



Options for US policy toward the South China Sea by Michael McDevitt

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US policy toward the South China Sea is sensible, relatively comprehensive, and proportionate to the US interests involved.

- It is primarily diplomatic, but not entirely so.
- It focuses on creating stability by exhorting all the parties to follow the rules of international law.
- It explicitly defines how Washington would like conflicts to be solved.
- It includes hard-power initiatives aimed at redressing some of the power imbalance between the Philippines, Vietnam, and China.
- Finally, it incorporates an element of deterrence by not ignoring the US security alliance with the Philippines as well as providing access for US naval and air forces in Singapore and the Philippines.

The administration's public rhetoric has, over time, become far more specific and less "diplomatic." It now specifically calls China's actions destabilizing and bullying. Instead of giving vague exhortations, it also has become more specific in its commentary regarding the "rules." It has been especially specific in addressing the most destabilizing aspect of the disputes in the South China Sea: the nine-dash line.

Despite being judged sensible and proportionate, however, given the US interests involved, the Obama administration has been criticized from both the right and the left for not being "tough" enough with China. The simple reason for the criticism is that China has essentially ignored US exhortations to follow the rules, to stop pushing other claimants around, and to seek third-party arbitration to resolve claims. *Beijing apparently believes that national interest trumps adherence to international law.*

China's policies give the impression of not appreciating that being tough with its neighbors simply frightens them. This lack of self-awareness by Chinese interlocutors leaves some US officials wondering if China knows what is good for it. In their view, China is not acting in its own best interests.

Arguably, China knows exactly what it is doing.

Its leaders can read a map. The realities of geography are that other claimants to South China Sea islands are always going to live in the shadow of China.

China is already the largest trading partner with all of its Southeast Asian neighbors, and their economies are increasingly interlinked. An ASEAN consensus seems to be, "We are all afraid of China, but we are also afraid of what China might do to our economy if we cross them."

Finally, it is important to recognize the importance that China's domestic issues have in President Xi Jinping's approach to the South China Sea. In China, domestic politics always trumps foreign policy concerns. Being tough on sovereignty claims provides important political cover for Xi's politically difficult attempts to reorient China's economics, stamp out corruption in the Chinese Communist Party (CCP), and curb the power of provincial party secretaries who frequently act as regional despots.

These factors, plus the fact that China has the largest and most powerful Asian military shape Beijing's policy approach to the South China Sea. Its military modernization program, now past its 20th year, continues to be well planned and well executed. China's conventional weapons capability is far superior to that of its neighbors, including India, and most certainly will remain so, at least for the foreseeable future.

So far, China's actions in the South China Sea have not harmed its economy: its neighbors still line up seeking to improve relations. Beijing may not appreciate that its ASEAN neighbors simply want to retain their autonomy, but it does understand that its small neighbors do not want to be forced to choose between the United States and China. They all want the best possible relationship with both. Since these small countries will always be China's neighbors and they will always need China more than it needs them, China can exercise great latitude in its approach to them.

These factors are the reason that it is so difficult to get results from US policy. Finally, and most importantly, Beijing believes it has right and history on its side. It really does believe that all the land features and resources belong to China.

That said, how should the US proceed?

Overarching policy guidelines should include the following principles:

- The South China Sea is not the central strategic element in the overall US-China relationship.
- The South China Sea is an issue to be managed; a permanent solution is not likely in the near term.
- There is no one preferred format for negotiated outcomes. Bilateral negotiations should not be

dismissed or portrayed as less desirable. The reality is that because of overlapping claims, solutions that are negotiated directly by the claimants are inevitable.

- Policy should not be overwhelmingly anti-Chinese. The US should criticize Chinese behavior along with the behavior of US friends and allies when warranted. China may have the best legal claim to all the land features, although that will never become a legal certainty unless Beijing agrees to arbitration.
- The US government should remain sensitive to the efforts of littoral states to involve the United States more deeply in supporting their claims to balance against China. In this regard, the State Department should conduct a legal analysis of the Philippine claims. If this analysis reaches the same conclusions as the analysis prepared for this project, Manila should be quietly informed of Washington's opinion of its claims; particularly in the Spratlys.
- Washington should not announce policies that engage credibility in a way it is not prepared to back-up.

The United States should reinforce its policy emphasis that international law is the basis for rules-based stability by issuing a comprehensive white paper, or a series of white papers, on the aspects of international law that pertain to the South China Sea. Because the focus on international law has been a centerpiece of US policy, these authoritative documents should be signed by the secretary of state and given appropriate publicity.

The Department of State should consider issuing a statement in strong support of the arbitral tribunal ruling that it does have jurisdiction to review Manila's request for a finding regarding China's nine-dash line, among other things. This will permit the Philippines to have "its day in court" by agreeing that it does have jurisdiction.

US policy-makers should explore with ASEAN and China the possibility of establishing a Joint Development Area (JDA) in the Spratlys aimed at exploitation of hydrocarbons. The goal would be to find a way to allow states to share these resources without prejudicing their position on final maritime boundaries.

US policy makers should explore whether ASEAN would welcome US involvement aimed at moving the Code of Conduct process to conclusion.

The United States should be responsive to requests from small South China Sea littoral states that want assistance in improving their maritime policing and security capabilities.

The United States needs to be completely committed to a very long-term, dedicated effort to improve the Armed Forces of the Philippines' maritime capabilities. A *mutually agreed upon* AFP "minimum credible deterrent" plan deserves strong US support. Washington should not however, explicitly expand the scope of the Mutual Defense Treaty to cover the contested Philippine claims in the Spratlys.

Washington should ensure that planned US military posture and capability improvements are portrayed as symbols

of reassurance and stability-inducing presence and are not characterized as attempts to directly confront China. Emphasize that the objective of the military portion of the rebalance is to ensure that the US can fulfill its security responsibilities to its allies and is capable of assured access whenever required.

US naval and air presence in the South China Sea should be a visible daily occurrence.

The US Navy should increase the duration of its exercises with South China Sea littoral states, and expand participation in these exercises by inviting participation from other Asian maritime states, such as Japan, Australia, South Korea, and possibly India.

PacNet commentaries and responses represent the views of the respective authors. Alternative viewpoints are always welcomed.