Conflict in the South China Sea

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In the 17th century, Dutch philosopher Hugo Grotius wrote a book titled "Freedom of the Seas", proposing that the high seas are international waters, free to all, belonging to none. This seminal work became the foundation for international maritime law. In the 17th, 18th, and 19th centuries, a common agreement existed among coastal nations that a country's territorial waters were limited to a belt extending from the coastline out to three nautical miles, the distance roughly corresponding to the maximum range of a costal state's cannon at the time. Beyond the three-mile band were the high seas, a commons area, where all nations were free to navigate.

This "Freedom of the Seas" concept remained in effect until the early 20th century, when several nations proposed expanding a costal nation's national maritime claims to include mineral resources, fishing stocks, and enforce pollution controls.

In the 1970s, the United Nations convened the "Convention on the Law of the Sea" to modernize maritime law. Today, the "Law of the Sea" is the internationally accepted body of customs, treaties, and international agreements by which governments maintain order and peaceful relations on the high seas.

SLIDE 2

The UN Convention on the Law of the Sea (UNCLOS III) defines a costal nation's territorial waters as a band from the coastline out to 12 miles, an area where the costal state is free to set laws, regulate use, and use any resource. This area is considered the sovereign territory of the coastal nation. The Exclusive Economic Zone (EEZ) is a band

from the edge of the territorial sea, out to 200 nautical miles, where the costal `nation has sole exploitation rights over all natural resources. Foreign nations have the freedom of navigation and over flight in the EEZ, but cannot exploit any natural resources. Beyond the EEZ are the high seas.

SLIDE 3

Laws are meaningless without the power of enforcement. With its vast naval power, America's enforcement of international maritime law ensures security of commerce throughout the world, particularly in the sea lanes through disputed territorial waters. This great service to the world is largely taken for granted. Coastal nations often push, and sometimes violate, international maritime laws to their advantage. The main factors driving these conflicts are depleting fishing reserves, an ever increasing need for oil, national security concerns, and ancestral claims.

The United States encourages countries to settle maritime territorial quarrels using the arbitration mechanisms defined in the Law of the Sea. If a country violates maritime laws in a way that jeopardizes the security of international commerce, the US will challenge the country with "Freedom of Navigation Exercises." When the US conducts a "Freedom of Navigation Exercises," it is designed to show that the country's maritime claim is not valid, and to demonstrate our power to enforce the principle that all countries are free to navigate the high seas.

Today, the world is facing a very serious, large scale, maritime conflict. China is aggressively staking claim to the international waters of the South China Sea, threatening its neighbors, and challenging the United States' role as enforcer of international laws. China's illegal incursion into the South China Sea is the largest land grab by any country since World War II.

This paper analyzes the South China Sea conflict, the actions China has taken, the maritime issues involved, and possible methods to resolve the conflict.

The South China Sea

SLIDE 4

The South China Sea is a vast body of inland sea surrounded by various Asian costal states.

SLIDE 5

It stretches about 1,700 miles from Vietnam to the Philippines, and about 1,500 miles from Hong Kong to Malaysia. There are over 200 islands, rocks, shoals, and reefs in the sea, only about three dozen of which are permanently above water. Hainan is the largest island, located to the north, and is a key base and staging area for China's South China Sea Strategy.

SLIDE 6

There are several prominent archipelagos, such as the Paracels, the Spratleys, and the Pratas Islands.

SLIDE 7

The countries that surround the South China Sea include Vietnam,

SLIDE 8

China,

SLIDE 9

Taiwan,

SLIDE 10

The Philippines,

SLIDE 11

and to the south Malaysia and small country of Brunei.

SLIDE 12

This slide shows the size of the South China Sea in relation to the size of Kentucky.

SLIDE 13

As a vital commerce route, the South China Sea's impact on the global economy is significant in numerous ways. Over 5 trillion dollars of sea-borne trade pass through

the South China Sea shipping lanes every year, including 1 trillion dollars bound for the U.S. This trade accounts for nearly 1/3 of all global sea-born trade.

Eighty percent of China's crude oil imports come through the narrow Strait of Malacca and control is paramount. At its narrowest point, the Strait of Malacca is just over a mile wide, posing a big risk to the security of China's oil supply. Whoever controls this passage has the ability to disrupt a vital shipping corridor.

SLIDE 14

South China Sea also has proven oil reserves of seven billion barrels, and an estimated 900 trillion cubic feet of natural gas. Some calculations estimate oil reserves as high as 130 billion barrels of oil. If these calculations are correct, the South China Sea contains more oil than any area of the globe except Saudi Arabia. Some observers have called the South China Sea "the second Persian Gulf." If China has access to the oil in the South China Sea, then they will have partially alleviated its reliance on the vulnerable Strait of Malacca for so much of its energy needs.

SLIDE 15

Finally, the South China Sea is an essential component of China's overall Naval "defense-in-depth" strategy. China believes that its economic and political power is contingent up on access to, and use of the sea. Chinese military doctrine is shifting its defensive posture from a "costal defense" based strategy to an "offshore defense" strategy. The China's military doctrine defines two island chains as defensive lines. The

first chain stretches from Japan through Taiwan, Philippines to the southern tip of the South China Sea. The second chain stretches from Japan to Guam, including the Philippine Sea and beyond.

SLIDE 16

The Chinese Navy's primary mission is the defense of the "near seas", the Yellow Sea, East China Sea, and South China Sea, within this first line of defense.

SLIDE 17

China establishd an Air Defense Identification Zone (ADIZ) in the East China Sea in 2013. An Air Defense Identification Zone (ADIZ) is airspace over land or water where the country establishing the zone asks an incoming aircraft to identify itself and have control over its flight path in the interest of national security. A zone extends beyond a country's airspace to give the country more time to respond to possibly hostile aircraft. Unidentified aircraft are liable to be interrogated and, if necessary, intercepted for identification before they cross into sovereign airspace. The United States reacted strongly to China's announcement of an East China Sea ADIZ, and refused to recognize it by flying military aircrafts across the zone.

SLIDE 18

When the time is right, China is expected to establish a South China Sea ADIZ. The United Stats has said a unilaterally declared ADIZ in the South China Sea would impede freedom of navigation, and warned Beijing not to make such an announcement.

SLIDE 19

SLIDE 20

What is the basis for China's claims to the South China Sea? According to the United Nations convention of the law of the sea, China's EEZ stretches roughly 200 miles from its coastline. The actual area is depicted in the slide. The surrounding Asian countries EEZ's are depicted as well. The central white area is considered the high seas.

SLIDE 21

Ownership of the South China Sea has been hotly contested by the surrounding Asian countries for hundreds of years. In 1947 the Republic of China published the map of the South China Sea Island with demarcation lines indicating Chinese ownership of almost the entire Sea.

SLIDE 22

The People's Republic of China later adopted the same map. In 2009, China submitted a nine dash line map to the United Nations, claiming ownership to the South China Sea and the adjacent waters. China never clarified the meaning of the dashes on the map. The dashes could have several different meanings. The dashes could be interpreted as an extension of the EEZ, or they could be interpreted as boundaries of Chinese sovereign territory. The exact locations of the lines have not even been fully clarified.

SLIDE 23

As you can see from the map, China's Nine Dash Line map extends far beyond China's EEZ.

SLIDE 24

China is not the only nation claiming ownership of the South China Sea. All surrounding coastal nations declare to own some portion of the South China Sea beyond their EEZ. This slide illustrates the claims of Vietnam and the Philippines. While claims obviously reach beyond allocations, both generally comply with the EEZ limits.

With an understanding of *what* is driving China's ambition to own the South China Sea, we now shift discussion to *how* China is accomplishing gaining control of the area.

China's Tactics

SLIDE 26

In 1976, Johnny Cash recorded the song "One Piece at a Time," a song about a GM assembly line worker who watches new cars roll out of the factory day by day, knowing that he will never be able to afford one of his own. One day, he and a friend hatch a plan to "steal" a Cadillac. He begins by taking small parts home in his large lunchbox and eventually smuggles larger parts in his friend's motor home.

Twenty-five years later, he has accumulated the necessary parts to build a Cadillac. With great effort, he and his friend fit the parts together resulting in a working car, a hodgepodge of styles ranging from 1949 to 1975.

You may wonder how an old country song relates to the South China Sea. The man in Cash's song realized there was no way he could have gotten away with stealing a car outright from the factory's lot. Instead, he employed a tactic called "Salami Slicing," a strategy of taking small, undetectable, under the radar actions, over a long period of time, to carry out an illegal activity without getting caught.

China is using a similar "Salami Slicing" strategy to gain control over the South China Sea. With each small step China takes in the South China Sea, they gain more control of the sea, slicing small areas of control away from other countries, overcoming oppositions with a combination of threats and alliances, always being careful not to

invoke a strong response from the United States. Let's now discuss what steps China has taken to control the sea.

SLIDE 27

In the early 1970's both China and Vietnam occupied Woody Island. Woody Island small, only about 525 acres, but is a key strategic island located in the north central area of the sea. In 1974 China gained complete control of the island after launching a military offensive to push Vietnam off the Island.

SLIDE 28

Woody Island has a large artificial harbor, a large runway, and many support facilities. China has employed high power radar, fighter jets, and anti-aircraft missiles on the island.

SLIDE 29

Salami slicing activities to expand China's control of the South China Sea began in 2008 when China began using "Tailored Coercion" tactics. Using a combination of military, diplomatic, trade, investment, and psychological operations, China divided and weakened the opposition of the surrounding Asian countries. China took aggressive actions towards the United States and Japan. Here are a few examples of China's coercive activities:

June 2009: A Chinese Navy submarine followed the USS John S. McCain destroyer and was suspected of colliding with and damaging the ship's sonar equipment.

Feb. 2011: A Chinese warship allegedly fired warning shots at a Philippine vessel after ordering it to leave the area near Jackson Atoll in the Spratly Islands.

July 2011: Chinese soldiers reportedly assaulted a Vietnamese fisherman and threatened crew members before expelling them from waters near the disputed Paracel Islands.

April 2012: Filipino surveillance aircraft identified Chinese fishing vessels at Scarborough Shoal, causing the Philippine Navy to deploy its largest warship, newly acquired from the US, to the area. In response, China sent surveillance ships to warn the Philippine Navy to vacate the area.

In 2013 China erected oil drilling platforms in areas claimed by Viet Nam.

Jan. 2014: China imposed a fishing permit rule in the South China Sea, defying the objections of the U.S., the Philippines and Vietnam.

SLIDE 29

2010 marked a significant increase in the number of Japanese scrambles against Chinese aircraft that threatened to intrude into Japanese airspace

SLIDE 30

In 2014, China began a southern expansion into the Spratly islands by transforming seven reefs, including Mischief Reef and Fiery Cross Reef, into artificial islands. Additional small islands were created in the region.

SLIDE 32

Here is a July 2014 image of Fiery Cross Reef. The picture shows the reef below the water at high tide. This reef is an example of a Low Tide Elevation formation.

SLIDE 33

This image shows Chinese dredging activity to create and artificial island. According to the U.N., artificial islands do not afford the occupying nation territorial waters. This type of dredging activity also creates extensive environmental damage to the reefs.

SLIDE 34

Here is another example depicting construction and dredging activity.

SLIDE 35

In September 2015, China completed a 3,125 meter runway on the newly created Fiery Cross reef.

SLIDE 36

The next two slides slow a similar transformation of Mischief Reef into an Island with a military runway.

SLIDE 37

In March 2016, the director of U.S. national intelligence reported that China will be able to project "substantial offensive military power" from artificial islands it has built in the South China Sea's disputed Spratly Islands.

SLIDE 38

Today, it appears that China is close to achieving its objective of controlling the South China Sea.

SLIDE 39

Some interesting, almost desperate, actions are being taken by some countries in this conflict to protect their territorial rights. Both the Philippines and China claim the Second Thomas Shoal in the Spratley Islands. To establish a presence, and solidify their claim to the shoal, the Philippine Navy deliberately ran the ship Sierre Madre aground at the shoal in 1999. The Philippine navy maintains a presence of dozen or so Marines on the ship. Because of a Chinese blockade in the area, supplies are often air dropped to the Marines. The ship is beginning to disintegrate, and one of the main missions for the Marines is to keep the ship intact.

So, what is at stake in the South China Sea? The first area of concern of the United States is the maintenance of global rules and norms. The United States has important interests in the peaceful resolution of South China Sea disputes according to international law. With the exception of China, all the claimants of the South China Sea

have attempted to justify their claims based on their coastlines and the provisions of 'The Law of the Sea'. China, however, relies on a mix of historic rights and legal claims, while remaining deliberately ambiguous about the meaning of the "nine-dashed line" around the sea that is drawn on Chinese maps. Failure to uphold international law and norms could harm U.S. interests elsewhere in the region and beyond.

Ensuring freedom of navigation is another critical interest of the United States and other regional states. Although China claims that it supports freedom of navigation, its insistence that foreign militaries seek advance permission to sail in its two-hundred-mile EEZ casts doubt on its stance. China's development of capabilities to deny American naval access to those waters in a conflict provides evidence of possible Chinese intentions to block freedom of navigation in specific contingencies.

Another area of concern for the United States involves economic interests. A crisis in the region will result in the diversion of cargo ships to other routes, harming regional and world economies as a result of longer transit times. A conflict of any scale in the South China Sea would significantly destabilize the economies of both China and the US.

Finally, the maintenance of a cooperative relationship with China is a major US interest. The stakes and implications of any U.S.-China incident are far greater than in other scenarios. The United States has an interest in preserving stability in the U.S.-China relationship so that it can continue to secure Beijing's cooperation on an

expanding list of regional and global issues and more tightly integrate China into the prevailing international system.

What course of Action Should the United States take?

First, the United States must clearly convey U.S. commitment to the regional countries involved, while at the same time, avoid inadvertently encouraging the regional countries to engage in confrontational behavior. The U.S. must walk a fine line in this area, as the unintended consequences of emboldening the Philippines or Vietnam to antagonize China rather than to seek peaceful resolutions could end up destabilizing the area.

Second, the United States should bolster the military capabilities of the regional countries. Steps could be taken to further enhance the capability of the Philippines military to defend its territorial and maritime claims and improve its indigenous domain defenses, which might deter China from taking aggressive action. Similarly, the United States could boost the maritime surveillance capabilities of Vietnam, enabling its military to more effectively pursue an anti-access and area-denial strategy. However, as we discussed earlier, such measures run the risk of emboldening the Philippines and Vietnam to more assertively challenge China and could raise those countries' expectations of U.S. assistance in a crisis.

Finally, the U.S. should encourage settlement of the sovereignty disputes according to international law. The United States could push for submission of territorial

disputes to the International Court of Justice or the International Tribunal for the Law of the Sea for settlement, or encourage an outside organization or mediator to be called upon to resolve the dispute. However, the prospect for success in these cases is slim given China's likely opposition to such options.

Despite having ratified the UN Convention of the Seas treaty, China has always held a unique interpretation of international rules. Henry Kissinger writes in his book, "World Order", that China does not necessarily see the rules the way America does: "When urged to adhere to the international system's 'rules of the game' and 'responsibilities', the visceral reaction of many Chinese—including senior leaders—has been profoundly affected by the awareness that China has not participated in making the rules of the system."

China's long held skeptical view of international law is based on the view that China was on the periphery when the core nations developed international law. China felt international laws allowed the core nations to manipulate, suppress, and humiliate the Chinese people, and rejected any international adjudication. In 2001, when China became a member of the World Trade Organization, they began to accept commercial and economic international law, but still rejected other areas.

In summary, the issues involved with the South China Sea are numerous and complex. The conflict involves China, a continental power intent on expanding its influence and control over the high seas one piece at a time, the United States, the self appointed enforcer of international norms and laws, and the Asian countries

surrounding the South China Sea. This regional conflict has the potential to quickly escalate into a worldwide crisis if not handled correctly, and is worthy of our attention. Thank you.