

THE UNITED STATES MILITARY STRATEGY AND THE  
EAST CHINA SEA AND SOUTH CHINA SEA DISPUTES

A thesis presented to the Faculty of the U.S. Army  
Command and General Staff College in partial  
fulfillment of the requirements for the  
degree

MASTER OF MILITARY ART AND SCIENCE  
Strategic Studies

by

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2018

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<b>REPORT DOCUMENTATION PAGE</b>			<i>Form Approved</i> <i>OMB No. 0704-0188</i>		
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<b>1. REPORT DATE (DD-MM-YYYY)</b> 15-06-2018		<b>2. REPORT TYPE</b> Master's Thesis		<b>3. DATES COVERED (From - To)</b> AUG 2017– JUN 2018	
<b>4. TITLE AND SUBTITLE</b>  The United States Military Strategy and the East China Sea and South China Sea Disputes			<b>5a. CONTRACT NUMBER</b>		
			<b>5b. GRANT NUMBER</b>		
			<b>5c. PROGRAM ELEMENT NUMBER</b>		
<b>6. AUTHOR(S)</b>  George Sotelo, Maj			<b>5d. PROJECT NUMBER</b>		
			<b>5e. TASK NUMBER</b>		
			<b>5f. WORK UNIT NUMBER</b>		
<b>7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)</b> U.S. Army Command and General Staff College ATTN: ATZL-SWD-GD Fort Leavenworth, KS 66027-2301			<b>8. PERFORMING ORG REPORT NUMBER</b>		
<b>9. SPONSORING / MONITORING AGENCY NAME(S) AND ADDRESS(ES)</b>			<b>10. SPONSOR/MONITOR'S ACRONYM(S)</b>		
			<b>11. SPONSOR/MONITOR'S REPORT NUMBER(S)</b>		
<b>12. DISTRIBUTION / AVAILABILITY STATEMENT</b> Approved for Public Release; Distribution is Unlimited					
<b>13. SUPPLEMENTARY NOTES</b>					
<b>14. ABSTRACT</b> The Diaoyu Islands (Chinese name)/Senkaku Islands (Japanese name) in the East China Sea are under dispute between Japan, China, and Taiwan. The Japanese government administers them today. China sends Coast Guard vessels to accompany fishing trawlers in the Senkaku Island's waters increasing the potential of military conflict. In the South China Sea, a U.S. Geological Survey in 1993 estimated the sum total of discovered and undiscovered oil and gas in the South China Sea to be quite extensive. China officially claims a majority of the area due to China's nine-dash-line claim and artificial island building. China's nine-dash-line claim includes islands claimed by other nations throughout the South China Sea creating multiple disputes in the area. Some of these disputes have resulted in bloodshed. The disputes in both the East China Sea and South China Sea could draw the U.S. into a military conflict with China due to our defense treaties with Japan and the Philippines. The research evaluates the current U.S. military strategy in the South China Sea and East China Sea. This thesis evaluates current factors within the two disputes through the Ends, Ways, Means, and Risk approach and how much Risk the U.S. military is taking with the current strategy.					
<b>15. SUBJECT TERMS</b> China, United States, Japan, Taiwan, Phillipines, Brunei, Malaysia, Vietnam, U.S. strategy in Asia-Pacific, Defense treaty, Nine-Dash Line, South China Sea, East China Sea.					
<b>16. SECURITY CLASSIFICATION OF:</b>			<b>17. LIMITATION OF ABSTRACT</b>	<b>18. NUMBER OF PAGES</b>	<b>19a. NAME OF RESPONSIBLE PERSON</b>
<b>a. REPORT</b>	<b>b. ABSTRACT</b>	<b>c. THIS PAGE</b>			<b>19b. PHONE NUMBER (include area code)</b>
(U)	(U)	(U)	(U)	102	

MASTER OF MILITARY ART AND SCIENCE

THESIS APPROVAL PAGE

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The opinions and conclusions expressed herein are those of the student author and do not necessarily represent the views of the U.S. Army Command and General Staff College or any other governmental agency. (References to this study should include the foregoing statement.)

## ABSTRACT

THE UNITED STATES MILITARY STRATEGY AND THE EAST CHINA SEA AND SOUTH CHINA SEA DISPUTES, by Maj George D. Sotelo, 102 pages.

The Diaoyu Islands (Chinese name)/Senkaku Islands (Japanese name) in the East China Sea are under dispute between Japan, China, and Taiwan. The Japanese government administers them today. China sends Coast Guard vessels to accompany fishing trawlers in the Senkaku Island's waters increasing the potential of military conflict. In the South China Sea, a U.S. Geological Survey in 1993 estimated the sum total of discovered and undiscovered oil and gas in the South China Sea to be quite extensive. China officially claims a majority of the area due to China's nine-dash-line claim and artificial island building. China's nine-dash-line claim includes islands claimed by other nations throughout the South China Sea creating multiple disputes in the area. Some of these disputes have resulted in bloodshed. The disputes in both the East China Sea and South China Sea could draw the U.S. into a military conflict with China due to our defense treaties with Japan and the Philippines. The research evaluates the current U.S. military strategy in the South China Sea and East China Sea. This thesis evaluates current factors within the two disputes through the Ends, Ways, Means, and Risk approach and how much Risk the U.S. military is taking with the current strategy.

## ACKNOWLEDGMENTS

Writing this thesis has been a significant intellectual challenge, not only because of the broad scope of the subject but because of the timing. My second son Joshua was born the first day of class and immediately became a priority in my life. As I came to find out, balancing a new born and attending CGSC demanded excellent time management skills. However, this thesis was made possible by the support of my amazing wife Fay and the guidance and encouragement of my committee. I am truly blessed by our Lord and could not have found a better committee: Dr. Phillip G. Pattee, Kurt P. VanderSteen, and LTC Arran P. Hassell. I will carry their words of wisdom with me for the rest of my days.

They provided invaluable feedback, and more importantly their guidance, support, patience, and dedication will leave a positive impact on me for the rest of my life. I want to thank Dr. Pattee for opening my mind and helping me see the possibilities that exist if you are willing to get out of your comfort zone. I want to thank Mr. VanderSteen for helping me become a better writer and pushing me to challenge my analysis at every possible opportunity. Last but certainly not least, I want to thank LTC Hassell for his dedication to the research, encouragement every step of the way, and his willingness to call my research on the carpet. The paper would not exist if it was not for my incredible committee.

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## ACRONYMS

ADIZ	Air Defense Identification Zone
DIME	Diplomatic, Informational, Military, Economic
DoD	Department of Defense
EEZ	Exclusive Economic Zone
GATT	General Agreement on Tariffs and Trade
PMESII-PT	Political, Military, Economic, Social, Information, Infrastructure, Physical Environment, Time
UNCLOS	United Nations Convention on the Law of the Sea
U.S.	United States

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## CHAPTER 1

### INTRODUCTION AND BACKGROUND

#### Introduction

The original claim by the Chinese on the Senkaku Islands originated during the Ming Dynasty, around 1368 – 1644.<sup>1</sup> The modern Chinese claim on the South China Sea goes back to 1935 and a map created by the Republic of China's Land and Water Maps Inspection Committee.<sup>2</sup> These claims are the basis for the disputes the United States (U.S.) contends with today. The U.S. government does not have a claim in either of the disputes but does have an interest in maintaining peace in both the East China Sea and the South China Sea due to trade routes, existing defense treaties, and maintaining regional stability. The U.S. military specifically has a significant interest in maintaining freedom of navigation along trade routes in the South China Sea because of the amount of global commercial traffic that flows through it. Many different methods to resolve the disputes have been attempted but so far none have produced any significant results.

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<sup>1</sup> The People's Republic of China (PRC), "White Paper on Diaoyu Dao: An Inherent Territory of China," State Council Information Office, September 2012, accessed May 19, 2018, [http://english.gov.cn/archive/white\\_paper/2014/08/23/content\\_281474983043212.htm](http://english.gov.cn/archive/white_paper/2014/08/23/content_281474983043212.htm).

<sup>2</sup> U.S. Department of State (DoS), Limits in the Seas, No. 143, *China: Maritime Claims in the South China Sea*, Office of Ocean and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, December 5, 2014, accessed May 8, 2018, <https://www.state.gov/documents/organization/234936.pdf>.

## Background of the East China Sea

### China's Claim

The name for the islands in the East China Sea is specific to each claimant country. The Japanese name for the islands is the Senkaku Islands, while the Chinese name for the islands is the Diaoyu Dao Islands. Throughout the rest of the paper, they will be referred to as the Senkaku Islands because the Japanese currently maintain control of the islands. The first known reference to the Senkaku Islands is between the years of 1368 and 1644 during the Ming Dynasty in China.<sup>3</sup> The Ming Dynasty included the Senkaku Islands on their maps and considered the islands sovereign Chinese territory.<sup>4</sup> The Chinese claim that ancient Chinese fishermen discovered the islands and records of their discovery are in an ancient Chinese book published in 1403 titled “Voyage with a tail Wing,” or in Chinese, “Shun Feng Xiang Song.” Nevertheless, it’s important to note that the Chinese never established a permanent civilian or military presence or settlement on the islands throughout that timeframe.<sup>5</sup>

Imperial envoys of the Ming Dynasty would use the Senkaku Islands as a stopping point along their route when visiting the King of Ryukyu (Japanese).<sup>6</sup> They

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<sup>3</sup> Mark E. Manyin, R42761, *The Senkakus (Diaoyu/Diaoyutai) Dispute: U.S. Treaty Obligations*, Congressional Research Service Report for Congress (Washington, DC: Office of Congressional Information and Publishing, October 14, 2016).

<sup>4</sup> Ministry of Foreign Affairs of Japan (MoFA Japan), “Recent Developments in Japan-China Relations. Basic Fact on the Senkaku Islands and the Recent Incident,” October 2010, accessed November 5, 2017, <http://www.mofa.go.jp/region/asia-paci/china/pdfs/facts1010.pdf>.

<sup>5</sup> Manyin.

<sup>6</sup> PRC, “White Paper on Diaoyu Dao: An Inherent Territory of China.”

would continue to use this route for the next five hundred years and stated they have maps proving the islands belong to the Chinese.<sup>7</sup> Furthermore, in 1561 the Chinese compiled an illustrated Compendium on Maritime Security and Map of Coastal Mountains and Sands that showed the Senkaku Islands within their jurisdictional territory of coastal defense.<sup>8</sup> Chinese historical claims go on to state the Chinese have been using the Senkaku Islands and their waters for navigation and fishing for hundreds of years.<sup>9</sup>

Conversely, in 1650 the Prime Minister to the King of Ryukyu named Xiang Xiangxian, depicted one of the islands as Japanese territory.<sup>10</sup> The Chinese use this as historical evidence indicating the Senkaku Islands belong to them. Another example the Chinese use is an “Illustrated Outline of the Three Countries,” a book written in 1785 by the Japanese writer Hayashi Shihei.<sup>11</sup> The book mentions not only the Senkaku Islands but also shows the islands as Chinese territory through an illustrated graphic with different colors representing the different countries.<sup>12</sup>

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<sup>7</sup> The People’s Republic of China (PRC), “Foreign Ministry Spokesperson Hong Lei’s Regular Press Conference on March 17, 2015,” Hong Lei, Spokesperson’s Remarks, Ministry of Foreign Affairs of the People’s Republic of China, March 17, 2015, accessed April 1, 2018, [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/t1246361.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1246361.shtml).

<sup>8</sup> PRC, “White Paper on Diaoyu Dao: An Inherent Territory of China.”

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

The Chinese also claim that in 1884, a Japanese man landed on the islands and planted flags on them.<sup>13</sup> He claimed the islands were uninhabited but in reality, the landing was a secret fact-finding mission with the intent to overturn China's claim on the Islands.<sup>14</sup> Additionally, he claimed the Senkaku Islands as sovereign Japanese territory when in reality, according to the Chinese, the islands belonged to China the entire time.<sup>15</sup> China states additional historical documentation exist in China's possession showing the governor of Okinawa Prefecture had stated the Senkaku Islands were documented by envoys of the Chinese Qing court. This documentation shows the Japanese knew the islands were China's territory, however, China has not made those documents publicly available to verify this claim.<sup>16</sup>

China further claims that the Japanese government passed a resolution claiming the islands were Japanese territory after the first Sino-Japanese War of 1894.<sup>17</sup> When China lost the war, China claims it was forced to surrender Taiwan and all of the Senkaku Islands to the Japanese.<sup>18</sup> According to China, this is when the Japanese officially named the islands the "Senkaku Islands."<sup>19</sup>

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<sup>13</sup> PRC, "White Paper on Diaoyu Dao: An Inherent Territory of China."

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

## Japan's Claim

The Japanese claim starts with a Japanese man named Tatsushiro Koga.<sup>20</sup> He established a business on the Senkaku Islands where he collected feathers for down in 1884.<sup>21</sup> As time progressed, on January 14, 1895, due to a lack of presence on the islands the Japanese claimed *terra nullius* and allowed Tatsushiro Koga to continue his business on the islands as Japanese territory.<sup>22</sup> The Japanese claimed *terra nullius* due to its definition of “showing no ownership due to a lack of any type of permanent presence”.<sup>23</sup> China's White Paper on the islands in September 2012 reject the Japanese claim of *terra nullius*.<sup>24</sup> Then in 1924, Jinji Koga, who was the son of Tatsushiro Koga, acquired private ownership of the islands from the Government of Japan.<sup>25</sup> In the 1943 Cairo Declaration, it was stated that Japan, “shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the first World War in 1914, and that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and The Pescadores, shall be restored to the Republic of China.”<sup>26</sup> But the declaration

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<sup>20</sup> Manyin.

<sup>21</sup> Gavan McCormack, *The China-Japan Border Dispute: Islands of Contention in Multidisciplinary* (Abingdon, UK: Taylor and Francis Group, 2016), 1-12.

<sup>22</sup> MoFA Japan, “Recent Developments in Japan-China Relations.”

<sup>23</sup> Ibid.

<sup>24</sup> Manyin.

<sup>25</sup> Mark Valencia, “The East China Sea Dispute: Context, Claims, Issues, and Possible Solutions” *Asian Perspective* 31, no 1 (Special Issue 2007): 127-167, accessed May 5, 2018, <http://www.jstor.org/stable/42704579>.

<sup>26</sup> U.S. Department of State (DoS), “First Cairo Conference, 1943,” Communiqué released December 1, 1943, 1943 For. Rel. (Conferences at Cairo and Tehran), Library of

does not specifically mention the Senkaku Islands. In the 1945 Potsdam Declaration, it states, “Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.”<sup>27</sup> China understands the islands to fall under this statement even though the islands are not specifically mentioned and Japan claims the islands because of claiming them through *terra nullius*.<sup>28</sup> While the previous two declarations are important, they are not legally binding through international law such as the 1952 San Francisco Peace Treaty is.<sup>29</sup> The 1952 San Francisco Peace Treaty does not specifically mention the Senkaku Islands but admitted control of Okinawa to the U.S. government.<sup>30</sup> After World War II when the U.S. Navy used the islands as a firing range.<sup>31</sup> At that time, the U.S. Navy paid rent annually to Jinji

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Congress, accessed May 19, 2018, <https://www.loc.gov/law/help/us-treaties/bevans/must000003-0858.pdf>.

<sup>27</sup> Ministry of Foreign Affairs of Japan (MoFA Japan), “Potsdam Declaration,” Government of Japan, National Diet Library, 2003, accessed 19 May 2018, <http://www.ndl.go.jp/constitution/e/etc/c06.html>.

<sup>28</sup> Carlos Ramos-Mrosovsky, “International Law’s Unhelpful Role in the Senkaku Islands” *University of Pennsylvania Journal of International Law* (Summer Edition (2008): 120, accessed May 19, 2018 [https://www.law.upenn.edu/journals/jil/articles/volume29/issue4/RamosMrosovsky29U.Pa.J.Int’lL.903\(2008\).pdf](https://www.law.upenn.edu/journals/jil/articles/volume29/issue4/RamosMrosovsky29U.Pa.J.Int’lL.903(2008).pdf).

<sup>29</sup> Michal Thim and Michael Turton, “The Chinese Cult of Cairo and the Status of Taiwan,” *The Diplomat*, July 2017, accessed May 19, 2018, <https://thediplomat.com/2017/07/the-chinese-cult-of-cairo-and-the-status-of-taiwan>.

<sup>30</sup> United Nations Treaties, Treaty of Peace with Japan (with two declarations), signed at San Francisco on 8 September 1951, United Nations, accessed 19 May 2018, <https://treaties.un.org/doc/Publication/UNTS/Volume%20136/volume-136-I-1832-English.pdf>.

<sup>31</sup> MoFA Japan, “Recent Developments in Japan-China Relations.”

Koga but officially the U.S. claimed no side in the dispute.<sup>32</sup> Under the agreement within the Treaty of San Francisco, the U.S. administered the islands for Japan, until the time came to give Japan back the territory it held prior to the war.<sup>33</sup> The transition of authority for the islands to Japan occurred in 1971 with the Okinawa Reversion Treaty and because China had not disputed the islands until then, the U.S. returned the Ryukyu Islands to the government of Japan who allowed the Koga family to maintain ownership.<sup>34</sup> Robert Starr, who was acting on behalf of Secretary of State William Rogers stated, “the terms and conditions for the reversion of the Ryukyu Islands, included the Senkakus.”<sup>35</sup> While the Tatsushiro family owned the land, the Japanese government considered it Japanese territory. Yet, the Chinese officially reject this claim in a government white paper released in 2012 that stated, “the Cairo Declaration stated in explicit terms that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa [Taiwan] and the Pescadores, shall be restored to the Republic of China. These facts show that in accordance with the Cairo Declaration, the Potsdam Proclamation and the Japanese Instrument of Surrender, the Diaoyu Dao, as affiliated islands of Taiwan, should be returned, together with Taiwan, to China.”<sup>36</sup> The Chinese claim they should have

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<sup>32</sup> MoFA Japan, “Recent Developments in Japan-China Relations.”

<sup>33</sup> Valencia, 127-167.

<sup>34</sup> Ministry of Foreign Affairs of the Republic of China (Taiwan) (MoFA RoC), “The Republic of China’s Sovereignty Claims over the Diaoyutai Islands and the East China Sea Peace Initiative,” September 5, 2013, accessed December 20, 2017, [https://www.mofa.gov.tw/News\\_Content.aspx?n=C641B6979A7897C0&sms=F9719E988D8675CC&s=78B5BE16EDEF0A23](https://www.mofa.gov.tw/News_Content.aspx?n=C641B6979A7897C0&sms=F9719E988D8675CC&s=78B5BE16EDEF0A23)

<sup>35</sup> Manyin.

<sup>36</sup> PRC, “White Paper on Diaoyu Dao.”

received the islands when Taiwan was returned to them but Japan continues to claim sovereignty over the islands. The islands are currently being administered by the government of Japan after they purchased the islands from a Japanese private citizen who owned them.<sup>37</sup>

In 1885, the Government of Japan, through the local government of the Okinawa Prefecture, began to survey the islands for habitation.<sup>38</sup> The Japanese state the surveys came back showing the islands were uninhabited and had no markers to show territorial sovereignty of any kind.<sup>39</sup> The Japanese state that this is the basis for their claim of *terra nullius* and to the islands.<sup>40</sup> After conducting multiple surveys over a ten year period, Japan in January 1895 decided to erect markers on the islands, annex them into Okinawa, and formally declare them sovereign Japanese territory.<sup>41</sup> The Japanese also claim in 1895 that the islands were not part of Taiwan or the Pescadores Islands when the Qing Dynasty ceded them to the Japanese through Article II of the Treaty of Shimonoseki.<sup>42</sup>

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<sup>37</sup> Reinhard Drifte, “The Senkaku/Diaoyu Islands Territorial Dispute between Japan and China: Between the Materialization of the ‘China Threat’ and Japan ‘Reversing the Outcome of World War II’?” Research Unit on International Security and Cooperation (UNISCI) Discussion Papers No. 32, Department of International Studies, University of Madrid, Madrid, Spain, May 2013, accessed May 8, 2018, <https://www.files.ethz.ch/isn/166100/UNISCIDP32-NUMERO%20ENTERO.pdf>.

<sup>38</sup> Jean-Marc F. Blanchard, “U.S. Role in the Sino-Japanese Dispute over the Diaoyu (Senkaku) Islands,” *The China Quarterly*, no 161 (March 2000): 95-123, accessed December 20, 2017, <http://www.jstor.org/stable/655982>.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

The Islands were not part of the San Francisco Peace Treaty because senior U.S. adviser John Dulles stated that Japan had “residual sovereignty” in the Ryukyu Islands and the Senkaku Islands were linked to the Ryukyu Islands.<sup>43</sup> The Chinese never disputed this during the treaty’s deliberation.<sup>44</sup> The San Francisco Peace Treaty also showed that although the islands were clearly marked as Japanese, the Chinese did not dispute the islands ownership.<sup>45</sup> These are the historical reasons the Japanese state why the islands do not belong to China. Currently, the U.S. does not take a position on the East China Sea Senkaku Island sovereignty dispute.<sup>46</sup> This position was recently emphasized when Defense Secretary James Mattis was in Japan.<sup>47</sup> In April 2013, Japan and Taiwan signed the Japan-Taiwan fisheries agreement. The agreement did not resolve the sovereignty claim but established rules for fishermen from both nations to follow for fishing in the disputed waters.<sup>48</sup> The agreement allows Taiwanese fishermen to operate in the

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<sup>43</sup> Blanchard, 95-123.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Barack Obama, “Joint Press Conference with President Obama and Prime Minister Abe of Japan,” Office of the Press Secretary, The White House, April 24, 2014, accessed April 1, 2018, <https://obamawhitehouse.archives.gov/the-press-office/2014/04/24/joint-press-conference-president-obama-and-prime-minister-abe-japan>.

<sup>47</sup> U.S. Department of Defense (DoD) News, “Strength of Alliance Highlights Meeting Between Mattis, Japan’s Prime Minister,” Defense Media Activity, U.S. Department of Defense, February 3, 2017, accessed April 1, 2018, <https://www.defense.gov/News/Article/Article/1070346/strength-of-alliance-highlights-meeting-between-mattis-japans-prime-minister/>.

<sup>48</sup> Ministry of Foreign Affairs Republic of China (Taiwan) (MoFA RoC), “Republic of China (Taiwan) Signs Fisheries Agreement with Japan,” Press Room, April 15, 2013, accessed March 18, 2018,

designated area with interference from Japanese government ships or aircraft.<sup>49</sup> The agreement also expanded the fishing area for Taiwanese fishermen by 1,400 square nautical miles, provided a minimum distance between fishing vessels in the area, and established a joint Taiwan-Japan committee for future consultations.<sup>50</sup> The key to the agreement is that both sides accept that while sovereignty cannot be split, resources can be shared. This also shows that the Taiwanese government has not been a pawn of China's in the disputes as Chinese fishermen are not allowed the same degree of independence as Taiwanese fishermen. The agreement has been working well for both sides so much so that the Taiwan-Japan committee met in March 2018 to update the agreement with an expanded window for the time available for the fishermen.<sup>51</sup>

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[https://www.mofa.gov.tw/en/News\\_Content.aspx?n=539A9A50A5F8AF9E&sms=37B41539382B84BA&s=E80C25D078D837BB](https://www.mofa.gov.tw/en/News_Content.aspx?n=539A9A50A5F8AF9E&sms=37B41539382B84BA&s=E80C25D078D837BB).

<sup>49</sup> MoFA RoC, "Republic of China (Taiwan) Signs Fisheries Agreement with Japan."

<sup>50</sup> Ibid.

<sup>51</sup> Ankit Panda, "Taiwan, Japan Amend Bilateral East China Sea Fisheries Agreement," *The Diplomat*, March 19, 2018, accessed April 1, 2018, <https://thediplomat.com/2018/03/taiwan-japan-amend-bilateral-east-china-sea-fisheries-agreement/>.

Background of the South China Sea



Figure 1. Countries with Claims in the South China Sea

*Source:* Ralph Jennings, "A New Chinese Drone Could Help Beijing Assert Its Claim in the South China Sea," *Forbes*, September 2017, accessed 5 December 2017, <https://www.forbes.com/sites/ralphjennings/2017/09/28/a-high-end-drone-will-help-beijing-expand-in-the-disputed-south-china-sea/#7c9316e52479>.

Right after World War II, the Nationalists of the Republic of China claimed the small Island of Itu Aba in the Spratly Island archipelago.<sup>52</sup> They renamed the island “Taiping” after the destroyer that claimed it and built a steel temple on it.<sup>53</sup> In 1947, the Nationalists published a map depicting an “eleven-dashed line” encompassing most of the South China Sea.<sup>7</sup> In 1949, when the Communist took over mainland China, as a gesture of goodwill towards the Vietnamese, the Communist gave the Vietnamese Bailongwei Island, also called Bech Long Vi in Vietnamese.<sup>54</sup> This shifted the boundaries of the lines and made it a nine-dashed line. It is this map that the People’s Republic of China still uses as the foundation of their claim today.

The United Nations Convention on the Law of the Sea (UNCLOS) is the internationally agreed upon document that “promotes the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment.”<sup>55</sup> In UNCLOS Part VIII, Article 121, Section 3, “Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic

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<sup>52</sup> Stratfor, “Ending Taiwan’s Broad South China Sea Claims,” Stratfor Analysis, 2015, accessed May 8, 2018, <https://worldview.stratfor.com/article/ending-taiwans-broad-south-china-sea-claims>.

<sup>53</sup> Manyin.

<sup>54</sup> Zeng Zhihua, “Legal Effect of Maps in Maritime Boundary Delimitation: A Response to Erik Franckx and Marco Benatar,” *Asian Journal of International Law* 4, no. 2 (July 2014): 261-279, accessed December 20, 2017, <https://doi.org/10.1017/S2044251313000295>.

<sup>55</sup> United Nations (UN), *United Nations Convention on the Law of the Sea* (UNCLOS), 20, accessed April 2, 2018, [http://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

zone or continental shelf.”<sup>56</sup> While Part VIII, Article 121, Section 1 defines an island as, “a naturally formed area of land, surrounded by water, which is above water at high tide.”<sup>57</sup> Part IX, Article 123 of UNCLOS states that in situations like the South China Sea and the nations bordering it “should cooperate with each other in the exercise of their rights and in the performance of their duties under this Convention.”<sup>58</sup> The two contested archipelagos are the Paracel Islands to the northwest and the Spratly Islands to the south. The dispute includes the Scarborough Shoal or Reef located in the east/northeast of the South China Sea. As is the case with the East China Sea, the background of disputed claims in the South China Sea has numerous references to fishermen and traders traveling the area for hundreds of years.<sup>59</sup> Just like the East China Sea, claimants such as China and Vietnam, are using historical precedent to support their claims.<sup>60</sup> The main issue with the South China Sea is the complexity of the overlapping claims, by multiple nations, and legal interpretations of international law by each nation.

For example, the basis for Taiwan’s claim of Ita Aba Island in the South China Sea lies at the end of World War II. It was at this time the Republic of China established

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<sup>56</sup> UN, UNCLOS, 20.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

<sup>59</sup> Sarah Raine, *Regional Disorder: The South China Sea Disputes* (Abingdon, UK: Taylor and Francis Group, 2017), 35-40.

<sup>60</sup> Taylor Fravel, “China’s Island Strategy: Redefine the Status Quo,” *The Diplomat*, November 1, 2012, accessed April 1, 2018, <https://thediplomat.com/2012/11/chinas-island-strategy-redefine-the-status-quo>.

control of Itu Aba Island.<sup>61</sup> Taiwan still claims Itu Aba Island today even though the UN Tribunal declared Itu Aba Island did not qualify as an “island” under UNCLOS and does not qualify for the 200 nautical mile Exclusive Economic Zone (EEZ).<sup>62</sup> An EEZ is a 200 nm area beyond and adjacent to the territorial sea, subject to the legal regime established in the UNCLOS, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of UNCLOS.<sup>63</sup>

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<sup>61</sup> Shang-su Wu, “South China Sea Ruling: A Boost for Cross-Strait Relations?” *The Diplomat*, July 16, 2016, accessed April 2, 2018, <https://thediplomat.com/2016/07/south-china-sea-ruling-a-boost-for-cross-strait-relations/>.

<sup>62</sup> Embassy of the Republic of China (Taiwan), “On the Law of the Sea on the Issue of the Feature of Taiping Island (Itu Aba)” Press Releases, March 24, 2016, accessed April 2, 2018, [https://www.taiwanembassy.org/sz\\_en/post/2164.html](https://www.taiwanembassy.org/sz_en/post/2164.html).

<sup>63</sup> UN, UNCLOS, 20.

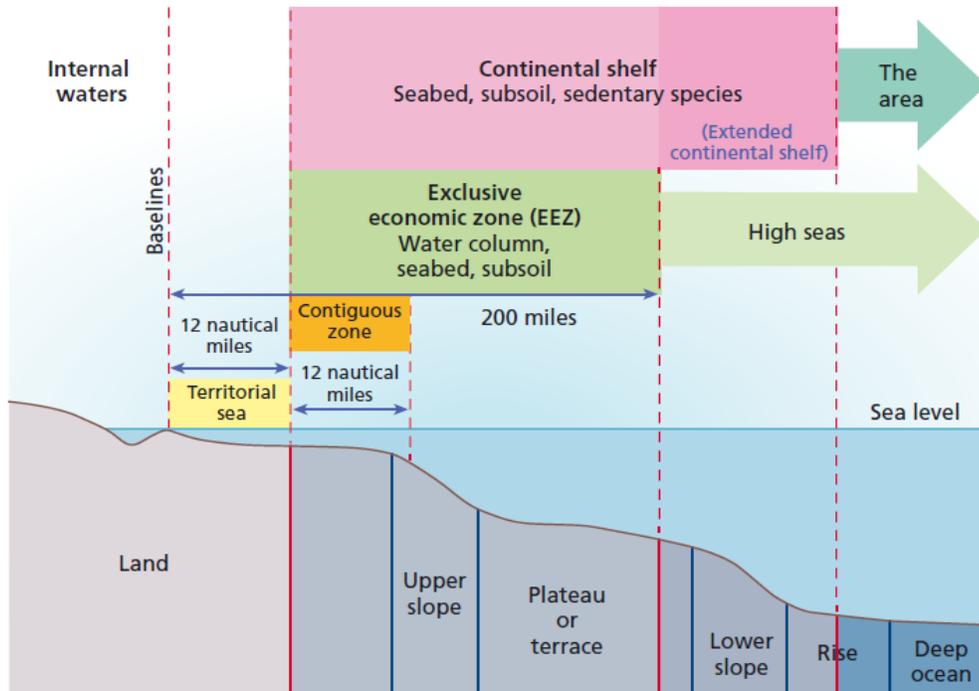


Figure 2. Maritime Zones under UNCLOS

Source: Clive Schofield, "Contested Ocean Spaces," *Geography Review*, November 2017, accessed 6 May 2018, [https://www.hoddereducation.co.uk/media/Documents/Magazines/Sample%20Articles/November%202017/GeogRev31\\_2\\_Nov2017\\_sample.pdf](https://www.hoddereducation.co.uk/media/Documents/Magazines/Sample%20Articles/November%202017/GeogRev31_2_Nov2017_sample.pdf).

In 2000, Taiwan demilitarized Itu Aba Island.<sup>64</sup> Since the ruling, Taiwan has been building infrastructure to employ ground-based artillery on it if needed.<sup>65</sup> This adds

<sup>64</sup> York W. Chen, "The Dispute in the South China Sea and Taiwan's Approach" (lecture, Taiwan and the World: Political, Economic and Social Dynamism, Department of Politics, Stockholm University, Stockholm, Sweden, December 2011), accessed April 5, 2018, <http://tkuir.lib.tku.edu.tw:8080/dspace/retrieve/52808/2011-DECEMBER+The+Dispute+in+the+South+China+Sea+and+Taiwan%27.pdf>.

<sup>65</sup> Steve Mollman, "Taiwan is Reading Howitzers to Defend Its One Contested Islet in the South China Sea," *Quartz*, July 26, 2017, accessed April 1, 2018, <https://qz.com/1038844/taiwan-is-readying-wwii-era-howitzers-to-defend-its-one-contested-islet-in-the-south-china-sea/>.

another element where China might come to the aid of Taiwan if another claimant used military means to escalate the dispute with Taiwan. With so many claimants and a lack of official historical government records for all the claimants involved, it is very difficult for any one of them to provide a solid foundation for their claim and ensure their territorial argument is indisputable.

For example, Emperor Minh Mang of the Nguyen Dynasty of Vietnam ordered the construction of a temple and steel on the Paracel Islands in 1835 bolstering Vietnamese claims to the islands.<sup>66</sup> Yet, as dynasties came and went in the area, their records pertaining to the South China Sea are sparse. As with the East China Sea, this is where the issue rests. Current ideas of sovereignty and international law are incompatible with the practices of empires and dynasties before the twentieth century.<sup>67</sup> Historically, it seemed unnecessary and redundant to those dynasties to physically occupy a territory as well as just verbally staking a claim.<sup>68</sup>

This leads to what many call the “silent claimant,” the nation of Brunei. Brunei published a map in 1984, updated in 1988, depicting the boundaries of its EEZ.<sup>69</sup> Brunei only claims several land features that fall within its legal boundaries in the southern

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<sup>66</sup> Duy Chien, “Vietnamese Emperors Claimed Sovereignty over Hoang Sa, Research Shows,” *Vietnamnet*, June 14, 2016, accessed April 1, 2018, <http://english.vietnamnet.vn/fms/special-reports/104355/vietnamese-emperors-claimed-sovereignty-over-hoang-sa--research-shows.html>.

<sup>67</sup> Manyin.

<sup>68</sup> *Ibid.*

<sup>69</sup> Michael Hart, “Brunei Abandons South China Sea Claim for Chinese Finance,” *Situation Reports, Geopolitical Monitor*, April 4, 2018, accessed April 8, 2018, <https://www.geopoliticalmonitor.com/brunei-abandons-south-china-sea-claim-for-chinese-finance/>.

portion of the sea.<sup>70</sup> These land features include the Louisa Reef, Owen Shoal, and Rifleman Bank. Unlike many of the other claimants, Brunei does not occupy any land in the South China Sea and does not maintain any military presence to enforce its claim.<sup>71</sup> Recently, the drop in oil prices significantly impacted Brunei's economy which precipitated a drop in government tax revenue.<sup>72</sup> As a result, the Sultan of Brunei has encouraged foreign investment into the country and China has emerged as the leader with \$4.1 billion in investments.<sup>73</sup> This has many speculating that China has bought Brunei's silence in the dispute.

The Philippine's claim is based in 1898 after the Spanish-American War.<sup>74</sup> This is when the Spanish government ceded the Philippines to the U.S. at the Treaty of Paris.<sup>75</sup> This was done by drawing a large box around the area that would form the Philippine archipelago.<sup>76</sup> In 1932, the Philippine government passed an act declaring all of the waters inside the box to be sovereign Philippine territory.<sup>77</sup> In 1933, the U.S. ceded

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<sup>70</sup> Hart.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Mark E. Rosen, "Philippine Claims in the South China Sea: A Legal Analysis," CNA Occasional Paper, U.S. Policy Options in the South China Sea Project, CNA Analysis & Solutions, Center for Naval Analyses, August 2014, accessed April 8, 2018, [https://www.cna.org/cna\\_files/pdf/iop-2014-u-008435.pdf](https://www.cna.org/cna_files/pdf/iop-2014-u-008435.pdf).

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

all of the lands it received at the Treaty of Paris to the government of the Philippines.<sup>78</sup> When the U.S. formally recognized Philippine independence in 1946, neither the Scarborough Shoal nor the features now claimed by the Philippines were inside the original box from the Treaty of Paris.<sup>79</sup> The Philippines openly claim this to be true and do not base their sovereignty claim on the Treaty of Paris. The Philippines base their claim on Spanish maps of 1734 and 1899, hydrographic surveys in the area, erection of a flag, and maintenance of a lighthouse in the 1960s as evidence of government authority over the features.<sup>80</sup> The UNCLOS does consider Scarborough Shoal an island.<sup>81</sup> Then in 1937, U.S. Secretary of State Cordell Hull told the director of the U.S. Coast and Geodetic Survey that the Scarborough Shoal should be regarded as islands ceded to the Philippines during the Treaty of Paris.<sup>82</sup> Finally, in 1965 an 8.3 meter-high flagpole flying a Philippine flag was raised with no objection from any other nation.<sup>83</sup>

Malaysia has a majority of its maritime boundaries solidified through agreements with its neighbors. Malaysia has an agreement with Indonesia from 1969 delimiting their maritime boundaries<sup>84</sup>. They also have maritime boundary agreements with Brunei,

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<sup>78</sup> Rosen.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> J. Ashley Roach, "Malaysia and Brunei: An Analysis of their Claims in the South China Sea," CNA Occasional Paper, U.S. Policy Options in the South China Sea

Singapore, and Thailand.<sup>85</sup> They have not agreed with the Philippines on a maritime boundary and both nations have a claim in the Spratly Islands.<sup>86</sup> Finally, Malaysia's maritime claims are based on its legal EEZ.<sup>87</sup>

This is why the U.S. maintains a position of neutrality on the South China Sea sovereignty issue and state the South China Sea is high sea and the disputes should be resolved peacefully.<sup>88</sup>

### Problem Statement

China has grown its military and naval tremendously over the past few decades. As their military grows, the Chinese have increasingly and militarily asserted their South China Sea claims. This worries the international community but especially those nations who have a dispute with China in the East and the South China Sea. As a global superpower, nations across the globe look to the U.S. for leadership in maintaining international law when conflicts such as these arise. Because there are two allies and five partner nations involved in the dispute, it behooves the U.S. to exert influence in a way

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Project, Center for Naval Analysis, August 2014, accessed April 8, 2018, [https://www.cna.org/cna\\_files/pdf/IOP-2014-U-008434.pdf](https://www.cna.org/cna_files/pdf/IOP-2014-U-008434.pdf).

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> Donald Trump, "Joint Statement between the United States of America and the Socialist Republic of Vietnam," Statements & Releases, White House Press Releases, November 12, 2017, accessed April 1, 2018, <https://www.whitehouse.gov/briefings-statements/joint-statement-united-states-america-socialist-republic-vietnam>.

that claimant nations reach a resolution without a resort to force and that international norms for trade and economic growth are upheld.

Regional nations in dispute with China look to the U.S. to fill-in as a counter-weight to Chinese aggression in their region. The Chinese know and understand they have a stronger military than their neighbors. They also know their neighbors will shy away from military conflict, even when pushed into a situation that warrants it. The Japanese, Philippines, Vietnamese, Malays, and Bruneians have a dispute with China and all have militaries that cannot compete with the Chinese in a conflict. As those nations look to the U.S. for leadership, this can form the basis for a new U.S. military strategy and approach to the region. This thesis will explore whether or not current U.S. strategy of minimal interference is encouraging China to use military and naval forces to continue intimidating other claimants.

#### Primary Research Question

Can the United States military strategy in the East and South China Seas be improved?

#### Secondary Research Questions

What actions are the Chinese currently taking that go against international laws/treaties? What is the objective of Chinese actions in the East and South China Seas? What previous attempts have been made to peacefully resolve the disputes?

#### Aim of the Study

This study aims to reassess current U.S. military actions and strategy as it pertains to the East and South China Seas with the intent to possibly reaffirm the current strategy

or provide options for a new one. The U.S. military is simply one part of the interagency approach to utilizing the diplomatic, informational, military, and economic (DIME) paradigm. Whether U.S. national leadership chooses to use the military alone or in concert with other government agencies across all elements of national power, the choice is theirs. Yet, the U.S. military must be ready if national leadership does choose to utilize it alone, especially in a situation as complex as the East and South China Seas disputes. Assessing the current strategy as well as new ones will ensure the U.S. military approach is the best possible considering how complex the situation is in that region of the world.

#### Assumptions

Analysis and scrutiny of information will be performed on all references to mitigate the use of assumptions. The author will assume the disputes are intractable and not subject to further negotiations. Assumptions will only be used in very unique situations where no factual information is available. In this case, the author will utilize logic and reason from the information available to make the assumption. Due to the historical nature of the topic, assumptions about events leading up to present day will not be presented.

#### Definitions

Senkaku Islands: Japanese name for the island group (*Uotsuri-shima, Taishō-tō, Kuba-shima, Kita-kojima, Minami-kojima, Oki-no-Kita-iwa, Oki-no-Minami-iwa, Tobise*) in the East China Sea and named when the Japanese claimed the islands after Sino-Japanese War of 1894.

Diaoyu Islands: Chinese name for the same islands in the East China Sea that the Japanese call the Senkaku Islands.

Spratly Islands: Named after British captain Richard Spratly who sighted them in 1843, includes 100 or so islets scattered over an area of nearly 221,382 sq nm, and are about two-thirds of the way from southern Vietnam to the southern Philippines.<sup>89</sup> They are centered in the southern half of the South China Sea approximately 300-nm east of Vietnam, 200-nm west of the Philippines, and 800-nm south of the Chinese mainland.<sup>90</sup>

Paracel Islands: Are located in the northwestern quarter of the South China Sea, centered approximately 185-nm east of the coast of Vietnam and 165-nm southeast of the Chinese island of Hainan Dao.<sup>91</sup> China has occupied all the Paracel Islands since 1974 with about 1,000 personnel when its troops seized a South Vietnamese garrison occupying the western islands. China has built a military installation on Woody Island with an airfield and artificial harbor. The islands are about one-third of the way from central Vietnam to the northern Philippines.<sup>92</sup>

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<sup>89</sup> Central Intelligence Agency (CIA), “World Factbook, Spratly Islands,” October 20, 2017, accessed December 20, 2017, [https://www.cia.gov/library/publications/the-world-factbook/geos/print\\_pg.html](https://www.cia.gov/library/publications/the-world-factbook/geos/print_pg.html).

<sup>90</sup> Clarence J. Bouchat, *Dangerous Ground: The Spratly Islands and U.S. Interests and Approaches* (Carlisle, PA: Strategic Studies Institute and U.S. Army War College Press, December 2013), 5-12, accessed April 1, 2018, <http://ssi.armywarcollege.edu/pdffiles/pub1187.pdf>.

<sup>91</sup> Ibid.

<sup>92</sup> CIA, “World Factbook, Paracel Islands.”

### Limitations (Scope)

Concerning the South China Sea dispute and the lack of factual historical records, this thesis cannot attempt to validate or corroborate historical fact from fiction. It will only present the facts as they are for context. The thesis will focus on the current situation, legal and regional economic implications, international norms and organizations, and the U.S. military strategy towards the disputes. The thesis will examine legal implications, but the thesis will not analyze the fact the U.S. is not a signatory to UNCLOS. The thesis will touch on social issues within China for context but it will not go in-depth. Chinese social issues are an important part of the thesis but their history and background will not be included due to their scope. Nor will the thesis attempt to place the disputes into a broader or grand Chinese geopolitical strategy. This would expand the scope significantly to include but not limited to global economics, other regional players such as India, and climate concerns. The thesis will also analyze the information available with the understanding the Chinese government has issued statements that conflict with their actions. The availability of factual information from a country with extreme censorship will be a limitation. The strategy will not be analyzed to determine what nation is the legitimate owner of any of the islands or the historical legitimacy of Chinese claims. As a U.S. military officer, a bias may be to steer away from war due to horrors war presents or steer towards war because war is what the military trains for every day even if the facts and analysis show otherwise

### Delimitations

Through thorough analysis, the facts and research will speak for themselves in the conclusion. This thesis will focus only on the claimants in the East and South China Sea

disputes and will focus only on the military elements of the DIME paradigm.

Additionally, the thesis will not examine organizations such as Association of Southeast Asian Nations and the role they are currently playing in the disputes. The thesis will only use unclassified sources for research information.

### Summary

In summary, both disputes have the possibility to erupt into serious conflicts causing significant damage to every country involved as well as the global economic market. Historical facts and norms are not adequate when assessing them through current international laws and norms in relation to the dispute. China has set precedence and shown they are willing to use military force to enforce their claims. Other claimants know this and are looking to the U.S. for leadership and possibly military assistance.

The next chapter will be a review of the literature and inform the reader on what has been written on the disputes. The chapter will also present the different schools of thought as laid out by the U.S., China, and other claimants; and how the recent UN Tribunal ruling impacts the South China Sea situation.

## CHAPTER 2

### LITERATURE REVIEW

In the previous chapter, the paper discussed the possibility of both disputes to develop into serious military conflicts and the complexity of the disputes. The chapter also briefly discussed how historical facts and historic practices are not the basis for an argument when current international laws assess current disputes. Finally, the chapter touched on China's tendency to resort to military force to enforce their claims.

The paper will determine the best U.S. military strategy to counter Chinese actions in the East and South China Seas. The U.S. military strategy will be analyzed based on its ability to decrease Chinese actions that go against international norms. The United Nations (UN) Tribunal recently decided for the Philippines in their claim that China's nine-dashed line is invalid because it violates UNCLOS.<sup>93</sup>

The purpose of this research paper is the current U.S. military strategy of utilizing freedom of navigation operations, whether the current strategy is relevant, and is a new strategy needed. The research will answer the thesis question of Can the United States military strategy in the East and South China Seas be improved?

#### Objective of Chinese Expansion into the East and South China Seas

This section of the literature review presents the sources that provide the supporting information on the Chinese claims. The sources are organized into two subsections: Chinese Claims and Chinese quest for natural resources.

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<sup>93</sup> Permanent Court of Arbitration, *The South China Sea Arbitration*, July 12, 2016, accessed April 1, 2018, <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf>.

## Chinese Claims

Chinese use of historical data is the very foundation of both claims and the cause of friction in the disputes. There is an abundance of sources relating to Chinese historical actions in the region. Yet, due to the lack of proper record keeping by government officials over the last few hundred years, historical information is questionable from a Western perspective. The sources directly inform the reader how the Chinese are arguing their point to the international community. The Chinese argument is often vague and ambiguous so they have room to maneuver during negotiations. This is one of the reasons why previous attempts to peacefully resolve the disputes has not resulted in any concrete actions. To complement the information presented by the Chinese government, information from international organizations such as the UN and think tanks such as the Center for Strategic and International Studies and Stratfor have also been used to compile the research database. The official government website used for historical research was The Chinese Ministry of Foreign Affairs. The school of thought across the sources is under international law, justifying a historic title claim is a difficult task.<sup>94</sup> Yet, none of the articles explore possible actions by the U.S. military to contribute to the resolution of the disputes.

## Chinese Quest for Natural Resources

Chinese reforms and policies to open their economy over the past few decades allowed China to experience exponential economic growth. This growth is one of the

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<sup>94</sup> Leonardo Bernard, “The Right to Fish and International Law in the South China Sea,” *Journal of Political Risk* 4, no. 1 (January 2016): 42, accessed May 7, 2018, <http://www.jpolrisk.com/the-right-to-fish-and-international-law-in-the-south-china-sea/>.

possible reasons the Chinese are expanding into the East and South China Seas.

According to the World Bank, China surpassed Germany in 2008 and Japan in 2010 to become the world's second-largest economy behind the U.S.<sup>95</sup> In 2015, the World Bank reported China had a GDP of \$11 trillion which dwarfed Japan's GDP of just under \$5 trillion.<sup>3</sup> The World Bank is also showing this growth has helped lift over 700 million Chinese out of poverty since 1970.<sup>96</sup> Yet, this growth is not without consequence. The Chinese people, emerging out of poverty now need access to greater amounts of energy and food.<sup>97</sup> Three journal articles indicated the Chinese need for additional resources. "China's Global Quest for Resources, Energy, Food, and Water" by Wu, Fengshi and Zhang, Hongzhou analyzes how China is doing its best to supply its people with energy, food, and water, and the effects on the international system. The sources provide critical information relating to the secondary research question, objective of Chinese expansion into the East and South China Seas, but it does not explore the correlation to conflict arising from Chinese growth. "Understanding China's Growth: Past, Present, and Future" analyzes China's economic reforms and their impact on its society such as providing rights to politically connected or state-owned enterprises.<sup>98</sup> This source argues that the

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<sup>95</sup> World Bank, "World Development Indicators," 2018, accessed April 5, 2018, <https://data.worldbank.org/products/wdi>

<sup>96</sup> World Bank, "Poverty & Equity Data Portal," 2018, accessed April 5, 2018, <http://povertydata.worldbank.org/poverty/country/CHN>.

<sup>97</sup> Fengshi Wu and Zhang Hongzhou, "China's Global Quest for Resources, Energy, Food, and Water," *China Policy Series* 46 (2017): 2-186, accessed October 28, 2017, <https://www.book2look.com/embed/9781317373537>.

<sup>98</sup> Xiaodong Zhu, "Understanding China's Growth: Past, Present, and Future," *Journal of Economic Perspectives* 26, no. 4 (Fall 2012): 103-124, accessed November 5, 2017, <http://www.jstor.org.lumen.cgsccarl.com/stable/23290282>.

Chinese are expanding their search for resources into the East and South China Seas. The source does not explore areas related to the research questions, such as Chinese growth and how is it impacting the Chinese military buildup in the South China Sea and increase in presence in the East China Sea. “A Corral in a Chinese Coral Lake? Territorial Sovereignty, Maritime Interests, Power Allocation as Defined by China’s Supreme People’s Court, and its Impact on Foreign Private Sector Management Across and Beyond the East and South China Seas” by David A. Jones looks at the Chinese reaction to the UN Tribunal Decision.<sup>99</sup> This source is vital to developing an understanding of Chinese actions and why previous attempts to resolve the disputes peacefully have failed. The source does not explore any U.S. military options relating to the results of the Tribunal. The World Bank, the U.S. State Department, the International Energy Agency, and the United Nation’s websites are four additional sources of information. Their school of thought is all statistical or legally based. Finally, the *Chinese Defense White Paper of 2015* provides insight into how the Chinese currently perceive the international situation. Some themes in the paper include maintaining peace in the region and the unlikelihood of a world war.<sup>100</sup> It also mentions the need for a strong military and the threat of local wars. The paper’s main theme seems to be “to safeguard its maritime rights and

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<sup>99</sup> David A. Jones, “A Corral in a Chinese Coral Lake? Territorial Sovereignty, Maritime Interests, Power Allocation as Defined by China’s Supreme People’s Court, and its Impact on Foreign Private Sector Management Across and Beyond the East and South China Seas,” *Advances in Social Sciences Research Journal* 3, no. 13 (December 2016): 261-274, accessed November 3, 2017, <http://www.scholarpublishing.org/index.php/ASSRJ/article/view/2632>.

<sup>100</sup> The People’s Republic of China (PRC), “China’s Military Strategy,” State Council Information Office, May 2015, accessed April 1, 2018, [http://www.chinadaily.com.cn/china/2015-05/26/content\\_20820628.htm](http://www.chinadaily.com.cn/china/2015-05/26/content_20820628.htm).

interests.”<sup>101</sup> Finally, the Chinese seem to change their approach to operations when they state:

The traditional mentality that land outweighs sea must be abandoned, and great importance has to be attached to managing the seas and oceans and protecting maritime rights and interests. In line with the strategic requirement of offshore waters defense and open seas protection, the PLA Navy (PLAN) will gradually shift its focus from ‘offshore waters defense’ to the combination of ‘offshore waters defense’ with ‘open seas protection.’ The PLAN will enhance its capabilities for strategic deterrence and counterattack and maritime maneuvers.<sup>102</sup>

### All Other Claimants

This section of the literature review presents the sources that provide the supporting information on every other claimant besides China. Those claimants include Japan, Philippines, Brunei, Malaysia, Vietnam, and Taiwan. The sources are organized into two subsections: Basis of Claims and Military Actions

#### Basis of Claims

All of the sources simply provide context for the primary research question but do not explore any possible U.S. military options. For the information regarding Vietnam’s historical claim, two *Note Verbale* were provided to the UN are used as the background for the claim. A *Note Verbale* is a third-person diplomatic note used for correspondence between governments.<sup>103</sup> The first *Note Verbale* was submitted on December 7, 2012.<sup>104</sup>

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<sup>101</sup> PRC, “China’s Military Strategy.”

<sup>102</sup> Ibid.

<sup>103</sup> U.S. Department of State (DoS), *5 FAH-1 H-600 DIPLOMATIC NOTES* (Washington, DC: Government Printing Office, May 20, 2013).

<sup>104</sup> United Nations (UN) General Assembly, Note Verbale A/67/622, Permanent Mission of the Socialist Republic of Viet Nam to the United Nations, December 7, 2012, United Nations, 1-7, accessed November 5, 2017, <http://undocs.org/A/67/622>.

The second *Note Verbale* mentioned was submitted on March 23, 2016.<sup>105</sup> The Territorial Waters of Brunei Act of 1982 shows Brunei's intentions of following international law in Brunei's measurement and claims in the South China Sea.<sup>106</sup> Republic Act 9522 is what the Philippines is basing its claim on and it is in accordance with international law.<sup>107</sup> The Joint Submission to the UN Commission on the Limits of the Continental Shelf by Malaysia is the basis this paper will use for that nation's claim.<sup>108</sup> Japan's claim is explained thoroughly in a statement, to include visual graphics, published by Japan's Ministry of Foreign Affairs.<sup>109</sup>

### Military Actions

This subsection presents resources with information on military actions performed by the various claimants. The sources, all unclassified, do not explore any U.S. military strategies in dealing with China concerning the disputes. The presence of historical

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<sup>105</sup> United Nations (UN) General Assembly, Note Verbale A/70/795, Permanent Mission of the Socialist Republic of Viet Nam to the United Nations, March 23, 2016, United Nations, 1-3, accessed November 5, 2017, <http://undocs.org/A/70/795>.

<sup>106</sup> United Nations (UN), Territorial Waters of Brunei Act, 1982, 1, accessed November 5, 2017, [http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/BRN\\_1982\\_Act.pdf](http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/BRN_1982_Act.pdf).

<sup>107</sup> Republic of the Philippines, "Republic Act 9522," Congress of the Philippines: 1, accessed November 5, 2017, [http://www.lawphil.net/statutes/repacts/ra2009/ra\\_9522\\_2009.html](http://www.lawphil.net/statutes/repacts/ra2009/ra_9522_2009.html).

<sup>108</sup> United Nations (UN), *Joint Submission Commission on the Limits of the Continental Shelf*, Prime Minister's Department of Malaysia, Socialist Republic of Vietnam, 1-31, accessed November 5, 2017, [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/mysvnm33\\_09/mys\\_vnm2009executivesummary.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/mysvnm33_09/mys_vnm2009executivesummary.pdf).

<sup>109</sup> MoFA Japan, "Recent Developments in Japan-China Relations."

military action helps eliminate the ambiguity of whether or not military violence may occur. It also helps determine who is predisposed to resort to military action to resolve a minor skirmish rather than resort to diplomacy. The journal article “China’s Strategic Culture and the Challenge of Security Management in the South China Sea Dispute” by Mohamad Rosyidin explains the failure of regional peace in the South China Sea using the concept of strategic culture deriving from constructivism in International Relations.<sup>110</sup> The journal explains Chinese actions from a Political Science point of view but it does not answer the primary research question. In the book *Power Politics in Asia’s Contested Waters* by Enrico Fels and Truong-Minh Vu, the topics of China’s rise as a maritime power and its challenge to the U.S.-led international order are broached.<sup>111</sup> This book also studies issues of a China ignoring international laws and norms but does not expand into answering my research gap. The U.S. Senate Committee on Armed Services hearing on the topic of *An Independent Perspective of U.S. Defense Policy in the Asia-Pacific Region* with Senator John McCain, chairman of the committee, presiding over the hearing provides the U.S. perspective on Chinese actions.<sup>112</sup> Then, once again, the U.S.

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<sup>110</sup> Mohamad Rosyidin, “China’s Strategic Culture and the Challenge of Security Management in the South China Sea Dispute,” *East Asia: An International Quarterly* 34, no. 2 (May 2017): 133-145, accessed November 5, 2017, <https://doi.org/10.1007/s12140-017-9270-5>.

<sup>111</sup> Hendrik W. Ohnesorge, “A Sea of Troubles: International Law and the Spitsbergen Plus Approach to Conflict Management in the South China Sea,” in *Power Politics in Asia’s Contested Waters*, eds. Enrico Fels and Truong-Minh Vu (Switzerland: Springer International Publishing, 2016), 3-23, accessed October 14, 2017, <https://doi.org/10.1007/978-3-319-26152-2>.

<sup>112</sup> U.S. Congress, Senate, *An Independent Perspective of U.S. Defense Policy in the Asia-Pacific Region: Hearing before Senate Armed Services Committee*, 114th Cong., 2d sess., February 2016.

Senate Committee on Armed Services, with the Senator John McCain, chairman of the committee, presiding over the hearing, had a hearing to receive Testimony on Counter-ISIL (Islamic State of Iraq and the Levant) Operations and Middle East Strategy when China and the South China Sea were brought up in this hearing.<sup>113</sup> The purpose of the talks on China was to discuss the possible “Strategic Triangle” and its implications for U.S. military operations. Finally, in addition to the two previous meetings, the U.S. Senate Committee on Armed Services, with the Honorable John McCain, chairman of the committee, presiding over the hearing, had a hearing to receive Testimony on Worldwide Threats and China was brought up to discuss the current Chinese military buildup.<sup>114</sup> The hearings were strictly from a U.S. perspective and did not offer insight into why the Chinese are causing the disruptions. While the hearings discussed Chinese actions in the region, they did not offer possible solutions to answer the research gap.

In April of 2017, the House Armed Services Committee received testimony from Admiral Harry B. Harris Jr., U.S. Navy, Commander, U.S. Pacific Command. In it, he testifies, “China is rapidly building a modern, capable military that appears to far exceed its stated defensive purpose or potential regional needs. China’s military modernization is focused on defeating the U.S. in Asia by countering U.S. asymmetric advantages. China is committed to developing a hypersonic glide weapon and advanced cyber and anti-satellite capabilities that present direct threats to the Homeland. China’s near-term

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<sup>113</sup> U.S. Congress, Senate, *Testimony on Counter-ISIL (Islamic State of Iraq and the Levant) Operations and Middle East Strategy: Hearing before Senate Armed Services Committee*, 114th Cong., 2d sess., April 2016.

<sup>114</sup> U.S. Congress, Senate, *Hearing to Receive Testimony on Worldwide Threats: Hearing before Senate Armed Services Committee*, 114th Cong., 1st sess., February 2015.

strategy is focused on building up combat power and positional advantage to be able to restrict freedom of navigation and overflight while asserting de facto sovereignty over disputed maritime features and spaces in the region.” He also provides updates on the transformation of China’s military and on the East China Sea and the South China Sea.<sup>115</sup>

### Previous Attempts to Peacefully Resolve the Disputes

This section looks at literature with factors impacting the disputes. These sources are from a legal and social perspective with no mention of improving the U.S. military strategy in regard to the disputes. These factors include UNCLOS, the United Nation’s Arbitration decision, fishing rights with respect to international law, economic factors, and nationalism. These factors are critical in the analysis of both disputes due to the complexity of each dispute with regard to these factors. This is especially true when looking at the use of international organizations to peacefully resolve the disputes. This section has no subsections. The sources include six journals, one book, and the UN final ruling on the South China Sea Arbitration between the Philippines and China.

The journal article on “A Legal Analysis of China’s Historic Rights Claim in the South China Sea” by Florian Dupuy and Pierre-Marie Dupuy looks at the disputes through the legal lens of claiming territory using “historic rights” and its applicability to current international law.<sup>116</sup> The next journal article explores China’s right to fish in the

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<sup>115</sup> U.S. Congress, House, *Hearing before House Armed Services Committee, Statement Before the House Armed Services Committee on U.S. Pacific Command Posture*, 115th Cong., 1st sess., April 26, 2017.

<sup>116</sup> Florian Dupuy and Pierre-Marie Dupuy, “A Legal Analysis of China’s Historic Rights Claim in the South China Sea,” *The American Journal of International Law* 107, no. 1 (January 2013): 124-141, accessed October 14, 2017, <http://www.jstor.org/stable/10.5305/amerjintelaw.107.1.0124>.

high sea but against the backdrop of international law and the nine-dashed line. The article is “The Right to Fish and International Law in the South China Sea” by Leonardo Bernard in the *Journal of Political Risk*.<sup>117</sup> For additional information on understanding China’s demand for resources, the next journal looks at the economic reasons why China is growing and creating the demand for the resources in the South China Sea. The journal article is “Understanding China’s Growth: Past, Present, and Future” by Xiaodong Zhu in the *Journal of Economic Perspectives*.<sup>118</sup> The second source to provide a backdrop for China’s insatiable demand for resources is the book *China and India: The quest for energy resources in the twenty-first century* by Zhao Hong.<sup>119</sup> The book explains why instability in the Middle East is creating a demand for Chinese energy security through other sources and its impact across the globe.

The following articles pertain to the UN Arbitration ruling and its impact on the South China Sea dispute and Chinese current and future actions. The first source is the “United Nations Arbitration Tribunal” ruling itself. It details the legal aspects of conducting the arbitration to historic rights and aggravation of the dispute by non-peaceful means.<sup>120</sup> The journal article “China’s Nine Dash Line Claim in Light of the Ruling by the Permanent Court of Arbitration” explores and evaluates China’s nine-dash line claim under international law. The article also “evaluates the ruling on the

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<sup>117</sup> Bernard.

<sup>118</sup> Zhu, 103-124.

<sup>119</sup> Zhao Hong, *China and India: The Quest for Energy Resources in the Twenty-first Century* (Abingdon, UK: Routledge, 2012, accessed November 4, 2017, <http://b-ok.xyz/dl/2565696/a65798>).

<sup>120</sup> UN, UNCLOS, 20.

delimitation of the maritime areas in the South China Sea.”<sup>121</sup> The next article then looks at China’s current and future options in light of the ruling. The article “The South China Sea dispute and the Philippine Arbitration Tribunal: China’s policy options” by Mincai Yu explores whether China should reconsider its current policy of non-participation in the tribunals and that policy’s impact on future tribunals.<sup>122</sup> The final article comes from the Australian Journal of International Affairs. The article by Feng Zhang is titled “Assessing China’s response to the South China Sea arbitration ruling.” It details how the ruling is having a “paradoxical effect on Chinese policy” due to the ruling’s impact on various elements of the dispute and negotiations.<sup>123</sup>

To provide context and background on the current disputes, three historical documents were analyzed. The first document was the 1943 Cairo Declaration. The declaration was issued by U.S. President Franklin D. Roosevelt, Chinese President Chiang Kai-shek, and British Prime Minister Winston Churchill. In it the allies pledged to continue the war against Japan and remove all Japanese forces from the territories it

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<sup>121</sup> Ekrem Korkut and Woo Hyun Kang, “China’s Nine Dash Line Claim in Light of the Ruling by the Permanent Court of Arbitration,” *Penn State Journal of Law & International Affairs* 5, no. 2 (July 2016): 426-463, accessed November 1, 2017, <http://elibrary.law.psu.edu/jlia/vol5/iss2/8>.

<sup>122</sup> Mincai Yu, “The South China Sea Dispute and the Philippines Arbitration Tribunal: China’s Policy Options,” *Australian Journal of Law & International Affairs* 70, no. 3 (April 2016): 215-234, accessed November 1, 2017, <http://dx.doi.org/10.1080/10357718.2015.1135869>.

<sup>123</sup> Feng Zhang, “Assessing China’s Response to the South China Sea Arbitration Ruling,” *Australian Journal of Law & International Affairs* 71, no. 4 (February 2017): 440-459, accessed November 1, 2017, <http://dx.doi.org/10.1080/10357718.2017.1287876>.

had conquered.<sup>124</sup> The second document was the 1945 Potsdam Declaration. This declaration was negotiated by Soviet leader Joseph Stalin, British Prime Minister Winston Churchill, Chinese President Chiang Kai-shek, and U.S. President Harry Truman to negotiate terms for the end of World War II.<sup>125</sup> The document states only the U.S., China, and Great Britain made the declaration due to a Neutrality Treaty the Union of Soviet Socialist Republics had with Japan.<sup>126</sup> The declaration threatened Japan with prompt and utter destruction if Japan did not immediately surrender and was intentionally vague to ensure the U.S. had the ability to carry out the necessary duties in running Japan.<sup>127</sup> The final document was the 1952 San Francisco Peace Treaty. The treaty officially ended the Allied post-war occupation of Japan and returned sovereignty to Japan.<sup>128</sup> China was not invited because Britain wanted to invite Communist China or the People's Republic of China on the mainland while the U.S. wanted to invite the Nationalist or the Republic of China in Taiwan.<sup>129</sup> While the U.S. wanted to exclude Britain from the peace treaty talks, an agreement was made to invite neither.<sup>130</sup>

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<sup>124</sup> DoS, "First Cairo Conference.

<sup>125</sup> U.S. Department of State (DoS), Memorandum No. 1254, Comparison of the Proclamation of July 26, 1945 with the Policy of the Department of State, Memorandum considered at the 152nd Meeting of the Secretary's Staff Committee, July 30, Office of the Historian, U.S. Department of State, January 2009, accessed May 19, 2018, <https://history.state.gov/historicaldocuments/frus1945Berlinv02/d1254>.

<sup>126</sup> Ibid.

<sup>127</sup> DoS, Memo No. 1254.

<sup>128</sup> UN Treaties, Treaty of Peace with Japan.

<sup>129</sup> Antony Best, ed., *The International History of East Asia, 1900–1968: Trade, Ideology and the Quest for Order*, Routledge Studies in the Modern History of Asia

In summary, the previous chapter discussed the backdrop to the disputes and why the disputes matter. In addition, the chapter discussed the limitations of the paper and what the paper will not try to accomplish, such as validate historical arguments. The current chapter provided references related to the research questions and why the reference is relevant. The chapter also explained how none of the sources identified a solution to my research gap of a U.S. military strategy to counter Chinese actions in the region. The next chapter will cover the methodology of the paper. The chapter will show how the research is doable within the allotted time, is flexible enough to accommodate all results, and describes an analytic method with examples providing an explanation of why the method is appropriate.

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(Abingdon, UK: Routledge, 2010), accessed May 19, 2018, <https://doi.org/10.1017/S1479591411000076>.

<sup>130</sup> Ibid.

## CHAPTER 3

### RESEARCH METHODOLOGY

Both disputes, the East China Sea and the South China Sea, have the possibility to escalate into serious conflicts causing significant damage to every country involved, as well as the global economic market. It is, therefore, necessary to examine the current U.S. military strategy in dealing with China in relation to the East China Sea and the South China Sea. The research methodology used to analyze the data examines the current strategy, which is also used to answer the primary and secondary research questions, is explained in this chapter.

#### Methodology

This paper uses the qualitative comparison methodology to answer the primary research question. As the Chinese continue to build up ocean features into artificial islands and increase their military presence in contested waters and the EEZ of other nations, contrary to international norms; the possibility of a military miscalculation increases significantly if the Chinese treat their new islands as they have defended their territory in the South China Sea in the past. The U.S. is currently providing diplomatic support and performing aerial and sea-borne freedom of navigation operations to contest Chinese claims of sovereignty. Yet, the Chinese continue with their actions and will control even more contested waters as Chinese sovereign territory. Therefore, to determine whether the U.S. current military strategy of “Ensuring common domains remain open and free, defending allies from military aggression and bolstering partners against coercion, and fairly sharing responsibilities for common defense, and maintaining

favorable regional balances of power in the Indo-Pacific” is adequate or should be improved, this research paper explores potential U.S. military strategy for the East and the South China Sea.

Through research and analysis, the secondary questions are answered through books, journal articles, government publications, studies, reports, news articles, Congressional and Senate hearings, international organizations, and international financial institutions. The proposed method looks at both situations, the East China Sea and the South China Sea, and tries to understand each one by identifying the root cause of each, historical trends, and each party involved in the disputes, to include international partners. Research conducted to answer the secondary questions provides information for comparing and contrasting the new possible U.S. military strategy. The following chart provides an overview of the research steps and tools utilized.

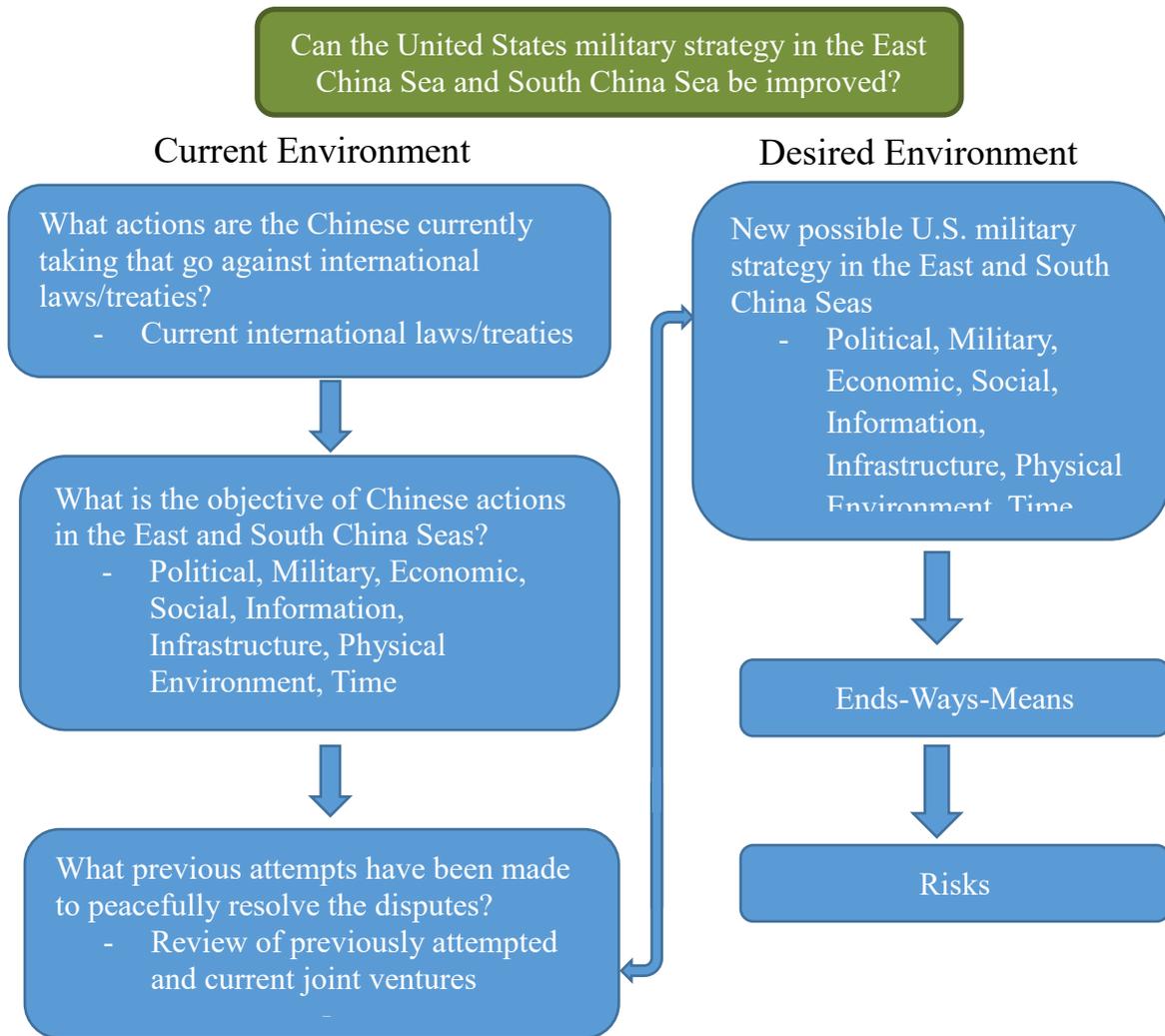


Figure 3. Research Methodology

Source: Created by author.

The author used the Army Design Methodology and Political, Military, Economic, Social, Information, Infrastructure, Physical Environment, and Time

(PMESII-PT) frameworks to analyze the data.<sup>131</sup> The chart shows the steps the research followed, the methods utilized, and frameworks employed to evaluate and present the findings in the next chapter.

The first step sets the stage by introducing current actions the Chinese are taking that go against international laws, treaties, or norms. Those actions will describe the current environment and the gravity of the situation. Chinese actions that are peacefully following international laws, treaties, or norms will be addressed later on in the logic chart. While those actions have been attempts to resolve disputed claims, the Chinese continue with actions that contradict their peaceful actions with actions that escalate regional tensions. By framing the operational environment with specific Chinese actions that go against UNCLOS, analysis can occur that will determine a U.S. military strategy focused on actions that will change Chinese behavior. This change in Chinese behavior, to actions that follow international laws, treaties, or norms, is the desired end state.

The second step is to determine the obstacles to achieving the desired end state. Those obstacles are the objective of illegal Chinese actions. By determining the objectives, analysis can occur against the root of the problem. The author will utilize the PMESII-PT framework to analyze the root cause of Chinese actions. This step helps develop the current environment for proper evaluation by providing a clearer picture of why the disputes are occurring. By framing the problem, through PMESII-PT the author can then address what attempts have been made in the past to peacefully resolve the disputes.

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<sup>131</sup> Headquarters, Department of the Army (HQDA), Army Doctrine Publication (ADP) 5-0, *The Operations Process* (Washington, DC: Government Printing Office, 2012), 7-8.

The third step is an analysis of peaceful attempts by the parties involved to resolve the disputes. Rather than analyze the attempts through the PMESII-PT framework, the author will review the various attempts and break down why each attempt failed to curb questionable Chinese actions.

The final step is to develop an operational approach that answers the primary question. The approach will take into consideration current international laws and treaties, the root cause of Chinese actions as viewed through the PMESII-PT lens, and any lessons learned from attempts at peaceful resolutions of the disputes. The approach will also be applied to the Ends-Ways-Means-Risk (Mitigation) framework to ensure acceptability. Finally, the approach will be applied against any conflicting views, or Red Teaming, with the PMESII-PT framework.

## CHAPTER 4

### ANALYSIS

This chapter's purpose is to analyze Chinese actions that go against international laws and treaties and how those actions correlate to the objective of those actions. This chapter will present the current environment using the PMESII-PT framework. The PMESII-PT framework will identify trends and linkages between the actions, obstacles, claimants, and international order. Then, that analysis will be combined with a review of current and previous attempts to peacefully resolve the dispute. The combination of the information will then be correlated against a possible military strategy or an operational approach to reach the desired end state.

The operational approach will be evaluated against PMESII-PT and an ends-means-risk analysis to determine acceptability by the U.S., claimants, and international order. Finally, the appropriate operational approach or proposed military strategy will be determined and provide an avenue to reach the desired end state, which is a change of Chinese behavior towards an increase in following international norms.

#### The Current Environment: Chinese Actions in Question

In general, the international system has a multitude of organizations, guidelines, and laws to help guide nations in disagreement to peacefully resolve their disagreements. Some of these organizations and laws have been in place since the end of the Second World War. An example of this is the General Agreement on Tariffs and Trade (GATT)

established in 1948.<sup>132</sup> Yet, some of the organizations and laws have recently, as in 1995 for the World Trade Organization, been established which shows the international system is still being refined with more organizations.<sup>133</sup> The South and East China Seas are no exception to those international guidelines, treaties, and laws. More specifically, the two seas fall under UNCLOS. China signed in June of 1996, the Philippines in May of 1984, Brunei signed in November of 1996, Malaysia signed in August of 1994, and Vietnam signed in July of 1994. In China's case, China may have a large coastline, but the coastline opens up to seas and those seas share a maritime boundary with the island nations around China's coastline. With this fact, China and the other claimants fully understand their rights and responsibilities when a dispute arises such as this one. UNCLOS helps guide the nations in their understanding of what is considered national sovereign territory, EEZ, and the high seas. Yet, Chinese dredging, attempting to establish sovereignty over the artificial islands, the militarization of the islands, and resource extraction in disputed waters are the actions causing the instability in the South China Sea. Additionally, frequent Chinese incursions into the waters around the Senkaku Islands are causing instability in the East China Sea with Japan.

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<sup>132</sup> World Trade Organization (WTO), "The GATT Years: from Havana to Marrakesh," 2018, accessed February 18, 2018, [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact4\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm).

<sup>133</sup> World Trade Organization (WTO), "What is the World Trade Organization?" 2018, accessed February 2, 2018, [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact1\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm).

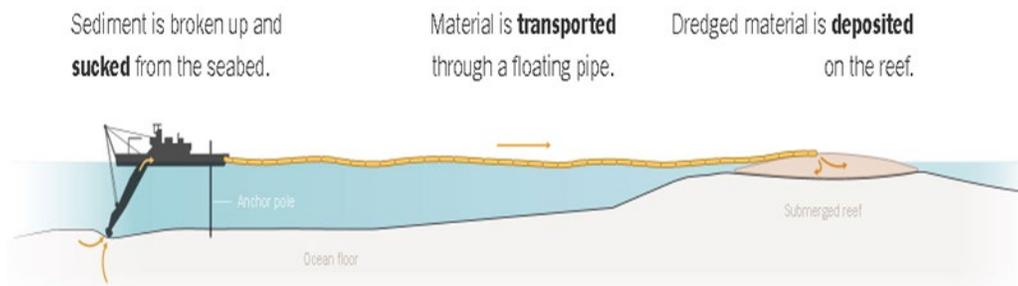


Figure 4. Side View Example of Dredging Operations

*Source:* Derek Watkins, “What China Has Been Building in the South China Sea,” *New York Times*, October 2015, accessed 5 December 2017, <https://www.nytimes.com/interactive/2015/07/30/world/asia/what-china-has-been-building-in-the-south-china-sea.html>.

Currently, in the South China Sea, Chinese dredging actions to ensure the islands can sustain life run contrary to established international guidelines, treaties, and laws. Chinese dredging in the South China Sea has hit unprecedented proportions. In 2017 alone, Chinese dredging created around 290,000 square meter or 72 acres of land across the Fiery Cross, Subi, and Mischief Reefs in the Spratlys and in the Paracels, the North, Tree, and Triton Islands. By mid-2018, the Paracel and Spratlys should have cell phone service for the military and civilians living on the islands.<sup>134</sup> The Chinese use the personnel living on the islands as a reason to announce U.S. freedom of navigation

<sup>134</sup> Ian Nicolas Cigarral, “China To Bring 4G Telecommunications Services on Man-Made Islands in South China Sea,” *Philstar Global*, February 3, 2018, accessed February 4, 2018, <https://www.philstar.com/headlines/2018/02/03/1784227/china-bring-4g-telecom-services-man-made-islands-south-china-sea>.

operations are provocative and the Chinese must take steps to counter them.<sup>135</sup> The Chinese have accomplished quite a bit of work over the years to be able to sustain military assets on the artificial islands.

Prior to Chinese dredging operations, Mischief Reef had absolutely no soil above the water line during weather with a normal-tide. This is especially the case during high-tide but during low-tide small rocks and a large lagoon sit above the water.<sup>136</sup> Those facts are important because Mischief Reef does not have any land mass that sits above water during high-tide. UNCLOS Part VII, Article 121 (1) (3) defines an “island” as a land mass that is able to sustain life even during high tide and the nation that legally maintains sovereignty over the island gets the entitlements that come with the island.<sup>137</sup> These entitlements include territorial sea, contiguous zone, EEZ, and continental shelf rights.

For China to place hangars, missile shelters, radars, runways that are thousands of feet long, and communication arrays on soil that used to sit underwater even during normal tide, those land masses would require an extensive amount of dredging to turn them into “islands” but under UNCLOS those “islands” would not receive any entitlements.<sup>138</sup> In the South China Sea Arbitration Award, it stated, “the Tribunal

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<sup>135</sup> The People’s Republic of China (PRC), “Foreign Ministry Spokesperson Lu Kang’s Remarks,” Lu Kang, Press and Media Services, Ministry of Foreign Affairs, January 20, 2018, accessed April 2, 2018, [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/t1527341.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1527341.shtml).

<sup>136</sup> David Rosenberg, “The South China Sea: Features above Water at Low Tide,” *Digital Gazetteer of the Spratly Islands*, August 19, 2011, accessed February 4, 2018, <http://www.southchinasea.org/2011/08/19/digital-gazetteer-of-the-spratly-islands>.

<sup>137</sup> UN, UNCLOS, 20.

<sup>138</sup> Permanent Court of Arbitration, *The South China Sea Arbitration*.

considers that the Convention requires that the status of a feature be ascertained on the basis of its earlier, natural condition, prior to the onset of significant human modification.”<sup>139</sup> The status of Johnson, Fiery Cross, and Cuarteron Reefs prior to human modification was that of rocks and according to UNCLOS, a rock is a landmass permanently above water but unable to sustain human habitation or economic life on its own.<sup>140</sup> It is entitled to a territorial sea and contiguous zone, but not an EEZ or continental shelf rights.<sup>141</sup> The Chinese have come a long way in their dredging operations over the course of five years with Mischief Reef. They not only have done an enormous amount of dredging but have constructed facilities above ground and even below ground on their man-made islands. The Chinese government continues their dredging operations and building construction even though they are fully aware that their actions go against UNCLOS Article 60. Dredging is legally done around the world, for example, the Palm Islands project, the Yas Island in the United Arab Emirates, or Singapore where the dredging is done in uncontested territorial waters. While dredging is allowed within a nation’s territorial waters and/or their EEZ, China is dredging in contested waters or waters that are not internationally recognized as solely Chinese.<sup>142</sup> China knows this because they are a signatory to UNCLOS.<sup>143</sup>

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<sup>139</sup> Ibid.

<sup>140</sup> UN, UNCLOS, 20.

<sup>141</sup> Ibid.

<sup>142</sup> UN, UNCLOS, 20.

<sup>143</sup> United Nations Oceans & Law of the Sea, “Declarations and Statements,” Division for Ocean Affairs and the Law of the Sea, October 29, 2013, accessed February

Additionally, when China ratified UNCLOS, China declared that it maintains sovereign rights and jurisdiction over its EEZ and continental shelf in the South China Sea, but the waters in the South China Sea are contested. UNCLOS Article 60 states artificial islands must be waters of the coastal State, not in contested waters of multiple coastal states.<sup>144</sup> Additionally, Article 60 goes on to say any artificial island that is considered legal is only allowed a 500-meter safety zone and may not interfere with recognized sea lanes essential to international navigation.<sup>145</sup> Yet, as the Tribunal noted in its decision, China has no intention of following international law or UNCLOS as evident in China's Position Paper released 7 December 2014, "First, the essence of the subject-matter of the arbitration is territorial sovereignty over several maritime features in the South China Sea, which is beyond the scope of the United Nation's Convention on Law of the Sea."<sup>146</sup> China is determined to continue to use its "historic title" claim to the South and East China Seas even though once they ratified UNCLOS their historic title claim is invalid because other claimants must also legally recognize the claim.<sup>147</sup>

In the East China Sea, the Chinese continue to claim the Senkaku Islands belong to China and not Japan. To show this is the case the Chinese persistently intrude into the waters around the Senkaku Islands, have declared their own air defense identification

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5, 2018, [http://www.un.org/depts/los/convention\\_agreements/convention\\_declarations.htm](http://www.un.org/depts/los/convention_agreements/convention_declarations.htm).

<sup>144</sup> UN, UNCLOS, 20.

<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

<sup>147</sup> Bernard, 42.

zone (ADIZ) over the islands, and have even punished Japan economically by holding vital trading material ransom violating the conventions of the World Trade Organization.<sup>148</sup> In 2012, while the Japanese government always considered the Senkaku Islands Japanese territory, the Government became the legal owners of that Japanese territory when they purchased the Islands from a private Japanese citizen.<sup>149</sup> Very soon after the purchase, the Chinese government increased the number of intrusions into contested waters.

Also, in 2010 after the Japanese detained a Chinese fishing trawler that rammed not one, but two Japanese coast guard ships near the Senkaku Islands, the Chinese stopped exporting rare earth minerals to Japan.<sup>150</sup> The Chinese even stopped shipping rare earth minerals to the U.S. and European Union for ten days in October 2010. The Chinese did this because President Obama opened an investigation on China to determine if China was violating international free trade rules by using their ban against Japan as economic warfare. The Chinese government declined to admit they stopped shipments to Japan.<sup>151</sup> The Chinese ban impacted a variety of production fields including medical equipment, glass, wind turbines, computers, smartphones, automobiles, flat-screen televisions, and most importantly military systems such as missiles, sonar systems, and

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<sup>148</sup> Shawn Donnan, "WTO Rules against China on 'Rare Earth' Export Restrictions," *Financial Times*, March 26, 2014, accessed April 2, 2018, <https://www.ft.com/content/962a0ba4-b4e6-11e3-9166-00144feabdc0>.

<sup>149</sup> Drifte.

<sup>150</sup> Keith Bradsher, "China Restarts Rare Earth Shipments to Japan," *The New York Times*, November 19, 2010, accessed February 10, 2018, <http://www.nytimes.com/2010/11/20/business/global/20rare.html>.

<sup>151</sup> Ibid.

rangefinders on tanks.<sup>152</sup> While the ban against Japan only lasted two months and the ban against the U.S. and European Union ten days, the Chinese lost credibility across the international community due to the Chinese seeing themselves justified in implementing the ban. If the Chinese were willing to use rare earth exports as a weapon, then it is not too far-fetched to make the assumption the Chinese would use a closure to all vessels through the South China Sea as a weapon.

### Objective of Chinese Actions

Chinese objectives in both the East and South China Sea will now be analyzed through the PMESII-PT framework. Chinese objectives will be crossed-analyzed to find their root cause which will help to determine the proper U.S. military strategy in dealing with Chinese actions. Chinese objectives in the East and South China Seas may seem confusing and convoluted with variables but the PMESII-PT framework will help the author focus only on the pertinent issues. The author will go in the framework's order of: Political, Military, Economic, Social, Information, Infrastructure, Physical Environment, and Time.

#### Political

The members of the Chinese Communist Party have one goal that rules them all. Their goal is to stay in power at all cost.<sup>153</sup> When they make policy decisions, their underlying concern is to keep their population content, which provides the senior leaders

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<sup>152</sup> Bradsher.

<sup>153</sup> Peter H. Gries, Derek Steiger, and Tao Wang, "Popular Nationalism and China's Japan Policy: the Diaoyu Islands Protests, 2012-2013," *Journal of Contemporary China* 25, no. 98 (2016): 45, accessed April 2, 2018, <https://doi.org/10.1080/10670564.2015.1075714>.

of the Chinese Communist Party social stability.<sup>154</sup> With the South and East China Seas, they see the two issues as a way to continue to provide their large population the resources it demands, which keeps the people satisfied, and thus maintains social stability. The Chinese also prefer bilateral talks as the method to engage other claimants and then court those nations cooperation with diplomatic and subsequently, economic means to get their support. Many of the senior leaders in the Chinese Communist Party easily remember that the initial reason behind the start of the 1989 Tiananmen Square Protest was due to inflation.<sup>155</sup> Currently, China's leadership is conducting economic reform without the proper corresponding political policy reform or even the establishment of rule of law.<sup>156</sup> The corresponding political policy reform they are conducting is being done in a piecemeal fashion that provides benefits to key interest groups within the state sector.<sup>157</sup> The benefit to piecemealing political policy reforms is the reduction in political resistance throughout the various levels of the state.<sup>158</sup> A downside is a rise in corruption.<sup>159</sup> Another downside is income inequality that has grown quite large with China's urban/rural household income ratio. This ratio is setting the Gini Coefficient in China at an estimated .61 when some analyst claim a .4 or higher

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<sup>154</sup> Gries, Steiger, and Wang, 45.

<sup>155</sup> Hong.

<sup>156</sup> Zhu, 103-124.

<sup>157</sup> Hong.

<sup>158</sup> Ibid

<sup>159</sup> Ibid

will cause social unrest.<sup>160</sup> The Gini index “measures the degree of inequality in the distribution of family income in a country. The more nearly equal a country’s income distribution, the lower its Gini index and the more unequal a country’s income distribution, the higher the Gini index.”<sup>161</sup> Yet, China’s leadership states they recognize the negative aspect of their piecemealing and are tackling corruption and wealth inequality issues to help quell social disturbances and prevent another Tiananmen Square. Unfortunately, while they have made a large number of arrests in the fight against corruption, Chinese leaders have used the attack on corruption as an excuse to purge the Chinese Communist Party of individuals who might threaten the Politburo Standing Committee members and/or the Xi Jinping the General Secretary of the Communist Party of China.<sup>162</sup>

## Military

China is developing capabilities to fight and win “short-duration, high-intensity regional conflicts at greater distances from the Chinese mainland.”<sup>163</sup> The focus of such

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<sup>160</sup> Martin King Whyte, “China’s Dormant and Active Social Volcanoes,” *China Journal* 75, no. 1 (January 2016): 9-37, accessed November 4, 2017, <https://doi.org/10.1086/683124>.

<sup>161</sup> Central Intelligence Agency (CIA), “Distribution of Family Income – Gini Index,” 2018, accessed December 20, 2017, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2172rank.html>.

<sup>162</sup> Andrew Wedeman, “Xi Jinping’s Tiger Hunt: Anti-Corruption Campaign or Factional Purge?” *Modern China Studies* 24, no. 2 (2017): 35-94, accessed February 10, 2018, <http://eds.a.ebscohost.com.nduezproxy.idm.oclc.org/eds/pdfviewer/pdfviewer?vid=2&sid=1cbd82e4-1fea-4d30-b1ec-95510da7c2db%40sessionmgr4008>.

<sup>163</sup> U.S. Department of Defense (DoD), *Annual Report to Congress: Military and Security Developments Involving the People’s Republic of China 2016*, Office of the Secretary of Defense, 2016, accessed February 10, 2018,

conflicts can be assumed to be Taiwan, the East China Sea, and the South China Sea. On the surface, the Chinese seem to be following Sun Tzu's principle of deception. "When capable, appear to be incapable. When ready to act, appear to be unready. When he is formidable, prepare for him. When he is superior in strength, avoid him."<sup>164</sup> When they have the capability, China can be fully expected to militarily defend their claims in both Seas with military action. They have proven to do so in the past with Vietnam. In the meantime, China is using maritime law enforcement ships and aircraft to patrol and challenge Japan's claim on the Senkaku Islands but avoids direct military conflict. In the South China Sea, China continues to build military capabilities on their man-made islands to enhance their operations in any regional conflict that may occur. In the short-term, "China is using coercive tactics short of armed conflict, such as the use of law enforcement vessels to enforce maritime claims, to advance their interests in ways that are calculated to fall below the threshold of provoking conflict."<sup>165</sup> In the long-term, China's leadership is following a path to the development of specific capabilities that will deter or defeat an adversary's, specifically the U.S., power projection during a crisis or conflict.<sup>166</sup>

## Economic

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<https://www.defense.gov/Portals/1/Documents/pubs/2016%20China%20Military%20Power%20Report.pdf>.

<sup>164</sup> Sun Zi, "H302: Chinese Way of War," trans. Gary J. Bjorge, excerpt reprinted in H300 Book of Readings, U.S. Army Command and General Staff College, Fort Leavenworth, KS, December, 2017, 59.

<sup>165</sup> Ibid.

<sup>166</sup> DoD, *Annual Report to Congress*.

China is attempting to lead Globalization 2.0 with a China-centered economic order.<sup>167</sup> As such, the Chinese Communist Party has determined “Energy Security” as “indispensable for ensuring rapid economic growth, job creation, and social and political stability.”<sup>168</sup> Chinese energy demands are growing at an exponential rate.<sup>169</sup> It is estimated that by 2030 China will use almost 15 % of the world’s oil demand.<sup>170</sup> One of the reasons is China’s population. While China’s overall population is forecasted to remain steady at 1.4 billion people from present day to 2035, the amount of Chinese migrating from rural areas to urban areas will increase 17% or almost 300 million people.<sup>171</sup> This impacts Chinese demand for energy because most of those people are now driving cars and need energy for their daily lives in the city.<sup>172</sup> When China hears reports stating the South China Sea has an estimated 11 billion barrels of oil and 190 trillion cubic feet of natural gas, they get very interested.<sup>173</sup> Furthermore, when the Chinese government hears reports stating the East China Sea has 200 million barrels of

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<sup>167</sup> Anne-Marie Brady, “Magic Weapons: China’s political influence activities under Xi Jinping” (lecture, The Corrosion of Democracy under China’s Global Influence Conference, Wilson Center, Washington, DC, September 16, 2017), accessed April 1, 2018, [https://www.wilsoncenter.org/sites/default/files/for\\_website\\_magicweaponsanne-mariesbradyseptember2017.pdf](https://www.wilsoncenter.org/sites/default/files/for_website_magicweaponsanne-mariesbradyseptember2017.pdf).

<sup>168</sup> Hong.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> Ibid.

<sup>172</sup> Ibid.

<sup>173</sup> U.S. Energy Information Administration (EIA), “South China Sea,” *Eia Beta*, February 7, 2013, accessed March 9, 2018, <https://www.eia.gov/beta/international/regions-topics.cfm?RegionTopicID=SCS>.

oil and 2 trillion cubic feet of natural gas, they see a way to meet energy demands and keep the population satisfied.<sup>174</sup> Otherwise, China is leery of extracting its energy needs from unstable areas like Africa and sees the East and South China Seas as safe, secure, and reliable. This makes China see resource extraction in the East and South China Seas as necessary even in the face of the international community and breaking treaties.

## Social

The Communist Party view social stability as one of the keys to legitimacy. The Chinese population needs to be satisfied with what the government is doing to meet their needs. The population group that has and still is living below a standard the Chinese government deems acceptable is their rural population. While the overall Chinese population has experienced a large amount of change over the past few decades, the rural farmers and peasants have seen the most drastic change. In the past, those in the rural areas of China suffered through life without healthcare and an education and with housing that would be condemned in their now urban areas.<sup>175</sup> Those farmers are now factory workers who earn a lot more money to provide for themselves than when they were farming crops.<sup>176</sup> Many rural areas and villages have been transformed into sprawling urban areas and cities, but to satisfy their people, the farmers and peasants are

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<sup>174</sup> EIA, “South China Sea.”

<sup>175</sup> Tom Phillips, “China to Move Millions of People from Homes in Anti-poverty Drive,” *The Guardian*, January 7, 2018, accessed May 7, 2018, <https://www.theguardian.com/world/2018/jan/07/china-move-millions-people-homes-anti-poverty-drive>.

<sup>176</sup> Ian Johnson, “China’s Great Uprooting: Moving 250 Million into Cities,” *The New York Times*, June 15, 2013, accessed May 7, 2018, <https://www.nytimes.com/2013/06/16/world/asia/chinas-great-uprooting-moving-250-million-into-cities.html>.

being provided housing, healthcare, and an education.<sup>177</sup> The Communist Party has built and given them access to skyscrapers, freeways, subways, high-speed railroads and even airports.<sup>178</sup> As Chinese urbanization continues, so do the problems that come with it. Problems such as political corruption, pollution, and the accompanying social tensions.

Political corruption has reached extreme levels in China. So much so, that the Chinese President, Xi Jinping, focused on “anti-corruption” measures in his recent opening speech for the 19th National Congress of the Communist Party of China. Chinese President Xi Jinping went so far as to say, “The people resent corruption most; and corruption is the greatest threat our Party faces.”<sup>179</sup> He then explained the root cause of corruption as being dishonest government officials and asserted his goal that political affairs are handled with integrity.<sup>180</sup> To address Chinese society’s concerns about corruption, President Xi Jinping has determined the best solution to counter it is to get tough, or show zero tolerance for it, and institute a “social credit” system similar to Transunion/Experian/Equifax’s credit system that Western society uses for decisions on

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<sup>177</sup> Johnson.

<sup>178</sup> Lynette H. Ong, “State-Led Urbanization in China: Skyscrapers, Land Revenue, and ‘Concentrated Villages’,” *The China Quarterly* 217 (March 2014): 162-179, accessed May 7, 2018, <https://doi.org/10.1017/S0305741014000010>.

<sup>179</sup> Xi Jinping, “Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era,” delivered at the 19th National Congress of the Communist Party of China, *Xinhuanet*, November 3, 2017, accessed March 3, 2018, [http://www.xinhuanet.com/english/special/2017-11/03/c\\_136725942.htm](http://www.xinhuanet.com/english/special/2017-11/03/c_136725942.htm).

<sup>180</sup> *Ibid.*

lending money to prospective buyers.<sup>181</sup> The difference is that for Chinese citizens the score will not rate how responsible they are with their money and their ability to borrow money but would rate overall individuals as a person against Chinese government standards of acceptable social behavior.<sup>182</sup> Only high “social credit” scores will be allowed to travel overseas, have their children attend the best schools, and/or even rent a car.<sup>183</sup> While these measures may seem overly extreme in the Western World, they indicate how far the Communist Party in China is willing to go to stay in power.

#### Information

The Chinese are very keen to use information in their campaign to discredit other nations involved in the disputes. The key to their information campaign is their “Three Warfare” strategy.<sup>184</sup> It is called the Three Warfare strategy because the Chinese divide their information warfare into three separate categories. These categories include: 1) Psychological Warfare 2) Media Warfare 3) Legal Warfare.<sup>185</sup> The Chinese define Psychological Warfare as strategic communication or precision targeting of their adversaries critical nodes to achieve non-lethal effects.<sup>186</sup> To put it in other words, the

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<sup>181</sup> Amy Hawkins, “Chinese Citizens Want the Government to Rank Them” Foreign Policy, May 24, 2017, accessed March 3, 2018, <http://foreignpolicy.com/2017/05/24/chinese-citizens-want-the-government-to-rank-them>.

<sup>182</sup> Ibid.

<sup>183</sup> Ibid.

<sup>184</sup> Timothy A. Walton, *China’s Three Warfares*, Delex Special Report-3, Brief on China’s Three Warfares, Delex Systems Inc., January 18, 2012, accessed March 3, 2018, [www.delex.com/data/files/three%20warfares.pdf](http://www.delex.com/data/files/three%20warfares.pdf).

<sup>185</sup> Ibid.

<sup>186</sup> Ibid.

Chinese are going to target their enemy's motivation and willingness to fight either through the targeting of international support, undercutting their enemy's leadership, impact their enemy's economy, or simply propagating any social or political opposition to the dispute.<sup>187</sup> An example of China using Psychological Warfare is when they highlighted and sensationalized the high profile espionage cases of Taiwan military and intelligence officers were caught spying for China.<sup>188</sup> The Chinese did this to undermine the Taiwanese political leadership and spread discontent about the Taiwanese military. The Chinese also utilized the second of their Three Warfare methods in this situation, Media Warfare.

The Chinese see Media Warfare as influencing domestic and international public opinion to build support for China's military actions and dissuade an adversary from pursuing action contrary to China's interest.<sup>189</sup> China effectively controls its domestic information to generate and guide its various entities, from the general public to academia, towards supporting the Chinese government's actions. Over the past few years, China has focused on developing its political public relations, synchronizing mass communications, and bettering their understanding of individual and group psychology within the communications.<sup>190</sup> realm. One example of Chinese Media Warfare is back in 2011 when the People's Liberation Army Chief of General Staff Chen Bingde said there was a 20-year gap between the U.S. and China's military weaponry to influence and

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<sup>187</sup> Walton.

<sup>188</sup> Ibid.

<sup>189</sup> Ibid.

<sup>190</sup> Ibid.

deceive the U.S. of China's military capabilities.<sup>191</sup> Another example is back in 2014 when China presented all 193 UN members with their position paper on the South China Sea focusing on the placement of a Vietnamese oil rig.<sup>192</sup> They had learned to quickly get their own version of the story out as quickly as possible to manipulate international opinion against Vietnam. After they presented the position paper, China cited international law through the paper to justify their stance in the oil rig dispute.

This leads to the last piece of the Chinese Three Warfare, the Legal Warfare aspect. In the position paper, China chose very specific references with international law to support its claim.<sup>193</sup> The problem with its strategy was that some of its supporting points and international law justifying it contradicted one another. For example, although the Vietnamese oil rig was located 17 nautical miles away from Triton islet, in the Parcel Islands, the Chinese claimed the oil rig was in their territorial waters as justified in international law.<sup>194</sup> Yet, UNCLOS states territorial waters extend only 12 nautical miles from a state's coastal baseline and a quick Google Map reference shows the Parcel Islands are 191 nautical miles from Hainan Island, China. Although China is obviously incorrect regarding the legal aspect of their position paper, they refuse to take any other position than the South China Sea belongs to China.

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<sup>191</sup> Walton.

<sup>192</sup> Carl Thayer, "China's information Warfare Campaign and the South China Sea: Bring it on!" *The Diplomat*, June 16, 2014, accessed March 3, 2018, <https://thediplomat.com/2014/06/chinas-information-warfare-campaign-and-the-south-china-sea-bring-it-on>.

<sup>193</sup> Ibid.

<sup>194</sup> Ibid.

## Infrastructure

This is another key issue impacting the legitimacy of the Communist Party. As those rural peasants migrate or are transferred to newly developed infrastructure projects or cities, the cities must be built before the migration occurs. The land is purchased from rural peasants for a very low cost by the local province but then sold to developers for an extremely high markup. The peasants then have a choice to move to the urban city or stay in the local area but be homeless. Yet, the Chinese National New Type Urbanization Plan (2014-2020) stated that in 2013 the Chinese have achieved a 53% Urbanization rate and want to get to 60% by 2020.<sup>195</sup> The plan indicates this involves the transfer almost 130 million individuals to newly developed cities and the proper infrastructure to accompany it.<sup>196</sup>

## Physical Environment

In China, pollution is another critical area impacting the Communist Party's legitimacy. From air pollution to water pollution and even soil pollution, pollution is another threat to stability. Air pollution continues to reach unprecedented levels. The World Health Organization recommends a limit of 25 micrograms of toxins per cubic meter in the air. In early 2015, levels in Beijing hit over 550 micrograms per cubic meter

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<sup>195</sup> China Energy Fund Committee, "New Type of Urbanization in China Long Term Implications" Dr. Patrick C. P. Ho, Deputy Chairman & Secretary General, April 9, 2015, accessed March 3, 2018, [http://worldcongress2015.iclei.org/wp-content/uploads/2015/04/SP1\\_02\\_Patrick\\_Ho\\_Seoul\\_20150402.pdf](http://worldcongress2015.iclei.org/wp-content/uploads/2015/04/SP1_02_Patrick_Ho_Seoul_20150402.pdf).

<sup>196</sup> Ibid.

in the air and then in January of 2012, Beijing reaches levels over 900!<sup>197</sup> There are now smart phone apps to help track air quality throughout the city because pollution is so bad. Water pollution is no better. 85% of the water in Shanghai's major rivers is undrinkable and 54% of it is unfit for any purpose.<sup>198</sup> Unclean water and soil are also caused by untreated sewage and chemical contaminated waste that gets disposed of anywhere that is the cheapest cost to do so. This pollution impacts food quality because crops incorporate the pollutants from the soil and water to grow. China does have laws that companies and individuals are supposed to follow but high levels of corruption allow the laws to go unenforced.<sup>199</sup>

UNCLOS, article 76(1) defines the continental shelf of a coastal state as the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental

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<sup>197</sup> Adam Rose, "China Smog Emergency Shuts City of 11 Million People," *Reuters*, October 21, 2013, accessed March 3, 2018, <https://www.reuters.com/article/us-china-smog/china-smog-emergency-shuts-city-of-11-million-people-idUSBRE99K02Z20131021>.

<sup>198</sup> Deng Tingting, "In China, the Water You Drink is as Dangerous as the Air You Breathe," *The Guardian*, June 2, 2017, accessed March 2, 2018, <https://www.theguardian.com/global-development-professionals-network/2017/jun/02/china-water-dangerous-pollution-greenpeace>.

<sup>199</sup> Dan Gardner, "Beijing's Smog is Increasingly Toxic for China's Politicians," *The Guardian*, January 20, 2015, accessed March 3, 2018, <https://www.theguardian.com/environment/2015/jan/20/beijings-smog-increasingly-toxic-chinas-politicians>.

margin does not extend up to that distance.<sup>200</sup> The author created Table 1 to depict the distances from the three main island sets in dispute: Paracel Islands, Scarborough Reef, and the Spratly Islands. There is also a graphic below that displays some of the information from the chart below. As is evident in the distance chart, the only islands China can claim through international is within their EEZ is the Paracel Islands, so can Vietnam. By establishing sovereignty over the Paracel Islands, Scarborough Reef, and the Spratly Islands, China can claim control of the nine-dashed line and all of the resources within it.

Table 1. Claimants Distance from Contested Features

(Approximate distance in nm)	Paracel Islands	Scarborough Reef	Spratly Islands
China (Hainan Island)	188	516	493
Taiwan	542	410	812
Vietnam	165	496	293
Philippines	394	122	56
Brunei	720	634	135
Malaysia	611	476	116

*Source:* Created by author.

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<sup>200</sup> UN, UNCLOS, 20.

The following map graphically depicts the claimants EEZs:



Figure 5. South China Sea Map with EEZ

Source: Eris Bolt, "Question: What do Vietnamese or Filipinos think of the South China Sea dispute?" *Quora*, 4 April 2017, accessed 9 March 2018, <https://www.quora.com/What-do-Vietnamese-or-Filipinos-think-of-the-South-China-Sea-dispute>.

The geographic situation or physical environment is a little clearer in the East China Sea due to the Senkaku Islands currently being recognized by most international parties as belonging to Japan due to Japan's superior claim to the Islands. Additionally, Article 121(3) of the UNCLOS did state that rocks which cannot sustain human habitation or economic life of their own have no EEZ but the Senkaku Islands did sustain human habitation. They sustained a Japanese man, Tatsushiro Koga and 200 of his men,

who caught and bred albatross on the islands in the late 1800s and early 1900s.<sup>201</sup> Although their proximity to Taiwan and the ambiguous jurisdiction China has over Taiwan makes the island's ownership, geographically speaking, unclear. China and Taiwan claim its continental shelves extend past the Senkaku Islands which means the Islands and the resources attached to the Islands belong to China or Taiwan. Japan claims the seabed between the Ryukyus and the Chinese mainland is a continuation of both nations meaning the Islands belong to Japan. If the Chinese accepted this claim, it would lose its claim that its continental shelf extends to the maximum 350 nautical miles and all the resources included within it. The Senkaku Islands are approximately 119 nautical miles from Taiwan, approximately 183 nautical miles from mainland China, and approximately 83 nautical miles from Japan (Okinawa Prefecture). The distances from both Taiwan and the mainland are well within the 200 nautical mile EEZ China can use to claim sovereignty over the water and defend the water with force if necessary.

Time

The ambiguity of ownership in both disputes goes back centuries. An example of this ambiguity is how China is a signatory to UNCLOS but stated the UNCLOS Tribunal did not have jurisdiction of territorial sovereignty and according to UNCLOS Article 298 (1) (a) (i), China decided to opt out of compulsory jurisdiction regarding disputes involving historic bays or titles.<sup>202</sup> This approach allowed China to participate and

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<sup>201</sup> Economist Intelligence Unit, "Narrative of an Empty Space," *The Economist*, December 22, 2012, accessed March 10, 2018, <https://www.economist.com/christmas-specials/2012/12/22/narrative-of-an-empty-space>.

<sup>202</sup> Raphael G. Toman, "Jurisdictional Requirements for Arbitration Under UNCLOS: Does the South China Sea Decision Bring Long Sought Clarity to the Scope

selectively address certain aspects of the dispute, such as their historic claim, while not having to clarify issues they did not want to. This behavior has been allowed in the past and so China will continue to practice it when it benefits their case.

#### Previous Attempts to Peacefully Resolve the Disputes

In 2000, China and Vietnam both agreed to resolve the boundary disagreement in the Gulf of Tonkin. Yet, it was not a simple or quick process. The negotiation process started in the 1970s and only concluded in 2000.<sup>203</sup> The agreement still took four years to implement due to extremely high nationalistic sentiment on both sides objecting to the agreement.<sup>204</sup> Once the political leadership of each nation was able to walk back from their anti-Vietnam/Chinese rhetoric and build enough political and public support for the agreement they implemented it.<sup>205</sup> Chinese leaders were also very understanding at that time and were willing to compromise in the negotiations. They gave Vietnam 53 percent of the disputed water.<sup>206</sup> This precedence shows China can peacefully negotiate a dispute and even go as far as agreeing to terms that benefit the other party more so than the Chinese side.

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of Historic Claims?” *NYU International Law and Politics* 49, no. 2 (Winter 2017): 90-95, accessed March 9, 2018, <http://nyujilp.org/wp-content/uploads/2010/06/NYI209.pdf>.

<sup>203</sup> Isaac B. Kardon, “The Other Gulf Of Tonkin Incident: China’s Forgotten Maritime Compromise,” Center for Strategic & International Studies, Asia Maritime Transparency Initiative, October 21, 2015, accessed March 9, 2018, <https://amti.csis.org/the-other-gulf-of-tonkin-incident-chinas-forgotten-maritime-compromise>.

<sup>204</sup> Ibid.

<sup>205</sup> Ibid.

<sup>206</sup> Ibid.

The current situation with the dispute is neither side found any resources, such as oil or gas, within areas of the agreement. Both sides quit the Joint exploration agreement in 2016 because the exploration was commercially unproductive.<sup>207</sup> In early April 2018, the Chinese Foreign Minister said China was still willing to explore joint development options with Vietnam.<sup>208</sup> The Vietnamese are leery of Chinese intentions because they had been previously deceived by China when the Chinese placed oil rigs in waters disputed by Vietnam. Beginning in 2014 with relations between the two nations at a high, China placed an oil rig in waters near the Gulf of Tonkin that was known to be disputed by Vietnam.<sup>209</sup> In response, the Vietnamese rammed Chinese boats at sea and sparked anti-China riots across Vietnam.<sup>210</sup> China then placed more oil rigs in waters disputed by Vietnam, further deteriorating relations between the two nations.<sup>211</sup> China and Vietnam are currently in negotiations to resolve the disputed waters near the mouth of the Gulf of Tonkin. Interesting enough, Vietnam has enlisted ExxonMobil to build an oil platform and the sea-to-shore pipeline for the Vietnamese near the mouth of the Gulf of Tonkin and the Paracel Islands.<sup>212</sup>

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<sup>207</sup> Ralph Jennings, “China and Vietnam Explored Almost a Decade Together for Oil. What Went Wrong?” *Forbes*, April 9, 2018, accessed April 9, 2018, <https://www.forbes.com/sites/ralphjennings/2018/04/09/china-and-vietnam-explored-almost-a-decade-together-for-oil-what-went-wrong/#10981fa713b5>.

<sup>208</sup> *Ibid.*

<sup>209</sup> *Ibid.*

<sup>210</sup> *Ibid.*

<sup>211</sup> *Ibid.*

<sup>212</sup> CNG Vietnam Joint Stock Company, “Positively Prepare for the Early Mining of Gas from Blue Whale Field,” July 15, 2018, accessed March 9, 2018, <http://www.cng->

In June of 2008, the Chinese and Japanese issued a joint statement to the world on the cooperative development of natural resources in the East China Sea.<sup>213</sup> Both nations began to participate in the development of the northern part of the East China Sea and on the Chinese side of the median line.<sup>214</sup> Yet, within a few months of the announcement China marine surveillance vessels entered the waters around the Senkaku Islands.<sup>215</sup> China claimed to be conducting their usual patrol in waters within China's jurisdiction.<sup>216</sup> Additionally, in that same time period, the Chinese deputy minister of foreign affairs and the minister of foreign affairs had to explain to the Chinese public that China never recognized the median line and Japan will not be developing or extracting resources from Chinese oil/gas fields.<sup>217</sup> They had to do this because of the Chinese

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vietnam.com/en/1326/positively-prepare-for-the-early-mining-of-gas-from-blue-whale-field.

<sup>213</sup> Ministry of Foreign Affairs (MoFA) Japan, "Joint Press Conference by Minister for Foreign Affairs Masahiko Koumura and Minister of Economy, Trade and Industry Akira Amari (Regarding Cooperation between Japan and China in the East China Sea)," June 18, 2008, accessed March 9, 2018, [http://www.mofa.go.jp/announce/fm\\_press/2008/6/0618.html](http://www.mofa.go.jp/announce/fm_press/2008/6/0618.html).

<sup>214</sup> Ibid.

<sup>215</sup> Xinjun Zhang, "Why the 2008 Sino-Japanese Consensus on the East China Sea Has Stalled: Good Faith and Reciprocity Considerations in Interim Measures Pending a Maritime Boundary Delimitation," *Ocean Development & International Law Journal* 42, no. 1-2 (January-June 2011): 53-65, accessed March 9, 2018, <https://doi.org/10.1080/00908320.2011.542105>.

<sup>216</sup> Ibid.

<sup>217</sup> Ibid.

public outrage and anti-Japanese sentiment that arose from the announcement.<sup>218</sup> The anti-Japanese sentiment never died down and the joint development project never materialized.

### Desired Environment

#### Political

The political environment between the U.S., China, and the other claimants promotes stability and peace. China softens its posture and enters into amenable multilateral agreements with the other claimants.<sup>219</sup> This means China does not take unilateral measures to pressure other claimants into deals that accommodate China's exaggerated maritime boundary.<sup>220</sup> China's claims of sovereignty fall within UNCLOS and any objectives for the disputed areas are openly communicated.<sup>221</sup> Disagreements and/or incidents, over areas such as sovereignty or resources, do not disrupt political talks or derail joint projects.<sup>222</sup>

#### Military

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<sup>218</sup> Alexander M. Peterson, "Sino-Japanese Cooperation in the East China Sea: A Lasting Arrangement," *Cornell International Law Journal* 42, no. 3 (Fall 2009): 462, accessed March 9, 2018, <http://scholarship.law.cornell.edu/cilj/vol42/iss3/5>.

<sup>219</sup> Kailash K. Prasad, "Incentivizing Multilateralism in the South China Sea," *The Diplomat*, January 2016, accessed May 6, 2018, <https://thediplomat.com/2016/01/incentivizing-multilateralism-in-the-south-china-sea/>.

<sup>220</sup> *Ibid.*

<sup>221</sup> Toman, 90-95.

<sup>222</sup> Richard J. Heydarian, "The Perils of a Philippine-China Joint Development Agreement in the South China Sea," Asia Maritime Transparency Initiative, Center for Strategic and International Studies, April 2018, accessed May 6, 2018, <https://amti.csis.org/perils-philippine-china-joint-development-scs>.

China demilitarizes the South China Sea and stops using coast guard vessels as well as fishing boats to prevent other claimants from entering fishing areas in both the East China Sea and the South China Sea. China and other nations use the artificial islands to assist and help others in need throughout the South China Sea. China and other claimants remove any Air Defense Zones over contested land or do not challenge aircraft when those aircraft are flying over contested land.<sup>223</sup>

#### Economic

China utilizes the multilateral agreements to develop joint resource extraction partnerships.<sup>224</sup> All claimants are afforded agreeable terms to the joint partnerships.<sup>225</sup> Nations not bordering the South China Sea or the East China Sea are allowed to enter into agreements with nations bordering the disputed areas to extract resources.<sup>226</sup> The joint partnerships are not disrupted by China through economic or political pressure.<sup>227</sup> China

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<sup>223</sup> Jun Osawa, “China’s ADIZ over the East China Sea: A “Great Wall in the Sky”?” Brookings Institution, December 2013, accessed May 6, 2018, <https://www.brookings.edu/opinions/chinas-adiz-over-the-east-china-sea-a-great-wall-in-the-sky>.

<sup>224</sup> South China Morning Post, “China Deploys new oil rig to drill in East China Sea,” September 2014, accessed May 6, 2018, <http://www.scmp.com/news/china/article/1584040/china-deploys-new-oil-rig-drill-east-china-sea>.

<sup>225</sup> Lisa Murray, “ASEAN at the heart of Australia’s Indo-Pacific Strategy, Says Julie Bishop,” ILeaked draft of speech obtained by *Financial Review*, March 2018, accessed May 6, 2018, <http://www.afr.com/news/world/asean-at-the-heart-of-australias-indopacific-strategy-says-julie-bishop-20180312-h0xdf>.

<sup>226</sup> Panda.

<sup>227</sup> Ibid.

stops using predatory economics to coerce other South China Sea claimants to China's advantage.<sup>228</sup> China acts responsibly economically and is labeled a market economy.<sup>229</sup>

### Social

Each claimant prevents negative nationalist unrest against another claimant if an accident occurs or other similar escalatory situations.<sup>230</sup> Protests are allowed but do not escalate into violence and property damage.<sup>231</sup> Nationalistic sentiment is only encouraged if it positively reinforces an agreement or partnership with other claimants.<sup>232</sup> Governments do not stoke negative nationalistic feelings against other claimants through the media or education programs.<sup>233</sup>

### Information

Each claimant communicates openly and honestly to other nations and to its own people.<sup>234</sup> Transparency is crucial.<sup>235</sup> Strategic objectives are shared openly and

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<sup>228</sup> U.S. Congress, Senate, *Hearing before Senate Armed Services Committee, Admiral Harry Harris House Armed Services Committee Opening Statement*, 115th Cong., 2d sess., February 2018.

<sup>229</sup> Charlotte Gao, "China, U.S. Fight Over China's Market Economy Status," *The Diplomat*, December 2017, accessed May 5, 2018, <https://thediplomat.com/2017/12/china-us-fight-over-chinas-market-economy-status>.

<sup>230</sup> Gries, Steiger, and Wang, 45.

<sup>231</sup> *Ibid.*

<sup>232</sup> *Ibid.*

<sup>233</sup> *Ibid.*

<sup>234</sup> *Ibid.*

<sup>235</sup> *Ibid.*

consistently.<sup>236</sup> The media is not used as a tool to stoke the population into unrest against another claimant.<sup>237</sup> Instead, the media is used to demonstrate successful partnerships or agreements with other claimants.<sup>238</sup>

#### Infrastructure

The author was not able to find any research on what should be done with the infrastructure if China left the artificial islands.

#### Physical Environment

The physical environment above the water remains relatively unchanged but with the exception of peaceful and sustainable maintenance. The maritime environment, sea life, and terrain are protected as best as possible.<sup>239</sup> Any disturbances must be done in a responsible manner and minimize the impact to the physical environment to protect the sea life.<sup>240</sup> Ocean life is respected and damage minimized when performing resource extraction or military exercises.<sup>241</sup>

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<sup>236</sup> Walton.

<sup>237</sup> Ibid.

<sup>238</sup> Philippines, "Cayetano Cites 'Golden Era' in relations with China," President Communications Operations Office, March 2018, accessed May 6, 2018, <https://ptvnews.ph/cayetano-cites-golden-era-relations-china/>.

<sup>239</sup> South China Sea Expert Working Group, "A Blueprint for Fisheries Management and Environmental Cooperation in the South China Sea," Asia Maritime Transparency Initiative, Center for Strategic and International Studies, September 2017, accessed May 5, 2018, <https://amti.csis.org/coc-blueprint-fisheries-environment>.

<sup>240</sup> Ibid.

<sup>241</sup> Abhijit Singh, "Why the South China Sea is on the Verge of an Environmental Disaster," *National Interest*, August 2016, accessed May 6, 2018, <http://nationalinterest.org/blog/the-buzz/why-the-south-china-sea-the-verge-environmental-disaster-17348>.

## Time

Successful agreements and joint extraction partnerships must be given time to work.<sup>242</sup> They must be given time to overcome years of irresponsible behavior by some of the claimants.<sup>243</sup> A claimant's population will not change for the better overnight.<sup>244</sup> It will take time for governments to prove progress is being made in resolving the disputes.<sup>245</sup> Negotiations for resolutions and agreements cannot take too long.<sup>246</sup> Claimants and the world may lose faith in peacefully resolving the disputes.<sup>247</sup>

## Ends-Ways-Means

### Ends

The current U.S. military strategy in the East China Sea and the South China Sea is to “safeguard the freedom of the seas, deter conflict and coercion, and promote adherence to international law and standards.”<sup>248</sup> Freedom of the seas, to include the

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<sup>242</sup> Nicholas Szechenyi, “Platforms of Mistrust: Natural Resource Development in the East China Sea,” Asia Maritime Transparency Initiative, Center for Strategic and International Studies, August 2015, accessed May 6, 2018, <https://amti.csis.org/platforms-of-mistrust-natural-resource-development-in-the-east-china-sea>.

<sup>243</sup> Ibid.

<sup>244</sup> Gries, Steiger, and Wang, 45.

<sup>245</sup> Szechenyi.

<sup>246</sup> Ibid.

<sup>247</sup> Ibid.

<sup>248</sup> U.S. Department of Defense (DoD), *Asia-Pacific Maritime Security Strategy*, 2015, accessed May 6, 2018, [https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P\\_Maritime\\_Security\\_Strategy-08142015-1300-FINALFORMAT.PDF](https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF).

airspace above the sea, is essential for economic, disaster relief, and security reasons.<sup>249</sup> Deterring conflict and coercion is vital to regional peace that has enabled prosperity and economic growth as well as the flow of trade across the waterways.<sup>250</sup> Finally, adherence to a rules-based system has enabled peace and stability through the peaceful use of maritime waterways and resources.<sup>251</sup>

### Ways

The U.S. is doing the following things to “safeguard the freedom of the seas, deter conflict and coercion, and promote adherence to international law and standards.”<sup>252</sup> The first is strengthening U.S. military capacity so the Department of Defense (DoD) can successfully deter conflict, coercion, and respond decisively when needed.<sup>253</sup> The second is DoD working with allies and partners to build their capacity so they can address challenges in their region.<sup>254</sup> President Trump offered to sell missiles to Vietnam.<sup>255</sup> The third is to leverage military diplomacy to build better transparency, reduce the risk of

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<sup>249</sup> DoD, *Asia-Pacific Maritime Security Strategy*.

<sup>250</sup> *Ibid.*

<sup>251</sup> *Ibid.*

<sup>252</sup> *Ibid.*

<sup>253</sup> *Ibid.*

<sup>254</sup> *Ibid.*

<sup>255</sup> Derek Grossman, “U.S. Striking Just the Right Balance with Vietnam in South China Sea,” *The Diplomat*, November 22, 2017, accessed March 5, 2018, <https://thediplomat.com/2017/11/us-striking-just-the-right-balance-with-vietnam-in-south-china-sea>.

miscalculation or conflict, and promote shared international maritime norms.<sup>256</sup> The fourth and final effort is to strengthen regional security institutions and encourage the development of open and effective regional security architecture.<sup>257</sup>

### Means

The DoD is not trying to achieve the Ends alone. Achieving the Ends for DoD will take considerable manpower, money, and resources. DoD is partnering with regional allies and partners, regional institutions, and interagency partners to achieve the Ends.<sup>258</sup> DoD is also utilizing UNCLOS in the disputes to ensure all claims derive from and follow international law.<sup>259</sup>

### Risk

In a 2016 testimony to the Senate, Secretary of Defense Ashton Carter recommended that the U.S. use the UN Tribunal to peacefully resolve the dispute between the Philippines and China.<sup>260</sup> Based on historical precedence, it was clear China was not going to follow the ruling.<sup>261</sup> China needs to understand there are consequences

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<sup>256</sup> DoD, *Asia-Pacific Maritime Security Strategy*.

<sup>257</sup> *Ibid.*

<sup>258</sup> *Ibid.*

<sup>259</sup> *Ibid.*

<sup>260</sup> U.S. Congress, Senate, *Testimony on Counter-ISIL (Islamic State of Iraq and the Levant) Operations and Middle East Strategy*.

<sup>261</sup> Evan Ross, "Conflict and Cooperation in the South China Sea," Stratfor, August 2016, accessed May 6, 2018, <https://worldview-stratfor-com.nduejproxy.idm.oclc.org/article/conflict-and-cooperation-south-china-sea>.

for behavior that go against international laws.<sup>262</sup> Those consequences do not have to include military action but if China is brazen enough to use a Dalang Class ship, send a small boat out, and openly steal a clearly marked U.S. Navy underwater drone then the U.S. military must do more than just urge China to comply with its obligations under international law.<sup>263</sup> If China did not follow the UN Tribunal ruling, then it is clear China would not follow international law in this case as well. Just recently China repeatedly lased U.S. military aircraft landing in Djibouti but the only response by the U.S. military was to request the Chinese investigate the incidents.<sup>264</sup> In 2015, China's President Xi Jinping told President Barack Obama China will not militarize the South China Sea.<sup>265</sup> Then sometime in April, China installed the YJ-12B anti-ship cruise missile and the HQ-9B surface-to-air missile systems on three of its fortified outposts in the Spratly Islands further eroding China's credibility.<sup>266</sup> U.S. Pacific Command Commander Admiral Harry

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<sup>262</sup> United Nations Oceans & Law of the Sea, "Piracy under International Law," Division for Ocean Affairs and the Law of the Sea, May 2012, accessed May 6, 2018, <http://www.un.org/depts/los/piracy/piracy.htm>.

<sup>263</sup> U.S. Department of Defense (DoD), "Statement by Pentagon Press Secretary Peter Cook on Incident in South China Sea," News Release, December 2016, accessed May 6, 2018, <https://www.defense.gov/News/News-Releases/News-Release-View/Article/1032611/statement-by-pentagon-press-secretary-peter-cook-on-incident-in-south-china-sea>.

<sup>264</sup> Jim Garamone, "U.S. Protests Chinese Interference with U.S. Planes in Djibouti," News Release, Department of Defense, May 2018, accessed May 8, 2018, <https://www.defense.gov/News/Article/Article/1511708/us-protests-chinese-interference-with-us-planes-in-djibouti>.

<sup>265</sup> Steven L. Meyers, "Laser and Missiles Heighten U.S.-China Military Tensions," *New York Times*, May 2018, accessed May 8, 2018, <https://www.nytimes.com/2018/05/04/world/asia/china-united-states-lasers-pilots.html>.

<sup>266</sup> Shaan Shaikh, "China Installs First Missile Systems in Spratly Islands," Center for Strategic and International Studies, Missile Defense Project, May 2018, accessed May

Harris even recently admitted to the House Armed Services Committee that “China’s aggression in the South China Sea moves along unabated, despite the Permanent Court of Arbitration’s tribunal ruling that invalidated China’s 9-dash line claim.”<sup>267</sup> The U.S. is taking considerable risk in continuing to assume China will follow international law and is still credible.

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8 2018, <https://missilethreat.csis.org/china-installs-first-missile-systems-in-spratly-islands>.

<sup>267</sup> U.S. Congress, Senate, *Hearing before Senate Armed Services Committee, Admiral Harry Harris House Armed Services Committee Opening Statement*.

## CHAPTER 5

### CONCLUSIONS AND RECOMMENDATIONS

Yes, the current U.S. military strategy in the East China Sea and South China Sea can be improved because it entails too much risk. China is leveraging the U.S. aversion to conflict in both the South China Sea and East China to its advantage. The U.S. assumes too much risk in allowing China to continue dredging operations and for China to use its military forces to enter the waters around the Senkaku Islands. China has shown a complete disregard for international calls to cease dredging operations and to peacefully resolve the Senkaku Island dispute. In the South China Sea, the U.S. military must directly confront the actions China is currently taking that go against international treaties, such as China's dredging, while it still has conventional superiority. The U.S. military with allies and partner nations must directly confront the dredging while at the same time working with China to find peaceful means to extract resources. Resources are the reason and objective of China's actions in the East and the South China Sea. Previous attempts to peacefully resolve the disputes have not proven successful because China's words have been proven hollow. A military confrontation, blockade, or something that is short of a full-scale conflict is the only thing China will understand. At least in the near time before China develops enough conventional capabilities to resist the U.S. This is because military confrontation in the near term is the only thing that can unravel China's diligent efforts to usurp the U.S. as the regional hegemon.<sup>268</sup>

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<sup>268</sup> Michael Pillsbury, *The Hundred-Year Marathon* (New York: Henry Holt and Company, 2015).

## Recommendations

The U.S. must bolster the forces it has stationed in the Asia-Pacific region with allies and partners. China's plan for asymmetric warfare will not allow sufficient time for forces or aircraft carriers to flow into a theater. China maintains sovereignty over the artificial islands to prevent that flow and defend from the South China Sea. Joint training, exercises, and regular patrols of the South China Sea and the East China Sea will communicate to China that more than just the U.S. forces will be in the fight. By also supplying military equipment and arms to allies and partners in the region, the U.S. will ensure interconnectedness and synergy of forces during a conflict over the artificial islands. If China were to actually renounce claims to the artificial islands then anything built on the artificial islands in the South China Sea could become aid stations or rest points for travelers and fishermen. Infrastructure built throughout the East China Sea and the South China Sea can be shared by all nations with no one nation laying claim to it. Any infrastructure with a peaceful purpose can be built through joint agreements and peaceful negotiations. Infrastructure built is built responsibly and minimizes damage to the surrounding maritime area.

The additional military arms can bolster other nation's capabilities if the need arises to defend militarily. As China continues to militarize the South China Sea, regional allies will require the capabilities to defend against any threats. A small skirmish might not require U.S. assistance if the U.S. partner can sufficiently defend against a Chinese attack. In this case, U.S. military leaders should take every opportunity to emphasize the defense treaties with Japan and the Philippines and denounce China's actions.

Areas of further research include an effort to link the disputes to having the U.S. increase arms sales to Taiwan and to change the One-China policy and/or diplomatically recognize Taiwan if China's dredging does not stop. The U.S. currently has an economic advantage over China. As China's economy grows so will its military. The U.S. should apply maximum pressure on China while China is still building its military. The day will come when China feels its military is capable of defending against the U.S. and will strike out if the U.S. tries to apply too much pressure. The U.S. is wasting time, because in the future if the U.S. tries to increase arms sales to Taiwan or change the One-China policy, those tactics will not work due to China's significant economic and military strength.

If China continues to extract resources in disputed waters, then the U.S. military should leverage other arms of the U.S. government to have the U.S. Representative to the UN announce to all members of the UN there will be a joint exercise in the high seas of the South China Sea and if any nation has a problem with the exercise, the issue can be discussed at a meeting of the Security Council. This places China on the spot in front of the world in having to defend their position that goes against international law. As time progresses, Chinese resource extraction will be discussed less and less in international organizations. The true carrot for China's resource extraction could be a plan to get China labeled a market economy but only if it behaves like a responsible member of the international community. Although the U.S. military would not fall for China's misrepresentation forces or capabilities in the South China Sea based on China's word.

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