

Prepared Statement of

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Madam Chairman, Congressman Berman, and esteemed Members of the Committee:
Thank you for inviting me to participate in today’s important discussion on China’s
foreign policy.

Whether measured militarily or economically, China is now the most powerful state in
Asia and is a country with increasing potential as a global power. The U.S.-China
relationship contains important elements of both cooperation and competition. Although
it is important to maximize cooperation in the relationship, the competitive elements and
challenges must also be identified and addressed.

Today, I would like to examine one of these challenges – China’s recent behavior in the
territorial and maritime disputes in the South China Sea. In particular, I will examine the
sources of assertiveness and moderation in China’s behavior in these disputes.
Examination of the sources of China’s behavior in the South China Sea is important for
several reasons. First, it can illuminate the drivers of China’s foreign policy as it
becomes a more capable and powerful international actor. Second, it can shed light on
how China will behave towards its neighbors and in conflict-prone issues such as
territorial disputes, including China’s willingness to rely on coercion or even armed
force.¹

Background: China’s Claims in the South China Sea

China has two types of claims in the South China Sea. These are often lumped
together, but need to be distinguished. First, China claims territorial sovereignty over
two groups of islands, the Paracels and the Spratlys. China disputes the Paracels with
Vietnam and some or all the Spratly Islands with Vietnam, the Philippines and Malaysia.
The PRC issued its first formal claim to sovereignty over the islands in a note issued by
Premier Zhou Enlai during U.S. and allied peace treaty negotiations with Japan in 1951.

¹ This prepared statement draws on several previous publications, including: M. Taylor Fravel, “China’s
Strategy in the South China Sea,” *Contemporary Southeast Asia*, Vol. 33, No. 3 (December 2011), pp. 292-
319; M. Taylor Fravel, “Maritime Security in the South China Sea and the Competition over Maritime Rights,”
in Patrick Cronin and William Rogers, eds., *Cooperation from Strength: The United States, China and the
South China Sea* (Center for New American Security: Washington, DC, 2012); M. Taylor Fravel and Michael
D. Swaine, “China’s Assertive Behavior – Part Two: The Maritime Periphery,” *China Leadership Monitor*, No.
35 (Summer 2011), pp. 1-29; M. Taylor Fravel, *Strong Borders, Secure Nation: Cooperation and Conflict in
China’s Territorial Disputes* (Princeton: Princeton University Press, 2008).

Second, China claims maritime rights from these island groups under the 1982 UN Convention on the Law of the Sea (UNCLOS). In addition to the other claimants to the Spratlys, China contests maritime rights in the South China Sea with Brunei and Indonesia. China first claimed maritime rights from its land features in 1958, when it asserted a 3nm territorial sea in a diplomatic note published during the clash over Jinmen and Mazu islands. Following the signing and ratification of UNCLOS, China formally expanded the scope and type of maritime rights that it claimed in the 1990s. In a 1992 domestic law, China claimed 12nm territorial seas and contiguous zones and reaffirmed its sovereignty claims to various islands, including the Paracels and the Spratlys. In a 1998 law, China claimed a 200nm exclusive economic zone (EEZ) and continental shelf rights. Taken together, China in the South China Sea claims an EEZ or exclusive jurisdiction in these waters from the various land features that it occupies or claims.

Nevertheless, ambiguity around China's claims persists for three reasons. First, official Chinese maps continue to show a "nine-dashed line" that encompasses much of the South China Sea. Although this map was first published by the Republic of China in the late 1940s, the PRC has not defined what the line means. Second, Article 14 of the 1998 EEZ law states that it "shall not affect the historic rights that the PRC enjoys" but does not specify what such historic rights might entail. Third, China has not yet drawn baselines around the land features on the South China Sea that would indicate the size of the EEZ that it claims in the region. Importantly, many of the land features in the South China Sea would not qualify as "islands" under article 121 of UNCLOS from which China could claim a 200nm EEZ.

Whether China labeled the South China Sea as "core interest" equivalent to Tibet, Xinjiang, or Taiwan attracted a great deal of attention in 2010. The *New York Times* reported in April 2010 that China had described the South China Sea as a core interest. Although it was discussed in a number of private meetings between U.S. and Chinese officials, no senior Chinese leader has ever publicly described the South China Sea as a core interest. The only exception appears to be an English-language article published by the Xinhua News Agency in August 2011. The article described China's sovereignty over the Spratly Islands as "part of China's core interests", but not the South China Sea itself.

The territorial and maritime disputes in the South China Sea should be distinguished from a separate conflict between the United States and China over the legality of military activities in the EEZ. China claims under UNCLOS that coastal states have the right to regulate foreign military activities in the EEZ, a view held only by a minority of states. Incidents have occurred in March 2001, April 2001, March 2009, and May 2009 when Chinese vessels or aircraft harassed U.S. naval ships or aircraft operating in China's EEZ, including in the northern portion of the South China Sea off the coast of Hainan Island. The discussion below is limited to the territorial and maritime disputes outlined above.

Growing Assertiveness between 2009 and 2011

Starting in 2007, and especially between 2009 and 2011, China adopted a more assertive approach to its claims in the South China Sea. China's assertiveness revolved

around its claims to maritime rights and jurisdiction over the resources in these waters. The purpose of China's actions was to strengthen its own claims and to deter other claimants from further challenging China.

The first component of China's assertiveness emphasized diplomatic actions. Starting in 2007, China began to challenge the legality of hydrocarbon exploration projects in disputed waters, especially within Vietnam's EEZ. By 2008, China had issued 18 diplomatic protests to foreign oil companies investing in Vietnam's offshore blocks. China even threatened several companies, including American ones, with a loss of business in China if they continued with their investments with Vietnam. In mid-2009, China also challenged claims Vietnam and Malaysia had submitted to a UN commission for extended continental shelf rights in the South China Sea. China's notes to the UN included a map that prominently featured the "nine-dashed line." Because the Chinese notes did not define the line, it was viewed as an expansion of China's claim in a way that was inconsistent with the provisions of UNCLOS.

The second component of China's assertiveness was the use of civil maritime law enforcement agencies to demonstrate and, in some cases, exercise Chinese jurisdiction over the waters it claimed. Vessels from the Bureau of Fisheries Administration, empowered to regulate fishing in China, have been the most active. In 2009, China began to link a 10-year old seasonal fishing ban in the northern part of the South China Sea with its claims to jurisdiction over these waters. Between 2005 and 2010, Fisheries Administration vessels detained and held approximately 63 Vietnamese boats with 725 crew. In many of these cases, the boats and crews were not released until a fine was paid. Half of all such detentions occurred in 2009.

Patrol ships from the Marine Surveillance Force under the State Oceanographic Administration have also increased the scope and frequency of their patrols in these waters since 2005. In the first half of 2011, the vessels began to harass Vietnamese and Philippine ships conducting seismic surveys in EEZs off their coasts. In one instance, in late May 2011, a vessel from the State Oceanographic Administration cut the towed cable of a Vietnamese survey vessel. In early June 2011, a Chinese fishing boat became entangled in the towed cable of another vessel that was conducting a seismic survey for Vietnam.

Finally, military forces have only played a secondary and indirect role in China's assertiveness during this period. As part of a strategy of deterrence, China has displayed its modernizing naval capabilities in patrols and training exercises in disputed and undisputed areas of the South China Sea to dissuade other claimants from challenging China. Nevertheless, over the past decade, China has not used its armed forces to actively enforce its claims, much less expel other countries from the features that they occupy.

Sources of China's Assertive Behavior

China was more willing to defend and assert its claims during this period for several reasons:

First, territorial disputes by definition are unstable and prone to negative spirals of instability associated with the security dilemma. Because the conflicts in the South

China Sea involve sovereignty or exclusive rights, they are “zero sum” whereby one state’s gain is another state’s loss. As a result, states in such disputes are especially sensitive to perceived challenges to their claims by other states. Any action by one state to strengthen its own claim creates strong incentives for other states to respond. Such incentives are especially powerful because of the public nature of claims in territorial disputes and because international law requires states to actively assert and defend their claims.

In the South China Sea, many of China’s actions were responses to what Beijing viewed as challenges to its claims by other states. China’s demarches to foreign oil companies and commercial threats occurred after Vietnam embarked on a national plan to increase the share of the maritime economy in Vietnam’s GDP from 48 percent in 2005 to 55 percent in 2020, with an emphasis on offshore oil and gas. China’s increased diplomatic defense of its claims and publication of a map with the nine-dashed line at the UN occurred in response to the submission of claims by other states to a UN commission (to meet a May 2009 deadline that was set a decade earlier). China detained Vietnamese fishermen as their activity increased around the Paracel Islands, which China has controlled completely since 1974. China’s harassment of hydrocarbon exploration projects in early 2011 occurred in response to new surveys that were launched in Vietnam and the Philippines. In sum, China was not the only state more willing to assert and defend its claims in the South China Sea during this period.

Second, in the aftermath of the financial crisis of 2008, China’s leaders may have felt enhanced self-confidence in international affairs. Due in part to a massive stimulus program implemented in late 2008, China managed to weather the storm of the crisis with less difficulty than many advanced industrialized states, including the United States. China’s relative success in this regard may have increased China’s willingness to more energetically assert and defend its interests, including in the South China Sea. By itself, such self-confidence was probably not a decisive factor in the South China Sea, but it may have increased China’s willingness to respond to what it viewed as challenges by other states.

Third, limitations in China’s bureaucratic structure may have played a role in China’s assertiveness during this period. In the last ten years, the number of actors with the ability to influence China’s policy in maritime affairs has grown much faster than the ability of the state to regulate and coordinate them. For example, China has five civil maritime law enforcement agencies that are empowered to protect China’s “maritime rights and interests” in the waters that China claims. These actors are part of ministries that are not directly supervised or coordinated by the Ministry of Foreign Affairs, the Ministry of Defense, or the PLA. What might appear externally to be a coordinated strategy may at times be a product of either bureaucratic autonomy or a competition among different departments for greater resources and authority.

A Shift to Moderation Since Mid-2011

Starting in mid-June 2011, China has adopted a more moderate approach to managing its claims in the South China Sea after it realized that its assertiveness had backfired. The purpose of this shift was to restore China’s tarnished image in East Asia and reduce the rationale for a more active U.S. role in the region.

China's new approach has several components:

- China's top leaders, including President Hu Jintao and Premier Wen Jiabao, have re-affirmed the late Deng Xiaoping's guiding principle for dealing with China's maritime conflicts of "setting aside disputes and pursuing common development."
- China has reached agreements with other claimant states with the aim of managing tensions, promoting dialogue, and facilitating eventual dispute resolution. In addition to a July 2011 agreement with ASEAN, China reached a much more substantial agreement with Vietnam in October 2011 over basic principles for resolving maritime disputes that stress using international law.
- China's top leaders have held high-level meetings with their counterparts to improve broader bilateral relationships. Philippine President Benigno Aquino and Vietnamese communist party general secretary Nguyen Phu Trong visited Beijing in August and October 2011, respectively. Likewise, Vice President Xi Jinping traveled to Vietnam in December 2011 as part of a Southeast Asian tour.
- Authoritative Chinese-language media such as the *People's Daily* now underscore the importance of a cooperative approach in the South China Sea. Such articles are written largely to explain policy decisions to domestic readers, especially those working within party and state bureaucracies.
- China has engaged other claimants by establishing a 3B *yuan* (476 million US dollar) China-ASEAN Maritime Cooperation Fund (November 2011), hosting several workshops on oceanography and freedom of navigation in the South China Sea (December 2011), and hosting a meeting with senior ASEAN officials to discuss implementing the 2002 code of conduct declaration (January 2012).

Finally, China has halted the more assertive behavior that attracted so much adverse attention between 2009 and 2011. Vessels from the Bureau of Fisheries Administration have detained and held only two Vietnamese fishing vessels since late 2010 (in early March 2012). Patrol ships from the State Oceanographic Administration have not interfered in Vietnamese or Philippine hydrocarbon exploration activities since last May. More generally, China has not obstructed related exploration activities, such as Exxon's successful drilling of an exploratory well in Vietnamese waters claimed by China in October.

Sources of Moderation in China's Behavior

Why did China adopt a more moderate approach? China realized that it overreached and overreacted: by threatening states in Southeast Asia, and increasing US involvement in the region, China undermined its broader grand strategy.

In early 2010, other parties to the disputes in the South China Sea began to express growing concern about China's actions. Moreover, they began to turn to other powers with interests in the South China Sea for help, especially the United States. In January 2010, Vietnam assumed the chairmanship of ASEAN and used this position to draw greater international attention to the dispute. In July 2010, the United States led an

effort by 12 states to express concern about China's behavior during a meeting of the ASEAN Regional Forum, an annual gathering of states in the region to discuss security issues. Secretary of State Hilary Clinton also offered the most detailed statement to date of U.S. interests in the South China Sea, including freedom of navigation, unimpeded commerce, respect for international law, and peaceful dispute resolution.

As a result, China began to realize that its actions were harming its broader foreign policy objectives. One core principle of China's current grand strategy is to maintain good ties with great powers, its immediate neighbors, and the developing world. Through its actions in the South China Sea, China had undermined this principle several ways: It 1) tarnished the cordial image in Southeast Asia that it had worked to cultivate in the preceding decade, 2) created a shared interest among countries in the region in countering China, 3) created strong incentives for states in the region to seek support from the United States, and 4) it added the dispute as an issue in the U.S.-China relationship. In sum, China's behavior worsened its relations with both its immediate neighbors and the United States – and created a shared interest among them in China.

China's more moderate approach seeks to ensure that the disputes in the South China Sea do not harm China's broader foreign policy objectives. Through this new approach, Beijing wants to project a more benign image in the region to prevent the formation of a group of East Asian states allied against China, reduce Southeast Asian states' desire to further improve ties with the United States, and weaken the rationale for a greater U.S. role in these disputes and in the region.

Implications for China's Foreign Policy in the Future

The assertiveness and moderation in China's recent behavior in the South China Sea carries several implications for the drivers of China's foreign policy.

- In many areas, including territorial and maritime disputes, China's foreign policies remain largely reactive to challenges from other states. The actions of other states in the South China Sea played a significant role in both China's assertiveness and moderation.
- In contentious disputes with its immediate neighbors, China's actions have mostly sought to deter other states from acting against China's interests and not to compel states through coercion or the use of force to change their positions and accede to China's demands. The emphasis on deterrence in China's foreign policies is consistent with the current orientation of China's military strategy.
- Although China is actively modernizing its armed forces, it remains reluctant to use them directly in many political-military issues. In the South China Sea, China has relied primarily on civil maritime law enforcement agencies, and not the PLA Navy, to assert and defend its claims. When incidents at sea occur, the use of such civilian agencies creates an additional rung on the ladder of escalation short of direct military involvement, and may indicate a desire to limit tensions.
- China's foreign policy remains constrained by its external security environment. China has fourteen neighbors on land and eight at sea, in addition to the forward deployed presence of the United States in East Asia. Several of these neighbors

have either large military forces or nuclear weapons. Some like India and Russia are also rising powers, while others like Japan and the Philippines are allies of the United States. China's own allies in the region, Pakistan and North Korea, are a source of tension with both China's neighbors and the United States. In such an environment, China has limited room for maneuver and must seek to maintain good relations with neighboring states.

- In any particular dispute, China remains constrained by the need to balance dispute-specific interests with its broader foreign policy goals. No evidence exists yet to suggest that China is willing to create a more hostile security environment that may threaten its continued economic growth to achieve specific interests in specific disputes.
- China's more moderate approach in the South China Sea provides further evidence that China will seek to avoid the type of confrontational policies that it had adopted toward the United States in 2010. It also indicates that China will respond to U.S. strategic rebalancing by relying on conventional diplomatic and economic tools of statecraft and not a direct military response.

Recommendations for the United States

Let me conclude with several recommendations for U.S. policy in East Asia:

- The United States should maintain and consolidate its military and diplomatic presence in East Asia currently being undertaken as part of the rebalancing of American strategic priorities, including American alliances and partnerships in the region. The involvement of the United States in the dispute, including Secretary of State Clinton's statement at the July 2010 meeting of the ASEAN Regional Forum, was one important factor in China's shift to a more moderate approach to managing its claims in the South China Sea. Successful American engagement in the South China Sea requires a sustained and active presence in the region.
- The United States should continue to underscore its national interest in the principles and norms that might be threatened by instability in the South China Sea and by China's more assertive policies, especially freedom of navigation as enshrined in UNCLOS and the peaceful resolution of disputes.
- The United States should support multilateral efforts to maintain maritime security in the region and continue active participation in the meetings of regional organizations such as the ASEAN Regional Forum and the East Asian Summit.
- The United States should maintain its longstanding principle of neutrality and of not taking sides in the territorial disputes of other countries. The maritime disputes in East Asia that involve China are complicated and multifaceted. To the extent that U.S. policy takes sides in these disputes – or is perceived as taking sides – it risks transforming these disputes into a bilateral conflict between the United States and China. In addition, if other claimant countries believe that the United States will defend their actions against China, they may take bolder and riskier actions that could increase instability in the South China Sea.

- The United States should ratify UNCLOS, which embodies customary international law in the maritime domain. Ratification would increase the legitimacy of U.S. efforts to pursue a rules-based approach to managing and resolving disputes over maritime jurisdiction and further enhance the image of the United States among many states in East Asia.

United States House of Representatives
Committee on Foreign Affairs

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4. Have <u>you</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?	5. Have any of the <u>organizations you are representing</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?
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