



# ICAS Issue Primer

## Topics in US-China Relations

### Trump Administration's South China Sea Policy

At long last, the outlines of the Trump administration's South China Sea policy are gradually emerging. During the first week of May, U.S. Defense Secretary James Mattis, in coordination with the White House, laid down the initial parameters of the Trump administration's South China Sea Policy. Aspects of the policy have been publicly reiterated twice thereafter - first by Secretary Mattis in his keynote address at the Shangri-La Dialogue in Singapore on June 3,<sup>i</sup> and more recently by Secretary of State Tillerson and Secretary Mattis during a joint press conference in Washington, D.C. on June 21 in conjunction with the first session of the U.S.-China Diplomatic Security Dialogue.<sup>ii</sup>



The June 2017 U.S.-China Diplomatic Security Dialogue in Washington, D.C.

Those parameters are a far cry from the belligerent tone set out by Secretary of State-nominee Tillerson during his confirmation

hearing in early-January. In a mere 162 words of prepared remarks on China, he misstated international law as well as U.S. policy on Beijing's island-building activities in the South China Sea. Pressed to clarify, he compounded his ignorance with a set of belligerent policy suggestions, including denying China physical access to its own islands, which if enforced could have left the Asia-Pacific at the doorstep of war.

*What were some of the key drivers that led to the laying down of the policy parameters?*

Twice in February and once in March 2017, U.S. Pacific Command formally requested the Office of the Secretary of Defense to authorize a Freedom of Navigation operation (FONOP) in the South China Sea. Secretary Mattis had turned all three requests down – not because he was inherently opposed to them but because he wanted the FONOPs to be conducted within the framework of a broader strategy. That strategy was formally endorsed in early-May. Secretary Mattis' scheduled keynote address at the Shangri-La Dialogue also drove this timing. He couldn't have gone to Singapore to deliver an important speech with no fundamental regional policy to communicate.

***What are some of the key parameters laid down by Secretary Mattis?***

First, the United States will “**fly, sail and operate wherever international law allows**” (based on the United States’ interpretation of customary international law on ‘high seas’ freedoms).

Second, the **Freedom of Navigation operations (FONOPs)**, which the U.S. Navy has regularly conducted since 1979, will continue without change. However, in contrast to the Obama administration, which had a policy of publicizing FONOPs, the Trump administration will not officially announce these operations (though word about an operation will likely leak to the press). Rather, the administration will revert to the past practice of logging all FONOPs in the Navy's annual report. In this vein, the *USS Dewey* quietly conducted a FONOP within the 12-nautical mile limit of Mischief Reef on May 24th. The operation was a “man overboard” rescue drill (a ‘high seas’ freedom) to emphasize that a low-tide feature – as is the case with Mischief Reef – is not entitled to its own territorial sea.



Secretary Mattis delivers remarks at the June 2017 Shangri-La Dialogue

Third, regarding China’s **land reclamations** in the South China Sea, the Trump administration, like the Obama Administration, continues to see them as undermining regional stability and is opposed to their militarization. *In fact, the official administration position is that such reclaimed features should be demilitarized!*

***Where does the Trump administration stand with regard to China’s maritime claims in the South China Sea and the July 12th, 2016 arbitration ruling?***

On July 12th, 2016, an international tribunal constituted under the Convention on the Law of the Sea ruled in favor of the Philippines in its maritime rights dispute with China. The Trump administration’s position is that the ruling is legally binding on China and provides a useful basis to manage and resolve the competing sovereign rights claims. The United States is not a claimant but has an abiding interest in the peaceful resolution of these disputes. From a legal standpoint, the Trump administration also acknowledges that the ruling is binding only on China and the Philippines but not any other countries<sup>iii</sup>. *This means only China and the Philippines can enforce the ruling and that third countries do not enjoy any enforcement rights.*

Regarding the **Nine Dash Line**, the Trump administration does not yet have a full understanding of what activities the Chinese government wishes to enjoy and which rights it plans to enforce within the Line’s perimeter. But it, like the Obama administration, continues to observe that China has no basis to claim ‘historic rights’ within the Line to the extent that such claims exceed China’s Law of the Sea entitlements.

***Where does the Trump Administration stand with regard to American defense commitments to its South China Sea allies and partners?***

With regard to the legal guarantees to its treaty ally, **the Philippines**, the Trump administration has made no significant or specific South China Sea-related policy pronouncement so far. This is in contrast to Japan where the Trump Administration has reiterated that the Diaoyu/Senkaku Islands in the East China Sea are fully covered by the U.S. defense guarantee. Although the lack of reference in this regard reflects the fact that there has not been any Trump-Duterte meeting so far (unlike the case with Japan's Abe), the U.S. as a general rule downplays its South China Sea-related defense guarantees at U.S.-Philippines heads-of-state meetings. This is, in part, because the guarantee is itself written so inscrutably that it negates the possibility that Washington will be realistically called-upon to discharge the obligation.

Under Article V of the U.S.-Philippines Mutual Defense Treaty of 1951, Washington is duty-bound to defend Manila if: (a) the metropolitan territory of the Philippines is attacked; (b) the island territories under its jurisdiction in the Pacific Ocean is attacked; or (c) its armed forces, public vessels or aircraft in the Pacific is attacked. By way of a letter from the U.S. Ambassador to the Filipino Foreign Secretary in 1999, the United States confirmed that it considered *“the South China Sea to be part of the Pacific Area.”*

With regard to **Vietnam**, President Trump met Prime Minister Nguyen Xuan Phuc in the Oval Office on May 31st 2017. They discussed the administration's recent transfer of a Hamilton-

class Coast Guard cutter to Hanoi and the sale of additional such vessels. They also looked into the possibility of a visit to a Vietnamese port by a U.S. aircraft carrier and welcomed the deepening of working arrangements related to their HA/DR-related Cooperative Humanitarian Assistance and Medical Storage Initiative (CHAMSI).<sup>iv</sup> Vietnam is not a treaty ally of the United States.



Vietnamese Prime Minister Nguyen Xuan Phuc visits Trump at the White House in May 2017

***Given the Trump Administration's equivocal statements on alliances, at times, how does it plan to demonstrate its resolve to partners and allies in the region***

As a measure of reassurance to allies and partners in the region, the U.S. Secretary of Defense has endorsed two actions: First, a plan to commit an additional US\$7.5 billion to bolster the U.S. military's presence in the region between now and 2022. The sum will be spent to upgrade the U.S.' and allies/partners' regional military infrastructure, conduct additional exercises, and deploy more forces and ships in the region. This additional commitment of funds, dubbed the *Asia-Pacific Stability Initiative*, is modeled after the *European Reassurance Initiative*, which was drafted to reassure the U.S.' European allies after

the Russian annexation of the Crimean Peninsula in 2014. A budget request to Congress has not been put out as yet though. Presumably, the specific heads of spending under the plan are currently being drawn up. Second, the U.S. Pacific Command plans to **increase the number of “ship days” spent in the South China Sea** from an average of 600-700 days annually to approximately 900 days. The longer fleet presence is intended to show America’s flag in these waters and signal continuing U.S. commitment to the region.

### **Key Takeaway:**

**The new administration’s policy on the South China Sea is practically the same as the old administration’s policy on the South China Sea.** Fundamentally, it differs from the previous Administration’s policy mostly in terms of form and emphasis, not content. While the political and rhetorical emphasis has been toned down, the physical naval presence and the military component is to be increased slightly. As a noted commentator has observed, in the South China Sea, the Trump administration will speak (somewhat-more) softly and carry a (modestly) bigger stick.<sup>v</sup>

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<sup>i</sup> See “Remarks by Secretary Mattis at Shangri-La Dialogue,” *U.S. Department of Defense*, June 3, 2017. Available at: <https://www.defense.gov/News/Transcripts/Transcript-View/Article/1201780/remarks-by-secretary-mattis-at-shangri-la-dialogue/>

<sup>ii</sup> See “Secretary of State Rex Tillerson and Secretary of Defense Jim Mattis at a Joint Press Availability,” on Occasion of the first meeting of the U.S.-China Diplomatic Security Dialogue, *U.S. Department of State*, June 21, 2017. Available at: <https://www.state.gov/secretary/remarks/2017/06/272103.htm>

<sup>iii</sup> On this point, see p.9 of *2017 China Military Power Report*, released on June 6, 2017. Available at: [https://www.defense.gov/Portals/1/Documents/pubs/2017\\_China\\_Military\\_Power\\_Report.PDF](https://www.defense.gov/Portals/1/Documents/pubs/2017_China_Military_Power_Report.PDF)

<sup>iv</sup> See “Joint Statement for Enhancing the Comprehensive Partnership between the United States of America and the Socialist Republic of Vietnam,” *The White House*, May 31, 2017. Available at: <https://www.whitehouse.gov/the-press-office/2017/05/31/joint-statement-enhancing-comprehensive-partnership-between-united>

<sup>v</sup> See Mark J. Valencia, “Trump’s Emerging Policy Towards China and the South China Sea,” *IPP Review*, June 23, 2017. Available at: <http://ippreview.com/index.php/Blog/single/id/486.html>