



REPORT

Shifting waters: China's new passive assertiveness in Asian maritime security

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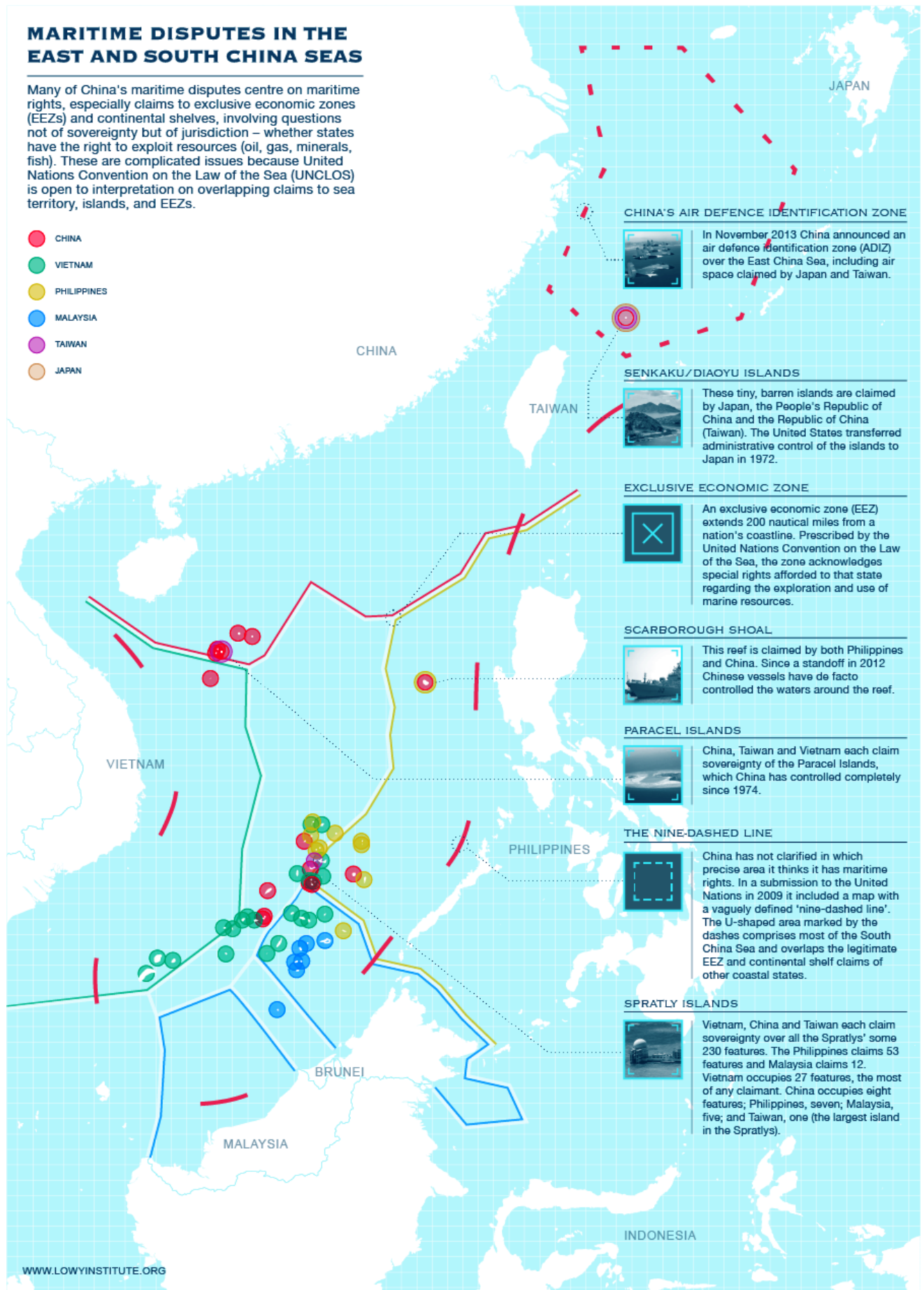
EXECUTIVE SUMMARY

International concern over China's assertive island-building campaign in the South China Sea overlooks a broader shift in its maritime security conduct. Chinese naval and coastguard forces are taking fewer tactical risks than a few years ago. Beijing now advocates confidence-building measures that until recently it had refused to consider. These developments are helping to lower the risks of maritime incidents, miscalculations, and accidental conflict. However, they are also facilitating China's increasingly 'passive assertive' challenges to Asia's maritime status quo — notably, its creation and militarisation of disputed islands, its establishment of new zones of military authority, and its conduct of expansive patrols in the East and South China Seas. While these actions are not tactically dangerous, they represent a long-term strategic challenge to the regional order. Other countries must assume a degree of cost and risk to push back against China's passive assertiveness. Yet, a prudent balance must be struck between signalling tactical resolve and pursuing indirect strategies to shape Chinese behaviour in ways that minimise the risks of escalation. This requires a multidimensional, coordinated, and international effort to impose costs on Beijing, and offer incentives, linked to its reputational, strategic, and economic interests.

MARITIME DISPUTES IN THE EAST AND SOUTH CHINA SEAS

Many of China's maritime disputes centre on maritime rights, especially claims to exclusive economic zones (EEZs) and continental shelves, involving questions not of sovereignty but of jurisdiction – whether states have the right to exploit resources (oil, gas, minerals, fish). These are complicated issues because United Nations Convention on the Law of the Sea (UNCLOS) is open to interpretation on overlapping claims to sea territory, islands, and EEZs.

- CHINA
- VIETNAM
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Beijing is...recalibrating its strategic challenge to Asia's maritime order to make it less risky and more sustainable.

China's maritime security conduct is undergoing a major shift, with paradoxical implications for regional security. Whereas its 'growing assertiveness' from 2009 to 2014 was marked by dangerous and aggressive acts of intimidation, Beijing is now recalibrating its strategic challenge to Asia's maritime order to make it less risky and more sustainable.¹ Today, China's maritime behaviour displays three interrelated characteristics: Chinese ships and aircraft are behaving more professionally during tactical encounters with foreign vessels; China is embracing maritime confidence-building measures (CBMs) to lower the risks of miscalculation and accidental conflict; and Beijing is turning to what might be termed 'passive assertive' forms of intimidation aimed at expanding its strategic maritime influence. These developments are consolidating a new, albeit less volatile, regional status quo that advantages China, particularly in the East and South China Seas.

For countries that do not accept Beijing's expansive claims or strategic encroachment, the policy problem is complex. No longer is it possible to simply criticise China for risky and destabilising maritime behaviour. That mantra was true a few years ago, but repeating it now is neither accurate nor useful. On the contrary, China is exercising greater tactical restraint in Asian waters, as its navy's measured reaction to recent US freedom of navigation operations (FONOPS) attests.

Beijing's newly acquired taste for maritime 'rules of the road' is lowering the risk of accidental conflict. Yet it masks a new and more troubling strategic challenge. By better managing incidents at sea, Beijing is able to push ahead with island building, establish new zones of military authority and area denial, and expand the scope of military and coastguard patrols. As these actions fall under the threshold of military risk-taking, they make it difficult for others to push back directly without accepting the burden and risks of escalation.

Responding to China's new passive assertiveness requires a diverse toolkit of policy options. Given the inherent risks of an overly confrontational approach, the United States and its Asian allies and partners must balance prudent resolve at a tactical level with creative ways of imposing indirect costs, and offering incentives, linked to China's reputational, strategic, and economic interests. Deterring further militarisation in the South China Sea should be a major priority. A multidimensional, coordinated, and international effort is the most effective way to meet this challenge.

This Report concludes a series published by the Lowy Institute for International Policy under a project supported by the MacArthur Foundation on maritime security in Indo-Pacific Asia. It draws on over 50 interviews with officials and analysts conducted between February

2015 and March 2016 in China, Japan, Vietnam, Singapore, the United States, and Australia. Interviews were off the record to enable candid discussions on what is a sensitive topic. The Report proceeds in five parts. Parts one to three identify the three key developments in China's maritime security conduct. Part four presents the implications of these trends for regional security. Part five offers recommendations for policymakers.

CHINA'S MODERATING MARITIME CONDUCT

On 5 December 2013, a US guided-missile cruiser, the USS *Cowpens*, was forced to take evasive action when a People's Liberation Army Navy (PLAN) warship cut in front of its bow, narrowly avoiding a collision in the South China Sea.² Three months later, two China Coast Guard (CCG) vessels in the Spratly Islands used aggressive manoeuvres to block a Filipino government ship from reaching Manila's shipwreck-turned-outpost on the Second Thomas Shoal.³ In May 2014, China's mobile oil rig, HS-981, began drilling in contested waters around the Paracel Islands while an escort armada of 80 Chinese military, law enforcement, and fishing vessels rammed and fired water cannon at the Vietnamese coastguard.⁴ Meanwhile, as Japan and China stepped up aerial patrols above the East China Sea, three intercepts were reported in mid-2014 during which PLA Air Force (PLAAF) J-11 fighters flew perilously close to Japanese surveillance aircraft, risking mid-air disaster.⁵ In August 2014, a Chinese fighter jet on patrol near Hainan Island came within 9 metres of a US P-8 Poseidon, deliberately flashing its weapons payload before aggressively barrel-rolling over the spy plane.⁶

Over the last 18 months, however, the pattern of Chinese behaviour has changed. Despite ongoing concern over China's 'maritime assertiveness', Beijing has dialled back its more aggressive air and sea operations, eschewing risk-taking in favour of more calculated challenges to Asia's maritime order.⁷ According to Chinese analysts, the main reason for China's new restraint is that the spate of high-risk incidents in 2013 and 2014 genuinely alarmed the leadership in Beijing about the potential for accidental conflict. These close encounters — particularly those involving the United States and Japan — reportedly led President Xi Jinping to make a "political decision ... to prevent escalation" by instructing PLA and CCG forces to moderate their behaviour.⁸ Some Chinese analysts also point out that Beijing felt compelled to rein in its aggressive tactical actions due to a realisation that China's conduct was badly damaging its reputation, destabilising its periphery, and driving its neighbours to deepen security ties with the United States and one another.⁹ Although many foreign analysts view the reduction in China's aggressive actions as little more than a temporary shift to calm regional tensions while it constructs artificial outposts in the South China Sea, China's safer and more professional

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tactical conduct has been welcomed by senior US officials and is, for now, lowering the risk of accidental conflict.¹⁰

THE EAST CHINA SEA

This moderate turn in China's maritime conduct was first apparent in the East China Sea where signs emerged in late 2013 of more routine and less dangerous behaviour by its law enforcement vessels, warships, and military aircraft. Following Tokyo's 'nationalisation' of the disputed Senkaku/Diaoyu Islands on 11 September 2012, China–Japan relations sharply deteriorated, leading to a freeze in political ties and volatile maritime encounters.¹¹ For the first time, Beijing deployed large numbers of law enforcement ships inside the Senkaku/Diaoyu Islands' 12 nautical mile (19 km) territorial sea — which Tokyo claims as sovereign waters — and in the adjacent 12 nautical mile 'contiguous zone' within international waters. While the Japan Coast Guard (JCG) was highly restrained, CCG vessels engaged in dangerous manoeuvres: chasing and cutting off Japanese fishing boats, and refusing to heed Japanese radio requests to coordinate the passage of opposing ships safely.¹² In January 2013, two Chinese warships operating near, but outside, the disputed territorial waters of the Senkaku/Diaoyu Islands locked fire-control radars on Japan Maritime Self-Defence Force (JMSDF) vessels, heightening the risk of escalation to conflict.¹³

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Today the situation is calmer. Since late 2013, Chinese law enforcement vessels have gradually abandoned the sort of provocative actions that characterised their conduct at the beginning of the crisis; and there have been no further reports of overtly aggressive or reckless PLAN activities.¹⁴ On the contrary, over the past 18 months Chinese law enforcement officers have begun to take part in basic bridge-to-bridge communication with their Japanese counterparts. While much of this involves officers presenting their nation's sovereignty claims and demanding the other side departs 'their' waters, Chinese and Japanese sailors are also signalling their navigational intentions and adhering to standards for safe interaction at sea.¹⁵ In fact, officials and analysts on both sides concur that there now exists an "informal understanding" between the two coastguards "to keep a safe distance of approximately 10 nautical miles (16 km), to avoid provocative behaviour, and to radio sovereignty claims before leaving the area."¹⁶ This tacit code of conduct is based on both countries' domestic laws and has arisen without formal consultation between coastguards. It has nevertheless been shaped by changed perceptions in Beijing about the need to avoid unintended conflict.

According to Chinese maritime experts, China's more restrained behaviour around the Senkaku/Diaoyu Islands can be traced to internal risk reduction guidelines that were issued by the Xi Jinping administration to CCG and PLAN officials. The guidelines reportedly include prohibitions such as: "no military ships or aircraft within

12 nautical miles of the islands”; “no [personnel] landings on the islands”; “no provocative actions”; “no use of force”; and “no steps that risk escalation with Japan.”¹⁷ China’s leaders were also heavily influenced by President Barack Obama’s declaration in April 2014 that the Senkaku/Diaoyu Islands fall under Article 5 of the Treaty of Mutual Cooperation and Security between the United States and Japan.¹⁸ Whether motivated by caution or deterred by US resolve, or both, China’s more prudent actions around the Senkaku/Diaoyu Islands have contributed to greater stability on the water despite ongoing tensions.

The frequency of Chinese patrols has also decreased. As far back as late 2013, Beijing began to reduce maritime law enforcement patrols to signal its willingness to de-escalate tensions with Tokyo.¹⁹ According to figures released by the JCG, the average number of Chinese ships entering Japan’s territorial sea around the Senkaku/Diaoyu Islands each month fell from 17 in 2012, to 13.8 in 2013, 7.3 in 2014, and 7.9 in 2015; with total ship numbers declining from 180 in 2013, to 88 in 2014, and up slightly to 96 in 2015. While more ships operate in the less sensitive contiguous zone, it experienced a similar, albeit slower, downward trend, with monthly averages falling from 101 in 2012, to 68 in 2013, 60 in 2014, and 59 in 2015; and totals declining from 818 in 2013, to 717 in 2014, and 709 in 2015.²⁰ These figures suggest a top-down attempt by China to stabilise maritime relations with Japan.²¹ Beijing’s tactical restraint has not, however, stopped it from deploying more capable coastguard vessels. Since December 2015, China has sent former naval warships as armed CCG vessels to patrol within 12 nautical miles of the Senkaku/Diaoyu Islands, underlining that not all trends are in a positive direction.²²

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While air encounters over the East China Sea still occur at a concerning rate, these too are being conducted responsibly. In response to growing Chinese activity near Japanese airspace, the Japan Air Self-Defense Force (JASDF) scrambled its jets a record 464 times against Chinese aircraft between 1 April 2014 and 31 March 2015 — a more than 10 per cent increase on the previous year and an almost 300 per cent increase since 2011.²³ These numbers remain high with 373 scrambles in the last three quarters of 2015.²⁴ Japanese intercepts typically involve missions to warn off Chinese aircraft that are approaching Japan’s territorial airspace or operating in the international skies above both countries’ overlapping Air Defence Identification Zones (ADIZs).²⁵ However, while Beijing’s controversial ADIZ extends over the Senkaku/Diaoyu Islands, China has not made any publicly reported incursions into Japanese airspace since an isolated incident in 2012.²⁶ In fact, one of the risk reduction guidelines laid out by Beijing is said to explicitly state “no ADIZ enforcement in the Senkaku/Diaoyu Islands area.”²⁷ Although the PLAFAF has slowly stepped up its own intercept missions in other parts of its ADIZ, these have been few and generally professional since three dangerous fly-bys by Chinese J-11 fighters in mid-2014.²⁸ The Chinese are still operating their aircraft in close proximity to Japanese aircraft

which remains a serious concern in the absence of a bilateral code of conduct for aerial encounters. Yet, as the former US Pacific Air Forces Commander, General Herbert Carlisle, noted in late 2014, China and Japan “have been very good about staying separate and not ... risk[ing] miscalculation.”²⁹

THE SOUTH CHINA SEA

In the South China Sea, Beijing has similarly toned down its more aggressive tactical conduct over the past 18 months, though not as comprehensively as in the East China Sea. The clearest indication of this shift is the use of less confrontational tactics by China's military and maritime law enforcement agencies.³⁰ From mid-2015, PLA units around China's artificial islands have used radio transmissions to assert sovereignty claims and warn foreign ships and aircraft away from so-called “military alert zones.”³¹ On 20 May 2015, a US P-8 Poseidon near the Spratly Islands received eight such radio messages from the Chinese navy, instructing the aircraft to “please go away quickly ... to avoid misunderstanding.”³² Likewise, since April 2015 Filipino government planes near Subi Reef in the Spratly Islands have regularly picked up radio orders to depart China's “military area” to avoid “possible ‘misjudgement’.”³³ All are accused of “threatening the security of [China's] station[s].”³⁴ Similar warnings are now routinely issued to Royal Australian Air Force (RAAF) patrols over the South China Sea, while Vietnamese officials report the same interactions involving their aircraft and patrol boats.³⁵ US warships operating in the area are frequently contacted by the PLAN and CCG which alert them to so-called “Chinese waters” and inquire about their intentions.³⁶ While such warnings are an illegitimate attempt to deter freedom of navigation and overflight in international waters, they enable China to assert expansive maritime claims without relying on aggressive interdiction.

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China has also generally avoided large-scale confrontations in the South China Sea over the past two years. Following the China and Vietnam stand-off over Beijing's coercive deployment of a mobile oil rig inside Vietnam's exclusive economic zone (EEZ) in May 2014, there have been no reported incidents involving multiple or coordinated Chinese government vessels in acts of aggression against their Southeast Asian neighbours.³⁷ In fact, according to Chinese academics, Beijing has been “very cautious to not deploy the rig again in contentious waters,” or in conjunction with constabulary forces.³⁸ When China announced the HS-981 rig was restarting operations in June 2015, it identified a drilling area significantly closer to Chinese territory.³⁹ While the rig was deployed in waters that have not been demarcated with Vietnam, its precise location — 75 miles south of Hainan Island and 104 miles east of Vietnam's coast — put it in an area likely to eventually be considered part of China's EEZ.⁴⁰ Similarly, the rig's deployment in January 2016 put it just 21.4 miles within the Chinese side of an “assumed median line.”⁴¹

Such a carefully calibrated shift in behaviour suggests Beijing is cautious about triggering another maritime incident over the rig.

Beijing has not entirely abandoned the use of coercive maritime actions in the South China Sea. Chinese vessels continue to surround the Scarborough Shoal — which Beijing wrested from Manila in 2012 — and to blockade Filipino patrol boats around the Second Thomas Shoal.⁴² There have also been at least ten, and perhaps more than 20, cases in the past 18 months of Chinese coastguard and naval ships ramming or firing water cannon at fishing boats from the Philippines, Vietnam, and most recently Indonesia; and one allegation of a PLAN vessel blinding a Filipino patrol plane with its searchlight.⁴³ However, the low-level nature of these maritime incidents, and the fact that most represent China's use of law enforcement ships to intimidate private — rather than government — vessels, distinguish such incidents from earlier, less restrained forms of aggression.

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US–CHINA MARITIME ENCOUNTERS

China's military interactions with US forces over the past 18 months have also become safer and more professional. On at least six occasions between 2001 and 2014, US warships were harassed by Chinese vessels during surveillance operations in international waters within China's EEZs.⁴⁴ These incidents involved dangerous shadowing, risky manoeuvres, and efforts to cut in front of US warships by Chinese military, coastguard, and fishing vessels. At least five times in 2014, PLAAF fighters performed high-risk intercepts of US surveillance aircraft around Hainan Island, aiming to intimidate US pilots from collecting intelligence on one of China's most sensitive naval facilities.⁴⁵ These dangerous encounters occurred against the backdrop of ongoing disagreements between Beijing and Washington on the right to conduct military activities inside EEZs — which the United States and a majority of other countries argue is permitted by the United Nations Convention on the Law of the Sea (UNCLOS).

Most US–China military encounters are now being safely conducted. As the former Commander of US Pacific Command, Admiral Samuel Locklear, noted in late 2014, dangerous encounters between both countries' aircraft and ships are “outliers” and mostly stopped following bilateral military talks in August 2014.⁴⁶ In fact, there was only one official report of an unprofessional encounter involving the United States and China in 2015, in which a Chinese JH-7 fighter allegedly engaged in unsafe manoeuvres while intercepting a US RC-135 reconnaissance aircraft in the Yellow Sea.⁴⁷ The Pentagon, however, subsequently stated there was “no indication ... [of] a ‘near collision’,” while reports suggest the PLAAF fighter approached no closer than the internationally accepted separation of 500 feet.⁴⁸ Acknowledging the moderation in China's tactical conduct, Commander of Pacific Command, Admiral Harry Harris, recently testified: “We've seen very few dangerous

activities by the Chinese following [the] August 2014 [barrel-rolling] incident.”⁴⁹ While both powers regard each other with growing strategic mistrust and hold incompatible positions on EEZ rights, at a tactical level their maritime encounters are stabilising.

A key indication of China's new aversion to stoking maritime incidents has been its measured reaction to US FONOPs in the South China Sea. On 27 October 2015, the USS *Lassen* sailed within 12 nautical miles of China's artificial island at Subi Reef; and on 30 January 2016, the USS *Curtis Wilbur* came within 12 nautical miles of Triton Island, a Chinese-claimed feature in the Paracel Islands.⁵⁰ While Beijing attempted to deter the FONOPs — warning it would “firmly oppose infringement of [its] sovereignty” — it did not live up to its threats.⁵¹ Rather, China's tactical response was professionally conducted. As the *Lassen* approached Subi Reef, it was monitored and shadowed at a safe distance by two Chinese warships, and received radio warnings to depart the area.⁵² The *Curtis Wilbur* was also challenged with verbal warnings, though US officials claim no PLAN warships tailed the US destroyer — suggesting a less assertive or less vigilant Chinese reaction.⁵³ Crucially, at no point during either FONOP did Beijing seize upon Washington's so-called ‘provocation’ in order to aggressively deploy forces or risk triggering a crisis.

CHINA IS EMBRACING CONFIDENCE-BUILDING MEASURES

China's attitude towards maritime CBMs has evolved considerably in just a few years. As tools to reduce accidental conflict and military miscalculation, CBMs seek to establish transparency, communication, predictability, and reassurance between potentially opposing forces. These can include direct measures, such as crisis hotlines and agreed upon rules of the road, or indirect measures, such as dialogues, port calls, and joint exercises.⁵⁴ Given the acute security tensions between China and Asia's other maritime players, CBMs in the Indo-Pacific are more about managing tensions than building genuine trust. Until recently, however, Chinese officials and analysts typically argued that CBMs could not be built until a modicum of “strategic trust” was established.⁵⁵ This view contrasted sharply with the Western understanding of CBMs, which sees them as necessary to reduce the risk of conflict precisely when trust is lacking.

For Washington and its Asian allies and partners, Beijing's insistence on ‘trust before CBMs’ was an impassable barrier to the establishment of maritime rules of the road. When strategic relations deteriorated around 2009–2010 due to China's assertive maritime conduct, Beijing showed little interest in using CBMs to manage rising tensions. Initiatives such as a Japan–China maritime dialogue and a US–China code of conduct linked to the Military Maritime Consultative Agreement (MMCA) languished in the absence of Chinese agreement to pursue them.⁵⁶

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While Beijing's opposition to CBMs may have reflected genuine strategic misgivings, to outsiders it looked like a calculated move to enable China's maritime security forces to use risky behaviour for strategic advantage.⁵⁷

Today, by contrast, Chinese officials and analysts openly support CBMs. The first glimpse of Beijing's new position came at the US–China Sunnylands Summit in June 2013 when President Xi proposed that both countries restart negotiations on two MMCA initiatives designed to reduce military miscalculation and accidental maritime clashes.⁵⁸ Since then, Chinese officials have endorsed the concept of CBMs and crisis management at high-profile international gatherings, such as the Xiangshan Forum and Shangri-La Dialogue, as well as in private.⁵⁹ China's 2015 Defence White Paper specifically notes that the PLA will “strengthen dialogues, exchanges and cooperation” and “improve CBM mechanisms” with US forces “to strengthen mutual trust, prevent risks and manage crises.”⁶⁰ In the words of a former Chinese diplomat, while Chinese leaders realise “strategic distrust will remain in US–China and China–Japan relations,” they now believe that “governments can work together towards CBMs ... to manage their differences.”⁶¹

The pursuit of CBMs has thus become a priority for the Xi Jinping administration. This is especially true in relation to major powers, albeit less so with China's weaker Southeast Asian neighbours which China feels more capable of intimidating with lower levels of risk.⁶² According to Chinese analysts and retired military officials, after Xi made the “political decision ... [to] pave the way for CBMs” in mid-2013, he issued a “top-down decree” within the PLA urging its leaders to pursue CBM talks with regional militaries.⁶³ As a result, a number of maritime CBMs have been established or are under negotiation (see Appendix for further details).

Signed in 2014, the Code for Unplanned Encounters at Sea (CUES) is the most inclusive rules-based CBM operating to stabilise Asian maritime relations.⁶⁴ It brings together 21 Indo-Pacific navies — including the United States, China, Japan, ASEAN littoral states, India, and Australia — around a set of basic communication, manoeuvring, and safety protocols to prevent accidents and misunderstandings in international waters.⁶⁵ While CUES is non-binding, Chinese warships are actively adhering to its regulations during interactions with other vessels.⁶⁶ The PLAN has also practised the code with ships from the United States, Brunei, Indonesia, Singapore, and Australia.⁶⁷ According to US officials, China's implementation of CUES has contributed to greater operational “professionalism” by PLAN warships across maritime Asia.⁶⁸

Beijing and Washington have also made progress on bilateral CBMs over the past 18 months. A landmark Memorandum of Understanding (MoU) Regarding the Rules of Behavior for the Safety of Air and

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Maritime Encounters was signed in 2014, and expanded in September 2015 with an annex on air-to-air encounters.⁶⁹ The accord builds on CUES and other risk reduction conventions to set out non-binding guidelines for managing US–China military interactions, including manoeuvring, communication, and deconfliction measures. Despite weaknesses in the applicability and enforceability of its rules, they provide a useful framework for both sides to adopt reciprocal actions to bolster transparency and avoid unintended clashes. The recent absence of dangerous air and sea incidents suggests Chinese and US forces are abiding by this agreement.⁷⁰

In late 2014, Beijing and Tokyo recommenced the long-stalled process of negotiating bilateral maritime CBMs. A high-level consultation on maritime affairs is now taking place.⁷¹ More significantly, both countries have also reinvigorated efforts to set up the Japan–China Maritime and Aerial Communication Mechanism (JCMACM), originally proposed in 2008. Its three components have already been determined: a bilateral hotline for crisis communication; annual working-level meetings; and a decision to adopt CUES-style protocols to regulate air and sea encounters.⁷² While sticking points remain over certain issues — such as whether coastguards should be covered by the JCMACM, or whether its rules should apply in territorial waters around the Senkaku/Diaoyu Islands — talks have reportedly been constructive, and officials expect the mechanism will soon be concluded.⁷³

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Unlike negotiations with the United States and Japan, China has moved very slowly on building CBMs with its Southeast Asian neighbours. The unfinished China–ASEAN code of conduct in the South China Sea has limped along in recent years. Although both sides agreed to enter “a new period of negotiating ‘important and complex issues’” in July 2015, concrete progress has not been forthcoming.⁷⁴ This has exacerbated Southeast Asian concerns that Beijing is stalling on the code while it expands its influence in the South China Sea.⁷⁵ Nevertheless, China has been willing to pursue less comprehensive CBMs with ASEAN nations. Last October, Beijing announced it would practise CUES protocols with ASEAN in 2016;⁷⁶ and that these exercises would occur in the South China Sea.⁷⁷ It has also committed to establish maritime hotlines with all ASEAN countries, including between foreign ministries for managing naval emergencies.⁷⁸ Despite real reservations about both CBMs, they are welcome developments that have the potential to improve maritime interactions and communication in tense regional waters.

PASSIVE ASSERTIVENESS

While reining in its tactical assertiveness and pursuing CBMs to stabilise its maritime relations, Beijing is continuing to advance its expansive strategic interests in more passive assertive ways. This has involved island building and the militarisation of those islands, the creation of new spheres of military authority, the establishment of an air defence

identification zone, and the expansion of 'grey-zone' military and coastguard activities. Over the past two years, these tactically non-confrontational but strategically assertive measures have assumed a central role in Beijing's efforts to reshape Asia's maritime order. China's passive assertive conduct — a variation on its ongoing 'salami-slicing' strategy — is calculated to strengthen its geostrategic position without provoking clashes that could escalate to conflict.⁷⁹

It appears Beijing's overall aim is to create a 'new status quo' in the East and South China Seas built from the past few years of overtly assertive behaviour. Many Chinese experts privately share this assessment.⁸⁰ From 2009 until 2014, assertive behaviour enabled Beijing to challenge the prevailing regional order: seizing territory at Scarborough Shoal, establishing new geographic parameters for military and coastguard patrols, and signalling its willingness to react with force when challenged by its neighbours. Although Beijing wants to minimise the risks that come with prolonged assertiveness, it does not intend to cede the gains it has achieved through previous risk-taking.⁸¹ Accordingly, China has shifted to a more passive assertive approach to consolidate its strategic gains in ways that reduce military risk.

This represents a change in tactics rather than strategy. In the words of a senior Chinese academic, "there has been no change in Beijing's underlying strategy ... to expand its regional maritime influence ... and deter others from building or encroaching on its territories." Rather, Beijing has embarked on a "tactical shift" to pursue maritime assertiveness in a more calculated way.⁸² Many Chinese analysts share this assessment, describing Beijing's maritime conduct over the past five years as a progression from "restraint" to "assertiveness" to "restrained assertiveness."⁸³ Although one could question how "restrained" China's current assertiveness really is — especially in light of the pace and scale of its island-building campaign — it differs from Beijing's previously aggressive conduct in that it is less likely to provoke a crisis.

This evolution has played out against the background of internal debates on how best to advance China's maritime interests. Until 2010, President Hu Jintao advocated a cautious maritime security policy that placed a premium on "preserving stability" rather than "safeguarding rights."⁸⁴ When Xi Jinping took power in late 2012, he initially placed greater emphasis on "rights" and assumed an aggressive stance towards maritime disputes — in part as a response to domestic nationalism and the demands of his PLA powerbase.⁸⁵ Yet, while Xi remains committed to maritime assertiveness, he has gradually come to emphasise a more prudent balance between "rights" and "stability."⁸⁶

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ISLAND BUILDING AND MILITARISATION IN THE SOUTH CHINA SEA

The centrepiece of Beijing's current approach is its construction of artificial islands and militarised outposts on disputed reefs, rocks, and shoals across the South China Sea. Since late 2013, China has reclaimed new 'territory' at seven of the eight features it occupies in the Spratly Islands, over which Vietnam, the Philippines, and Taiwan all stake claims.⁸⁷ China accelerated dredging and building throughout 2015, and has undertaken similar activities in the Paracel Islands on at least two features contested by Vietnam.⁸⁸ According to a Pentagon report released in August 2015, Beijing has constructed more than 2900 acres (1173 hectares) in the Spratly Islands alone, meaning "China has now reclaimed 17 times more land in 20 months than the other claimants combined over the past 40 years."⁸⁹ Having expanded Subi and Mischief Reefs, dredging appears to have stopped in the Spratly Islands. But land is still being reclaimed in the Paracel Islands and US naval officers believe that dredging may soon begin at Scarborough Shoal.⁹⁰ Construction on top of China's artificial 'islands' is also rapidly continuing.⁹¹

Building a network of outposts in the South China Sea is a strategically assertive way to tilt the regional military balance in China's favour.

Building a network of outposts in the South China Sea is a strategically assertive way to tilt the regional military balance in China's favour. Beijing has outfitted several of its outposts in the Spratly Islands with deep-water ports, gun emplacements, military garrisons, helipads, and communication and surveillance facilities.⁹² It is building three military-grade airstrips on the Spratly Islands — one that is now operational on Fiery Cross, and two near completion on Subi and Mischief Reefs — and is renovating its existing Woody Island airstrip on the Paracel Islands.⁹³ China's militarisation of Woody Island exacerbated regional concerns in February 2016 when surface-to-air missiles and J-11 fighter jets were simultaneously deployed, representing what many regard as a worrying blueprint for how China will proceed with its Spratly Island facilities.⁹⁴

These strategic outposts will permit Beijing to enhance its power projection capabilities and establish anti-access zones right across the South China Sea.⁹⁵ China will be able to extend the range and endurance of military and coastguard patrols; forward deploy air force, navy, and coastguard assets; and conduct aerial patrols over disputed waters, possibly in support of a future ADIZ.⁹⁶ A combination of ground-based radars, air defences, anti-ship missiles, and forward-based fighters would facilitate the development of 'mini denial zones' extending southwards from Hainan Island.⁹⁷ Furthermore, there is speculation these outposts could assist China to lay a network of hydrophone arrays to detect US and other submarines, helping Beijing to establish a sanctuary for its nuclear-armed submarines.⁹⁸ Of course, these isolated outposts would be highly vulnerable in the event of a major war, making them ill-suited for high intensity combat operations. Short of this unlikely

scenario, however, China's artificial islands will enable Beijing to exert coercive power far from the mainland. As the US Director of National Intelligence, James Clapper, concluded in February 2016, once these outposts are completed "China will have significant capacity to quickly project substantial offensive military power to the region."⁹⁹

While China's moves are strategically destabilising and challenge Asia's rules-based order and the rights of smaller countries, they avoid the risks of dangerous incidents at sea. In this regard, island building epitomises Beijing's new passive assertive conduct.¹⁰⁰ Provided that other maritime players stay away from China's self-declared 'military alert zones', the actual process of island building will not spark clashes involving military or coastguard forces. Indeed, the existence of militarised 'islands' themselves is only likely to lead to confrontation if others directly challenge China's outposts or if Beijing uses them as staging posts to conduct aggressive operations.

For now, however, Beijing seems content to use its facilities to intimidate others into accepting new and illegitimate maritime boundaries without using force.¹⁰¹ Chinese forces persistently warn of 'possible misjudgement' with implied, but unstated, grave consequences for non-compliance. They track and monitor foreign ships and aircraft as if they were approaching Chinese territorial waters. In this way, Beijing's new outposts "contribute to a strategy of creeping expansionism, whereby China gradually extends its influence while avoiding major provocations that make retaliation more likely."¹⁰²

Chinese forces persistently warn of 'possible misjudgement' with implied, but unstated, grave consequences for non-compliance.

EAST CHINA SEA AIR DEFENCE IDENTIFICATION ZONE

China's ADIZ in the East China Sea is another example of its strategically assertive but tactically measured behaviour. Since its establishment in November 2013, the ADIZ has challenged the regional status quo by projecting Chinese domestic laws into international airspace. While there is nothing illegitimate about an ADIZ per se — Japan, South Korea, and Taiwan also have them in the area — China appears to have designed this zone to exert unlawful administrative control over parts of the East China Sea. According to China's Ministry of National Defense, all foreign military and civilian aircraft, regardless of flight paths, must report flight plans to Chinese authorities or face "defensive emergency measures" by the armed forces.¹⁰³ Such rules are not only at odds with other ADIZs, which only require identification from aircraft approaching the host country's airspace,¹⁰⁴ but they also contravene the principle of freedom of overflight which grants military aircraft the right to operate anywhere outside a state's 12 nautical mile territorial sea.¹⁰⁵ In this respect, the ADIZ plays an important role in Beijing's ongoing efforts to reinterpret international laws in order to enhance its control over China's 'near seas' and prevent foreign intelligence gathering within its EEZs. As the ADIZ covers the Senkaku/Diaoyu Islands and parts of Japan's ADIZ, it has also been

Although the ADIZ is strategically provocative, it does not require aggressive tactical conduct by Chinese pilots.

viewed as a calculated move to erode the administrative status quo of Japanese rule on the islands. Analysts and officials across the Asia-Pacific, including in China, characterise the ADIZ as a bid to build “strategic depth” and establish a Chinese “sphere of influence.”¹⁰⁶

Although the ADIZ is strategically provocative, it does not require aggressive tactical conduct by Chinese pilots. Rather, Beijing is seeking to incrementally reshape the regional status quo by using its ADIZ as a ‘legal’ rationale for stepping up military patrols in the East China Sea — despite the fact ADIZs have no basis in international law. This provides China with a framework to justify its increasing military activity around Japanese territory and the “first island chain,” as well as its opposition to US and Japanese intelligence gathering.¹⁰⁷

The ADIZ has, for example, enabled Beijing to respond to public Japanese claims of Chinese incursions into Japan’s ADIZ with a counterclaim of its own.¹⁰⁸ Beijing has justified the expanding scope of PLAAF patrols on the grounds that they are needed to “monitor, identify, track, and warn” foreign military aircraft in China’s ADIZ.¹⁰⁹ It has also rebutted Tokyo’s public claims of air force scrambles against the PLAAF by criticising Japan’s “long-term tracking, surveillance, and disturbance of China’s ships and aircraft” in the East China Sea.¹¹⁰ Such actions normalise China’s military presence in ways that attempt to consolidate Beijing’s imposition of unlawful regulations. Currently, US, Japanese, and other Asian air forces are not adhering to China’s ADIZ rules; nor does the PLAAF appear able, or willing, to fully enforce the zone at this stage. But Beijing probably hopes that sustained and strengthened ADIZ patrols will eventually pressure others into acceding to its new status quo.¹¹¹

GREY-ZONE MILITARY AND COASTGUARD ACTIVITIES

China is also consolidating its strategic presence in the East and South China Seas by expanding so-called ‘grey-zone’ coastguard and military activities: the use of low-level coercion that falls short of overt aggression.¹¹² Over the past ten years, Chinese law enforcement vessels have steadily increased “regular rights defence patrols” to incrementally alter the status quo in both seas by strengthening China’s presence and perceived jurisdictional control.¹¹³ Importantly, Beijing’s rationale for deploying white-hulled coastguard ships is that civilian — as opposed to naval — vessels cannot easily be accused of military intimidation.¹¹⁴ China has thus expanded maritime patrols while minimising the risk of armed clashes and the likelihood that its neighbours will deploy naval assets in response. It has maintained a permanent fleet of ‘rights defence’ ships in the East China Sea since 2006; and has called upon other regional fleets, since 2012, to surge its law enforcement presence around the Senkaku/Diaoyu Islands. Although patrols in the South China Sea started in 2007, China has only recently expanded these to cover the full extent of its ‘nine-dash line’

claim, with patrols over the past three years extending as far south as the disputed James Shoal approximately 50 miles from Malaysia.¹¹⁵ In both seas, China's massive fishing fleets and its so-called 'maritime militias' have been effective force multipliers for exercising a quasi-official presence in disputed waters, or swarming in support of coastguard and naval operations.¹¹⁶

Importantly, the capacity of China's law enforcement fleet has grown considerably in recent years. The number of large-displacement (greater than 1000 tonnes) vessels at China's disposal has risen from 21 ships in 2004 to 95 in 2015, bringing its total ship count to 205. By contrast, Japan owns 78 ships, Vietnam has 55, and the Philippines only four.¹¹⁷ Possessing Asia's largest coastguard fleet, Beijing can sustain a superior forward presence around virtually all disputed waters.

Many of the CCG's newest vessels are very large displacement cutters (3000–5000 tonnes) capable of long-range patrols, giving China an outsized capacity to exert influence far from the mainland.¹¹⁸ These ships easily intimidate the smaller vessels used by Southeast Asian governments. Crucially, a number of the CCG's more recent acquisitions are refurbished and repainted PLAN warships — boats that were built to robust military specifications and are likely to prevail in rammings or collisions even with powerful opponents such as the JCG.¹¹⁹ One such ship, CCG 31239, sparked Japanese anxieties in December 2015 when it became the first-ever retrofitted Chinese warship to enter the territorial sea around the Senkaku/Diaoyu Islands.¹²⁰ While most of China's law enforcement vessels are only armed with water cannon, sirens, or light deck weapons, some, such as CCG 31329 and the massive 10 000 tonne CCG 901 series, boast 76 mm rapid-fire guns and other military-grade weapons.¹²¹ So far there have been no reports of CCG ships using lethal force, and there are few reported instances of direct threats being made.¹²² While Chinese law enforcement vessels have previously clashed with government ships from Japan, the Philippines, and Vietnam, China has largely avoided such incidents since mid-2014. Still, the presence of this growing and powerful white-hulled fleet boosts China's ability to consolidate a new status quo in disputed waters.

Naval forces are also playing a passive assertive role in bolstering China's strategic influence in the East and South China Seas. Since November 2014, Chinese warships have sailed progressively closer to the Senkaku/Diaoyu Islands, although they have yet to enter Japan's 12 mile territorial sea. While the PLAN previously kept its ships about 62–75 miles (100–120 km) away from the islands, Japanese officials now report that warships often come as close as 43 miles (70 km).¹²³ In November 2015, a PLAN intelligence ship passed within 27 miles (44 km) of the islands, marking the closest a Chinese warship has come to the contiguous zone, which extends 12–24 miles (19–39 km) from the islands into international waters.¹²⁴ China's naval deployments tend to coincide with CCG patrols in Japanese territorial waters, suggesting the

The number of large-displacement...vessels at China's disposal has risen from 21 ships in 2004 to 95 in 2015, bringing its total ship count to 205.

PLAN is providing over-the-horizon support for 'rights defence' missions.¹²⁵ Such moves enable Beijing to consolidate its strategic footprint around the islands without escalating tensions by putting naval forces to the front. Indeed, these activities are reminiscent of China's 'cabbage' tactics in the South China Sea, in which warships were deployed as a background deterrent to support coastguard operations during the Scarborough Shoal, Second Thomas Shoal, and HS-981 incidents.¹²⁶

Although the PLAN has not recently chaperoned Chinese coastguard ships in acts of overt aggression, it conducts exercises to refine and demonstrate China's burgeoning military power. Over the past year, the PLAN has held more than 20 naval exercises in East Asian waters — including five in the Western Pacific, and at least four each in the East and South China Seas — while the PLAAF has undertaken four high sea training missions in the Western Pacific.¹²⁷ Beijing conducted its largest-ever exercise in the South China Sea in July 2015, involving over 100 vessels, dozens of aircraft, and several battalions from the former Second Artillery, the unit responsible for China's nuclear forces.¹²⁸ In the context of rising maritime tensions, these and other assertive shows of force seek to deter the United States and other regional nations without provoking miscalculation or conflict.

Beijing conducted its largest-ever exercise in the South China Sea in July 2015, involving over 100 vessels...

IMPLICATIONS OF CHINA'S EVOLVING MARITIME SECURITY CONDUCT

The evolution of China's maritime security conduct is having profound and somewhat paradoxical implications on regional stability and security policy. On the one hand, the potential for accidental air and sea clashes is considerably lower than a few years ago. On the other hand, China's calculated and more cautious push to challenge Asia's maritime status quo is making it harder for other nations to respond. This has four main implications.

MARITIME TENSIONS ARE BEING BETTER MANAGED, BUT HAVE NOT BEEN ELIMINATED

Until recently, China's confrontational air and sea conduct and Asia's weak CBM architecture posed a serious threat to regional stability. In the absence of rules of the road for military encounters or effective channels for communication during a crisis, dangerous incidents were steadily rising and carried the potential for miscalculation, escalation, and accidental conflict.¹²⁹ Although these risks have by no means disappeared, they are now better managed by Asia's maritime powers. China's evolving behaviour has largely brought about this shift. The reduction in aggressive conduct by Chinese naval, air force, and, to a degree, coastguard assets has alleviated, for now, the primary cause of risky air and sea incidents. Beijing's adherence to rules-based CBMs —

such as CUES and the US–China MoU for safe air and sea conduct — is further contributing to the stability of maritime interactions.

Nevertheless, progress has not been made on resolving the maritime disputes that have been the source of dangerous incidents in the past. Beijing, and to a lesser degree Tokyo and Washington, have deliberately avoided CBMs that would require them to compromise on the fundamental interests underlying their maritime disagreements. As a senior Chinese scholar said, “Beijing is pursuing CBMs ... [for] crisis prevention and crisis management, but not [as a] path to dispute resolution.”¹³⁰ As such, China continues to assert expansive EEZ rights; it refuses to clarify its ‘nine-dash line’ claim; it has repeatedly stalled on maritime boundary delimitation with Japan, the Philippines, and Vietnam;¹³¹ and it has rejected the role of international arbitration in determining the legality of its ‘historical claims’ in the South China Sea.¹³² Tokyo, for its part, has refused to discuss the Senkaku/Diaoyu Islands during crisis management talks with Beijing; while Washington, rightfully, has not backed away from its position on freedom of navigation and overflight in EEZs and territorial waters. Accordingly, virtually all of the CBMs signed or under negotiation focus on technical details about regulating encounters rather than thorny issues of maritime jurisdiction, legal rights, and sovereignty claims. As these unresolved disagreements lead to opposing patrols in the East and South China Seas, regional militaries and coastguards will continue to interact with growing frequency.

“Beijing is pursuing CBMs...[for] crisis prevention and crisis management, but not [as a] path to dispute resolution.”

CHINA IS USING TACTICAL STABILITY TO STRENGTHEN ITS STRATEGIC POSITION

It is partially because the risks of military miscalculation are falling that Chinese leaders have grown more confident about taking actions such as island building, expanded military and coastguard patrols, and intercepts within China’s claimed waters and airspace. In fact, China is using CBMs and tactical restraint to ensure that its efforts to establish a new status quo do not provoke conflict.¹³³ Aside from preventing its own ships and aircraft from sparking dangerous incidents, China expects CBMs to guarantee that other countries will also adhere to safe operational practices — regardless of its strategically provocative actions. In the words of a retired senior PLA officer: “Because CBMs make it likely that all sides will control and ... prevent encounters from escalating,” officials believe that “China and Japan can continue to send ships and planes to patrol [the East China Sea]; Chinese, Filipino, and Vietnamese vessels can all be sent to disputed waters; and China can build on disputed islands and keep disrupting US military activities in its EEZs.”¹³⁴

This calculation seems to have been especially influential in shaping China’s decision to construct artificial islands in the South China Sea. Although strategically brazen, the policy is premised on the assumption

that Asia's maritime players, as proponents of CBMs, will not push back with risky military countermeasures. Beijing's assessment has so far proved accurate. Maritime nations active in the area, such as the United States, Australia, and Vietnam, have been highly professional and risk-averse. Even the US Navy's most forceful reactions — the FONOPs conducted at the Spratly and Paracel Islands — were executed in the least provocative way, with warships abiding by 'innocent passage' protocols while passing within 12 miles of China's features.¹³⁵ Worryingly, the expectation that other nations will not conduct dangerous manoeuvres against Chinese forces appears to be compelling Beijing to pursue bolder strategic aims.

THE BURDEN OF ESCALATION IS SHIFTING TO THE UNITED STATES AND ITS PARTNERS

Beijing's tactical restraint poses a serious policy dilemma for Washington and its Asian allies and partners. Whereas China's aggressive acts of tactical intimidation previously saw it assume the burden of escalation, its passive assertive conduct is unlikely to trigger dangerous incidents unless others react in overly assertive ways. The United States and its regional allies and partners are thus being forced into a difficult position in which they must balance the need to firmly respond to China's strategic expansion against the risks of destabilising the security situation. It is those nations that oppose China's maritime expansion that must decide whether or not to raise the stakes.

Washington and its regional partners cannot be certain how Beijing will respond to deliberate tests of its new spheres of influence.

This is a difficult task. Washington and its regional partners cannot be certain how Beijing will respond to deliberate tests of its new spheres of influence. Relatively modest military measures — such as the US Navy's recent FONOPs or the RAAF's surveillance patrols in the South China Sea — are likely to continue to be met with little tactical opposition.¹³⁶ But there is no certainty about how China would respond to firmer action. There is also the obvious risk that reacting too firmly could strengthen the hand of PLA hardliners who are seeking grounds to further advance militarisation in the East and South China Seas.¹³⁷ Washington and its allies and partners must now carefully weigh the risks of escalation when seeking to blunt Beijing's strategic encroachment.

A PUBLIC RELATIONS WAR IS UNFOLDING OVER MARITIME RISK-TAKING

A corollary of China's more restrained tactical conduct is that Beijing has stepped up efforts to portray other countries as maritime risk-takers. Indeed, the focus of Beijing's public relations strategy since early 2015 has been to portray Washington and its security partners as the real culprits behind "militarising" the East and South China Seas.¹³⁸ China has condemned US naval and air force patrols as highly "provocative" and "dangerous" acts;¹³⁹ it has criticised Japan's aerial intercepts and maritime surveillance for "compromis[ing] the navigational safety of

Chinese ships and aircraft”,¹⁴⁰ and it has dismissed Australia’s 30-year-old aerial surveillance program in the South China Sea as “deliberately complicating” the situation in the region.¹⁴¹ By contrast, Beijing has tried to depict itself as the more restrained party which “will never recklessly resort to the use of force,” claiming that its warships have “shown restraint” in the face of supposed US aggression.¹⁴²

Nations seeking to oppose China’s strategic encroachment will have to find ways to adjust to being labelled as risk-takers. This may be relatively easy for self-confident allies such as the United States, Japan, and Australia; but it will be more difficult for cautious Southeast Asian countries, such as Malaysia and Singapore, which are not ready to be publicly associated with a forceful pushback against China.¹⁴³ Of course, few will be swayed by Beijing’s media spin. Nevertheless, by consistently portraying the United States and its partners as destabilising forces, China’s public relations campaign could muddy the international narrative about who is actually driving Asia’s maritime tensions. Those opposing Chinese actions will have to balance the desire to resist publicly Beijing’s labels, with the need to follow through on pushing back tactically in spite of them.

POLICY RECOMMENDATIONS

For the United States and its Asian allies and partners there is no simple policy response to China’s passive assertiveness. A multidimensional, coordinated, and ongoing international effort is needed to simultaneously advance crisis management and push back against Chinese coercion. These efforts must uphold existing laws governing maritime freedoms and coastal states’ rights, and involve creative ways for imposing direct and indirect costs to deter China’s violations of these norms. Providing incentives and reciprocal compromises might also prove worthwhile. Any response will need to be prudent: signalling to Beijing a willingness to tolerate a degree of cost and risk, while minimising the proximate risks of escalation or renewed instability. The following are a number of policy elements which together could contribute to a more effective response.

For the United States and its Asian allies and partners there is no simple policy response to China’s passive assertiveness.

STRENGTHEN AND EXPAND RULES-BASED CBMS

Asia’s maritime players should finish the process of building a region-wide network of rules-based CBMs. In recent years, CBMs that stipulate rules of behaviour have proven effective at making China’s maritime encounters safer, more professional, and more predictable. While Beijing is making strategic gains from this growing tactical stability, it remains the case that all regional nations benefit from developing rules to prevent accidental conflict. Rules-based CBMs have the additional advantage of providing agreed-upon lists of behavioural expectations that can be used to ‘shame’ China or others in the event of transgressions. However, the process of establishing such CBMs remains incomplete,

with China–Japan and China–ASEAN arrangements lagging behind US–China progress.

Tokyo and Beijing should prioritise concluding the JCMACM this year. Given the growing frequency of naval and air force interactions between the two powers it is imperative this CBM is signed before politics, historical grievances, or another incident raises tensions again.¹⁴⁴ To resolve the impasse over whether to include the Senkaku/Diaoyu Islands, both sides could adapt the pragmatic language of US–China MoUs to agree that the JCMACM will be “without prejudice to either Side’s policy perspective on military activities in the [Senkaku/Diaoyu Islands’ territorial sea].”¹⁴⁵

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In Southeast Asia, Beijing should abide by its promise to hold combined training on CUES with ASEAN navies in the South China Sea this year. This should become a regular part of China’s annual naval engagement and must involve rival claimants, such as Vietnam and the Philippines. While all have previously agreed to CUES, exercises are needed to operationalise these rules at a working level between potentially opposing navies. More importantly, China should make a genuine effort to complete the code of conduct for the South China Sea in 2016. Although ‘early harvest’ measures, such as hotlines and disaster relief exercises, may have some utility, such efforts will remain hollow and unconvincing until Beijing commits to ASEAN’s demand to establish binding risk reduction rules and dispute settlement procedures. As Chinese warships and coastguard vessels increase their South China Sea presence and as ASEAN edges towards criticising China’s actions with a “single voice,” it is in Beijing’s interests to agree to a code that will add to tactical stability and improve its reputation.¹⁴⁶

Rules-based CBMs should also be broadened to include coastguards and other civilian maritime law enforcement agencies. Today, most encounters in Asian waters involve coastguard vessels, often from the CCG, meeting other countries’ naval, coastguard, and government ships, or interacting with private fishing vessels. As non-military ships are responsible for the majority of dangerous incidents currently taking place — such as harassing fishing boats or blocking government vessels — it is crucial they be brought into Asia’s CBM architecture. The aim should be to apply operating rules, such as those that exist between navies, to Asian coastguards, which are less accustomed to working outside of their domestic laws.

This policy conversation has already begun. Beijing and Washington should expedite efforts to implement last year’s proposal for a US–China code of conduct for coastguards.¹⁴⁷ While this is a top priority for the US Navy, it is in both nations’ interests. US concerns that unprofessional conduct by CCG vessels could lead to an accidental clash with a US warship are likely to be shared by Chinese leaders who benefit from ongoing tactical stability.¹⁴⁸ Regarding the South China Sea, the United

States, Malaysia, and Singapore have suggested expanding CUES to include Southeast Asian coastguards, which China has recently agreed to explore with ASEAN.¹⁴⁹ All sides should take advantage of Singapore's current role as the country coordinator of China–ASEAN relations — and as a respected non-claimant mediator — to advance this initiative in 2016. Concerning the East China Sea, Tokyo and Beijing need to make every effort to quarantine sovereignty issues in order to bring coastguards into the JCMACM talks, which certain defence stakeholders on both sides broadly support.¹⁵⁰

While it is important to strengthen effective CBMs, it is also important to ensure Beijing is not earning accolades for participating in CBMs with a negligible real impact on regional stability. This is especially crucial if China is endeavouring to use low-value CBMs as a pretext to stall on more urgent measures. Many ASEAN nations fear this is happening when Beijing announces hotlines and exercises, rather than finishing the code of conduct for the South China Sea. As Chinese forces benefit from exercising with more advanced militaries, it is important these practical gains are proportional to the value of the engagement.

No country should reflexively reject specific CBMs with China. Rather, Australia, the United States, ASEAN, and others should take stock of their security engagement with China to determine whether any activities provide it with reputational or practical benefits without adding to security or reducing mistrust. These might include high-profile port calls by aircraft carriers or major surface vessels, VIP visits on capital ships, or naval exercises in which PLAN ships clandestinely collect intelligence, as occurred during the 2014 Rim of the Pacific (RIMPAC) Exercise.¹⁵¹ Such CBMs should be scaled back to signal concern about China's broader strategic assertiveness. They could also be used as incentives or rewards to drive Chinese progress on more meaningful initiatives.

This raises a question over crisis management hotlines. Although dedicated real-time communications channels should constitute a practical CBM when tensions are rising, China's record of using hotlines is not encouraging. During the 2014 oil rig crisis with Vietnam, Chinese operators reportedly failed to respond to calls and used hotlines as conduits for criticism and abuse.¹⁵² Institutional weaknesses in China's national security bureaucracy compound these problems, meaning hotline operators typically have little authority.¹⁵³ Despite these inefficiencies, China seeks reputational kudos for agreeing to set up such channels, most recently presenting its agreement to establish China–ASEAN foreign ministry hotlines as a sign of “significant progress” towards “maintaining peace and stability.”¹⁵⁴

On balance, maritime players should persist with hotlines due to the possibility, however small, that they may make a difference in preventing escalation or conflict. New hotline initiatives between China–ASEAN and China–Japan should be pursued, and existing ones strengthened

Although dedicated real-time communications channels...constitute a practical CBM when tensions are rising, China's record of using hotlines is not encouraging.

between the United States and China. Reforms within China's Central National Security Commission may boost their effectiveness, and, if so, should lead all parties to lobby for hotlines to be set up at this level.¹⁵⁵ Yet, until Beijing proves its willingness to use hotlines for their proper purpose, these CBMs should be treated as minimal necessary steps and not touted as great accomplishments of Chinese goodwill.

PUSH BACK AGAINST CHINA'S CREEPING EXPANSION

To prevent China from revising the UNCLOS norms underwriting Asia's rules-based order or from illicitly consolidating a new strategic status quo, concerned nations must exercise their rights to operate in newly contentious waters, including within 12 miles of China's artificial islands and in its 200 mile EEZs. The aim should be to neutralise Chinese attempts to expand its authority when these are inconsistent with international law. While the United States will continue to periodically conduct FONOPs and send military assets through the East and South China Seas, other states must play a supporting role. It is in the whole region's interest to prevent freedom of navigation from becoming a solely US–China point of friction.¹⁵⁶ This would exacerbate bilateral military tensions and may embolden PLA hawks who believe that Washington will eventually back down without greater regional buy in.

Each nation, however, should contribute to freedom of navigation in its own way. This would satisfy domestic constituencies, particularly in Southeast Asia, that have reservations about taking part in US military operations.¹⁵⁷ It would also signal that other nations' actions are not part of a US-led initiative, but are an organic response to China's assertiveness. All operational pushback should strike a prudent balance between showing resolve and exercising caution.

Australia should quietly maintain and increase aerial surveillance in the South China Sea and continue to exercise naval freedom of navigation in line with operational requirements.¹⁵⁸ Japan should consider expanding its own role in the South China Sea. Southeast Asian claimants — which currently patrol their own maritime features with varying degrees of intensity — should step up wider patrols in contentious waters to mark their willingness as 'resident nations' to stand up for rights that arguably concern them the most. In the East China Sea, the United States, Japan, and others should continue to ignore China's ADIZ, but publicly recognise that the PLA's presence around Japan is legitimate under the same freedom of navigation laws that China is denying elsewhere. Global seafaring powers from further afield, such as Britain, France, and India, should consider exercising freedom of navigation in the South China Sea when their navies are in Asia for routine engagements.

In the South China Sea, operational pushback should focus on China's militarisation activities. As it is virtually impossible to compel China to roll

Australia should quietly maintain and increase aerial surveillance in the South China Sea and continue to exercise naval freedom of navigation.

back its outposts, the current policy imperative — aside from defending freedom of navigation — is to deter further militarisation or the creation of a new ADIZ, particularly in relation to the Spratly Islands. One way to do this might be to use the prospect of more frequent, targeted, or multilateral patrols to dissuade Beijing from pushing ahead. These actions would harm China's image and domestic sensibilities, making them potentially useful points of leverage.

Australia should commit to joining US patrols or launching its own expanded patrols if Beijing militarises facilities on Subi or Mischief Reefs, or sets up a South China Sea ADIZ. Certain Southeast Asian countries should issue similar warnings, while others, following the Philippines and Singapore, should consider opening more ports and airfields to external powers such as the United States to conduct regular patrols.¹⁵⁹ Washington, for its part, should undertake to increase the tempo of its FONOPs or move beyond 'innocent passage' patrols in the event China pushes ahead with militarisation activities. As in any deterrence framework, these intentions would need to be communicated firmly and clearly to Beijing, and should be done so privately to minimise the risk of emboldening domestic hardliners and netizens.¹⁶⁰ This requires 'militarisation' to be defined precisely to include the deployment of military aircraft, warships, missiles, and other coercive capabilities. Whereas China's island building caught the region off guard, a deterrence approach might allow other nations to regain the initiative by drawing red lines to pre-emptively shape Chinese behaviour.

There may also be scope for this approach to work in reverse, providing face-saving 'off-ramps' to reduce tensions. In return for positive behaviour by China concerning its outposts — such as removing existing military assets or ceasing to warn foreign vessels away from 'military alert zones' — other nations could limit these more provocative patrols. International law does not require this. Yet voluntarily reducing the scale and frequency of patrols could offer a useful way to encourage restrained Chinese conduct. This would be relatively cost-free as tougher patrols could be reinstated were China's conduct to revert. Crucially, this combination of threats and promises linked to mutual compromises by all sides might help to build patterns of reciprocity in place of what might otherwise become an escalating spiral of US–China competition.

Maritime capacity building should also be expanded to enable all countries to respond to China's growing strategic presence. As Chinese military and coastguard patrols extend further afield, it is crucial that others have the capacity to monitor China's activities and sustain credible maritime defences. In Southeast Asia, many countries, particularly the Philippines and Malaysia, are unable to effectively patrol the full extent of their regional waters — including their claimed EEZs — making it easier for China to make strategic inroads.¹⁶¹ External powers with a stake in the stability of the South China Sea have a responsibility

Maritime capacity building should also be expanded to enable all countries to respond to China's growing strategic presence.

to bolster the capacity of such nations. This should involve transfers of ships, aircraft, surveillance technology, and training, and a focus on enhancing patrol capabilities and domain awareness.¹⁶² The United States, Japan, and India have spearheaded recent efforts with major defence deals and investments.¹⁶³ These should continue alongside new joint training initiatives, which could involve a larger role for countries such as Australia.

EXPAND DIPLOMATIC AND LEGAL EFFORTS TO PRESSURE CHINA

Concerned nations across the world should step up diplomatic criticism of China's activities to target its reputation as a good international citizen.

Concerned nations across the world should step up diplomatic criticism of China's activities to target its reputation as a good international citizen. While Beijing has appeared intent on expanding its South and East China Sea presence in spite of rising global concern, its willingness to tolerate criticism is not unlimited. A growing number of official and unofficial voices inside China are worried about the impact of Beijing's passive assertive maritime conduct on the resurgent 'China threat' theory and on its emerging reputation as a regional "rule-breaker."¹⁶⁴ In an attempt to offset its deteriorating image, Beijing has sought to deepen ties with its closest ASEAN associates and to portray Washington and its global partners as provocateurs that are 'interfering' in the South China Sea. This suggests international criticism is having an effect and that the context is ripe to increase coordinated public diplomatic pressure on Beijing.

Greater global condemnation of China's island building and militarisation would heighten Beijing's isolation on this issue, and may strengthen the bargaining position of domestic critics who advocate a less provocative approach. It would also make it easier for vulnerable Southeast Asian nations to speak out and act with greater confidence. In this regard, Australia's increasingly frank high-level criticism over the past year has helped to internationalise the issue, and is being watched by Chinese analysts as a barometer for Beijing's worsening image problem.¹⁶⁵ Other nations would do well to ratchet up their own criticism. In addition, respected multinational organisations — such as the European Union (EU) or Group of Seven (G7) — and coalitions of responsible regional nations — including Australia, New Zealand, and Singapore — should more firmly present their existing criticisms by specifically naming China for its disproportionately coercive conduct in the South China Sea.¹⁶⁶ Additionally, public diplomacy initiatives that 'shame' Beijing by using satellite imagery to draw attention to island building could be complemented by a focus on the environmental toll of China's activities, leveraging the public relations reach of global activist networks.

Diplomatic support should also be strengthened for the Philippines' case against China at the Permanent Court of Arbitration. Given that Beijing has rejected the proceedings, international backing for the verdict, expected in the middle of 2016, is crucial if it is to have any chance of

altering Chinese behaviour. Many expect the court will reject 'historical rights' as a basis for China's 'nine-dash line' claim and rule that at least some Chinese-occupied features, such as Mischief and Subi Reefs, are low-tide elevations with no entitlement to territorial seas.¹⁶⁷ The verdict thus carries the potential to undercut the professed legal basis for China's expanding presence and island building.

Several countries, including Australia, have called for all parties to respect the court's authority and abide by its binding verdict. Others, including groups such as the EU and G7, should follow suit. Regionally, a caucus of like-minded countries could campaign to get a positive reference to the tribunal into the Chairman's statements for the next ASEAN Regional Forum (ARF), East Asia Summit, ASEAN Plus Eight Defence Ministers' Meeting, or ASEAN Summit. Though a seemingly small step, this would significantly raise the diplomatic costs for Beijing of ignoring the ruling.

Expectations, however, need to be realistic. In light of Beijing's vehement rejection of the tribunal, it will be politically impossible for Chinese leaders to publicly accept the court's criticism in the immediate aftermath of the verdict. International pressure should thus be focused on pushing Beijing to indirectly comply with the findings by returning to multilateral negotiation. This must involve an effort by China to clarify its 'nine-dash line' in accordance with accepted legal principles, as well as multi-claimant discussions over the geological status of disputed features.¹⁶⁸

Efforts should be made to strengthen the UNCLOS regime in order to present a more unified consensus on acceptable maritime conduct. Specifically, the United States and its Asian allies and partners should align their interpretations on UNCLOS and EEZ rights. Currently, at least 26 nations — including India, Malaysia, and Thailand — claim the right to limit foreign military activities inside their EEZs, adopting a view of UNCLOS akin to that of Beijing.¹⁶⁹ Although the US partners in question generally support Washington's push to defend Asia's rules-based maritime order, this gap must be closed to bolster the overall effort. Furthermore, US credibility and leadership in this domain requires redoubled pressure both within and on Washington for Congress to ratify UNCLOS, even though the United States already supports it in practice.

A regional fact-finding mission should be established with the aim of visiting Beijing's South China Sea outposts to hold China to account. Chinese leaders have frequently stated that Beijing has "no intention to militarise" the Spratly Islands and is "build[ing] facilities mainly for public good purposes," such as maritime search and rescue, which will be open to all upon completion.¹⁷⁰ Others should seek to verify these promises. A group of like-minded nations — including Australia, Singapore, Malaysia, and Indonesia — could propose a regular regional fact-finding mission under the ARF, or another ASEAN grouping, that would take China at its word and lobby for access. The mission, which

US credibility and leadership...requires redoubled pressure both within and on Washington for Congress to ratify UNCLOS...

One of China's greatest fears is that the United States' Asian allies and partners will create a web of interlocking security arrangements.

must also include China, should visit other countries' facilities as a way of building reciprocity and adding pressure on Beijing. The overall aim would be to boost transparency around China's activities in an attempt to dissuade Beijing from advancing militarisation.

IMPOSE INDIRECT COSTS ON CHINA

One of China's greatest fears is that the United States' Asian allies and partners will create a web of interlocking security arrangements. China is thus highly suspicious of burgeoning trilateral partnerships involving two or more US allies.¹⁷¹ These include the Australia–US–Japan, Australia–Japan–India, and India–US–Japan arrangements, and emerging groupings involving the Philippines or other ASEAN partners. Beijing is even more concerned about the potential for a renewed “quadrilateral” security dialogue between Washington, Canberra, Tokyo, and New Delhi, most recently mooted by Admiral Harris in March 2016.¹⁷²

There are advantages to strengthening Asia's minilateral partnerships. While these should not actively target Beijing, they offer a useful way for like-minded nations to dilute China's power and hedge against its provocative maritime conduct without raising risks of confrontation.¹⁷³ Minilaterals permit members to coordinate policy towards China, share intelligence, boost interoperability, and transfer technology. In advancing these arrangements, the United States, Australia, Japan, and India should signal that China's strategic assertiveness is bringing about the very outcome that Beijing does not want — a closer alignment of regional powers worried about China.

At the same time, efforts should be maintained to show Beijing that the region welcomes its constructive role in security affairs and respects its legitimate interests as a maritime power. Parallel low-level maritime security engagements with China, such as Australia's regular exercises with the PLAN, are useful in this respect. These should both signal that minilaterals are not about excluding China, and hold out prospect of greater Chinese inclusion if Beijing reins in its strategic assertiveness.

Concerned nations should also consider imposing economic costs on China in response to further assertive maritime conduct. Given the escalation risks associated with directly pushing back at a military level, economic statecraft offers a potentially viable alternative for pressuring Beijing's direct interests. One option might be for regional countries — such as Australia, Japan, Southeast Asian nations, and India — to link their receptiveness to Chinese geoeconomic initiatives to Beijing's conduct across maritime Asia. Working with the United States, these nations could complicate China's One Road, One Belt and Maritime Silk Road plans by limiting or exploring alternatives to Chinese-led investment and infrastructure projects.¹⁷⁴ This would place a key pillar of China's future growth strategy and regional influence at risk. Because it would not terminate existing trade and investment relations, it might also

be more palatable for business constituencies. Targeted sanctions represent another option — specifically against the corporations responsible for island building — though they raise a number of difficult coordination problems.¹⁷⁵

Both strategies would represent a significant escalation of maritime tensions to wider competition, making Chinese economic retaliation a probable and costly drawback. As China is a key trading partner for most of the nations concerned, economic pushback would entail real costs for both sides even in the absence of Chinese retaliation. These options should thus be reserved for worsening Chinese behaviour. Adopting a deterrence framework in which economic threats are privately communicated to Beijing and linked to specific red lines in the East and South China Seas may be the only real way to maximise this leverage in advance.

*Targeted sanctions
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— specifically against the
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CONCLUSION

The security landscape in maritime Asia, the Indo-Pacific, has changed significantly over the past five years. Owing to China's more restrained tactical conduct and growing acceptance of CBMs, maritime encounters in the East and South China Seas are now more likely to be managed without dangerous risk-taking or escalation. Although there is still much to be done to bolster Asia's risk reduction architecture — such as incorporating coastguards into rules-based CBMs and formalising dedicated China–Japan and China–ASEAN mechanisms — it is fair to conclude that CBMs are working.

However, these positive developments alongside China's worthy contributions are overshadowed by a more troubling shift. In turning away from tactical aggression, Beijing has refocused on passive assertive actions to consolidate a new status quo in maritime Asia. Paradoxically, China is leveraging greater operational stability to push ahead with island building, militarisation, expansive patrols, and the creation of new zones of military authority. This poses a long-term challenge to Asia's other maritime players who face a degree of cost and risk when crafting their responses. A combination of prudent tactical resolve and carefully tailored strategies to shape Beijing's conduct through indirect costs and incentives may be the best way to navigate Asia's shifting waters.

APPENDIX: RECENT PROGRESS ON CONFIDENCE-BUILDING MEASURES IN MARITIME ASIA

THE CODE FOR UNPLANNED ENCOUNTERS AT SEA

At the Western Pacific Naval Symposium in Qingdao, China, in April 2014, the Code for Unplanned Encounters at Sea (CUES) was set up to regulate the interactions of 21 Asia-Pacific navies, including the United States, China, Japan, India, ASEAN littoral states, and Australia.¹⁷⁶ As the most inclusive rules-based maritime CBM in Asia, CUES lays out basic communication, manoeuvring, and safety protocols to minimise the risk of accidents or misunderstandings between naval ships and aircraft in international waters.¹⁷⁷ Following years of Chinese opposition, the establishment of this code was the first clear dividend of Beijing's new thinking on CBMs.

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In truth, CUES is a modest agreement: its protocols are not legally binding, they do not apply within states' territorial waters, and they do not cover coastguard vessels, which account for the majority of unsafe encounters in Asian waters.¹⁷⁸ Nor does it prohibit specific acts of military intimidation. Nevertheless, by codifying multilateral naval guidelines CUES marks a milestone towards managing maritime tensions through mutually agreed rules. The fact that it was concluded in China has also reportedly given Beijing a "sense of ownership," making it possible to use CUES as the foundation for other maritime agreements with the United States and Japan.¹⁷⁹

Chinese naval forces are adhering to CUES regulations. Although safe maritime encounters generate little public attention, the Pentagon's 2015 Asia-Pacific Maritime Security Strategy observes that the Chinese navy has implemented CUES standards during its interactions with US vessels.¹⁸⁰ During one encounter captured on video in May 2015, a Chinese warship in the South China Sea was shown tailing the USS *Fort Worth* at a responsible distance, with both vessels evidently abiding by CUES.¹⁸¹ According to Japanese, Chinese, and US officials, there is strong support for CUES within the PLAN which has been enthusiastically training its officers in the new protocols.¹⁸² Chinese warships have also practised CUES standards alongside foreign vessels from the United States, Brunei, Indonesia, Singapore, and Australia.¹⁸³ According to US officials and servicemen, China's embrace of the CUES agreement has led to a higher degree of "professionalism" among PLAN ships and officers.¹⁸⁴

US–CHINA CBMS

There has been considerable progress in CBMs between the United States and China. Most importantly, two landmark MoUs on military confidence building were signed in November 2014, a key outcome from the crisis management talks that began in Sunnylands in 2013. One is the Notification of Major Military Activities, in which both powers undertake to inform the other of upcoming defence reports or military exercises.¹⁸⁵ The other is a two-part accord on Rules of Behavior for the Safety of Air and Maritime Encounters. It builds on CUES and other international conventions to collate guidelines for managing bilateral military interactions, including navigational, communication, and deconfliction measures.¹⁸⁶ During President Xi's visit to Washington in September 2015, an annex on air-to-air encounters was added, providing guidelines for military pilots on communication, coordination, and aerial manoeuvring.¹⁸⁷

There are distinct weaknesses in both CBMs. Above all, the agreements are voluntary and thus do not contain mechanisms to ensure compliance.¹⁸⁸ This distinguishes them from the 1972 US–Soviet Incidents at Sea Agreement — a key forerunner from the Cold War era — which banned, at least theoretically, certain dangerous actions such as simulating attacks.¹⁸⁹ To be sure, the maritime and air-to-air annexes do set out 'principles' for operational behaviour. Officers are asked to: actively communicate their identity, intentions, and planned manoeuvres; refrain from uncivil language or unfriendly gestures; maintain a safe separation at all times; and consider potential ramifications before engaging in aggressive conduct. Although these are worthy risk reduction guidelines, it is ultimately left to the "prudent commander" to determine how they will be implemented — granting considerable leeway to individual pilots and sailors.¹⁹⁰ A further weakness in the code of conduct is that its applicability within EEZs is ambiguous.¹⁹¹ According to one Chinese strategist, during negotiations "the Chinese side emphasised that the MoU was not for military activities within EEZs," meaning that it "does not address the most contentious issue ... in the US–China [maritime] relationship."¹⁹²

Notwithstanding these limitations, both CBMs provide a useful framework for the United States and China to adopt reciprocal measures that bolster transparency and prevent unintended clashes. The recent absence of air and sea incidents suggests Beijing and Washington are abiding by the MoUs.¹⁹³ Indeed, knowledge that both have agreed to common operational standards should help build working-level confidence and predictability at sea. The fact these CBMs were signed amid escalating tensions also reveals a degree of mutual goodwill — at least in terms of a pragmatic commitment to manage military interactions, reduce misperceptions, and avoid accidents that could lead to a conflict neither side wants.

...both CBMs provide a useful framework for the United States and China to adopt reciprocal measures that bolster transparency and prevent unintended clashes.

Beijing appears to have ceased its destabilising practice of suspending military-to-military dialogues with Washington...

More broadly, Beijing appears to have ceased its destabilising practice of suspending military-to-military dialogues with Washington to signal its opposition to policies such as arms sales to Taiwan. Throughout the 2000s, US officials pointed out that China's politicisation of the bilateral military relationship undermined trust and made it difficult to guard against military miscalculation.¹⁹⁴ Since 2011, Chinese officials have come around to this view and military exchanges have only rarely been cancelled. There are now over ten high-level US–China military interactions each year, as well as many working-level meetings, officer swaps, and military diplomacy initiatives such as port calls and base visits.¹⁹⁵ According to many Chinese analysts, it is precisely because US–China competition is rising that “China realises it needs to hold discussions on crisis management and strategic stability in a similar way to the United States and Soviet Union.”¹⁹⁶ Despite rising strategic competition, Beijing's increasingly pragmatic approach to military relations with Washington offers scope to build institutional connections that may help to prevent or defuse accidental clashes.

CHINA–JAPAN CBMS

China has also restarted the long-stalled process of negotiating CBMs with Japan. Following two years of bitter relations, Beijing and Tokyo reached a Four Point Consensus in November 2014 in which they resolved to gradually rebuild political, diplomatic, and security ties. This political thaw at the leadership level provided a green light for the PLA and Ministry of National Defense (MND) to begin seriously engaging Japan on maritime security.¹⁹⁷ While many PLAN officers already privately agreed with their Japanese counterparts on the need for a crisis management mechanism, such negotiations were not feasible until the “political blockage” had been resolved by President Xi and Prime Minister Shinzo Abe.¹⁹⁸ This dilemma was probably not lost on Xi, who had to balance the need to prevent an accidental maritime crisis with the demands of hardliners who opposed improving relations with Tokyo. Nevertheless, managing volatile maritime relations in the East China Sea was one of the main imperatives driving both leaders to reset the China–Japan relationship.

Beijing and Tokyo have stepped up efforts to advance two CBMs that have been frozen since 2012. The first is the China–Japan High-Level Consultation on Maritime Affairs, an inter-agency initiative that covers all aspects of maritime policy from security to fisheries. It aims to foster mutual understanding and cooperation on East China Sea issues — including sovereignty disputes — by providing a forum for senior officials to express concerns and propose solutions. During its forth meeting in December 2015 in Xiamen, China, participants agreed to strengthen cooperation on maritime policy, law of the sea, defence, law and order, and maritime economics.¹⁹⁹ Significantly, both sides agreed to enhance mutual trust and understanding between coastguards through information and personnel exchanges; and to work towards the early

establishment of a Japan–China Maritime Search and Rescue agreement. While it is too soon to tell whether this forum can resolve difficult issues such as boundary delimitation, joint exploration, and the Senkaku/Diaoyu Islands dispute, officials and analysts on both sides are optimistic that it might reduce day-to-day animosity.²⁰⁰

The second and, arguably, more pressing CBM is the Japan–China Maritime and Aerial Communication Mechanism (JCMACM). Originally proposed in 2008, it is now under renewed negotiation between naval, air force, and defence officials who completed their fifth round of talks in June 2015.²⁰¹ At a high-level summit in Seoul in November 2015, Abe and Premier Li Keqiang resolved to strengthen mutual efforts towards its early implementation.²⁰² In light of ongoing tensions in the East China Sea, the mechanism is intended to lower the risk of accidents, misperceptions, and crisis escalation by establishing dialogue channels and rules for communication. Specifically, Beijing and Tokyo have agreed to three elements: a bilateral hotline for crisis communication; annual working-level meetings; and an agreement to adopt CUES-style protocols for platform-to-platform communications during unplanned encounters. Although many details are unresolved — such as the level and location of the hotline — negotiations have clarified the shape of the agreement, and expectations are that it will soon be completed.²⁰³

Beijing and Tokyo have agreed to...a bilateral hotline for crisis communication...

It is important to note the likely limitations of this mechanism. As a military-to-military agreement, the JCMACM only applies to military ships and aircraft, and excludes activities taking place in territorial seas and airspace. Given the potential for a collision or exchange of fire between coastguards around the Senkaku/Diaoyu Islands, this is a major weakness. In fact, a key sticking point in negotiations so far has allegedly been China's insistence that territorial waters and airspace be included, something Japan regards as a ploy to legitimise China's presence in what it claims as sovereign waters.²⁰⁴ Similarly, while experts on both sides have called for coastguards to be brought into the CBM, Japanese officials are divided on this point, with some fearing the inclusion of law enforcement agencies would establish a "slippery slope" towards joint management of the islands.²⁰⁵

Another problem with the JCMACM is that it will only apply to 'unintended' encounters. This has prompted concerns over whether the mechanism would apply during 'intentional' encounters, such as aerial intercepts, which are increasingly common and can trigger perilous situations.²⁰⁶ Furthermore, it is unclear whether a proposed bilateral hotline would be effectively used in a China–Japan crisis. This would depend on the authority of its operators, which ministries it involves, and the tactical circumstances at hand.²⁰⁷ Indeed, China's record of using hotlines suggests it may only be employed to convey criticism and demands.²⁰⁸

The JCMACM is nonetheless likely to increase maritime stability. By establishing common communication protocols, the mechanism should enable a greater exchange of information about both sides' intentions and operational manoeuvres. As a major cause of China–Japan tension has been the unannounced passage of PLAN flotillas and PLAAF squadrons within Japan's EEZs or through nearby strategic waterways such as the Miyako Strait, platform-to-platform communication could reduce suspicion and miscalculation by making it easier for Japanese officials to verify the purpose of Chinese vessels. Agreed to behavioural protocols for intercepts, passes, and other manoeuvres would also establish a degree of predictability. Finally, as the JCMACM will apply within the overlapping portion of Japan and China's ADIZs, it should help to ensure that encounters involving surveillance planes and fighter jets remain professional.

CHINA–ASEAN CBMS

In contrast to negotiations with the United States and Japan, Beijing has moved very slowly on building dedicated CBMs with its Southeast Asian neighbours.

In contrast to negotiations with the United States and Japan, Beijing has moved very slowly on building dedicated CBMs with its Southeast Asian neighbours. Progress towards the long overdue China–ASEAN code of conduct in the South China Sea has continued to limp along. The code of conduct — an agreed to aspiration since 2002 — is intended to set up binding rules, behavioural guidelines, and dispute resolution mechanisms to maintain peace and stability throughout the South China Sea, particularly between China, the Philippines, and Vietnam, and the other claimants of the region's disputed rocks, reefs, and islands.²⁰⁹ Yet, after China's 2013 decision to seek “gradual progress” via “consultations” and “consensus,” ASEAN nations have grown increasingly wary of Beijing's “step-by-step” approach and delaying tactics.²¹⁰

Today, Southeast Asian officials and analysts broadly concur that Beijing is stalling the negotiation of a code of conduct to buy time to alter the strategic status quo in the South China Sea.²¹¹ Although China and ASEAN agreed last July to enter “a new period of negotiating ‘important and complex issues’” and to “work towards the early establishment” of the code, concrete progress has not followed.²¹² Indeed, the main “achievements” of last year's talks were a decision to draw up a Second List of Commonalities and establish an Eminent Persons and Expert Group.²¹³ These incremental and highly procedural outcomes reinforce perceptions that China is not serious about rules that would constrain its behaviour vis-à-vis ASEAN nations.

Beijing has been somewhat more willing to negotiate less comprehensive CBMs with its Southeast Asian counterparts. At the inaugural China–ASEAN Defence Ministers' Informal Meeting in October 2015, Beijing announced it would hold joint training on CUES protocols, as well as search and rescue and disaster relief drills, with ASEAN countries in 2016;²¹⁴ and that these exercises would occur in the South China Sea.²¹⁵ During meetings with Singapore in March 2016, Beijing

agreed to look into ways to include coastguards in CUES training.²¹⁶ These are indeed welcome developments that have the potential to solidify better working-level practices for basic maritime conduct. Nevertheless, the narrow scope of the prospective exercises, and the fact coastguards are not yet lined up to be included, means the initiatives, if delivered, will be limited in their existing form.²¹⁷

China has also recently agreed to establish two maritime hotlines to lower tensions with ASEAN: one concerning search and rescue at sea; the other between foreign ministries for managing naval and maritime emergencies.²¹⁸ If completed, these will be the first multilateral hotlines enabling real-time coordination between China and ASEAN. However, Southeast Asian officials remain doubtful that Beijing will move quickly on the hotlines, and many regard the announcement as an attempt to deflect attention from the glacial code of conduct process.²¹⁹ Vietnamese analysts also point out that Beijing's poor record of using hotlines in a crisis raises serious questions about their value. During the HS-981 stand-off in 2014 Hanoi used its Party-to-Party and maritime hotlines with China at least 30 times, but received only silence or abuse from Chinese phone operators.²²⁰ Such experiences highlight the fact that prospective China–ASEAN hotlines, despite being potentially useful, will not be a panacea for managing South China Sea tensions.

ABBREVIATIONS

ADIZ	Air Defence Identification Zone
ASEAN	Association of South East Asian Nations
CBM	Confidence-building measures
CCG	Chinese Coast Guard
CUES	Code for Unplanned Encounters at Sea
EEZ	Exclusive economic zone
EU	European Union
FONOP	Freedom of navigation operation
G7	Group of Seven
HS-981	China's mobile oil rig
JASDF	Japan Air Self-Defence Force
JCG	Japan Coast Guard
JCMACM	Japan–China Maritime and Aerial Communication Mechanism
JMSDF	Japan Maritime Self-Defence Force
MMCA	Military Maritime Consultative Agreement
MND	Ministry of National Defense
MoU	Memorandum of Understanding
PLA	People's Liberation Army
PLAAF	People's Liberation Army Air Force
PLAN	People's Liberation Army Navy
RAAF	Royal Australian Air Force
RIMPAC	Rim of the Pacific Exercise
UNCLOS	United Nations Convention on the Law of the Sea

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⁹³ "Airstrips Near Completion," *AMTI* (website); "New Imagery Release," *AMTI* (website), Center for Strategic and International Studies, <http://amti.csis.org/new-imagery-release/>; and Lee, "South China Sea: China Is Building on the Paracels As Well."

⁹⁴ Ashley Townshend, "The Strategic Significance of China's Woody Island Power Play," *The Interpreter*, 1 March 2016, <http://www.lowyinterpreter.org/post/2016/03/01/The-strategic-significance-of-Chinas-Woody-Island-power-play.aspx>.

⁹⁵ Michael Green, Bonnie Glaser and Zack Cooper, "Seeing the Forest Through the SAMs on Woody Island," *AMTI* (blog), Center for Strategic and International Studies, 18 February 2016, <http://amti.csis.org/seeing-the-forest-through-the-sams-on-woody-island/>. It should be noted that Beijing has repeatedly denied it is "militarising" its South China Sea outposts, which it claims will be used for humanitarian assistance and disaster relief purposes. However, Vice Foreign Minister Liu Zhenmin acknowledged last November that the outposts will have a defensive component. In his words: "As the islands and reefs are far from China's mainland, it is necessary to build and maintain military facilities ... This is necessitated by China's national defense purpose and to protect those islands and reefs." See Ben Bland, "China and US Clash Over South China Sea," *The Financial Times*, 22 November 2015, <http://www.ft.com/intl/cms/s/0/59156934-9108-11e5-bd82-c1fb87bef7af.html#axzz3ykEADkqh>; and David Tweed, "China Says South China Sea Construction Is Protecting Distant Reefs," *Bloomberg*, 23 November 2015, <http://www.bloomberg.com/news/articles/2015-11-22/china-says-far-away-south-china-sea-reefs-need-its-protection>.

⁹⁶ Elbridge Colby, "Changing Tides in South China Sea," Center for a New American Security, 25 August 2015, <http://www.cnas.org/opinion/changing-tides-in-south-china-sea#.VhOY8hOqqko>; Andrew S Erickson, "Runway to the Danger Zone? Lengthening Chinese Airstrips May Pave Way for South China Sea ADIZ," *China Analysis from Original Sources* (blog), 24 April 2015, <http://www.andrewerickson.com/2015/04/runway-to-the-danger-zone-lengthening-chinese-airstrips-may-pave-way-for-south-china-sea-adiz-2/>; Christine E Wormuth, Samuel J Locklear III and Curtis Scaparrotti, "House Committee on Armed Services Holds a Hearing on Military Technology Superiority," PACOM House Armed Services Committee Testimony, 15 April 2015, <http://www.pacom.mil/Media/SpeechesTestimony/tabid/6706/Article/585188/pacom-house-armed-services-committee-testimony.aspx>; Kevin Baron, "China's New Islands Are Clearly Military, US Pacific Chief Says," *Defense One*, 24 July 2015, <http://www.defenseone.com/threats/2015/07/chinas-new-islands-are-clearly-military/118591/>; James Stavridis, "China's 3,000-Acre Aircraft Carriers Could Change the Balance of Power in the Pacific," *Foreign Policy*, 1 October 2015, http://foreignpolicy.com/2015/10/01/china_south_china_sea_aggression/.

⁹⁷ Colby, "Changing Tides in South China Sea."

⁹⁸ Brendan Thomas-Noone and Rory Medcalf, *Nuclear-Armed Submarines in Indo-Pacific Asia: Stabiliser or Menace?* (Sydney: Lowy Institute for International Policy, September 2015), 12, http://www.lowyinstitute.org/files/nuclear-armed-submarines-in-indo-pacific-asia-stabiliser-or-menace_0.pdf.

⁹⁹ James Clapper, "Document: DNI Clapper Assessment of Chinese Militarization, Reclamation in South China Sea," *USNI News*, 8 March 2016, <http://news.usni.org/2016/03/08/document-dni-assessment-of-chinese-militarization-reclamation-in-south-china-sea>.

¹⁰⁰ A related facet of China's passive assertiveness is the establishment of Communist Party and government sub-branches on South China Sea islands. Beijing has commenced this administrative creep by establishing Sansha municipality on Woody Island. See Jakobson, *China's Unpredictable Maritime Security Actors*, 33–35.

¹⁰¹ Some observers believe China is effectively beginning to implement a quasi-ADIZ around its South China Sea outposts, given that its forces are systematically demanding identification from approaching ships and aircraft, and warning them to depart Chinese waters. See Prashanth Parameswaran, "China Enforcing Quasi-ADIZ in South China Sea: Philippine Justice," *The Diplomat*, 13 October 2015, <http://thediplomat.com/2015/10/china-enforcing-quasi-adiz-in-south-china-sea-philippine-justice/>.

¹⁰² Colby, "Changing Tides in South China Sea."

¹⁰³ "Announcement of the Aircraft Identification Rules for the East China Sea Air Defense Identification Zone of the PRC," *Xinhua*, 23 November 2013, http://news.xinhuanet.com/english/china/2013-11/23/c_132911634.htm.

¹⁰⁴ Kimberly Hsu, "Air Defense Identification Zone Intended to Provide China Greater Flexibility to Enforce East China Sea Claims," US–China Economic and Security Review Commission Staff Report, January 2014, 1, <http://www.uscc.gov/sites/default/files/Research/China%20ADIZ%20Staff%20Report.pdf>; and Erickson, "Runway to the Danger Zone?"

¹⁰⁵ Peter A Dutton, "China's Maritime Disputes in the East and South China Seas," testimony before the House Foreign Affairs Committee Hearing, 14 January 2014, 7–8, <http://docs.house.gov/meetings/AS/AS28/20140114/101612/HHRG-113-AS28-Wstate-DuttonP-20140114.pdf>; and Tetsuo Kotani, "Reviewing the First Year of China's ADIZ: A Japanese Perspective," *AMTI* (blog), Center for Strategic and International Studies, 25 November 2014, <http://amti.csis.org/reviewing-the-first-year-of-chinas-adiz-a-japanese-perspective/>.

¹⁰⁶ Interviews with analysts and officials in Tokyo, February 2015, Beijing, Nanjing, and Shanghai, March 2015, Sydney and Singapore, May 2015, and Washington DC, June 2015. See also, Kurt Campbell, "China is Treading on Thin Ice in the Pacific," *The Financial Times*, 2 December 2013, <http://www.cnas.org/content/china-treading-thin-ice-pacific#.VhcalhOqqko>; and Feng Zhang, "Should Beijing Establish an Air Defense Identification Zone Over the South China Sea?," *Foreign Policy*, 4 June 2015, <http://foreignpolicy.com/2015/06/04/should-beijing-establish-an-air-defense-identification-zone-over-the-south-china-sea/>.

¹⁰⁷ Dutton, "China's Maritime Disputes in the East and South China Seas."

¹⁰⁸ Heginbotham, "The Foreign Policy Essay: China's ADIZ in the East China Sea"; and Kyodo News, "Japanese Fighter Scrambles Against Foreign Aircraft Hit Record High," *Global Post*, 24 August 2014, <http://www.globalpost.com/dispatch/news/kyodo-news-international/140709/japanese-fighter-scrambles-against-foreign-aircraft-hi>.

¹⁰⁹ "Expert: China capable of defending East China Sea ADIZ," *China Military Online*, 2 December 2015, http://english.chinamil.com.cn/news-channels/china-military-news/2015-12/02/content_6796532.htm; "空军轰-6K等多型飞机分赴西太平洋和东海防空识别区 [PLAAF Deploys H-6K Bombers and Other Aircraft to the

Western Pacific and East China Sea Air Defense Identification Zone], 人民网 [People's Daily Online], 27 November 2015, <http://military.people.com.cn/n/2015/1127/c1011-27865052.html>; Xinhua, "Chinese Military Planes Regularly Patrol ADIZ: Spokesman," *People's Daily Online*, 23 January 2014, <http://en.people.cn/90786/8520802.html>; and Xinhua, "Int'l Airlines' Activities in China's ADIZ Undisturbed," *People's Daily Online*, 31 December 2014, <http://en.people.cn/n/2014/1231/c90786-8830043.html>.

¹¹⁰ Yang Yujun, "Defense Ministry's Regular Press Conference on October 29," Ministry of National Defense of the People's Republic of China, 29 October 2015, http://eng.mod.gov.cn/Press/2015-10/29/content_4626549.htm.

¹¹¹ Interviews with former military officials and senior scholars, Beijing and Shanghai, March 2015, and discussions with current and former officials, Washington DC, May 2015. See also Glaser, "People's Republic of China Maritime Disputes"; and Ian E Rinehart and Bart Elias, *China's Air Defense Identification Zone* (Washington DC: Congressional Research Service, 30 January 2015), 26–28, <http://www.fas.org/sgp/crs/row/R43894.pdf>.

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¹¹³ Andrew Chubb, "The South China Sea: Defining the 'Status Quo'," *The Diplomat*, 11 June 2015, <http://thediplomat.com/2015/06/the-south-china-sea-defining-the-status-quo/>; and State Oceanic Administration, 12th Five Year Plan for China's Maritime Development (2011–2015), unofficial translation, *ChinaAbout.net*, <https://www.chinaabout.net/12th-five-year-plan-national-oceanic-development-china/>.

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¹³⁷ Interviews with retired military official and senior scholars, Beijing and Shanghai, March and December 2015 and March 2016; discussions with US analysts, Washington DC, May 2015. See also Ashley Townshend, “Assertive US Policies Won’t Solve the South China Sea Challenge,” *Sydney Morning Herald*, 14 August 2015, <http://www.smh.com.au/comment/assertive-us-policies-wont-solve-the-south-china-sea-challenge-20150813-giyaws.html>; and Zhang, “Should Beijing Establish an Air Defense Identification Zone Over the South China Sea?”. It is noteworthy that in the wake of the USS *Lassen*’s FONOP in October 2015, Chinese foreign affairs spokesman Lu Kang stated: “... if relevant parties insist on creating tensions in the region and making trouble out of nothing, it may force China to draw the conclusion that we need to strengthen and hasten

the buildup of our relevant capabilities. I advise the US not to create such a self-fulfilling prophecy." See Jim Sciutto and Katie Hunt, "China Says it Warned and Tracked US Warship in South China Sea," CNN, 28 October 2015, <http://edition.cnn.com/2015/10/27/asia/us-china-south-china-sea/>.

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¹⁴² *China Daily*, "China 'Will Never Recklessly Resort to the Use of Force'," Ministry of National Defense of the People's Republic of China, 19 October 2015, http://eng.mod.gov.cn/TopNews/2015-10/19/content_4624919.htm; and Su Xiaohui, "China Will Never Compromise to 'Paper Tigers'," *People's Daily Online*, 2 February 2016, http://www.china.org.cn/opinion/2016-02/02/content_37716993.htm.

¹⁴³ Interviews with regional official and analysts, Singapore, Hanoi, and Shanghai, May and December 2015, and March 2016.

¹⁴⁴ Although China and Japan made it through the 70th anniversary of the end of the Second World War without any major disturbances, there are signs in early 2016 that bilateral relations may be hardening. Foreign Minister Wang Yi's statement, on 9 March, that he "[doesn't] see any grounds for optimism" and believes that "[Japan is] making trouble for China at every turn" is a case in point. See "Foreign Minister Wang Yi meets the press," Ministry of Foreign Affairs of the People's Republic of China, 9 March 2016, http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1346238.shtml.

¹⁴⁵ This language is adapted from the US–China maritime code of conduct. See "Memorandum of Understanding Between the United States of America and the Ministry of National Defense of the People's Republic of China Regarding the Rules of Behavior for the Safety of Air and Maritime Encounters," 3.

¹⁴⁶ See Qi Huaigao, "Three New Developments in the South China Sea Disputes and China's Strategy," in *Old Order and New Normal: Fudan International Strategic Report 2015*, Wu Xinbo ed (Shanghai: Fudan University, March 2016), 100.

¹⁴⁷ On the agreement between the United States and China to form a coastguard mechanism, see "Factsheet: President Xi Jinping's State Visit to the United States," White House, 25 September 2015, <https://www.whitehouse.gov/the-press-office/2015/09/25/fact-sheet-president-xi-jinpings-state-visit-united-states>.

¹⁴⁸ Correspondence with a US official, December 2015. See also Prashanth Parameswaran, "US Wants Expanded Naval Protocol Amid China's South China Sea Assertiveness," *The Diplomat*, 18 February 2016, <http://thediplomat.com/2016/02/us-wants-expanded-naval-protocol-amid-chinas-south-china-sea-assertiveness/>.

¹⁴⁹ Kor, "China, Asean Agree to Examine S'pore Proposal on South China Sea."

¹⁵⁰ Interviews with Japanese officials, Tokyo, February 2015 and February 2016, and Chinese scholars and think tank analysts, Nanjing, Beijing, and Shanghai, March and December 2015.

¹⁵¹ Some of these CBMs have already been undertaken or discussed. See Sam LaGrone, "Pentagon: US Won't Send Carrier to Mainland China This Year," *USNI News*, 6 February 2015, <http://news.usni.org/2015/02/06/pentagon-u-s-wont-send-carrier-mainland-china-year>; "US Navy Delegation Visits Chinese Carrier Amid Maritime Tensions," Reuters, 21 October 2015, <http://www.reuters.com/article/us-china-usa-defence-idUSKCN0SF0AR20151021>; and Andrew S Erickson and Emily de La Bruyère, "China's RIMPAC Maritime-Surveillance Gambit," *The National Interest*, 29 July 2014, <http://nationalinterest.org/feature/china%E2%80%99s-rimpac-maritime-surveillance-gambit-10970>.

¹⁵² Interviews with former Vietnamese officials and academics, Hanoi, March 2015.

¹⁵³ A key problem for establishing effective hotlines with China is that authority for real-time crisis management decisions is both diffused among the non-specialist Politburo Standing Committee or, in the case of frontline decisions, within PLA leaderships, but also centralised in the hands of President Xi himself, who is necessarily preoccupied with other issues. See Erickson and Liff, "Installing a Safety on the 'Loaded Gun'?", 197–215.

¹⁵⁴ Wang Yi, "Wang Yi: Significant Progress Made in Implementing DOC and Pushing Forward Negotiation of COC."

¹⁵⁵ See Erickson and Liff, "Installing a Safety on the 'Loaded Gun'?", 212–214; and Robert A Pape, "Establishing a Workable US–China Hotline (CHILINK)," University of Chicago, 30 April 2014, http://d3qi0qp55mx5f5.cloudfront.net/cpost/i/docs/Pape_Policy_Memo.pdf.

¹⁵⁶ See Kristen Gelineau, "Navy Commander: South China Sea Not a US-Versus-China Battle," *Military.com*, 22 February 2016, <http://www.military.com/daily-news/2016/02/22/navy-commander-south-china-sea-not-a-us-versus-china-battle.html>.

¹⁵⁷ Interviews with officials and analysts, Hanoi, Shanghai, and Singapore, March, May and December 2015, and Shanghai, March 2016.

¹⁵⁸ Australian aerial patrols have been conducted under Operation Gateway for approximately the past three decades, though have “slightly” increased in recent months. See Andrew Greene, “RAAF Patrols Over Disputed South China Sea Facing More Regular Resistance from Chinese Military,” ABC News, 3 February 2016, <http://www.abc.net.au/news/2016-02-03/raaf-patrol-flights-facing-more-regular-resistance-from-chinese/7138100>. Australian naval vessels exercise freedom of navigation in line with navigational and operational needs, but do not conduct dedicated FONOPs to test excessive maritime claims.

¹⁵⁹ Under the Enhanced Defense Cooperation Agreement, the US has been granted access to five air force bases in the Philippines and has begun conducting aerial patrols from these locations. Singapore permits US surveillance activities to be conducted from its territory, while Malaysia hosts the RAAF under Operation Gateway. A growing number of voices in Malaysian defence circles want to allow the United States to conduct South China Sea flights from Malaysia as well. Identifying this as a clear Malaysian response to future Chinese militarisation would be a useful starting point. For more on Malaysia, see Tang Siew Mun, “Why Malaysia is Adopting a Tougher South China Sea Stance,” *Malay Mail Online*, 21 March 2016, <https://themalaymailonline.wordpress.com/2016/03/21/why-malaysia-is-adopting-a-tougher-south-china-sea-stance/>.

¹⁶⁰ Ashley Townshend, “South China Sea: Reconciling Washington’s Policy Debate with Effective Responses,” *The Interpreter*, 18 April 2016, <http://www.lowyinterpreter.org/post/2016/04/18/South-China-Sea-Reconciling-Washingtons-policy-debate-with-effective-responses.aspx>.

¹⁶¹ On the plight of weaker Southeast Asian militaries, see International Institute for Strategic Studies, *The Military Balance 2016* (London: Routledge, 2016), 212–214; and Michael Green, Kathleen Hicks, Mark Cancian, et al., *Asia-Pacific Rebalance 2025: Capabilities, Presence, and Partnerships* (Washington DC: Center for Strategic and International Studies, 2016), 74–75, 96.

¹⁶² *The Asia-Pacific Maritime Security Strategy*, 25–29.

¹⁶³ These include capacity-building efforts under the Pentagon’s 2015 Southeast Asian Maritime Security Initiative, Washington and Manila’s Enhanced Defense Cooperation Agreement, Tokyo’s burgeoning defence relations with Manila, and New Delhi’s Joint Vision Statement on defence ties with Hanoi.

¹⁶⁴ Interviews with Chinese scholars and think tank analysts, Beijing, Nanjing, and Shanghai, March 2015, and Shanghai, December 2015 and March 2016. A recent indication of growing concern among CCP members was the publication of an open letter by “loyal Party members” on *Wujie News* urging President Xi to resign, in part for his counterproductive deviation from Deng Xiaoping’s “hide your strength, bide your time” policy. See “Loyal Party Members Urge Xi Jinping to Resign,” republished letter, *China Digital Times*, 4 March 2016, <http://chinadigitaltimes.net/2016/03/open-letter-devoted-party-members-urge-xis-resignation/>.

¹⁶⁵ Interviews with senior Chinese scholars, Shanghai, March 2016.

¹⁶⁶ Ashley Townshend, “China May Fear Reputation Damage More Than Military Threats Over South China Sea,” *The Guardian*, 28 August 2015, <http://www.theguardian.com/commentisfree/2015/aug/29/china-may-fear-reputation-damage-more-than-military-threats-over-south-china-sea>. Although

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