

U.S. Strategy in the South China Sea



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Perspective

—
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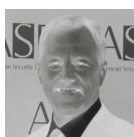
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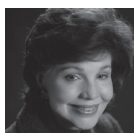
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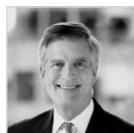
Robert B. Crowe

Robert B. Crowe is a Partner of Nelson Mullins Riley & Scarborough in its Boston and Washington, DC offices. He is co-chair of the firm's Government Relations practice.



Lee Cullum

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Nelson W. Cunningham

Nelson Cunningham is President of McLarty Associates, the international strategic advisory firm headed by former White House Chief of Staff and Special Envoy for the Americas Thomas F. "Mack" McLarty, III.



Admiral William Fallon, USN (Ret.)

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Scott Gilbert

Scott Gilbert is a Partner of Gilbert LLP and Managing Director of Reneo LLC.



Vice Admiral Lee Gunn, USN (Ret.)

Vice Admiral Gunn is Vice Chairman of the CNA Military Advisory Board, Former Inspector General of the Department of the Navy, and Former President of the Institute of Public Research at the CNA Corporation.



The Honorable Chuck Hagel

Chuck Hagel served as the 24th U.S. Secretary of Defense and served two terms in the United States Senate (1997-2009). Hagel was a senior member of the Senate Foreign Relations; Banking, Housing and Urban Affairs; and Intelligence Committees.



Lieutenant General Claudia Kennedy, USA (Ret.)

Lieutenant General Kennedy was the first woman to achieve the rank of three-star general in the United States Army.



The Honorable John F. Kerry

John Kerry is a distinguished fellow for global affairs at Yale University. In 2013, Kerry was sworn in as the 68th secretary of state of the United States. Kerry served for more than twenty-five years as a U.S. senator from Massachusetts.



General Lester L. Lyles, USAF (Ret.)

General Lyles retired from the United States Air Force after a distinguished 35 year career. He is presently Chairman of USAA, a member of the Defense Science Board, and a member of the President's Intelligence Advisory Board.



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Stuart Piltch

Stuart Piltch is the Co-Founder and Managing Director of Cambridge Advisory Group, an actuarial and benefits consulting firm based in Philadelphia.



Ed Reilly

Edward Reilly is a Senior Advisor to Dentons, the world's largest law firm.



LtGen Norman Seip, USAF (Ret)

Lieutenant General Norman R. Seip, USAF (Ret) served in the Air Force for 35 years. His last assignment was Commander of 12th Air Force.



David Wade

David Wade is a consultant helping global corporations and organizations with strategic advice, public affairs and thought leadership, crisis communications, political intelligence gathering, and federal and legislative strategy.

In this Report:

This paper discusses the importance of working with allies as the US seeks to strengthen its position in the South China Sea. It examines the benefit of increasing joint exercises with India, Japan, and Australia, as well as the possibility of assisting regional states to increase their own defensive capabilities. The US has ceded leadership in the region by withdrawing from the Trans-Pacific Partnership and failing to ratify the UN Convention on the Law of the Sea. Now, as it seeks to engage diplomatically with ASEAN states, it will have to focus on following through in its diplomatic efforts and seek new leadership opportunities in the region. It will also be necessary for the US to counter China's narrative in the South China Sea by creating its own narrative—clearly conveying the importance of laws and norms in the international community.

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IN BRIEF

- Secretary Pompeo released a statement in July that strengthened the US' stance on the South China Sea dispute and denounced China's actions in the region.
- Working with allies and other states interested in the region will be key as the US seeks to increase its presence in the South China Sea.
- The US should engage in more joint exercises with India, Japan, and Australia. Additionally, the US can be instrumental in assisting ASEAN states to develop their own defensive capabilities.
- Deepening current diplomatic relationships, following through in diplomatic efforts, and seeking out new leadership opportunities will allow the US to achieve its objectives in the region.
- Public diplomacy will be an important aspect of the US' strategy as it seeks to portray a law-based international system as the alternative to China's way of conducting international affairs.

About the Author

Madeline McLaughlin is the National Security Strategy intern at ASP. She graduated from the University of Utah in 2019 with a Fine Arts degree and a political science minor.

Strengthening the US Position on the South China Sea

In a July news conference, Secretary Pompeo released a statement on the US' position concerning China's actions in the South China Sea. He stated: "The United States champions a free and open Indo-Pacific. Today we are strengthening US policy in a vital, contentious part of that region — the South China Sea. We are making clear: Beijing's claims to offshore resources across most of the South China Sea are completely unlawful, as is its campaign of bullying to control them."¹ The statement rejects China's territorial claim to Mischief Reef, Second Thomas Shoal, and James Shoal, as well as any maritime privileges associated with those territories. It also includes China's claims of an Exclusive Economic Zone (EEZ) extending from Scarborough Reef and the Spratly Islands. Pompeo explained that, due to a lack of legal basis, the US rejects China's claim of the Nine-Dash Line as well. In accordance with the UN Convention on the Law of the Sea, the US does not recognize China's claim to any "waters beyond a 12-nautical mile territorial sea derived from islands it claims in the Spratly Islands (without prejudice to other states' sovereignty claims over such islands)." Finally, the statement denounces China's efforts to prevent surrounding countries from utilizing resources in the region, namely China's actions against fishermen and disruption of offshore energy development.²

In the face of previous aggression, the US has released statements^{3,4,5} expressing displeasure with Chinese actions. In light of this, Secretary Pompeo's statement does not necessarily represent a completely new strategy for the US in the South China Sea. Instead, it is a strengthening of the current US position, aligning the US' official stance in the region with its actions. The stark language signals to China and others interested in the South China Sea dispute that the US intends to be more actively engaged in the region. International reaction to the US' statement was mixed, with some publications questioning whether this policy stance would actually mean more engagement by the US in the South China Sea, or whether it is an empty statement. Others, apparently bolstered by a stronger US stance, have also taken new stands against China's actions in the South China Sea. Australia filed a declaration with the UN that echoed much of the language used by Pompeo to clarify the US' position. Malaysia also recently spoke out through a diplomatic note to the UN⁶ when China responded negatively to a submission by the Malaysian government to UN Convention on the Law of the Sea claiming the existence of overlapping territories in the South China Sea. Following similar lines, the note rejected China's claims in the South China Sea, particularly those associated with the Nine-Dash Line.

International Importance of South China Sea

The South China Sea has long been an area of interest for the US and its allies.⁷ The sea's natural resources, such as oil and gas, and its abundant fishing are important to countries that border the region. For those states, as well as the international community, it is a vital waterway because of the large amount of trade that runs through it. Approximately 80% of international trade travels by sea,⁸ with one-third⁹ of that trade passing through the South China Sea. It is also significant for the international community because of China's excessive territorial claims that demonstrate a lack of regard for the laws of the sea and international norms. While disputes over the South China Sea date back to the 1970s, it has been a particularly tense area since the UN declared China's claims invalid in an arbitration between the Philippines and China in 2016. Despite winning on most points in the arbitration, the Philippine government did very little to pressure China to conform to the ruling. China refused to accept the ruling and declared the arbitration invalid due to its belief that territorial disputes are not regulated under the UN Convention on the Law of the Sea (UNCLOS).¹⁰ However, Article 288 of UNCLOS¹¹ states that when a dispute arises concerning jurisdiction the matter will be examined and a decision will be made by the tribunal. In the arbitration, the tribunal concluded that while some of the Philippines' claims fell beyond their jurisdiction, a large majority were valid for that arbitration.

Since the arbitration, China has continued to further develop its claims in the South China Sea. The country views these claims as vital for its national security, both as a result of the advantage that it gains through military facilities on these territories, and because the South China Sea is the gateway for China's Maritime Silk Road.¹² However, as China has sought to more firmly secure this waterway, its disregard of the laws of the sea and its willingness to act according to the principle of 'might makes right' has caused alarm in the international community. If China is allowed to push forward in this way, it sets a dangerous precedent, sending the message that international law can be set aside when inconvenient for a nation's interests.

In response to the recent increased pressure, China has stood its ground and continued pushing forward. Following Pompeo's remarks, the Chinese Embassy published a response which stated: "We advise the US side to earnestly honor its commitment of not taking sides on the issue of territorial sovereignty, respect regional countries' efforts for a peaceful and stable South China Sea and stop its attempts to disrupt and sabotage regional peace and stability."¹³ China has continued pressing its advantages in the region—conducting high-intensity naval and bomber exercises in late July.¹⁴ It has also changed the classification of some of the disputed areas from offshore navigation to coastal navigation.¹⁵ These actions, as well as the recent creation of administrative districts for the Spratly and Parcel Islands, further the country's control over those areas and strengthen its claim of the islands as territories of China.



Territorial claims in the South China Sea. Image source: Voice of America.

US Strategy in the South China Sea

Up until this point, the US' actions in the region have mostly consisted of Freedom of Navigation Operations (FONOPs), whereby US Navy ships pass through disputed territory. These operations preserve the rights given to states in the Third United Nations Conference on the Law of the Sea. Because of the strength of the US Navy, this has frequently been a go-to strategy for the US as a response to any country's excessive maritime claims.¹⁶ This is likely to continue, being strongly favored by the current administration. In the South China Sea, these FONOPs generally have two objectives. The first is to protest China's excessive maritime claims in the region, such as arguments that underwater islands afford China the traditional 12 nautical miles of territorial waters, despite the fact that this is contrary to UNCLOS.¹⁷ US FONOPs dispute this claim by passing within 12 nautical miles of these contested areas. The FONOPs also challenge China's assertions in the South China Sea by refusing to notify it before conducting maneuvers. There have been five or six FONOPS each year since 2015. This number increased last year to nine FONOPs.¹⁸ As of August 2020 there have been three FONOPS.^{19,20}

Soon after Pompeo's statement in July, the Assistant Secretary of State David Stilwell noted that "nothing is off the table"²¹ for the US going forward. US officials have mentioned the likelihood of more future FONOPs and the possibility of sanctions.²² While there is a chance that these measures could deter China from progressing further with its aggressive behavior, the success of any US action in the South China Sea depends largely on how it is carried out. Unilateral US actions are unlikely to have a strong enough effect on China. In the past this has largely been due to China's insistence that the US has no stake in the South China Sea dispute and should not be involved. Now, as relations between the US and China have taken a sharp downward spiral in the last year, ignoring unilateral US actions is a more viable option than ever before. Recognizing that this issue is of vital importance to many US partners and allies, the US should act as a leader in the region by working towards creating a consensus among other states affected by China's tactics in the South China Sea. With this in mind, the US strategy in the region should focus on:

- Multilateral engagement.
- Building up the defense capabilities of allies.
- Strengthening diplomatic ties.
- Encouraging a united front to discourage China from following its current course, both diplomatically and through joint military exercises.
- Creating an attractive alternative to China's way of conducting international affairs.

Military Exercises and Strengthening Allies

In the face of China's continued aggression and expansion, one of the US' main objectives is to ensure a free and open Indo-Pacific. Military exercises allow the US to be continually ready if an actual conflict were to happen, but mainly operate as a form of deterrence. These exercises remind China of the naval might of the US and the importance of the region to the international community. After Pompeo's announcement, an increased naval



The *USS Bonhomme Richard* burning in port. US Navy photo.

presence can be the first step in demonstrating the US' strengthened commitment to involvement in the South China Sea dispute.

However, these plans have been disrupted by the recent burning of the *USS Bonhomme Richard*. The loss of the amphibious assault ship, which had nearly completed two years' worth of upgrades, is a serious setback for naval plans. The ship's upgrades would have allowed it to operate a force of F-35Bs, a capability currently

possessed by few other U.S. Navy amphibious assault ships.²³ Addressing this deficiency will require a shifting of focus towards forward operating bases in the short- to medium-term until more F-35 capable ships are upgraded or built. Traditionally, this would have meant using the five US bases in the Philippines.²⁴ However, with the instability of the US-Philippine security pact and President Duterte's interest in working with China, this may no longer be a viable option. If bases in the Philippines cannot be used, the US will need to look to other states in the region that may align more closely with the US in its stance against China.

However, finding an alternative will likely prove difficult because of the regional states' unwillingness to act too strongly against China. Increasing cooperation with forces from other nations is another way that the US can address aspects of this unexpected setback. The loss of the ship impacts the US' ability to conduct forward-deployed assurance. While the naval capabilities of Australia and Japan may not be as advanced as those of the US, working collaboratively to continuously re-establish the freedom of any nation to conduct exercises in international waters eases the burden that the US Navy has been bearing largely alone. Already this summer, the US, Australia, and Japan have conducted a joint exercise in the South China Sea. The commander of the Australian Joint Task Group stated that "The opportunity to work alongside the US and the Japanese is invaluable. The combined tasking between our navies demonstrates a high degree of interoperability and capability."²⁵ An informal security alliance²⁶ between the US, India, Australia, and Japan, known as the Quad, has been the basis for joint exercises in the South China Sea in previous years. Revitalizing a regional security strategy among the Quad will allow those states to share in the responsibility of hedging against China's claims. It will also enable the states to send a stronger united message to China than any one state could send alone.

Any future movements from the Quad would be more impactful if joined by one or more of the countries which form the Association of Southeast Asian Nations (ASEAN). While the international ramifications of the South China Sea dispute give members of the Quad strong reasons for being involved in the region, the addition of ASEAN countries would lend legitimacy. Because China's actions on the South China Sea more directly affect the national security of ASEAN states, their motives appear to be clearer. The Quad, particularly the US, have been accused of stoking great power competition or seeking to contain China. Because of this, ASEAN countries can also increase the chance that China will recognize the international implications of its actions, instead of dismissing exercises in the South China Sea as simply the actions of great powers wanting to stir up trouble in the region. In the past, ASEAN countries have been reluctant to act forcefully against China because of ASEAN's emphasis on avoiding the use of force to resolve conflict.²⁷ However, it would be enough at this stage for the governments of some of the ASEAN states to officially endorse the actions of the Quad. While joint action from ASEAN is unlikely, some of the states may be willing to officially back the Quad's actions through statements, as ASEAN has recently released a statement backing UNCLOS and the 2016 arbitration.²⁸



US Navy ships conducting a joint exercise with the Royal Australian Navy. US Navy photo.

The US can also be instrumental in assisting ASEAN states in building up their own defensive capabilities. This can be done through programs designed to assist countries in further developing their security forces, such as the Maritime Security Initiative²⁹ or International Military Education and Training (IMET).³⁰ As of the end of July, the Vietnamese government had accepted a loan to boost its defense capabilities by building six patrol vessels.³¹ As these states improve their defense capabilities, they gain self-sufficiency and depend less on the US. Actively prioritizing ASEAN states' defense also dismantles China's portrayal of ASEAN member states as being content with its actions in the region.³² However, the US should also be cautious when determining which states to work with in this capacity. Once a state's military is trained, the US will not have control over how those military capabilities are used. In Burma, the military has been carrying out atrocities against the Rohingya minority. Because of this, Congress has ensured that Burma cannot participate in the IMET program by passing the Asia Reassurance Initiative Act of 2018, which prohibits funding for the IMET and Foreign Military Financing in Burma through fiscal year 2023.³³ This ensures that IMET training from the US cannot be used by the Burmese military to perform human rights violations.³⁴ Going forward, it will be vital that the US carefully consider current circumstances of each state and possible future consequences before starting IMET in any of the regional states.

Working Through Differences within the ASEAN

U.S. diplomatic efforts are important for the future stability of the South China Sea. In 2016, the US pulled out of the Trans-Pacific Partnership (TPP), which had been central to the US' strategic pivot towards the Asia-Pacific. Pulling back from the TPP has caused the US to lose a valuable opportunity to offer an economic alternative to China for states in the region. This has also caused the US to miss out on the opportunity to set an example for conduct, strengthen alliances, and boost its leadership role in Asia. The US has thus missed an opportunity to increase its soft power in the region. To amend this, the US should strive to develop deeper relationships with states in the region through traditional and public diplomacy. While generally improving relations between the US and ASEAN states is beneficial in and of itself, there are two specific goals that the US should be working towards in its diplomatic efforts. The first is to push for a Code of Conduct that is transparent and fair for the ASEAN states



Flags of the ASEAN member states. Photo credit: Gunawan Kartapranata / Wikimedia Commons.

involved in the dispute. Code of Conduct negotiations have been occurring since the 2016 tribunal, but to little effect. China has successfully exploited³⁵ the differences among the ASEAN states to prevent any significant progress on the issue. Looking forward, the ASEAN states will need to resolve or set aside differences in order to counter the larger threat.

The US should use its diplomatic influence to encourage collaboration and dialogue among ASEAN states as they work to decide on the best way to move forward, and should publicize the active role it is playing in doing so. The ASEAN countries should also utilize diplomatic connections with China to forward their objectives if possible. Following the 2016 tribunal, the Philippines did

not press China to abide by the ruling. Instead, the two countries have created a closer relationship, finding ways to mutually benefit. Since then, the Philippine government has been performing a delicate balancing act, generally leaning more towards China, but still drifting back towards the US at times. President Duterte has been a main force behind this shift towards China, having long criticized the US' security strategy. Earlier this year, Duterte announced that he would be terminating the bilateral security pact between the Philippines and the US, much to the delight of China.³⁶ This termination has since been deferred.³⁷ While the Philippines' closer relationship with China makes it somewhat unreliable, its connection with China may also be invaluable to the ASEAN states as Code of Conduct talks proceed.

A second pressing issue is the upcoming election for the judge's position on the International Tribunal for the Law of the Sea, which is responsible for settling maritime disputes. China is currently pushing for a candidate from its own country, which would likely further complicate issues in the South China Sea. All members of UNCLOS will have the chance to vote. However, this does not include the US because it has yet to ratify the convention.³⁸ As a result, the US is left to attempt to affect the proceedings of UNCLOS from the outside. Dialogue with states before the upcoming UNCLOS elections is the only way for the US to push for other candidates. As China continues to push for global influence, the US should counter it by strengthening the US' relationships with other nations and its own influence in the international community. To do this, the US will have to better follow through on diplomatic efforts like TPP and seek new opportunities for leadership in the region – ratifying UNCLOS is a good place to start.

Combating Disinformation

In a virtual meeting,³⁹ China's State Counselor and Foreign Minister Wang Yi painted the US as the peace-disrupting force in the South China Sea. He claimed that:

- Relations in the region have reached a state of stability.
- Code of Conduct negotiations have been progressing.
- The US is seeking to disrupt the relations between China and other states in the region to further isolate the country.
- The Chinese government is on the side of peace and willing to move forward with Code of Conduct negotiations to ensure that peace is established in the South China Sea.

This narrative, of a peaceful China and a meddling US has been spread by the country's government officials, newspapers, and in online discussions.^{40,41} While China has continued pushing this narrative, its actions have indicated different objectives, as confirmed by its continuing aggression in interactions with ASEAN states.

In order to continue building confidence in the US and allies' intentions abroad, the US will have to actively combat this characterization of its motives. Frequently, comments by the people of other nations have echoed China's rhetoric. These discussions call into question the US' motives, believing the US' increased interest in the region can be attributed to the upcoming election or that it views the South China Sea as just another front on which to combat China. Clearly conveying the US' objectives in the region to foreign publics involved in the dispute can lead to trust, but only if the US acts according to its stated objectives. In addition to breaking down China's narrative, the US should be actively creating a narrative of its own – one that emphasizes the importance of international law and draws stark contrasts between an international order based on laws and China's way. There is a certain level of appeal in China's way, to counter this will require a careful crafting of the US alternative that clearly defines the benefits of the current international system. The US should also continue its public diplomacy efforts through programs such as the Young Southeast Asian Leaders Initiative and the Seeds for the Future small grants program,⁴² to signal its ongoing interest in the people of the region. Proving that the US is truly invested in the future of the ASEAN countries can lead to more trust among foreign publics of the US' intentions in the South China Sea.

Conclusion

In order to effectively challenge China's expansion in the South China Sea and ensure the future of a law-based international system in maritime affairs, it is vital that the US shift its focus towards broader cooperation with allies. The US should strive to strengthen not only its own position, but also the position, resolve, and capabilities of other states affected by China's actions. In order to accomplish these objectives, it will be necessary for the US to:

- Collaborate more closely and frequently with the navies of other countries, particularly Japan, Australia, and India.
- Assist states in the region to develop their own military capabilities.
- Strengthen relations with other states involved in the dispute through diplomacy.

- Reengage in the international community through organizations or treaties such as UNCLOS.
- Combat Chinese disinformation in relation to the South China Sea.
- Promote its own narrative by highlighting the benefits of a system based on international norms as opposed to China's way of conducting international affairs.

Many of these strategies have been used by the US in the South China Sea before, with varying levels of success. Now, as the US approaches the South China Sea from a firmer policy stance, combining the use of these strategies with an increased focus on allies, both in the region and beyond, can lead to progress in the South China Sea.

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