, "China, Vietnam Set Up Naval Hotline," *China Daily*, June 7, 2013.

58. Xinhua News Agency, "China, Vietnam Agree to Maintain Maritime Dialogues," June 21, 2013.

59. Ministry of Foreign Affairs of the People's Republic of China, "Joint Statement between the People's Republic of China and Brunei Darussalam," April 5, 2013, [http://www.fmprc.gov.cn/mfa\\_eng/wjdt\\_665385/2649\\_665393/t1029400.shtml](http://www.fmprc.gov.cn/mfa_eng/wjdt_665385/2649_665393/t1029400.shtml).

60. China National Offshore Oil Company, "CNOOC and Petroleum Brunei Sign Agreement on Setting up Joint Venture," October 14, 2013.

dinate “rights defense” in the maritime domain with the maintenance of stability.<sup>61</sup> In September and October 2013, Xi Jinping and Li Keqiang visited the region before attending a meeting of the Asia-Pacific Economic Cooperation organization (APEC) and the East Asia Summit, respectively. Taken together, they visited half of the members of ASEAN and four of the five claimants in the South China Sea: Brunei, Indonesia, Malaysia, Thailand, and Vietnam. During a speech before Indonesia’s parliament, Xi called for China and ASEAN to build a “maritime Silk Road.”<sup>62</sup> Finally, in October, China’s top leaders held an unprecedented meeting on regional diplomacy, which was attended by all seven members of the Politburo Standing Committee and lasted for two days.<sup>63</sup> The main theme of Xi’s speech was the importance of “maintaining a stable external environment,” downplaying China’s sovereignty disputes and making no reference to maritime affairs.

This second phase of moderation, however, excluded the Philippines. China remained opposed to the arbitration process that Manila began in January 2013 and essentially froze diplomatic relations with the country to persuade it to drop the case. After taking office in March 2013, Wang Yi, China’s foreign minister, soon met at least once with each of his counterparts from all ASEAN states except for the Philippines. In May and June 2013, China dispatched government ships to monitor a Philippine outpost on Second Thomas Shoal, at times preventing Philippine efforts to resupply the garrison located there.<sup>64</sup> In August 2013 President Aquino was disinvited from an ASEAN-China trade fair.

U.S. policy cannot account fully for the second period of moderation. The reaction of the ASEAN states after the failure to issue a joint communiqué in July 2012 is equally important. When Brunei assumed the chairmanship in 2013, progress on the code of conduct was high on ASEAN’s agenda. The Philippines’ decision to pursue arbitration also increased incentives for China to make progress on the negotiations on the code to isolate Manila within ASEAN and limit support for arbitration. Nevertheless, clear support for the code of conduct from the United States, and the potential for many ASEAN states to deepen ties with Washington as tensions in the disputes increased, was also an important factor. After all, a stable external environment is one

61. M. Taylor Fravel, “Xi Jinping’s Overlooked Revelation on China’s Maritime Disputes,” *Diplomat*, August 15, 2013.

62. Wu Jiao and Zhang Yunbi, “Xi in Call for Building of New ‘Maritime Silk Road,’” *China Daily*, October 4, 2013.

63. “Xin Jinping zai zhoubian waijiao gongzuo zuotanhui shang fabiao zhongyao jianghua” [Xi Jinping’s important remarks at the forum on peripheral diplomacy], *Renmin Ribao*, October 25, 2013.

64. Manuel Mogato, “South China Sea Tension Mounts near Filipino Shipwreck,” May 29, 2013, <http://www.reuters.com/article/us-philippines-china-idUSBRE94R0YS20130529>.

in which other great powers do not have better relations with China's neighbors than China, thus increasing the influence of the great powers near China's borders.

Notably, the United States also lowered its public rhetoric on the dispute. During a major address on Asia policy in March 2013, for example, National Security Adviser Tom Donilon made no mention of the disputes in the South China Sea and offered only a few general references to maritime security.<sup>65</sup> Secretary of State John Kerry made no detailed statement on the South China Sea until July 2013, during a U.S.-ASEAN meeting just before the 2013 meeting of the ARF.<sup>66</sup> Similarly, although the South China Sea was discussed during the "shirt-sleeves" summit at the Sunnylands estate in California between Obama and Xi, it was not mentioned in any of the public statements.

### **Mid-2013 to 2014: Philippine Challenges, Chinese Pushback, Regional Blowback**

Most likely in response to the Philippine decision to pursue arbitration and the tightening of the U.S.-Philippines alliance, China in early 2014 began to build artificial islands atop the seven reefs and rocks it controls in the Spratly Islands. In a surprising move, China also deployed a drilling rig to waters disputed with Vietnam in May 2014. These actions occurred against the backdrop of China's establishment of the Air Defense Identification Zone (ADIZ) in the East China Sea in November 2013, which signaled China's determination to defend its maritime claims, even if such actions risked escalation. China's actions alarmed states in the region and galvanized greater U.S. involvement in the disputes, as well as deeper ties with other claimants—especially Vietnam and the Philippines. China engaged in damage control in the second half of 2014, but continued with land reclamation.

#### PHILIPPINE CHALLENGES TO CHINA

China's decision to initiate large-scale land reclamation in the Spratly Islands was perhaps the boldest and most consequential action it has taken in the dispute since occupying six features and clashing violently with Vietnam in early 1988. Why China might have chosen to start land reclamation in early 2014 may have been in response to two challenges from the Philippines, which likely hardened a Chinese perception that the disputes would

65. Tom Donilon, "The United States and the Asia-Pacific in 2013," March 13, 2013, <http://www.whitehouse.gov/the-press-office/2013/03/11/remarks-tom-donilon-national-security-advisory-president-united-states-a>.

66. U.S. Department of State, "Remarks at the U.S.-ASEAN Ministerial Meeting," July 1, 2013.

persist for a very long time and that China would need to consolidate its physical control of contested features it occupied.

The first Philippine action was a decision to pursue arbitration to challenge China's claims. In January 2013, Manila initiated arbitral proceedings under Article 297 of UNCLOS when it submitted a Notification and Statement of Claim to China. The notification questioned the legality of China's nine-dash line and the maritime entitlements from land features held by China, among other complaints. In February 2013, China announced its rejection of the proceedings, noting that they violated the 2002 DOC, and called on the Philippines to pursue bilateral talks.<sup>67</sup> China continued to oppose arbitration throughout the spring of 2013, but failed to prevent the process from moving forward. By the end of June, the president of the International Tribunal for the Law of the Sea had formed a panel of five judges.<sup>68</sup> In July 2013, the tribunal met and began drafting rules of procedure and a timetable for the proceedings. At the end of July, China repeated its opposition in a note verbale to the tribunal, emphasizing "its position that it does not accept the arbitration initiated by the Philippines."<sup>69</sup> Yet at the end of August 2013, the tribunal issued its rules of procedure and called for the submission of memorials by March 30, 2014. In sum, China was unable to prevent an international legal process that threatened to undermine some of its claims in the dispute.

Second, when the tribunal issued its timetable for the proceedings, the United States and the Philippines began talks to widen U.S. access to bases in the Philippines. The focus of the talks would include increasing the rotational presence of U.S. forces in the Philippines—especially air and naval forces. From the Philippine perspective, an enhanced U.S. presence would help to deter China. Manila's goal was "an arrangement that will help the country achieve a minimum credible defense amid territorial threats and boost the modernization plan for the armed forces."<sup>70</sup> The talks progressed rapidly and, after eight rounds, an agreement was signed when President Obama visited Manila in late April 2014. The title, Enhanced Defense Cooperation Agreement (EDCA), reflected the deepening of the alliance and

67. People's Republic of China, *Note Verbale from the Embassy of the People's Republic of China in Manila to the Department of Foreign Affairs of the Republic of the Philippines*, February 19, 2013, <https://assets.documentcloud.org/documents/2165478/phl-prc-china-note-verbale.pdf>.

68. Tarra Quismundo, "Panel to Hear PH Case vs. China Now Complete," *Philippine Daily Inquirer*, June 26, 2013.

69. Permanent Court of Arbitration, "Award on Jurisdiction and Admissibility," PCA Case no. 2013-19, October 29, 2015, 17.

70. Philippines Department of National Defense, "Philippine Panel Discusses First Round of Talks with US on Increased Rotational Presence," August 15, 2013, <http://www.dnd.gov.ph/philippine-panel-discusses-first-round-of-talks-with-us-on-increased-rotational-presence.html>

created a framework for greater U.S. access and presence in the Philippines. Taken together, the tribunal raised the prospect of delegitimizing some of China's claims, while the tightening of the alliance and the EDCA negotiations had the potential to strengthen considerably the state using arbitration to challenge China's claims.

#### THE EAST CHINA SEA ADIZ AND THE HARDENING OF THE U.S. POSITION

China's November 2013 declaration of the East China Sea ADIZ reverberated in the South China Sea. The action heightened U.S. and regional concerns about Chinese intentions by underscoring China's willingness to assert its maritime claims through unilateral actions that risked escalation. It also raised concerns that China might do the same in the South China Sea, as the Chinese Ministry of Defense noted that "China will establish other air defense identification zones at an appropriate time after completing preparations."<sup>71</sup> Just a few weeks after the ADIZ announcement, Hainan Province updated its fishing regulations, and this was viewed as yet another unilateral effort to increase control over disputed areas.<sup>72</sup> Finally, in December, a near collision between the USS *Cowpens* and a Chinese naval escort increased tensions between the United States and China in the waters of the South China Sea.<sup>73</sup>

All these actions put pressure on the United States to respond in order to demonstrate its commitment to regional stability. A State Department spokesperson described the ADIZ as "a highly provocative act by the Chinese to unilaterally change the status quo."<sup>74</sup> The United States said it would not recognize or accept the new ADIZ and called on China not to implement it. Similarly, the United States described Hainan's revised fishing regulations as "provocative and potentially dangerous." From Beijing's perspective, of course, these statements increased U.S. involvement in the disputes, in contrast to the lower profile adopted by Washington beginning in late 2012. In response, a Xinhua commentary criticized the United States for "resorting to the old trick of 'divide and rule'" by stirring up tensions and then stepping in "to pose as 'mediator' or 'judge' in a bid to maximize its own interests."<sup>75</sup>

71. Xinhua News Agency, "China Exclusive: Defense Ministry Spokesman Responds to Air Defense Identification Zone Questions," November 23, 2013.

72. M. Taylor Fravel, "Hainan's New Fishing Rules: A Preliminary Analysis," *Diplomat*, January 10, 2014.

73. Jon Harper, "Chinese Warship Nearly Collided with USS *Cowpens*," *Stars and Stripes*, December 13, 2013.

74. U.S. Department of State, "Daily Press Briefing," December 3, 2013, <http://www.state.gov/r/pa/prs/dpb/2013/12/218257.htm>.

75. Wu Liming, "Commentary: Be Alert to U.S. Hidden Agenda in South China Sea," January 10, 2014, [http://news.xinhuanet.com/english/indepth/2014-01/10/c\\_133035521.htm](http://news.xinhuanet.com/english/indepth/2014-01/10/c_133035521.htm).

The U.S. position further hardened in early February 2014 after reports surfaced indicating that China might establish an ADIZ in the South China Sea. In late January 2014, a senior member of the U.S. National Security Council staff, Evan Medeiros, stated that the United States would oppose China's establishment of an ADIZ in the South China Sea, noting that it would be viewed "as a provocative and destabilizing development that would result in changes in our presence and military posture in the region."<sup>76</sup> The following week, Assistant Secretary of State Daniel Russel stated that China's actions since 2012 had "raised tensions in the region" and reflected "an incremental effort by China to assert control over the area contained in the so-called 'nine-dash line.'"<sup>77</sup> He then stated that "any use of the 'nine-dash line' by China to claim maritime rights not based on claimed land features would be inconsistent with international law." Russel expressed support for the Philippine decision to pursue arbitration with China and described it as an example of solving disputes in a peaceful, noncoercive way, thereby further linking the United States to the Philippines' position in its dispute with China.

Finally, when President Obama visited Asia in April 2014, the United States underscored its resolve to stay involved in China's maritime disputes. In addition to South Korea, Obama visited three countries involved in disputes with China. In Tokyo, he became the first sitting U.S. president to affirm publicly that Article V of the U.S.-Japan Alliance covered the Diaoyu/Senkaku Islands, underscoring the U.S. role in one of China's other maritime disputes. Obama also became the first U.S. president to visit Malaysia in almost fifty years. The joint statement issued with Prime Minister Najib Razak emphasized maritime security cooperation and "the importance of all parties concerned resolving their territorial and maritime disputes through peaceful means, including international arbitration."<sup>78</sup> In the Philippines, in addition to signing the Enhanced Defense Cooperation Agreement, President Obama declared in a speech to U.S. and Philippine forces that "our commitment to defend the Philippines is ironclad."<sup>79</sup>

76. Kyodo News, "U.S. 'Could Change Military Posture' if China Sets Up Second ADIZ," February 1, 2012.

77. Daniel R. Russel, "Maritime Disputes in East Asia," February 5, 2014, <http://www.state.gov/p/eap/rls/rm/2014/02/221293.htm>.

78. White House, "Joint Statement by President Obama And Prime Minister Najib Of Malaysia," April 27, 2014, <https://www.whitehouse.gov/the-press-office/2014/04/27/joint-statement-president-obama-and-prime-minister-najib-malaysia-0>.

79. White House, "Remarks by President Obama to Filipino and U.S. Armed Forces at Fort Bonifacio," April 28, 2014, <https://www.whitehouse.gov/the-press-office/2014/04/28/remarks-president-obama-filipino-and-us-armed-forces-fort-bonifacio>.

## CHINA PUSHES BACK

In early 2014, China launched what would become a large-scale effort to build artificial islands atop all seven features it occupied in the Spratly Islands. Land reclamation at Johnson South Reef began in January 2014, followed by Cuarteron and Hughes Reefs in March and Gaven Reef in June. Then, in August, China began a much larger effort to transform Fiery Cross Reef into an airfield and harbor.<sup>80</sup> The start of land reclamation in early 2014 suggests it was most likely a response to the Philippine decision to pursue arbitration and the tightening of the U.S.-Philippines alliance through the EDCA negotiations. The arbitration reflected a direct challenge to China's claims, while an increased rotational troop presence would clearly bolster the U.S. presence in the South China Sea and support the state's challenging China's claims in court. By greatly expanding China's physical presence, the construction of artificial islands reflected China's resolve to defend its claims and consolidate its material position in the Spratlys, regardless of the tribunal's finding.

In addition to its reclamation efforts, in May 2014 China announced that its largest and most advanced drilling rig, the HYSY 981, would drill in waters near the Paracel Islands for two and a half months. Although close to Chinese-controlled Triton Island, the rig was also within the two hundred nautical miles of Vietnam's exclusive economic zone. China dispatched a fleet of coast guard, oil service, and fishing boats to protect the rig, while Vietnamese coast guard and other government ships sought to block the rig's deployment and disrupt its drilling operations. Anti-Chinese protests also erupted in Vietnam. Although planning for the rig's deployment occurred much earlier in 2014, if not before, the final decision to move forward would have occurred amid the tougher position adopted by the United States.<sup>81</sup>

The deployment of HYSY 981 greatly worsened ties between China and Vietnam while also alarming the region more generally, as it occurred just as the region became increasingly aware of the extent of China's land reclamation efforts. The crisis over the rig prompted ASEAN's foreign ministers to issue a rare statement on May 10, 2014, to express "serious concerns over on-going developments in the South China Sea, which have increased tensions in the area."<sup>82</sup> In June, the United States floated the idea of a volun-

80. Office of the Secretary of Defense, *Annual Report to Congress: Military and Security Developments Involving the People's Republic of China* 2016, April 2016, 14–20.

81. Erica S. Downs, "Business and Politics in the South China Sea: Explaining HYSY 981's Foray into Disputed Waters," *China Brief* 14, no. 12 (2014), [http://www.jamestown.org/programs/chinabrief/single/?tx\\_ttnews%5Btt\\_news%5D=42519&tx\\_ttnews%5BbackPid%5D=758&no\\_cache=1](http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews%5Btt_news%5D=42519&tx_ttnews%5BbackPid%5D=758&no_cache=1).

82. Association of Southeast Asian Nations, "ASEAN Foreign Ministers' Statement on the Current Developments in the South China Sea," May 10, 2014, <http://asean.org/asean-foreign-ministers-statement-on-the-current-developments-in-the-south-china-sea/>.

tary freeze on provocative activities by claimants in the South China Sea, which it raised again in early August at the ARF. Immediately after the meeting, ASEAN foreign ministers reaffirmed that they “remained seriously concerned over recent developments.”<sup>83</sup> A few weeks later, U.S. general Martin Dempsey, chairman of the Joint Chiefs of Staff, became the highest-ranking American military officer to visit Vietnam since the end of the Vietnam War, and maritime cooperation was a key topic during his visit. In October, the United States announced a partial lifting of the arms embargo toward Vietnam that had been in effect since the end of the war.

#### CHINA PAUSES, PARTIALLY

In response to regional concerns and deepening U.S. involvement in the region, China sought to moderate its position for a third time. This moderation, however, was more limited than previous ones because land reclamation continued apace. The first component was a renewed engagement of Vietnam. In August 2014, after HYSY 981 had moved away from disputed waters, China and Vietnam announced a three-point agreement to lower tensions in the dispute.<sup>84</sup> Senior party leaders visited Vietnam in a bid to improve relations, including Central Military Commission vice chair Fan Changlong and state councilor for foreign affairs Yang Jiechi in October and President Xi Jinping in November. All the visits affirmed the goal of preventing maritime disputes from harming the broader bilateral relationship.<sup>85</sup>

The second component of China’s moderation was renewed engagement of the region more generally by highlighting the potential for substantial investment to meet growing infrastructure needs in Asia. At the APEC meeting in November, President Xi announced the creation of the US\$40 billion Silk Road Fund, which was formally established in December.<sup>86</sup> Just a few days after Xi’s announcement, Premier Li Keqiang announced at the East Asia Summit a planned US\$20 billion in loans for infrastructure in Southeast Asia, with half earmarked for ASEAN and the other half to be channeled through the China Development Bank.<sup>87</sup> These efforts complemented

83. Association of Southeast Asian Nations, “Joint Communiqué 47th ASEAN Foreign Ministers’ Meeting,” August 8, 2014, <http://asean.org/joint-communication-47th-asean-foreign-ministers-meeting/>.

84. Xinhua News Agency, “China, Vietnam Call Truce on Maritime Tensions,” August 27, 2014.

85. Xinhua News Agency, “China Calls for Closer Maritime Cooperation with Vietnam,” November 6, 2015.

86. Paul Carsten and Ben Blanchard, “China to Establish \$40 Billion Silk Road Infrastructure Fund,” November 8, 2014, <http://www.reuters.com/article/us-china-diplomacy-idUSKBN0IS0BQ20141108>.

87. Xinhua News Agency, “China Pledges over 20-Bln-USD Loans to Boost Southeast Asian Connectivity,” November 13, 2014.

China's move to establish the Asian Infrastructure Investment Bank, which twenty-one Asian states had agreed to join in October 2014.

Finally, perhaps to deflect some attention from the South China Sea, China worked with the United States to produce a successful state visit, and President Obama came to Beijing in November 2014. According to announcements made during the visit, the two sides achieved substantial progress, agreeing on voluntary targets to limit greenhouse gases, reciprocal short-term visas, and trade in information technology. In addition, China and the United States signed two nonbinding memoranda of understanding in the area of crisis management. The first concerned the "rules of behavior for aerial and maritime encounters," including an annex for such encounters. The second concerned the notification of major military activities.<sup>88</sup> These two agreements likely reflected the need to prevent accidents amid the growing intensification of the South China Sea disputes.

### **The Years 2015 to 2016: The United States and China Hunker Down**

Despite the November 2014 summit, China and the United States continued to strengthen their positions in the South China Sea in 2015. China broadened the scope and scale of its land reclamation, while the United States deepened its security relationships with other states in the disputes—especially Vietnam and the Philippines.

In early 2015, the main thrust of China's efforts in the South China Sea was to continue with its effort to build and develop artificial islands. In late January, China started to reclaim land at Subi Reef, while in early February China started to reclaim land at Mischief Reef. China transformed these two reefs into China's largest artificial islands in the Spratlys, 5.7 and 4.9 square kilometers in size, respectively, each with a three-thousand-meter runway and a large harbor.<sup>89</sup> The steady progress of China's land reclamation and island development at all seven features was revealed through satellite imagery and frequently reported in the international media. Despite Chinese efforts to explain in April 2015 that the islands would be used largely for civilian purposes, concern about its intentions increased as land reclamation continued.

The United States responded in several ways. First, it issued a series of high-level statements about China's behavior. In February, Russel called on Beijing to stop land reclamation.<sup>90</sup> In April, in response to a question about

88. Office of the Secretary of Defense, *Annual Report to Congress*, 110–44.

89. *Ibid.*, 15, 17.

90. Jeremy Page and Julian E. Barnes, "China Expands Island Construction in Disputed South China Sea," *Wall Street Journal*, February 18, 2015.

land reclamation, Secretary of Defense Ashton Carter stated that “we take a strong stand against militarization of those disputes.”<sup>91</sup> Also in April, President Obama expressed concerns about China’s behavior, noting that “just because the Philippines or Vietnam are not as large as China doesn’t mean that they can just be elbowed aside.”<sup>92</sup> Moreover, Obama suggested China was “using its sheer size and muscle to force countries into subordinate positions.”

Second, the Pentagon began to float the idea of operational challenges near China’s islands. In May 2015, the *Wall Street Journal* reported that the Pentagon was considering “flying Navy surveillance aircraft over the islands and sending U.S. naval ships to well within 12 nautical miles of reefs that have been built up and claimed by the Chinese.”<sup>93</sup> A few weeks later, in his speech at the Shangri-La Dialogue, Carter suggested such operations were being considered, stating, “There should be no mistake: the United States will fly, sail, and operate wherever international law allows.”<sup>94</sup> After a period of debate within the administration between the White House and the Pentagon, Freedom of Navigation operations (FONOPs) targeting Chinese features in the Spratlys and Paracels began in October 2015, with follow-on operations in January and May 2016.

Third, the United States accelerated the deepening of security ties with other countries in the South China Sea disputes. At the Shangri-La Dialogue, Carter also announced the establishment of the Maritime Security Initiative, a US\$425 million fund to bolster maritime capacity in the region, particularly for the Philippines, with roughly half of the funds to be dispersed by the end of 2016. Meanwhile, the United States and ASEAN leaders held their first summit meeting in February 2016—pointedly, at the Sunnyslands estate where Xi and Obama had met in 2013. At the meeting, Obama called for “a halt to further reclamation, new construction and militarization of disputed areas.”<sup>95</sup> In March 2016, the United States and the Philippines announced that U.S. forces would be granted access to five Philippine air bases, two of which are located adjacent to the South China Sea. The first

91. U.S. Department of Defense, “Remarks by Secretary Carter and Nakatani at a Joint Press Conference Press Operations,” April 8, 2015, <http://www.defense.gov/News/News-Transcripts/Transcript-View/Article/607035>.

92. Matt Spetalnick and Ben Blanchard, “Obama Says Concerned China Bullying Others in South China Sea,” April 10, 2015, <http://www.reuters.com/article/us-usa-obama-china-idUSKBN0N02HT20150410>.

93. Adam Entous, Gordon Lubold, and Julian Barnes, “U.S. Military Proposes Challenge to China Sea Claims,” *Wall Street Journal*, May 12, 2015.

94. Ashton Carter, “A Regional Security Architecture Where Everyone Rises,” May 30, 2015, <http://archive.defense.gov/Speeches/Speech.aspx?SpeechID=1945>.

95. Jeff Mason and Bruce Wallace, “Obama, ASEAN Discuss South China Sea Tensions, but No Joint Mention of China,” February 17, 2016, <http://www.reuters.com/article/us-usa-asean-idUSKCN0VP1F7>.

deployment of U.S. aircraft to these bases occurred a month later.<sup>96</sup> During Xi's meeting with Obama in Washington in late March, Obama reportedly warned the Chinese president against taking any actions in the South China Sea "involving American treaty obligations to the Philippines."<sup>97</sup> Also in March, the United States and the Philippines began joint patrols in the South China Sea, which reflected the tightening of the alliance. In May 2016 President Obama visited Vietnam, where he announced that the United States had lifted its arms embargo on that nation, symbolizing further improvement in bilateral relations.

During this period, China continued with its land reclamation and island development but avoided undertaking new actions. In late June 2015, China announced that it had halted land reclamation work in the Spratlys and had shifted to the development phase. In September of that year, the United States and China signed two annexes on aerial encounters and crisis management to the 2014 memorandum of understanding. China has also adopted a low-key approach to U.S. FONOPs that challenge China's excessive maritime claims. Although China has opposed them publicly, it has not tried to interfere with the navigation or movement of U.S. vessels. Moreover, U.S. naval commanders report that Chinese vessels have been operating in a professional manner. China's change in tactics, which one report described as "passive assertiveness," likely represents a response to a concern about miscalculation as well as to the increased U.S. focus on the South China Sea disputes from early 2015.<sup>98</sup>

## Conclusion

Since 2008, China and the United States have strengthened their positions in the South China Sea. China's physical presence in the sea has never been stronger: it possesses three military-grade airfields in the Spratly Islands and maintains a steady presence of commercial, military, and law enforcement vessels in contested waters. Similarly, the involvement of the United States in Southeast Asian regional security has never been greater: it has strengthened its alliance with the Philippines and its security partnerships with littoral states, giving U.S. forces much greater access to and presence in the region than at any time since the end of the Cold War. By threatening many of its neighbors, China may have deterred them from physically challeng-

96. Trefor Moss, "U.S. Set to Deploy Troops to Philippines in Rebalancing Act," *Wall Street Journal*, March 20, 2015.

97. Jane Perlez and Chris Buckley, "U.S. and China Offer Competing Views on Disputed Sea," *New York Times*, June 7, 2016.

98. Ashley Townsend and Rory Metcalf, *Shifting Waters: China's New Passive Assertiveness in Asian Maritime Security* (Sydney: Lowy Institute for International Policy, 2016).

ing its claims, but it also pushed them to seek support from the United States to balance China. At the same time, although the United States is more involved in the South China Sea than ever before, it has avoided directly challenging China on the question of sovereignty and has not sought to block, much less roll back, China's growing presence. China has also generally avoided using armed force to seize the islands held by other claimants or to attack their naval or coast guard vessels, which would likely spark greater U.S. involvement, especially in a crisis involving the Philippines.

In this way, the United States and China have sought to defend their interests in the region without significantly worsening ties with each other. China has tacitly accepted an enhanced role for the United States in the disputes and in regional security more generally. Likewise, the United States has tacitly accepted a growing Chinese presence throughout the South China Sea. Although the role of these sea disputes has grown, it does not yet dominate U.S.-China relations. As a result, the situation remains relatively stable despite the inherent volatility of territorial disputes and power transitions.

Whether both sides can continue to thread the needle is uncertain. Two outcomes are possible. On the one hand, China's completion of extensive land reclamation might paradoxically help to reduce tensions from growing further. China now possesses the largest land masses in the Spratly Islands, and this enables it to significantly enhance its presence in the southern portion of the South China Sea. This in turn greatly enhances China's position in the disputes and limits the ability of other states to weaken its claims. Historically, China has been less likely to use force and more likely to negotiate when it occupies a strong position in a territorial dispute.<sup>99</sup> Moreover, the scope of the blowback from China's assertiveness is now much clearer given the enhanced presence of the United States in the region. Although the United States has not explicitly sided with states opposing China on the question of sovereignty over disputed islands, it has improved diplomatic and military relationships with many of them and has aided them in strengthening their own maritime capabilities. From this perspective, a new equilibrium or balance may be forming in which China has a stronger presence in the South China Sea, while the United States has a much stronger presence in littoral states and the ability to project power into and over the South China Sea.

On the other hand, having created robust infrastructure in the sea, China may want to press forward. Indirectly, this could include efforts to increase control over contested waters by denying access to the commercial, law enforcement, or military vessels of other countries. In the extreme, it could include physically coercing other claimants to vacate the features they

99. M. Taylor Fravel, *Strong Borders, Secure Nation: Cooperation and Conflict in China's Territorial Disputes* (Princeton, NJ: Princeton University Press, 2008).

occupy, either by blockading their positions or seizing them with armed force. To date, however, China has avoided such direct actions. The enhanced U.S. presence in the region, along with its commitment to the defense of the Philippines, suggests that such assertive Chinese actions may be less likely so long as the United States maintains its current involvement in the disputes. Earlier U.S. involvement in the South China Sea at times elicited a strong reaction from China. Now, however, because the United States has consolidated its security relationships in the region, China has chosen not to challenge the United States directly.