

## **Response to PacNet #81 “Matching power with purpose in the South China Sea: a proposal”**

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### **Andrew Taffer replies:**

In PacNet #81, Donald Emmerson eloquently calls on the United States to match its military power with political purpose. An unalloyed focus on US military prowess, he correctly maintains, is sure to leave Washington rudderless, or worse, in the Asia-Pacific. In particular, Emmerson suggests that the Obama administration’s vow to “fly, sail, and operate, wherever international law allows [FSOP],” is representative of the same unmoored focus on US military capabilities that he argues has characterized the Trump administration’s approach to the region. He further suggests that the policy is inadequate for reassuring Southeast Asian states wary of Chinese coercion in the South China Sea. Although it appears correct that Washington’s current call for “a free and open Indo-Pacific” is evocative of the Obama-era FSOP, Emmerson wrongly suggests that FSOP is a policy in which power has been disassociated from purpose, and that the policy is inadequate to reassure regional states. To the contrary, the policy is imbued with purpose and principle and if the strategy associated with it was properly revised and executed, it could effectively provide reassurance.

FSOP was intended to demonstrate US commitment to defend navigational freedom in international waters and airspace, among the most fundamental norms and legal principles of the international order. Freedom of navigation, moreover, is a right to which all actors are equally entitled and that none are permitted to circumscribe. Although it is puzzling in this regard that Emmerson suggests FSOP lacked purpose, it is particularly so given that the policy’s objective is essentially indistinguishable from the “real world goal” that he ultimately proposes: “to keep the South China Sea free of exclusionary control by any single country, including the US itself.”

Emmerson then lays out a number of reasons that FSOP, in his view, is inappropriate for reassuring regional states, each of which is addressed briefly below. Although a number of his basic assessments are correct or partly correct, their implications for the policy’s viability are misconstrued. Emmerson appears to conflate policy with strategy, reasoning that because the latter has yet to sufficiently reassure allies and partners, the former must be significantly revised. FSOP as a policy however seems entirely appropriate. It is the strategy to advance its ends – and reassure Southeast Asian states – that warrants revision.

First, Emmerson argues that “FSOP is global,” not regional. He is correct, but it is difficult to see this as a liability regionally.

It is precisely because navigational freedom is a central and longstanding principle of US foreign policy that the US commitment to it does not vary by region. In this regard, the universal nature of the policy should – if properly defended – inspire confidence. The fact that it has not is an indictment of the strategy that has been adopted to defend it, not the policy.

Second, he maintains, “FSOP is law-first.” Here he is only partially correct. Although the principle of freedom of navigation is firmly rooted in international law and FSOP has been presented in legal terms, the policy also accords squarely with US interests and has since the early days of the Republic. In the early 19<sup>th</sup> century, Thomas Jefferson dispatched the US Navy to defend navigational freedom in the Mediterranean from the challenge posed to it by the Barbary pirates. Today, freedom of navigation remains a critical US interest, and Washington ought to be more willing to accept the costs and risks necessary to defend it. Not to do so would come at the expense of both US power and purpose. Again, however, the argument that more must be done should not be interpreted as a condemnation of FSOP as a policy; rather, it should add urgency to US efforts to revise and strengthen the strategy associated with it.

Third, Emmerson argues, “FSOP is suspect.” He is right that the US relationship with the UN Convention on the Law of Sea (UNCLOS) is uneasy; however, despite not being a party to the treaty, Washington strictly abides by its terms. Navigational freedom, moreover, derives its legitimacy from other sources – not least of which is customary international law. In any event, given Emmerson’s assertion that FSOP’s “law-first” character has inspired skepticism, it is unclear why Washington’s status vis-à-vis UNCLOS would be all that relevant to states in the region.

Fourth, Emmerson argues that “FSOP is self-referential,” because “[n]ot one of Southeast Asia’s states can match, or even approach, the ability of the United States.” For a policy deemed deficient on the grounds that it has failed to reassure, this is an odd critique. Is this disparity between the capabilities of regional states and those of the United States not in part why the former require reassurance? Is the possession of capabilities sufficient to defend the interests of others not a necessary condition to effectively reassure? Emmerson further suggests that to Southeast Asian states “FSOP sounds less like a welcome promise to help ... than a boast.” Even if Southeast Asian states found FSOP to be somehow distasteful, which is not obvious, it is not at all clear why this would detract from reassurance.

Fifth, Emmerson maintains, “FSOP is ineffective.” Although, again, he is right that to this point US efforts to thwart “Beijing’s maritime expansion” have been less than effective, attributing this shortcoming to FSOP – a policy intended to defend navigational freedom – is to misdiagnose the problem.

It is the strategy that must be revised, not the policy. To this end, the United States should conduct more and larger freedom of navigation operations as well as adopt more robust measures to defend allies and partners from Chinese coercion in the South China Sea.

Emmerson has done a service by reminding us of the critical importance of matching power with purpose. FSOP however has an unambiguous and principled objective, one appropriate for the defense of US interests and for the provision of allied and partner-state reassurance. The challenge is not to modify fundamental principles and objectives of US foreign policy but to formulate a strategy to effectively defend and advance them.

**Donald Emmerson replies:**

I am happy to respond to Andrew Taffer's response to my recent PacNet (#81) about US policy and strategy in the South China Sea. Taffer's piece arrived in my laptop attached to a note from Pacific Forum CSIS saying that his critique would be published and I could write a reply that would appear alongside it. I am pleased to oblige. As Voltaire once said, nothing is more disagreeable than being obscurely hanged.

That was a joke. No hanging occurred. No need for posthumous revenge. Taffer and I agree far more than we disagree. His thoughts are almost wholly compatible with my own. Most importantly, we agree about the fundamental argument that animates both my piece and his reply: The US lacks and needs a strategy for the South China Sea.

On Aug. 10 2017, following a freedom of navigation operation (FONOP) by the *USS John S. McCain* near Mischief Reef in the South China Sea, a spokeswoman for the US Pacific Fleet repeated again the formulaic US promise that "the United States will fly, sail, and operate wherever international laws" – FSOP for short.

In my piece, I noted the failure of FONOPs to deter Chinese maritime expansion. But, I also wrote that "neither FONOPs nor FSOP should be dropped." Taffer and I agree that they should continue and be strengthened in a broader effort to help, in his words, "defend allies and partners from Chinese coercion in the South China Sea."

Let's define "strategy" as a plan to achieve a long-term goal and "policy" as a means to achieve it. FSOP is not a strategy. It is a policy. The policy is to exercise, globally, and legally, US military power. But what is the actual purpose of all that worldwide flying, sailing, and operating? Specifically what does it have to do with *the South China Sea at a time of Chinese intimidation and expansion?*

FSOP by itself offers no answer to this question. FSOP is all about means. It is not about ends. Indeed it allows Southeast Asians to believe that the policy is an end in itself – that Americans fly/sail/operate (f/s/o) worldwide merely because they can.

Is FSOP supposed to advertise the US military's physique? Is it meant to warn the world against underestimating US capacity to intervene, as one would expect of a would-be planetary policeman? Is it an implicitly denigrating reminder to

lesser states that they lack the navies and air forces to f/s/o on such a vast "wherever" scale?

At an ASEAN meeting in Hanoi in 2010, then-Chinese Foreign Minister Yang Jiechi looked at his Singaporean counterpart and infamously said, "China is a big country and other countries are small countries, and that's a fact." A skeptic in one of those "small" Southeast Asian states, listening to FSOP, could be forgiven for hearing, however faint, an echo of Yang's self-regarding slight.

I am happy to defend US motives and explain to doubters in Southeast Asia why FSOP is *not* an end in itself, *not* mere chest-beating, *not* a hegemonic plot in disguise. But, it would help if a clear US strategy concerning the South China Sea existed. It does not.

The f/s/o mantra is limited to "wherever international law allows." Can one read a strategy into that qualification? Is it the purpose of FSOP to promote international law worldwide? Is that the goal FSOP is intended to serve?

The desire is laudable: to upgrade the FSOP policy by imputing to it the strategic purpose of meeting the need for a global order based on agreed and observed rules. Viewed from the Southeast Asian shores of the South China Sea, however, that inference seems impractical at best and chimerical at worst. Lawful worldwide order is a worthy but lofty abstraction for the very long run, unlike Beijing's unilateral and continuing appropriation and militarization of the South China Sea right now.

Hence my recommendation in PacNet #81: not that FSOP and FONOPs be abandoned, but that the Trump administration enlist them explicitly in a strategy whose stated purpose is *to keep the South China Sea free of exclusionary control by any single country, including the US itself.*

Taffer does not disagree with my proposal. He finds it unnecessary. In his eyes, FSOP the policy is already "imbued with purpose." Indeed, for him, the purpose of FSOP is already "essentially indistinguishable" from precisely the one that I recommend. If the policy is already strategic – purposive – why propose to augment it with a characteristic that it already has? Taffer's essay "appears to conflate policy with strategy," if I may quote his own critique of mine.

The US should of course feel free to f/s/o wherever international law allows, and feel free to say so. But, in and of itself, FSOP is not a strategy. It does not answer the question: *why bother?* It is not a reassuring US commitment to keeping the South China Sea free of one-country control. It is a policy without a stated purpose. FSOP needs to be linked to a strategic objective that will bring it down to earth – or, in this case, down to the water, the land features thereon, and the resources therein and thereunder, peacefully and sustainably open to commerce and cooperation.

Historically informed Southeast Asians are all too aware of the diluting effect of distance on resolve. Why should Southeast Asians be reassured by an American promise to f/s/o worldwide? That promise offers no clear purpose beyond itself; omits any reference to the South China Sea or any other location; and mentions international law without advocating its observance by others.

In Hanoi in mid-November, as he stood next to Vietnam's President Trần Đại Quang, President Trump could have endorsed the 2016 arbitration that ruled China's covetous "nine-dash line" illegal under the UN Convention on the Law of the Sea. He did not. Trump could have reiterated FSOP *and* linked it to an anti-exclusionary strategy for the South China Sea. He did not. Trump could have displayed a map showing his administration's understanding of what claims and behaviors UNCLOS does and does not allow in that body of water. He did not. (Such a map could have embodied the arbitral court's award by pointedly omitting the "nine-dash line" and avoiding baselines around the Paracels while enlarging the "high seas" in and around the Spratlys.)

Instead, Trump volunteered himself to "mediate or arbitrate" Vietnam's dispute with China over the South China Sea. He complimented himself on his own "very good" skills in that regard. But, he might as well have been mimicking Narcissus – a man fallen in love with his own reflection in the water. President Quang politely rebuffed the offer.

FSOP and FONOPs notwithstanding, and whatever one thinks of committing to no sole control, a US strategy for the South China Sea is overdue.

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