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Contested Waters: Managing Disputes in the East and South China Seas

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President Barack Obama's November 2012 trip to Southeast Asia did little to quell tensions in the East and South China Seas. His reiteration of U.S. support for a multilateral approach to averting disputes was rebuffed by China and avoided by the Association of Southeast Asian Nations (ASEAN). No progress was made on a code of conduct, and ship movements in and around disputed seas appeared unchanged in the aftermath of the high-level diplomacy in Cambodia.

Realistically, no breakthrough was expected. Diplomacy can attenuate these maritime tensions but not resolve them. Friction in these contested waters is likely to persist for some time. But given what is at stake, Washington needs a coherent strategy for managing the intractable disputes in the East and South China Seas.

Current trends strongly suggest that the Indo-Pacific region will provide the economic and political engine of the 21st century. Economic prosperity requires open commerce, the vast majority of which flows over the world's oceans. Trade with China, Japan and South Korea chiefly travels through the East China Sea. Much of that seaborne trade also transits the South China Sea, which joins the Indian and Pacific Oceans. Half of all global shipping tonnage passes through the Strait of Malacca, the South China Sea's narrow southwestern chokepoint. In short, the East and South China Seas are a vital part of the global commons. Because of the vagaries and complexities of history and international law, the precise ownership of territorial waters, specific land features, and underwater and seabed resources defies easy adjudication. No single state or institution can impose a resolution. There must be shared solutions.

About this publication

The bulletin series provides timely analysis and information on security issues in the East and South China Seas. For further information, please contact info@cnas.org.

Any U.S. strategy for managing disputes in the East and South China Seas must promote longstanding interests such as open commerce and freedom of navigation while dissuading a rising China from encroaching on the sovereignty of its maritime neighbors or turning China into an enemy. The strategy should also reassure U.S. allies and partners about their territorial security without encouraging adventurism that could drag the United States into conflict and destabilize relations among the United States, China and Japan – the world's top three economies.

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While these flashpoints are serious today, it is better to fashion a coherent, long-term policy than to allow the reactions of individual actors to specific events to drive U.S. policy. This bulletin puts the most recent tensions into strategic context, describes the risks these tensions pose to U.S. interests and the Asia-Pacific region as a whole and stresses some of the fundamental questions confronting decisionmakers about how to manage disputes in the East and South China Seas.

Rising Tensions in Strategic Context

Growing friction in the East and South China Seas results from several causes. Dynamic economies are located within the confined space of two semi-enclosed seas off China's vibrant eastern and southeastern seaboard. The rich resources in and under these seas are a source of growing competition. Territorial claims overlap and are rooted in entirely different historical eras (from ancient China to post-World War II settlements).

But all of the activities that occur in the East and South China Seas can be viewed through a strategic prism of changing relations among major powers. As each actor reassesses its goals, role and even identity, its approach to other states evolves in tandem. How a rising China riddled with "social contradictions" (as Hu Jintao put it at the 18th Communist Party Congress) relates to a more conservative Japan is an issue that extends far beyond the East and South China Seas.[1] Similarly, how China redefines its core interests, possibly to incorporate the vast majority of the South China Sea despite competing claims by the Philippines, Vietnam, Taiwan, Malaysia and Brunei, is a far more trenchant question than where to draw Exclusive Economic Zones and who owns which land features.

Additionally, how the new Chinese leadership under Xi Jinping will interact with the United States is a far-reaching geostrategic concern for all regional and even global actors. Despite a high degree of economic interdependence, there is a growing low-level military competition spurred by China's increasing ability to contest U.S. military freedom of action.[2] Because tensions may further escalate, it is important for the United States to give sufficient forethought to a range of possible scenarios. China's apparent acceleration of flight operations on its new aircraft carrier hints at a potential greater use of Chinese coercive power, an arms race or both. For all of these reasons, the seemingly minor disputes that have intensified in the East and South China Seas over the past few years deserve a more dedicated strategy than the discrete policy statements, diplomatic encounters and military steps taken thus far by the United States, its allies and other partners.

During the past three years, China has increasingly asserted its claims to most of the land features and maritime space within the East and South China Seas. Beyond proclaiming an expansive nine-dashed line boundary covering most of the South China Sea, Beijing is also pushing its historical ownership of the Senkakus, which it calls the Diaoyu Islands. This Chinese assertiveness has vexed the region. In April, the Philippines and China conducted a tense maritime ballet around part of the Spratly Islands known as Scarborough Shoal (or what China calls Huangyan Island). Meanwhile, Vietnam and China have engaged in a proxy contest over sovereignty in other parts of the South China Sea, with China threatening to sell disputed areas for energy exploration and with both conducting oil and gas surveys (with India and potentially with Russia, in the case of Vietnam). Most recently, Vietnam's state-owned energy company, Petrovietnam, accused China of cutting a seismic cable being used for a survey.[3]

Additionally, in September, Prime Minister Yoshihiko Noda purchased Japanese property rights to three of the five islands (Uotsuri, Kitakojima and Minamikojima). By transferring property from private hands to nominal control of the government, he simultaneously staved off more independent action by then-Tokyo Governor Shintaro Ishihara and inflamed Chinese anti-Japanese passions. Many in China branded the action as tantamount to illegal annexation, and Chinese analyses noted how the current decisions in Japan seemed to track the 1937 chronology of conflict with Japan's Imperial Army—from the Marco Polo Bridge Incident in July through the Mukden Incident in September.[4] By early October, the territorial dispute was directly affecting the economies of China and Japan, with corporate investment in China down by one-third ($460 million) from the previous year's level of Japanese investment.[5] Although

investment is likely to rise again if tensions ease, the short-term sharp decline is a reminder of the limits of globalization as an incentive for international cooperation.

Many assumed Beijing would cease its diplomatic and maritime offensive, which has included announcing its intent to board ships entering disputed waters claimed by China and printing its nine-dashed line map of the South China Sea in its new passports. But as a recent report from the Center for a New American Security noted, rivalry and tensions will endure and "require persistent, painstaking attention."[6] While China has used civilian law-enforcement ships rather than naval combatants to contest its claims, it has recently established a military garrison in Sansha City on Woody Island in the disputed Paracels. Outgoing President Hu opened the recent party congress by declaring that China should become "a maritime power," and the People's Liberation Army Navy is now symbolically led by its first aircraft carrier.[7]

China scholar M. Taylor Fravel recently argued that the risk of conflict has increased over the last several years. Based on an analysis of 23 territorial disputes, Fravel identifies some general conditions under which China may become aggressive, including a reversal of Chinese expectations of growing influence in the region and internal instability.[8] For example, China saw the Japanese "nationalization" of the Senkaku/Diaoyu Islands as dashing its expectations about gaining greater control over its regional and historical sphere of influence, and it is currently in the midst of a critical leadership transition.

Disputes in the East and South China Seas may also offer China a relief valve for a sputtering economy and rising nationalism. If the Chinese economy continues to underperform, then Xi Jinping may increasingly turn to nationalism to retain the legitimacy of the Chinese Communist Party. Anti-Japanese sentiment is hardening in China, where Chinese leaders may have to pander to nationalism even if they prefer a more prudent policy. And Japan's gradual rightward political shift is likely to produce a more conservative government in the coming months that may well seek to reassert Japan's right to collective self-defense.

U.S. Interests and Maritime Public Goods

Neither a new cold war with China nor encouraging regional tension is in the U.S. interest. Prosperity, freedom and peace – not economic threats, militarism and conflict – are core U.S. interests in the Asia-Pacific region. The rise of countries throughout the Pacific and Indian Oceans represents the greatest opportunity to expand the world's middle class and with it, a durable peace and growing prosperity. The United States has every interest in encouraging this progress.

Yet China's rise and increasing assertiveness threaten to undermine the post-World War II order in Asia. Several overlapping U.S. interests are at stake. First, the United States has an interest in preserving as much power as possible in order to maintain freedom of navigation (and order at sea) for both commercial and military purposes. As a trading nation facing two oceans, the United States depends on assured and open access to the maritime and global commons. This core interest also involves managing a rising China and deterring unilateral aggression.

A second, more forward-looking interest is to help fortify the ability of allies and partners to maintain regional security. However, as the resurfacing of long-simmering historical disputes suggests, U.S. allies have sharply conflicting views of regional order. While all regional states may be wary of excessive Chinese power, they differ over how to deflect or guard against it. This U.S. interest subsumes building capacity of allies and partners, within an alliance or partnership with the United States, but also as part of a larger web of latent military and diplomatic capacity. It also includes the negative goal of preventing any other country from entrapping the United States in its conflicts.

The United States has an interest in fostering greater stability, building mechanisms for averting and resolving disputes and conflicts, increasing freedom of navigation, and joint exploration and exploitation of resources.

A third U.S. interest is avoiding the erosion of U.S. power without sparking a war with China. How much tension will both powers be able to tolerate, and how would their policymakers behave in a variety of different scenarios in which escalation is threatened? Answering these questions requires understanding the evolving state of Chinese thinking and decisionmaking in order, for instance, to know when China might be challenged and when a less direct approach might be required. It also demands an understanding of how to maintain escalation dominance, or at least an ability to de-escalate from crises which threaten to spin out of control.

Finally, the United States has an interest in fostering greater stability, building mechanisms for averting and resolving disputes and conflicts, increasing freedom of navigation, and joint exploration and exploitation of resources. This involves finding ways to advance joint resource and ocean use despite ongoing differences in the East and South China Seas (including adapting existing models of joint

fishery or oil and gas use). Agreements on fisheries, oil and gas, and maritime safety can help advance regional cooperation.

Despite rising tensions over the East and South China Seas, conflict between the United States and China can and should be averted. It *can* be avoided because, even though conflicting interests exist, the shared interests at stake are more salient than the points of disagreement. It *should* be avoided because even a brief resort to force could trigger a downward spiral in bilateral relations, fracture the region and undermine the global economy.

Yet even if Chinese and American political leaders wish to tamp down frictions, they must contend with a nationalist fervor in the region – brewing mistrust and roiling the waters of the East and South China Seas. Reducing distrust is necessary to calm the contested waters. To do so, the United States and China need to:

- Do no harm, by avoiding brinkmanship and halting unilateral actions that provoke the other;
- Concentrate on mutual interests, particularly on commercial issues (fishery agreements, oil and gas exploration, and trade); and
- Expand security confidence building measures (CBMs), starting with agreed steps for enforcing fishery and commercial agreements, but also maritime safety and regional cooperation on humanitarian assistance and disaster relief (HADR).

A good beginning would be for regional leaders to agree that the East and South China Seas are mostly a global public good, while sovereign territory and territorial waters are a minority part. Different national interpretations are inevitable, and being realistic about this fact is an essential beginning point for easing tensions.

What is needed moving forward is a mixture of realism, CBMs, transparency and restraint. The United States should continue to prioritize the increasingly powerful Indo-Pacific region in its diplomatic, economic and military strategies. But economic interests are the cornerstone of U.S. strategy – maintaining freedom of the seas, and freedom throughout the global commons – and that calls for further China-U.S. cooperation. Areas most ripe for such cooperation include HADR, science and technology (especially involving the resources of the East and South China Seas), and practical energy cooperation. The Obama administration appears intent on this approach, as suggested by the recent decision to invite China to participate in the U.S. Pacific Command's Rim of the Pacific (RIMPAC) exercise in 2014.

Basic Questions Facing Decisionmakers

Although the policy of rebalancing calls for a comprehensive approach to the region, the United States needs to consider and adopt a more detailed and tailored strategy toward the East and South China Seas. At the same time, the United States has a positive interest in peace; notwithstanding treaty commitments and concerns about a rising China, the overriding U.S. interest is in finding diplomatic solutions to these intractable challenges.

During the past year, the United States has taken steps to enhance its military presence throughout the Asia-Pacific region, while also affirming its definition of freedom of navigation. Actual and announced increases in naval presence throughout the Asia-Pacific have been reinforced by a willingness to conduct exercises in the East and South China Seas.[9] Washington has sought to reassure allies and partners as well as shape their actions toward a diplomatic rather than a military outcome. Yet U.S. diplomatic and military activities have waxed and waned with every new crisis in these seas. Although the United States has supported conflict-resolution mechanisms – from improved bilateral military-to-military relations with China to support for a binding code of conduct in the region – the most recent East Asia Summit also shows the drawbacks of failing to make progress. The inability of the summit members to agree on a public declaration about the importance of solving maritime tensions has highlighted sharply conflicting interests among the participants, thereby threatening to weaken ASEAN.

A U.S. strategy toward the East and South China Seas needs to address a series of questions about how China's interests differ from those of the United States and whether the recent growth in Chinese assertiveness reflects an emerging new Chinese strategy. Such questions include: 1. What is China's emerging strategy in the East and South China Seas? While a tentative answer has been suggested above, a new approach may be adopted under Xi Jinping. Is it likely to entail relentless pressure or a mixture of probing and diplomacy? 2. How should the United States judge whether Chinese actions represent a unified central policy? For instance, should civilian law-enforcement, commercial energy vessels and platforms, and commercial fishery vessels be treated differently from naval combatants, and if so, how? 3. To what extent can the United States accommodate China's security dilemma, growing influence and other interests without jeopardizing stability and influence? To address these questions, the United States needs to articulate a vision that recognizes a rising China's right to make claims but no country's right to destabilize the region.

Making this vision statement meaningful will require greater, not lesser, U.S. engagement throughout the Asia-Pacific region in the years ahead. U.S. policymakers should implement this strategy through a wide range of military, diplomatic and economic instruments: in a word, rebalancing.

Rebalancing is a natural trend of shifting power to the future's most dynamic region, and moving beyond land wars in Iraq and Afghanistan to greater maritime and air operations in the Asia-Pacific region. The Obama administration has not only identified opportunities in Asia but also has understood that continued U.S. leadership remains necessary to undergird regional peace and prosperity, as the United States has done for decades. It has pursued several convergent policies that prioritize the Asia-Pacific region and to address both short-term events and long-term interests. While rebalancing may sow unintended consequences, it aims to achieve a dynamic equilibrium and not destabilize the region.

U.S. diplomatic activity in Asia has reached new heights, marked by the president's participation in the last two East Asia Summits. Several senior administration officials, especially the secretary of defense, the eecretary of state and the assistant secretary of state for East Asian and Pacific affairs, have engaged in extensive shuttle diplomacy. Although the business investment and trade policy lags behind, the administration has placed renewed emphasis on concluding a Trans-Pacific Partnership (TPP) to help ensure World Trade Organization-like standards across the Pacific. It also needs to consider more bilateral free trade agreements with regional countries, even as it presses forward on TPP. Although military shifts have received inordinate attention in local press coverage, decisions to dispatch up to four Littoral Combat Ships to Singapore and some 2,500 Marines to conduct rotational exercises in Darwin, Australia, are sensible, limited steps. They will remind the region of America's determination to help preserve stability and prosperity throughout the region so that all countries can benefit from Asian dynamism.

U.S. officials should articulate this vision more clearly through a forthright declaratory policy. Because rebalancing is an umbrella policy covering a wide range of actions, the administration should integrate its approach to the Asia-Pacific region in a single document. Such a statement could reassure allies and partners, while emphasizing the U.S. desire for peaceful regional relations. Past administrations did this during the 1990s, when the Office of the Secretary of Defense released three different Asian security policy reports.

Conclusion

This bulletin raises more questions than it answers. Following through on comprehensive rebalancing is the most important way that the United States can continue to help stabilize the Asia-Pacific region. The United States must also continue to actively support the maintenance of good order at sea, not allowing unilateral actions that threaten to destabilize the region to go uncontested. The potential for an arms race and/or conflict and importance of these seas for the United States and the region underscore the need for a well-thought-out policy for intelligently managing these contested waters in the months and years ahead.

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ENDNOTES

1. The outgoing leader discussed increasing "social contradictions" in a 64-page paper he circulated at the party congress. See Ian Johnson and Keith Bradsher, "On Way Out, China's Leader Offers Praise for the Status Quo," *The New York Times*, November 8, 2012, http://www.nytimes.com/2012/11/09/world/asia/hu-jintao-exiting-communist-leader-cautions-china.html?pagewanted=all.

2. Secretary of State Hillary Clinton recently noted, "the Pacific is big enough for all of us." But the more onerous question may be whether there is room enough for both in the East and South China Seas. See Shaun Tandon and Neil Sands, "Clinton Says Pacific Big Enough for US, China," AFP, August 31, 2012, http://www.google.com/hostednews/afp/article/ALeqM5g6CmYsq13nEBdwvv_-NdA5sQHcTg?docId=CNG.b86ceb10fe79b0a989936925ba7b5be2.dd1.

3. Jeremy Page, "Vietnam Accuses Chinese Ships," *The Wall Street Journal*, December 3, 2012, http://online.wsj.com/article/SB10001424127887323717004578157033857113510.html?mod=googlenews_wsj.

4. See Teddy Ng, Li Jing, He Huifeng and Louise Ho, "Diaoyu Protests Across China on Anniversary of Mukden Incident," *South China Morning Post,* September 19, 2012, http://www.scmp.com/news/china/article/1040214/diaoyu-protests-across-china-anniversary-mukden-incident; "An End to This Round of Spat over the Diaoyutai Islands," *The China Post,* September 20, 2012, http://www.chinapost.com.tw/editorial/taiwan-issues/2012/09/20/354810/An-end.htm; and M. Taylor Fravel, "The Dangerous Math of Chinese Island Disputes," *The Wall Street Journal,* October 28, 2012, http://online.wsj.com/article/SB10001424052970203922804578082371509569896.html.

5. Kyodo News, "Japan's Investment in China Down 32%," *The Japan Times,* November 21, 2012, http://www.japantimes.co.jp/text/nb20121121a8.html.

6. See Patrick M. Cronin, ed., "Cooperation from Strength: The United States, China and the South China Sea" (Center for a New American Security, January 2012), 5. Although the report and quote focused on the South China Sea, the timeline of incidents available through the CNAS Flashpoints web portal clearly shows that tensions are growing in the East China Sea as well. See http://www.cnas.org/flashpoints.

7. "Hu Calls for Efforts to Build China into Maritime Power," Xinhua, November 8, 2012, http://news.xinhuanet.com/english/special/18cpcnc/2012-11/08/c_131959403.htm.

8. Fravel, "The Dangerous Math of Chinese Island Disputes."

9. For instance, the U.S. Chief of Naval Operations has stated, "The most visible element of our rebalance toward the Asia-Pacific region will be an increase in day-to-day military presence." This includes a global shift in naval presence to the region, as well as specific new deployments such as Littoral Combat Ships to Singapore and Marines rotating through Darwin, Australia. See Admiral Jonathan Greenert, "Sea Change: The Navy Pivots to Asia," *Foreign Policy,* November 14, 2012, http://www.foreignpolicy.com/articles/2012/11/14/sea_change.

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