



# ICAS BULLETIN

## Institute for China-America Studies

### A Survey of Scholarship on US-China Relations

*Twice a month, the ICAS Bulletin updates a global audience on American perspectives regarding the world's most important bilateral relationship. Research papers, journal articles, and other prominent work published in the U.S. are listed here alongside information about events at U.S.-based institutions.*

#### Commentary: Contested U.S. Naval Maneuvers in Malaysian Waters.

#### In the News

##### **James Mattis asks U.S. allies to 'bear with us' amid backlash over isolationism**

Julian Burger

*The Guardian*, June 03, 2017

At a defense summit in Singapore on Saturday, U.S. secretary of defense James Mattis urged allies to “bear with us.” Mattis was responding to questions about U.S. leadership and commitment to a rules-based international order, in the wake of Donald Trump’s announcement that his administration will leave the Paris climate change accord. Earlier this year Trump decided to withdraw the United States from the TPP economic agreement and recently announced that his administration will begin the process of renegotiating NAFTA.

##### **China Sees an Opening in Rift Between Trump and Germany**

Alison Smale and Jane Perlez

*The New York Times*, May 31, 2017

As Trump continues to alienate Europe, EU member states, including Germany are starting to look to China to fill the void. Some analysts view this transition in a positive light, especially for Germany who now views China as a “steadier ally” than the Trump administration. Others, however, see the China-Germany partnership in a much more pragmatic light. With German companies hoping to operate

in China, it makes sense for Germany to pursue a closer relationship with China. That does not necessarily entail warmer relations. German Institute for Economic Research President Marcel Fratzscher noted that “replacing America with China ‘is not a good swap.’”

### **China’s New Cybersecurity Law Leaves Foreign Firms Guessing**

Sui-Lee Wee

*The New York Times*, May 31, 2017

Wee analyzes the confusion surrounding the implementation of China’s new cybersecurity law for foreign firms doing business in China. Critics claim the law is too vague, and could potentially impose costs that would impede their ability to do business in China. Chinese officials however, claim that the law would help prevent cyber attacks and improve internet security. Some fear that the ambiguity surrounding the law’s implementation gives China’s government leeway to target specific foreign companies in communications, technology and finance sectors.

### **Beijing Plans Underwater Observation System in South China Sea**

James Griffiths

CNN, May 30, 2017

Griffiths discusses the implications of China’s planned \$290 million massive underwater surveillance system in the South and East China Seas. Experts believe the system will monitor foreign ship movement and perhaps even “diminish the stealth capabilities of U.S. submarines.” While China claims this planned monitoring system is for purely scientific purposes, some analysts are concerned that it will further bolster China’s territorial claims in the South and East China Seas.

### **In the South China Sea, the U.S. is Struggling to Halt Beijing's Advance**

Dan De Luce, Keith Johnson

*Foreign Policy*, May 25, 2017

On May 25, the USS Dewey sailed within twelve nautical miles of Mischief Reef. It is the first time the U.S. military has carried out a freedom of navigation operation in the South China Sea since Trump assumed the presidency. Until now, the Trump administration had declined several FONOP requests in hopes of securing China’s cooperation in defusing the North Korean crisis. However, many experts see the move as too little, too late. At this point, MIT’s Taylor Fravel observes, China’s presence on the contested reefs is well established. The only way to remove them is by far force, a move that the United States is unwilling to make.

**China's Addiction to Debt Now Threatens Its Growth**

Keith Bradsher

*The New York Times*, May 25, 2017

Moody's Investors Services cut China's debt rating for the first time in almost thirty years, saying the accumulated debt would erode China's financial strength in the future. Since the global financial crisis in 2008, China has been relying on debt to fund growth. The country's debt now amounts to about fifteen percent of its annual output. This borrowing binge is also propelled by high-risk investments. These types of high stakes deals have drawn attention from Chinese authorities. "Every enterprise, especially those with too high a rate of leverage, should be controlled," said the governor of the central bank, Zhou Xiaochuan, in a stern warning of the government's resolve to stabilize the financial system.

**Reports, Articles and Commentaries****Could the U.S. and China End up in a Terrible War that Neither Wants?**

Joshua Rovner

*The Washington Post*, May 30, 2017

China and the United States risk falling into a Thucydides trap, a situation where the aspirations of a rising power inevitably lead to confrontation with the existing superpower. Just as it was the case with Sparta and Athens, the U.S. and China dominate the land, seas and skies over in their immediate spheres of influence. If the war were to break out, both countries would be able to retreat into their respective safe havens, guaranteeing that any conflict would be a long and costly affair - just like the Peloponnesian War. This time however, the stakes are enormous. Both parties possess nuclear arsenals that could bring about the destruction of human civilization, as we know it.

**Trump Hands the Chinese a Gift: The Chance for Global Leadership**

David Sanger and Jane Perlez

*The New York Times*, June 1, 2017

U.S. withdrawal from the Paris Agreement presents China with a golden opportunity to assume a global leadership role. As the U.S. looks inward and abandons global commitments, its soft power is eroding. While the long term effects of the withdrawal remain to be seen, there is a short term opportunity for China, as well as other countries, to expand on global leadership.

**Beyond the San Hai: The Challenge of China's Blue-Water Navy**

Dr. Patrick M. Cronin, Dr. Mira Rapp-Hooper, Harry Krejsa, Alexander Sullivan and Rush Doshi

CNAS, May 15, 2017

This report focuses on China's growing maritime strength, not only within its near-abroad, but also on the global stage. It provides key implications and policy recommendations for the U.S. and its allies in

the face of the China's People's Liberation Army Navy (PLAN) increased capabilities, power projections and strategic operations. The international community must prepare for the inevitable. It is only a matter of time before China becomes a global naval power. In the short term China's naval strategy will likely expand into the Indian Ocean Region and the Pacific, a move which offers opportunities for cooperation (and competition). The report recommends that the U.S. increase its investment in maritime capabilities, diversify its military capabilities in Asia, and identify areas of cooperation with China while strengthening multilateral institutions.

### **Are Maritime Law Enforcement Forces Destabilizing Asia?**

A CSIS Interactive Resource

ChinaPower: Unpacking the complexity of China's rise

Maritime disputes in the South China Sea present an array of potential flashpoints between countries with overlapping claims. In recent years, many of these countries have mobilized government vessels traditionally used for maritime law enforcement to reinforce their territorial claims. ChinaPower has developed an interactive timeline that traces major maritime law enforcement incidents in the South China Sea from 2010 to the present day.

## **Events, Videos and Discussions**

### **China's Vision for a New Eurasian Order**

Event - June 12

Carnegie and the National Bureau of Asian Research will host a discussion of Nadège Rolland new book, entitled: *China's Eurasian Century? Political and Strategic Implications of the Belt and Road Initiative* (BRI). The ambitious initiative hopes to link Europe, Africa and Asia through a vast network of transportation, energy, and telecommunication infrastructure, accompanied by strengthened monetary cooperation and increased people-to-people exchanges.

Rolland examines the drivers and goals of China's Belt and Road Initiative and argues that the initiative reflects Beijing's desire to shape Eurasia according to its own worldview and unique characteristics. Ely Ratner and Daniel S. Markey will provide comments and insights, with Carnegie's Ashley J. Tellis moderating the event.

### **Video: China's appetite for steel is not over yet**

Alan Livsey

*Financial Times*, March 24, 2017

Alan Livsey argues that although base metal prices have been low since January, it is premature to predict the steel demand in China will soon collapse. There are signs of the Chinese government closing inefficient mills, which may lead to reduced manufacturing capacity and raise the steel price.

## Commentary

### Contested Naval Maneuvers in Malaysian Waters

By B.A. Hamzah

In its 2017 Report on the Freedom of Navigation, the United States Department of Defence (DoD) criticised Malaysia and 21 other countries for making excessive maritime claims. The United States maintains that Malaysia has undermined the freedom of navigation and contravened customary international law.

DoD has faulted Malaysia on two grounds: requiring prior notification for nuclear-powered vessels to enter their territorial sea, and failing to authorize foreign powers to conduct military exercises in its exclusive economic zone (EEZ). Other states requiring prior notification for foreign warships to access their territorial seas include Albania, China, Croatia, India, Maldives, Malta, Oman, Pakistan, South Korea, Thailand and Vietnam.

The origin of Malaysia's restrictions on nuclear-powered ships and military maneuvers can be traced to a declaration it deposited with the United Nations on the 14th of September, 1996. Consistent with the Vienna Convention on the Law of Treaties of 1969, the declaration reads that Malaysia "understands [that] the provisions of the Convention do not authorise other States to carry out military exercises or manoeuvres, in particular those involving the use of weapons or explosives in the exclusive economic zone without the consent of the coastal State".

It is worth noting that the concept of EEZs is found only in UNCLOS, of which the U.S. is a signatory, but has yet to ratify. The U.S. insist that the "international uses" described in Article 87 of UNCLOS include the right to conduct military maneuvers in EEZs. However, the 27 states that have ratified UNCLOS disagree with the U.S. and do not adhere to this interpretation.

These countries point to the absence of specific provisions in UNCLOS permitting foreign countries to conduct military activities in EEZs. Separately, they take the view that phrases in UNCLOS which refer to the "rules of international law" in Article 87 (1), and of "internationally lawful uses of the sea" in Article 58 (1), do not apply to military exercises.

As such, Malaysia's official policy is that as long as maritime activities are military in nature, they are prohibited in the Malaysian EEZ, without its expressed consent. Unauthorised military activities are considered a threat to the security Malaysia.

The 1996 declaration also stipulates prior authorisation for the passage of nuclear powered vessels and vessels carrying nuclear materials in its territorial sea. This restriction is primarily targeted at vessels transiting through the accident-prone and traffic-congested Strait of Malacca.

Malaysia contests the unauthorised right of foreign countries to conduct military exercises in its EEZ on the ground of sovereignty, law and security. In Malaysia's view, as a coastal state, subject to legally accepted constraints, Malaysia has absolute sovereign jurisdiction in its territorial sea and EEZ.

There is no international law that explicitly prohibits Malaysia from claiming jurisdiction over foreign

military activities in its EEZ. Unauthorised foreign military activities can undermine and subvert Malaysia's security, and they can be non-peaceful in nature.

Malaysia views UNCLOS as a treaty that is only applicable to state parties. Although the treaty has come into force, not all the provisions have the force of *opinio juris* as customary international law, whereby states are obliged to obey, prescribe and enforce. The provision dealing with military activities at sea is one of them.

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