



ICAS BULLETIN

Institute for China-America Studies

A Bimonthly Survey of Research and Analysis
on US-China Relations

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Commentary:

The US and China:
Converging and
Diverging Maritime
Interests

by Nong Hong
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Publications

The Case for Offshore Balancing: A Superior US Grand Strategy

John Mearsheimer and Stephen Walt
Foreign Affairs, July/August 2016

Mearsheimer and Walt, two prominent neorealist political scientists, make the case for a dramatic revision to US grand strategy. They advocate a turn away from the “liberal hegemony” notion that they claim has dominated US strategy and diminished America’s standing over the last few decades. In its place they recommend implementing an “offshore balancing” strategy. To Mearsheimer and Walt, offshore balancing pursues the same basic objectives as other US grand strategies (i.e., preventing the emergence of a European or Asian hegemon), but in a more restrained manner that reduces US defense commitments and deployments, relies on local actors to preserve balances of power, and abandons intervention and regime change. The authors take issue with the notion that the US is “the indispensable nation” and encourage it to act as a normal state driven by balance of power considerations. However, Mearsheimer and Walt (though not all offshore balancing advocates) believe that China presents a possible exception for the strategy, and thus the US may need to continue close security relationships and forward deployments in East Asia to prevent Chinese hegemony.

Third Offset Strategy and Chinese A2/AD Capabilities

Richard Bitzinger

Center for a New America Security, May, 2016

Bitzinger evaluates the “third offset” strategy developed by the Pentagon in response to China’s growing A2/AD capabilities. He describes the third offset strategy as leveraging US technological advantages in robotics, advanced manufacturing and long-range bombers in order to offset China’s (and other nations’) abilities to erode traditional US strengths in power projection. Bitzinger questions whether the “third offset” is sufficiently distinct from existing approaches to be considered a new strategy, and argues that the specifics of how these new technologies would be used in various scenarios remains vague. He concludes by observing that reliance on new technologies cannot by itself compensate for shifts in relative power.

The Dynamics of US-China-Southeast Asia Relations

Bates Gill, Evelyn Goh and Chin-Hao Huang

The United States Centre at the University of Sydney, June, 2016

This report examines the priorities of Southeast Asian States, China, and the US as they relate to one another. The report notes that the dominant approach in Southeast Asia is to “hedge” between relations with China and the US. It also observes that China has faced difficulties converting its material capabilities into political influence in the region. The report concludes by making recommendation to the next US administration that include deepening economic engagement and security cooperation with Southeast Asia.

US International Economic Strategy in a Turbulent World

Howard Shatz

RAND, June 2016

This major report focuses on how the US can better harness its economic power and policy. In a chapter on China’s significance to US economic statecraft, the report finds that the it would be advantageous to the United States if China's economic rise can be better accommodated within the current global system, and that it is still unclear how the US should engage China-led development institutions. The author recommends that US policymakers must complete and approve some version a broad Asia-Pacific trade agreement that is inclusive and rules based.

The Asian Infrastructure Investment Bank: A Case Study of Multifaceted Containment

Amitai Etzioni

Asian Perspective 40, June 2016

The author contends that the US has worked to thwart China’s full participation in several international institutions. He describes these efforts—most recently seen in Obama’s now abandoned objections to the AIIB—as an example of “multifaceted containment” of China by the US. Such an approach runs counter to the commonly stated American desire for China to become a “responsible stakeholder” in the international order. Etzioni distinguishes between “multifaceted containment” across security and economic domains, and “aggression-limiting containment” which seeks only to contain or deter the coercive use of force by another state. He advocates that the US follow the more limited form of

containment in order to reduce tensions and preserve space for cooperation and healthy economic competition.

China and the Responsibility to Protect: from Opposition to Advocacy

Courtney Fung

United States Institute of Peace, June 2016

Fung argues that China is now considered a cautious supporter of the Responsibility to Protect (R2P) concept in global governance. The author compares China's response to the crisis in countries such as Libya, Mali, Somalia, South Sudan, Syria, and Yemen, and concludes that China supports the first two "pillars" of R2P (that states are responsible to protect their people; that the international community must assist in these duties) but has difficulty accepting the third pillar (that the international community may use force if necessary in order to facilitate the first two pillars.) China has a traditional aversion to interference in domestic affairs and a preference for multilateral approaches to matters such as R2P, but its support for the first two pillars provides critical support for the norm of R2P.

Approaching Critical Mass: Asia's Multipolar Nuclear Future

Matthew Kroenig

National Bureau of Asian Research, June 2016

In this report Kroenig, articulates how nuclear multipolarity in Asia poses a threat to US national security. The US faces nuclear armed states in Russia, China, India, Pakistan and North Korea. The author maintains that the US must continue to maintain a wide advantage in strategic capabilities and countermeasures. These competitor states are not all aligned with each other so the potential for conflict via misunderstanding is relatively high.

US and China: Strategic Cooperation at Arm's Length

William Edwards

The Cipher Brief, June 10, 2016

The author assesses progress made in the US-China bilateral relationship at the 8th round of the U.S.-China Strategic and Economic Dialogue (SED). Edwards finds that areas of strategic cooperation should be enhanced in the areas of cybersecurity, nuclear non-proliferation, and promoting counterterrorism in the Middle East. Lingering mistrust, he worries, will continue to hinder official agreements in other areas such as the South China Sea.

Too Close for Comfort: The Dangerous US-China Maritime Disputes

Mel Gurtov

China-US Focus, June 20, 2016

Gurtov expresses concern with the state of US-China relations in the South China Sea. The disputes there have pushed India and Vietnam closer to the United States in ways that further complicate the situation, and increased military activity by both China and the US create too many opportunities for miscalculation or accidents. Gurtov blames both the US and China for "ratcheting up tensions" and recommends a series of steps to deescalate the situation. This includes limiting US surveillance activities and freedom of navigation operations on the one hand, and China's abstaining from creating a South China Sea ADIZ.

The Fight Inside China Over the South China Sea

Feng Zhang

Foreign Policy, June 23, 2016

Zhang argues that Chinese views on the South China Sea disputes are not monolithic, but can be divided into three distinct camps. He describes realpolitik thinking as dominant. According to the realists' view, China is enhancing its overall power and position through land reclamation activities, although the realists are divided on the question of what to do with the reclaimed features—or with Chinese power in the SCS more generally. A hardline view common in military and law enforcement circles takes a more maximalist position. Hardliners advocate asserting firm control within the entire 9-dash-line, perhaps even by conquering features controlled by other parties. A moderate faction views recent policy as overly provocative and counterproductive. However, Zhang points out that all parties, even the moderates, accept the necessity and legitimacy of the recent reclamation activity, though for different reasons. As such, he recommends that international actors accept this status quo and move toward the question of establishing regional stability.

Events**Asia 2016: The View from Capitol Hill**

The Heritage Foundation, June 9, 2016

US congressional staffers offered analysis and perspectives of US policy towards the Asia-Pacific region and described congressional approaches to improving America's relationship with Asia. Congressional priorities toward Asia include addressing North Korean provocations, enhancing emerging partnerships with Myanmar and Vietnam, managing the US-China relationship, and strengthening traditional alliances.

Asia-Pacific Economic Integration and the Role of the United States and Japan

CSIS, June 10, 2016

CSIS hosted a panel discussion on trends and challenges in economic integration in the Asia Pacific and the roles of the United States and Japan in fostering trade liberalization and promoting a rules based economic system in Asia. China's One Belt One Road (OBOR) and the Trans Pacific Partnership (TPP) were examined in detail. One panelist argued that the TPP is driven by U.S. foreign policy objectives of the pivot towards Asia and a need to tackle the next generation of economic issues such as e-commerce. OBOR was presented as promoting global value chains through enhancing cooperation, community and connectivity. The panelists were optimistic that these two core economic initiatives would help address Asia's demographic challenges and non-traditional security issues.

The Case for Restraint in US Foreign Policy

Cato Institute, June 15, 2016

This day-long conference presented a number of critiques of US grand strategy that sought in one way or another to restrain or limit US involvement in the world. These advocates of US "restraint" typically challenged the American foreign policy traditions of "liberal hegemony" or "deep engagement."

Panelists questioned the security benefits of forward deployments and close alliances. Many challenged the idea that US military primacy is conducive to stability, security, or prosperity for the US or the rest of the world.

Treasury Secretary Jacob Lew on the US-China Economic Relationship

American Enterprise Institute, June 16, 2016

At this event US Secretary of the Treasury Jacob Lew gave remarks on the various dimensions of the US-China economic relationship. The US and China have increased cooperation in areas such as climate change and disease eradication. He emphasized China's exchange rate policy and its transition to a more sustainable growth rate as particularly important to US economic interests.

The Dynamics of US-China-Southeast Asia Relations

East-West Center (Washington), June 21, 2016

Bates Gill, Evelyn Goh, and Chin Hao Huang discussed their recent report of the same name (discussed above) and Evan Medeiros shared his thoughts on the work. In addition to summarizing the report, the panelists discussed China's relative inability to convert capabilities into influence, the "Asia pivot," and ASEAN nations' situation between the US and China. Medeiros noted that the pivot was primarily intended to be a diplomatic and economic shift, and that its military components were unfairly played up by the Chinese. He also suggested that China's slowing economic growth will have unknown consequences on China-ASEAN relations, but that this fact is often underappreciated. Medeiros claimed that the US does not view US-China-Southeast Asia relations in zero-sum terms, but prefers closer relations between China and its neighbors in parallel to stronger relations between the US and Southeast Asia.

Commentary

The US-China Battle in the Post-Arbitration South China Sea: Diverging and Converging Interests

Nong Hong

One incident after another has played out across the stage of the South China Sea since 2009, the year Malaysia and Vietnam filed a joint submission on the limits of their continental shelf claims with a UN commission. The tension in the South China Sea further escalated in January 2013, when the Philippines initiated an arbitration proceeding against China under the dispute resolution terms of the United Nations Convention on the Law of the Sea (UNCLOS). Since then, land reclamation activities and protests in response, the legal battle between China and the Philippines, a series of U.S. freedom of navigation operations beginning with the patrol performed by the USS Lassen, and mutual accusations from Beijing and Washington of "militarization" in the region have all contributed to increasing tensions.

In order to resolve this regional conundrum, China and the United States have no choice but to engage each other and maintain regular communication on how they can coexist while advancing their respective core interests. After all, the Asia-Pacific region is big enough for both countries to share and exert their respective influence without pointing fingers at each other. As China's rise triggers a shift in the regional balance of power, the United States needs to acknowledge China's core interests of ensuring its sovereignty and maritime claims in the South China Sea. Similarly, China must respect the legitimate interests of the United States in the South China Sea, especially freedom of navigation in line with UNCLOS, which it is also in China's interest to protect.

The conflict in the South China Sea has evolved from a territorial and maritime dispute between China (including Taiwan) and the other four claimant states into a show primarily featuring the United States, as a strong maritime power and a user-state of the South China Sea, and China, as a growing regional maritime power struggling to pursue its maritime interests as a coastal state. China and the United States, both possessing legitimate interests in the South China Sea, have divergent views on several issues: freedom of navigation, the arbitration case, state practice of international law, maritime dispute management, and land reclamation activities. The outstanding question remains whether common interests will succumb to divergent ones, leading to future confrontation between the United States and China. This analysis suggests the answer is no.

Freedom of Navigation

The recent patrols performed by the U.S. Navy vessels *Lassen*, *Curtis Wilbur*, and *William P. Lawrence* stem from the U.S. policy of testing freedom of navigation in the South China Sea. Both China and the United States view freedom of navigation as vital to their national interests, but they differ on the proper exercise of that freedom in at least two ways.

First, they disagree on whether certain types of military activities in coastal states' exclusive economic zones (EEZ) fall within the scope of freedom of navigation. The categories of military activities that have proved controversial include those potentially having an impact on the marine environment and those that could be categorized as marine scientific research requiring prior permission from coastal states.

Second, while China and the United States do not contest the existence of a right of innocent passage in territorial seas under the 1982 UNCLOS, they differ on the specific rights of warships. The United States believes that warships enjoy the same right to innocent passage as commercial vessels, whereas China mandates in its domestic law that the flag states of warships exercising innocent passage must obtain prior permission from coastal states. Article 30 of UNCLOS stipulates that a coastal state may require warships to leave territorial seas immediately if the warship does not comply with the laws and regulations of the coastal state. Despite divergent legal treatment of warships and innocent passage, both China and the United States have conducted their operations in a strict and lawful manner during freedom of

navigation operations. China's official protests are mostly motivated by political and security concerns rather than by a deep commitment to the interpretation of international law. Thus, freedom of navigation is not the key issue separating China and the United States.

International Law and Dispute Settlement

The United States has called on China to act in conformity with international law and norms. What principles of international law has China breached? Has China violated Article 2 (par. 3) of the UN Charter by avoiding "peaceful means" of dispute settlement? Has China disregarded Article 4 of the 2002 Declaration on the Conduct of Parties in the South China Sea (or Article 2 (par. 4) of the UN Charter on which it is based) on resolving disputes "without resorting to the threat or use of force"? Has China ever threatened the use of force to take back its lost territories—the land features in the South China that are occupied by other claimant states? The answer to these questions is no. What China has done since the 1980s has been to propose shelving sovereign disputes and proceeding with joint development.

What, then, is the United States indicating when it insists that China respect international law? The real driver of U.S. complaints is a divergence in state attitudes toward alternative methods for managing or settling international disputes. The United States has explicitly endorsed the Philippines' choice of third-party compulsory dispute settlement. China has valid reasons for rejecting this method, including persistent doubts about the justiciability and admissibility of the case, a preference for alternative methods of solving disputes with its neighbors, and skepticism that the final award will bring Beijing and Manila closer to resolution of the dispute rather than trigger a further escalation of tensions, continuing the current trend. Without discrediting or underestimating the important role that compulsory dispute-settlement regimes can play, Southeast Asian countries have historically been more amenable to alternatives such as confidence building, joint development, negotiation, and mediation.

China certainly does not enjoy being or seek to be portrayed as the regional bully that disrespects international law. It is, however, rational and within the sovereign rights of a state to choose its preferred and most comfortable method for problem solving. This principle is well-illustrated by the United States' decision to pull itself out of the Nicaragua case after it lost in the jurisdiction and admissibility phase. However, in this case China's decision not to appear before the arbitration tribunal has placed the country in a vulnerable position, as Beijing has forgone the opportunity to lay out its legal evidence in full; the position paper is obviously insufficient.

Land Reclamation

Observers of China's land reclamation activities have neither grounds for criticizing the projects nor any real cause for concern, as these activities have no legal implications according to any interpretation of UNCLOS or general international law. The issue of which state has the better claim to sovereignty is governed by the rules and principles of international law on the

acquisition and loss of territory, which are set out in the decisions of international courts and tribunals. Hence, China's land reclamation activities do not strengthen, weaken, or in any way affect its claims to sovereignty over the features in the South China Sea. In addition, these activities will not enhance China's maritime boundary claims either, given that UNCLOS precludes artificial islands from generating rights to a territorial sea, an EEZ, or a continental shelf.

China is frequently accused of ignoring its duty to give due notice and appropriate publicity of its land reclamation projects and of not undertaking environmental impact assessments (EIA). Official statements from the Chinese Ministry of Foreign Affairs suggest, however, that China has indeed conducted EIAs and that it is continuing to monitor the impact of its reclamation activities. It may be necessary for China to make the EIAs public and clarify which duties to potentially affected states it acknowledges. Beijing should also give due consideration to the responsibilities arising from the construction of the islands by maintaining permanent means for giving warning of their presence and appropriately publicizing their depth, positions, and dimensions. As China defends land reclamation projects as a means to improving its capacity to deliver maritime public services, the country must produce evidence that it is using the reclaimed land for the purpose of maintaining maritime safety and security, offering support for search and rescue operations, and enabling scientific research.

Militarization

The United States has accused China of militarizing the South China Sea through the continued buildup of military forces on the artificial islands, while China condemns the United States' freedom of navigation operation as de facto leading to the militarization of the region. China defends the construction of facilities on its controlled features as improvements to facilities that are used for search and rescue and other civilian purposes, with military applications extending only to limited defense. The United States claims that its latest gestures in the South China Sea are motivated by a need to assure regional allies that are concerned by China's growing maritime capacity. These allies tend to forget common interests in the South China Sea, such as the safety and security of sea lines of communication and a peaceful and stable political environment. Bearing this in mind, the atmosphere of mutual suspicion loses its legitimating assumptions. The recent pattern of confrontation and counteraction will lead to nowhere except an intensification of the security dilemma.

Prospects for Collaboration

The South China Sea has a complicated past and an uncertain future, but cooperation and due consideration among nations could stabilize the region and bring tranquility to this important sea lane. It is in the best interests of both China and the United States to explore and develop fields of maritime cooperation, such as search and rescue and humanitarian assistance, which would benefit from coordination between the two navies.

Joint antipiracy efforts in the Gulf of Aden provide one example of successful cooperation. The Consultative Mechanism to Strengthen Military Maritime Safety signed in 1998 laid the groundwork for further confidence-building measures, while the Code for Unplanned Encounters at Sea agreed to at the 2014 Western Pacific Naval Symposium sets a possible model that non-naval vessels can follow when navigating the South China Sea. Likewise, the U.S.-China Memorandum of Understanding on the Rules of Behavior for the Safety of Air and Maritime Encounters, announced after the summit between Xi Jinping and Barack Obama in 2014, is definitely a step forward. These documents, though not binding under international law, serve as a necessary framework for confidence building under the conditions of an increasing trust deficit between China and the United States in the maritime domain, especially in the South China Sea.

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