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## **United States' New Leverage in the South China Sea? Current Trends amid a New Asia-Pacific Strategy**

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### **Abstract**

This paper identifies important policy changes of the current US administration regarding its traditional neutrality over the South China Sea territorial conflict. A new proactive American foreign policy and military strategy has seemed to be effectively taking shape for this area during the last two years, which in turn have led the Philippines and Vietnam to search for new room of maneuver vis-à-vis their own maritime disputes against the PRC. Analysis of relevant events and major decision-making pronouncements test the extent of Washington's future involvement in this maritime region amid a commitment for stability in the area already expressed both by China and its relevant maritime neighbors.

### **摘要**

美国政府传统上对南海领土争端问题保持中立。本文则指出了当前美国政府在这个问题上的重要政策变化。在过去两年中，针对这一地区，美国政府似乎有效的制订了全新的、积极的外交政策和军事战略。这使得菲律宾和越南在与中国的海洋领土争端中，开始寻找新的动作空间。中国和其相关海上邻国均已表示，将致力于维护本地区的稳定。对相关事件和已宣布重要的决策进行分析，将检验美国未来会在何种程度上参与这一地区的事务。

## UNITED STATES' NEW LEVERAGE IN THE SOUTH CHINA SEA? CURRENT TRENDS AMID A NEW ASIA-PACIFIC STRATEGY

### Introduction

The South China Sea (known as *Nanhai* in China, but also the *Eastern Sea* in Vietnam, and the *West Philippine Sea* in that country), a 3.5 million square km semi-closed sea, continues to be an arena of disputes involving sovereignty of islands, atolls and other insular features, as well as maritime space. Most of its four archipelagoes (the Pratas Reef and Island, the Paracel Islands, the Macclesfield Bank and the Spratly Islands) are subject to claims of territory, as well as a dispute of jurisdiction of wide sectors of maritime space, including that of the famous 9-dotted line drawn in Chinese maps encompassing the whole area as “historical waters”. The long history of claims has crystallized official narratives built through time by the involved actors, which in turn has resulted in positions virtually impossible to negotiate. Besides the Pratas group (claimed by China and Taiwan), currently the Paracels are claimed by Vietnam but occupied entirely by China since 1974; the Macclesfield Bank is partially claimed by the Philippines (Scarborough Shoal/Huangyan Dao) and entirely by China and Taiwan (these two actors have the same claim in the South China Sea); while the Spratlys group is claimed in its entirety by China, Taiwan and Vietnam, partly by Malaysia and the Philippines (the latter through the Kalayaan Island Group claim), while Brunei claims only a maritime sector of the archipelago. Military occupation and presence include Chinese control of the whole Paracels, as well as personnel from several navies and coast guards in the Spratlys –Chinese in nine of the islands, Taiwanese in 1, Philippine in 8, Malaysian in 3 and Vietnamese in 29.

After decades of tension and some skirmishes over insular features in the eighties and nineties, the claimants (on one side China without Taiwan and on the other the ASEAN group where the remaining countries belong) signed in 2002 the *Declaration on the Conducts of Parties in the South China Sea* (DoC),<sup>1</sup> whereby they committed to the principles of international law as the basis for the peaceful resolution of disputes, to explore ways of building trust and confidence, respect freedom of navigation as well as to exercise self-restraint, foster cooperative activities and pledged to draft a *Code of Conduct* (CoC) in the future as a legal binding set of rules. However, after recent incidents at sea and the perception in the region that China is improving its military capabilities, the United States has decided to abandon its traditional neutrality for a more “proactive neutrality” in the overall conflict.

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<sup>1</sup> <http://www.aseansec.org/13163.htm>

## US Proactive Neutrality

US neutrality as a non-claimant actor, in particular in the Spratlys, can be traced back to the 1930s when Washington responded to the Japanese occupation and protests by the then claimants France and the United Kingdom over insular features.<sup>2</sup> The US government has repeatedly declared its position in favor of a peaceful resolution through negotiations and in consistency with international law. However, since the beginning of the Obama administration, in particular after the *USS Impeccable* incident in March 2009 near Hainan Island, the South China Sea has become an integral part of the new US strategy for the Asia-Pacific.

By building a more coordinated strategy encompassing economy, diplomacy and defense, the US has decided to re-balance towards the Asia-Pacific (pivot role),<sup>3</sup> improve contacts with governments in the region since 2009, and promote a trade Trans-Pacific Strategic Economic Partnership (TPP) for trade purposes. In the military arena, this US strategy includes the promotion of strong partnerships with allies, the relocation of military forces (in Japan, Guam, Australia and Singapore), the compromise to reposition naval forces in the Atlantic/Pacific at a ratio of 40-60% by the year 2020,<sup>4</sup> projection of its air and sea power in A2/AD environments (such as the Chinese theater of operations), as well as the inclusion of the Indian Ocean as part of the whole “Asia-Pacific” area.

In terms of the South China Sea conflict, the diplomatic aspect of this new so-called “Offshore Asia” military strategy,<sup>5</sup> aimed most probably against China, became evident in July 2010 during the visit of Secretary of State Hillary Clinton to the ASEAN regional forum (ARF) in Hanoi. While reaffirming that the US does not take sides on the competing territorial disputes over land features and by saying that, consistent with customary international law, legitimate claims to maritime space in the South China Sea should be derived solely from legitimate claims to land features, Clinton however declared that the US had a “national interest” in the freedom of navigation. She called for respect of international

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<sup>2</sup> Urano Tatsuo, *nankai shoto kokusai funsoshi* (International Conflict Over the South China Sea), Tokyo: Tosui shobo, 1997, pp. 345-346.

<sup>3</sup> President Barack Obama Speech at the Australian Parliament, at <http://www.whitehouse.gov/the-press-office/2011/11/17/remarks-president-obama-australian-parliament>

<sup>4</sup> Defense Secretary Leon Panetta, address to the Shangri-La Dialogue in Singapore at <http://www.iiss.org/conferences/the-shangri-la-dialogue/shangri-la-dialogue-2012/speeches/first-plenary-session/leon-panetta/>

<sup>5</sup> Geoff Wade, “The emergence of ‘Offshore Asia’ as a security concept”, EastAsiaForum, 29 January 2012, at: <http://www.eastasiaforum.org/2012/01/29/the-emergence-of-offshore-asia-as-a-security-concept/>

law, and offered US mediation in a collaborative diplomatic process, encouraged the interested parties to reach an agreement on a full CoC, and said that Washington is prepared to facilitate initiatives and Confidence Building Measures (CBM) for the region.<sup>6</sup>

Here, the US Department of Defense's posture has shown a closer coordination with the Department of State. During the last three annual *IISS Asian Security Summit-The ShangriLa Dialogue* meetings held in Singapore since 2010, secretaries Robert Gates and later Leon Panetta have expressed that it is essential to maintain stability, freedom of navigation, and free and unhindered economic development in that maritime region, that the US opposes the use of force and any action that hinder freedom of navigation and that Washington is against intimidation of its corporations (namely oil companies). They also reiterated the need to resolve disputes through peaceful and multilateral efforts consistent with international law. In tune with the Department of State, the Pentagon underlined the need to implement the 2002 DoC.<sup>7</sup>

### **Balancing China?**

China has repeatedly insisted that it does not represent a menace in the South China Sea area, as rationalized through its 1997 *New Security Concept* (including military, political, economic, social/environmental, scientific and technological aspects so as to promote a stable international environment). The nucleus of the concept lies on the goal of attaining mutual trust, mutual benefit and equality in the international arena by setting aside the so-called "Cold War mentality".<sup>8</sup> Moreover, through the *China Peaceful Rise-Development* doctrine, constructed since 2003 (which privileges structural innovation in the economy, the expansion of its domestic market and more investment in several areas of the economy), the government has repeatedly assured that what China needs is to secure a peaceful international environment.<sup>9</sup> Under both doctrines, the Chinese government seems to be presenting to its neighbors in the South China Sea the idea that peaceful behavior is not a matter of choice but of state doctrine, with the limitation that sovereignty is non-negotiable.<sup>10</sup>

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<sup>6</sup> Secretary Clinton press conference, 23 July 2010, Hanoi, Vietnam, at: <http://www.state.gov/secretary/rm/2010/07/145095.htm>

<sup>7</sup> Secretary Gates speech, 5 June 2010, and 4 June 2011. Secretary Panetta speech, 2 June 2012. Full texts at <http://www.iiss.org/conferences/>

<sup>8</sup> China's Position Paper on the New Security Concept, 31 July 2002, at: <http://www.mfa.gov.cn/eng/wjb/zzjg/gjs/gjzzyhy/2612/2614/t15319.htm>

<sup>9</sup> "Turning Your Eyes to China"--Speech by Premier Wen Jiabao at Harvard University 10 December 2003, at: <http://www.fmprc.gov.cn/ce/ceun/eng/xw/t56090.htm>

<sup>10</sup> Since 2010 a polemic has arisen over whether Chinese high officials indeed regarded the South China Sea as part of a "core interest" (hexin liyi 核心利益) of the State, as in the Taiwan, Xinjiang or Tibet issue. Officially this has not been mentioned at all, which seems to suggest that the South China Sea has not been elevated to that level. See Michael D. Swaine,

Considering the current US involvement in the dispute and the failure of ASEAN to engage China, the Philippines and Vietnam seem to be eagerly approaching Washington. But are they misreading US signals in the South China Sea? On the Philippines, the weakest country against recent Chinese naval activities in the Spratlys, the visit of President Benigno Aquino to Washington in June 2012 deserves special mention since it seems Manila believes that, with the current “pivot role” of the US towards the region taking shape and the ultimate goal of Washington to counter Chinese presence in southeast Asian waters, there is currently an alignment of interests. Aquino’s government is looking for US help in modernizing the Philippine military to strengthen and achieve a “minimum credible deterrent posture” (with the transfer of a second U.S. Coast Guard Cutter to the Philippine Navy, support for the Philippine National Coast Watch System, and bilateral exercises and training programs)<sup>11</sup>, besides another deal with Italy to purchase a third warship; Manila is also looking for tenders from France, Italy, South Korea and the U.K. to equip its two squadrons of 18 fighters and has requested the U.S. for a squadron of F-16.<sup>12</sup> This Philippine rapprochement deepened when it had to face China in the Scarborough Shoal from April to June 2012 and confronted the superior Chinese naval capabilities.

As for Vietnam, closer cooperation with the US has followed similar lines but with a stronger economic interest at stake. In June 2012 Secretary of Defense Leon Panetta paid a visit to Vietnam as part of the process of normalization between Hanoi and Washington. In political circles in Washington, the new era of partnership is thought as one which will feature more trade, investment, education, health (medical exchanges), and security and defense (mainly search and rescue ops.) than ever before. The Vietnamese regime pursued further interests, including weapons sales, inclusion into a warship servicing agreement (the so-called Acquisition and Cross-Service Agreement), and possibly a more formal strategic partnership in the future.<sup>13</sup> Considering that China has denounced activities of US oil firms doing business with Vietnam in offshore sectors near the Spratlys and the Paracels, Hanoi has opted for a more direct cooperation with the US instead of unfruitful consultations at ASEAN meetings.

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China’s Assertive Behavior, Part One : On “Core Interests”, *China Leadership Monitor* No. 34, Winter 2011, online at: [http://www.carnegieendowment.org/files/CLM34MS\\_FINAL.pdf](http://www.carnegieendowment.org/files/CLM34MS_FINAL.pdf)

<sup>11</sup> The White House Statement on the President’s Meeting with President Aquino of the Philippines, 8 June 2012, at: <http://www.whitehouse.gov/the-press-office/2012/06/08/statement-president-s-meeting-president-aquino-philippines>.

<sup>12</sup> “Philippines Diversifies Arms Purchases”, WND News 3 June 2012 at <http://www.wnd.com/2012/06/philippines-diversify-arms-purchases/> See also US helps the Philippines to improve its military capability”, *The Guardian*, 6 August 2012 at <http://www.guardian.co.uk/world/2012/aug/06/us-helps-philippines-improve-military>

<sup>13</sup> Greg Torode, “Panetta Crosses Symbolic Threshold in Vietnam Visit”, *South China Morning Post*, 4 June 2012, p. 1.

## **Misreading Washington real intentions?**

However, a closer analysis of these contacts between the US and the Philippines and Vietnam shows important limitations of Washington's commitment to them, at least in terms of Manila and Hanoi's own territorial claims against China over features of the Spratlys (and the Macclesfield Bank for the Philippines). First, there remains the important question of whether the 1951 US-Philippines Mutual Defense Treaty covers Manila's claim in the South China Sea. Is the KIG (Kalayaan Islands Group) area to be considered part of the metropolitan area of the Philippines in case of an attack from a third party? Certainly this issue, together with the extent of the Philippine territory under the 1899 Treaty of Paris, has not been mentioned either by the US DoS or the DoD. Moreover, Washington seems ready only for a modest transfer of defense technology and minor vessels to Manila. And finally, US forces have to confront the politically-sensitive issue of sending American experts and military hardware to Luzon<sup>14</sup> as part of a possible ongoing negotiation to deploy an early-warning radar system to track missiles either from North Korea or China.<sup>15</sup>

As for Hanoi, the process of normalization after the Vietnam War is speeding up, but it is still far from being one among allies. At least for Washington, the US-Vietnam relationship is about *friends*, not *allies*. Important obstacles remain before the US Congress approves the lifting of an arms embargo, including the monitoring of the Vietnamese human rights record. Second, according to military experts, the US might only sell non-lethal technology to Vietnam for the time being, including radar equipment. Regarding the presence of US ships in Vietnamese ports (mainly in Camh Ranh Bay), Pentagon officials seem to consider those ports as part of a *places, not base* within the overall US strategy.

## **Final considerations**

Important points deserve mention in order to evaluate future directions of the US commitment towards the South China Sea, the Chinese reaction of the US direct participation in trying to break the impasse in negotiations and the current *status quo*, as well as the behavior of other claimants in the South China Sea. First is the importance of accepting

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<sup>14</sup> Barbara Mae Dacanay, "Aquino Urged to Reveal Docking Deal with US", *gulnews.com*, 19 June 2012, online at: <http://gulnews.com/news/world/philippines/aquino-urged-to-reveal-docking-deal-with-us-1.1037670>

<sup>15</sup> This third system, called *X-Band*, might be deployed in the Philippines to form a strategic arc (together with those deployed in Japan and Hawaii) in order to detect incoming ballistic missiles. "US plans new Asia missile defence", *The Australian*, 24 August 2012, at <http://www.theaustralian.com.au/business/wall-street-journal/us-plans-new-asia-missile-defence/story-fnay3ubk-1226456703916>

different approaches when evaluating future scenarios in the SCS. Traditional realism concepts such as balance of power and containment applied to the East and Southeast Asian reality can be a miscalculation. The new “pivot role” of the US in the region does not guarantee other states bandwagoning against China, as it is currently manifest only in the case of the Philippines and partially for Vietnam. The cost of the US “balancing” and engaging in “containment” policies in the South China Sea can be high, starting with the collapse of ASEAN unity as a block, as well as the high political cost on economic regional integration processes. No doubt there is a risk of miscalculation among US and involved parties in the maritime disputes, as already manifest in what the Philippines and Vietnam expect from the US. Since China is an extremely important partner in the global agenda, and considering that the bilateral overall relationship is more important than the South China Sea disputes, Washington should maintain a balance between its main global and regional interest in the Asia Pacific, and the preservation and vitality of those regional mechanisms dealing with this dispute. For the time being, it seems that the US government does not have a formula to help in solving the current identity crisis in ASEAN – with this regional block currently unable to face common problems among its members, and in particular unable to present a united approach on the South China Sea conflict.

Second, there is the issue of taking Beijing’s commitments for peace and stability in the South China Sea at face value. Both the New Security Concept and the Peaceful Development doctrines are rationally articulated on the political discourse at the highest levels of government and even in the military (the speech of Minister of National Defense Liang Guanglie in the IISS Shangri-La Dialogue 2011 in Singapore confirms it).<sup>16</sup> If Chinese strategists conclude that the US is playing bully in the South China Sea, they should also understand Washington’s real global interests in China (trade, global financial stability, non-proliferation, the Korean Peninsula, etc...) and evaluate whether a confrontational posture in the South China Sea by both sides affect higher objectives in their agenda.

Third, a future scenario in the South China Sea will be partly influenced by the role already played by transnational actors (mainly oil firms), and largely by the continuity of policies in the post-Obama era, as well as by the feasibility of transforming the DoC into a CoC. On this last issue, it is imperative that involved actors think beyond the 10-years old DoC. Unfortunately, the political process within ASEAN and with China is still dominated by the problem of how to really put the DoC into practice. The political will of the direct claimants will continue to be crucial in this conflict. Even though in 2011 ASEAN and China

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<sup>16</sup> General Liang Guanglie speech, 5 June 2011, at: <http://www.iiss.org/conferences/the-shangri-la-dialogue/shangri-la-dialogue-2011/speeches/forth-plenary-session/general-liang-guanglie-english/>

eventually agreed on the *Guidelines for the Implementation of the DoC*<sup>17</sup> as an intermediate step between the DoC and the CoC, currently the drafting of a legally binding CoC confronts two options: advancing with or without China. In particular Manila wants ASEAN to first elaborate the document to be later presented to Beijing, whereas China has successfully broken ASEAN unity.<sup>18</sup>

With no permanent solution in sight, a *status quo* remains the best option, and pragmatic alternatives should be explored, with or without the US, such as concrete CBMs to be discussed in the ASEAN-China Ministerial Meeting (PMC). Among these CBMs there should be proposals on specific economic activities, like a coordinated fishery ban among claimant states' nationals, in order to prevent incidents like the Scarborough Shoal in 2012.

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<sup>17</sup> <http://www.asean.org/documents/20185-DOC.pdf>

<sup>18</sup> During the 45th annual meeting of foreign ministers of ASEAN –AMM– held in Cambodia in July 2012, the meeting failed for the first time in its history to issue its joint communique due to divisions among its members over how to deal with the issue of the South China Sea conflict. See “South China Sea disagreements reflect disunity: Shanmugam”, Channel News Asia, 13 August 2012, online at:

<http://www.channelnewsasia.com/stories/singaporelocalnews/view/1219883/1.html>