

We affirm, resolved: the United States should accede to the United Nations Convention on the Law of the Sea.

Our sole contention is troubled waters.

The South China Sea conflict is incredibly unstable.

Blitzinger of the Asia Times reports in this June that:

The South China Sea is being increasingly dominated militarily by China at both its Eastern and Western Ends. Beijing is seeking to transform the South China Sea into a Chinese Controlled waterway and a strategic chokepoint for other countries.

America's recent callous treatment of allies has caused longtime partners to doubt our resolve. Shannon Sherwin at the Air Force writes in 2017: What credibility does the US have in making this statement or in backing the international court when it is not itself a signatory to the convention upon which this ruling is based? The US's current maritime security policy states that the US must ensure continued "freedom of the seas," "deter conflict and coercion," and "promote adherence to international law and standards," yet the US pays lip service to these statements as outsiders to the convention.

This lack of faith in American commitment breeds a willingness to align with China.

Westcott of CNN Reports this year:

Uncertainty about America's commitment to the region has prompted local leaders to strengthen ties with China as US influence in the region fades.

U.S. accession to the Law of the Sea is needed to reassure American allies, thereby reinforcing a stable balance of power in the region in 2 ways.

First, bolstering the rule of law. Dutton 12 at the Center for New American Security writes: China also seeks to limit the right of naval powers to ensure that these frictions do not escalate into conflict. Chinese law challenges the existing international maritime order by attempting to reverse the existing balance of coastal state and international rights to operate freely in EEZs.

UNCLOS accession solves this issue. Denyer 16 writes in the Washington Post: when the United States urge China to respect a “rules-based” international system, the admonishments often come across here as insincere. Although the U.S. government says it follows UNCLOS as “customary international law,” its failure to submit itself formally to its provisions rankles many nations.

Our failure to ratify UNCLOS pushes away our allies by demonstrating our lack of commitment to regional institutions, undermining their confidence in us.

Second, displaying credible military force.

Freedom of navigation operations, or FONOPS are the US Navy’s practice weaving in and out of China’s Exclusive economic zone in order to display our dissatisfaction with their illegal and expansionist policies.

Andrew Erickson, professor at the U.S. Naval War College, explains in 2015: Because UNCLOS is almost universally accepted, U.S. actions would receive support from the 160 nations party to the convention allowing commanders to more aggressively assert navigational rights within the approved framework of UNCLOS.

A more credible US military shows our allies we are more willing to defend them. Increasing our demonstrations decreases the likelihood of conflict. Johnson of the journal of International interactions writes:

A state that has an alliance that requires a high level of military coordination is 23% [4%, 38%] less likely to be the target of a militarized dispute than a state that has an alliance that requires a low level of military coordination.

For these two reasons: Cardin of the Diplomat writes: Joining UNCLOS would communicate that for the United States, resolution of maritime disputes in the South

China Sea is not a question of being for or against any particular country or its claims, but rather for being on the side of international law, institutions and norms

Tham of the Diplomat reports this May that on the current course, as Beijing accrues naval dominance in the SCS, the rules meant to regulate its behavior are likely to matter less and less – underscoring the geopolitical truism that ‘might is right.’ there would be nothing stopping China from ‘teaching its neighbours a lesson’ – like how it taught Vietnam painful lessons during 1979

Stout of Times Magazine quantifies in 2014 that Teaching the Vietnamese a lesson turned out to be a costly affair. analysts have estimate that as many as 50,000 soldiers died during the confrontation

The South China

The South China sea is being increasingly dominated militarily by China at both its eastern and Western Ends. Beijing is seeking to transform the South China Sea into a Chinese Controlled waterway and a strategic chokepoint for other countries. (Blitzinger - Asia Times)

Blitzinger, 6-9-2018, "Why Beijing is militarizing the South China Sea," Asia Times, <http://www.atimes.com/why-beijing-is-militarizing-the-south-china-sea/> (NK)

Finally, China is also emplacing radar stations on many of these islands in the South China Sea and stepping up its air and naval operations in the region. These deployments, plus the stationing of missiles, effectively put all of the South China Sea within range of the Chinese military. As a consequence, **the South China Sea is being increasingly dominated militarily by China at both its eastern and western ends.** This is what researchers at the US Naval War College meant when they told the author that Chinese militarization activities in the region are an attempt to create the equivalent of a “strategic strait” in the South China Sea. In other words, through the more or less permanent deployment of Chinese military power at both extreme ends of the South China Sea – Hainan and Woody Island in the west, and the new (and newly militarized) artificial islands in the east – **Beijing is seeking to transform the South China Sea** from an international SLOC into a **Chinese-controlled waterway and a strategic chokepoint for other countries.** Creating a zone of anti-access/area denial This amalgamation of force means that China’s decades-long “creeping assertiveness” in this particular body of water has become a full-blown offensive. What all this means is that China is well on its way toward turning the South China

Sea in a zone of anti-access/area denial (A2/AD). This means keeping military competitors (particularly the US Navy) out of the region, or seriously impeding their freedom of action inside it.

the US has decided to step up pressure in the South China Sea. However, this policy shift is based in part on misperceptions that could easily lead to conflict (South China morning post)

South China Morning Post, 6-2-2018, "South China Sea: what does US hope to gain by antagonising China?,"

<https://www.scmp.com/comment/insight-opinion/united-states/article/2149366/south-china-sea-tensions-does-us-have-endgame> (NK)

At last week's Shangri-La Dialogue, US Secretary of Defence James Mattis asserted that China's "militarisation" of its occupied features in the South China Sea is "for the purposes of intimidation and coercion". Indeed, it seems **the US has decided to step up pressure in**

the South China Sea. However, this policy shift is based in part on misperceptions that could easily

lead to conflict. This new US hard line towards China was officially manifested in its December 2017 National Security Strategy that declared China a "strategic competitor" and "revisionist" nation regarding the existing international order. On May 23, the Pentagon announced it had withdrawn its invitation to China to participate in the 2018 Rim of the Pacific Exercise (RIMPAC) – the world's largest multinational military exercise. It said "China's behaviour [in the South China Sea] is inconsistent with the principles and purposes of the RIMPAC exercise."

Current defensive and assertive postures appear to be exacerbating rather than alleviating tensions, in regard to China's relations with both the littoral states of east Asia and the United States. This, in turn, is undermining prospects for the future development of a regional maritime order. (Morton - Sheffield)

Katherine Morton, University of Sheffield, 2016,

https://www.researchgate.net/publication/304630611_China's_Ambition_in_the_South_China_Sea_Is_a_Legitimate_Maritime_Order_Possible (NK)

Often missing in these structurally orientated accounts is a stronger emphasis upon the growing convergence between maritime nationalism, resource security and geopolitics that highlights the Chinese predicament: caught between internal pressures to secure vital resources for economic development and external pressures to counterbalance US domination in the region. Managing this predicament in positive ways that enhance China's legitimate role in maritime security presents a major challenge for the political leadership. **Current defensive and assertive postures appear to be exacerbating rather than alleviating tensions, in regard to China's relations with both the littoral states of east Asia and the United States. This, in turn, is undermining prospects for the future development of a regional maritime order**. China and the maritime disputes Historical claims vs UNCLOS The People's Republic of China (PRC) officially claims indisputable sovereignty over all four major archipelagic groups in the South China Sea—the Spratlys (Nansha Qundao), Paracels (Xisha Qundao) and Pratas (Dongsha Qundao), and the Macclesfield Bank and Scarborough Shoal (Zhongsha Qundao).²²

Policy experts believe that a crisis management system for the region is crucial.

No author, Jan 2017, "China's Maritime Disputes," CFR,

https://www.cfr.org/interactives/chinas-maritime-disputes?cid=otr-marketing_use-china_sea_InfoGuide#!/chinas-maritime-disputes?cid=otr-marketing_use-china_sea_InfoGuide (NK)

Thousands of vessels, from fishing boats to coastal patrols and naval ships, ply the East and South China Sea waters. Increased use of the contested waters by China and its neighbors heighten the risk that miscalculations by sea captains or political leaders could trigger an armed conflict, which the United States could be drawn into through its military commitments to allies Japan and the Philippines. **Policy experts believe that a crisis management system for the region is crucial.**

50,000 soldiers died during China's invasion of Vietnam during the 80's (Stout - Time)

David Stout May 15, 2014, 5-10-2014, "The Last Time China Got Into a Fight With Vietnam, It Was a Disaster," Time,

<http://time.com/100417/china-vietnam-sino-vietnamese-war-south-china-sea/> (NK)

In the winter of 1978, when Deng Xiaoping made his threat of a "lesson," more than 80,000 Chinese troops were sent across the border into Vietnam. Chinese Deputy Defense Minister Su Yu boasted of being able to take Hanoi in a week, but the untested and under-equipped People's Liberation Army (PLA) met fierce resistance from battle-hardened Vietnamese forces deployed across the frontier's limestone karsts. The Chinese were slaughtered by local militia from positions that had been utilized for centuries against invaders from the north. "More Chinese

soldiers were getting killed because they were fighting like it was the old times," says Vietnamese veteran Nguyen Huu Hung, who witnessed the PLA's human waves being mown down near the city of Lang Son. "They were in lines and just keep moving ahead ... they didn't run away." **it would take just six weeks for Beijing to call off its "self-defensive counteroffensive." Teaching the Vietnamese a lesson turned out to be a costly affair. Official casualty statistics have never been released by either Beijing or Hanoi; however, analysts have estimate that as many as 50,000 soldiers died during the confrontation.** "I heard that [China] said they wanted to teach Vietnam a lesson, but I can't see what the lesson was," says Hung. "Our job was to fight against them. But the losses, to be honest, were huge." When the Chinese began their pullout in early March, the retreating troops implemented a barbaric scorched-earth policy. Every standing structure in their path was destroyed. Any livestock they encountered were killed. Bitterness was sown.

as Beijing accrues naval dominance in the SCS, the rules meant to regulate its behavior are likely to matter less and less – underscoring the geopolitical truism that 'might is right.' while it had no capacity nor intent to threaten Southeast Asian states previously, it has developed the requisite capabilities today. there would be nothing stopping China from 'teaching its neighbours a lesson' – like how it taught Vietnam and India painful lessons during the 1979 Third Indochina War and the 1962 Sino-Indian border war respectively. (Tham - The Diplomat)

Jansen Tham, The Diplomat, 5-10-2018, "Is the South China Sea Dispute a Foregone Conclusion?," Diplomat, <https://thediplomat.com/2018/05/is-the-south-china-sea-dispute-a-foregone-conclusion/> (NK)

The above three factors – Beijing's sharpened focus on national security, lack of American resolve to balance China in the SCS, and ASEAN's prioritization of peace and stability over sovereignty considerations – have contributed to the bleak state of affairs today. What does this mean for security in Southeast Asia? From the realist perspective, **as Beijing accrues naval dominance in the SCS, the rules meant to regulate its behavior are likely to matter less and less – underscoring the geopolitical truism that 'might is right.'** While China foresees the use of coercive force on its Southeast Asian neighbors and may indeed have no offensive intentions today, it has now placed itself in a position to do so in future. In other words, **while it had no capacity nor intent to threaten Southeast Asian states previously, it has developed the requisite capabilities today.** Under a different Chinese leader, or when regional geopolitics shifts to one more antagonistic to Beijing's interests, there is a very real chance that its hitherto benign intent could change. If that happens, **there would be nothing stopping China from 'teaching its neighbours a lesson' – like how it taught Vietnam and India painful lessons during the 1979 Third Indochina War and the 1962 Sino-Indian border war respectively.** While acquiescing to preserve today's regional peace and stability makes sense, Southeast Asian states must realize the trade-off that doing so engenders potential costs of military confrontations with China tomorrow – confrontations stacked in Beijing's favor given its entrenched regional military influence henceforth.

Over the decades China has built up a track record of using violence get its way in the South China Sea

Cronin 18 Patrick M. Cronin and Melodie Ha, The Diplomat, 6-22-2018, "Toward a New Maritime Strategy in the South China Sea," Diplomat,

<https://thediplomat.com/2018/06/toward-a-new-maritime-strategy-in-the-south-china-sea/> //DF

Finally, it's time to deny China the hollow claim that Beijing follows international maritime law, while Washington flouts it. The opposite is true. China has ratified the United Nations Convention on the Law of the Sea (UNCLOS) but adheres to it selectively by privileging domestic law and unilaterally asserting historical rights. In contrast, the United States Department of Defense abides by UNCLOS as a matter of customary international law, even though the United States has never ratified the treaty. **The United States should at long last ratify UNCLOS to advance America's interests by reinforcing favorable rules for the governance of the world's oceans on which we depend. Adopting UNCLOS would bolster American leadership at a time when many question its reliability and staying power.** These four steps are not a substitute for a comprehensive Indo-Pacific strategy. But collectively, these steps could be the beginning of a stronger network of partners and provide the means of preventing any single nation from unilaterally determining the rules for the world heading into the 21st century.

Thad W. Allen, Richard L. Armitage and John J. Hamre, 4-24-2011, "Opinion," New York Times, <https://www.nytimes.com/2011/04/25/opinion/25allen.html> (NK)

All three of us have struggled while working with and through international organizations — they are unwieldy and not always responsive to American interests. But as we see in Libya today, the United Nations and other **international alliances are indispensable in providing legitimacy and reinvigorating American partnerships in times of crisis. And they will ensure needed balance as rising powers inevitably challenge America's economic and military strength.** Last July, Secretary of State Hillary Rodham Clinton gained much respect by reassuring the Southeast Asian nations that the United States strongly supported multilateral efforts to address those territorial disputes in the South China Sea, and denounced China's heavy-handed, unilateral tactics. But **strong American positions like that are ultimately undermined by our failure to ratify the convention; it shows we are not really committed to a clear legal regime for the seas.** For all of these reasons, ratification is more important today than ever before. At a time when America's military and economic strengths are tested, we must lead on the seas as well as on land.

Gallagher of Temple University explains in 2014

Gallagher, Marjorie Ellen, 2014, "*The Time is Now: The United States Needs to Accede to the United Nations Convention on the Law of the Sea to Exert Influence over the Competing Claims in the South China Sea.*" [Temple International and Comparative Law Journal](#) (NK)

Currently, the State Department's suggestion to the competing claims in the South China Sea is for all of the nations to follow UNCLOS.²³⁰ **It is hypocritical for the United States to encourage another country to follow UNCLOS without actually acceding to it herself. Further, China is less likely to listen to the United States from a "position of weakness."**²³¹ According to one commentator, conversations between the United States and China regarding foreign military activity in China's EEZ currently look like this: *Chinese official: Your navy ships have no right to be in our exclusive economic zone without our permission. Chinese official: You are not a party to convention, so it doesn't matter what it says-you have no standing to make that argument.*²³² **If the United States acceded to UNCLOS, then China's response could no longer be, "You are not a party to the convention."** Admiral Locklear, the U.S. Navy Commander in the U.S. Pacific Command, has mentioned that in the South China Sea, where "competing claims and counter claims in the maritime domain are becoming more prominent . . . the effectiveness of the U.S. message is somewhat less credible than it might otherwise be, due to the fact that we are not a party to the convention."²³³ **The United States would finally have standing to make the argument that China needs to follow UNCLOS.**

The opportunity presented instead is for the United States to demonstrate leadership in the region that combines deft diplomacy, considered military engagement and an adherence to international law as an enabling rather than enfeebling force (Haider - Yale).

Ziad Haider, 3-13-2013, "US Must Adopt Law of the Sea," Yale University, <https://yaleglobal.yale.edu/content/us-must-adopt-law-sea> (NK) Asia's maritime disputes are a disruptive force for US interests; however, they present an opportunity. A shortsighted view would conclude that the opportunity presented is a strategic opening for the United States and a regional tilt given recent Chinese heavy handedness. The reality is that states in the region have no interest in choosing sides. According to the National Intelligence Council's Global Trends 2030 report, they will instead increasingly be pulled in both directions: economically toward China and security-wise toward the US. Moreover, given Sino-US economic interdependence, a China that perceives itself subject to containment and doubles down militarily is not in US interests. **The opportunity presented instead is for the United States to demonstrate leadership in the region that combines deft diplomacy, considered military engagement and an adherence to international law as an enabling rather than enfeebling force.** Doing so will test its ability to remain an effective Pacific power while navigating the rise of another — all this to preserve an order with which US security and economic interests are inextricably linked in this century.

Operating outside of and against the norms of this re-strengthened order could have detrimental impacts for China. Peter Dutton writes for the naval Law College in 2013:

Peter **Dutton**, 2013, "," Naval War College,

<https://china.usc.edu/sites/default/files/legacy/Applimages/serc-2013-dutton-maritime-disputes.pdf> (NK)

Thus, a very important outcome of this case could be that China is faced with the embarrassment of the formal international rejection of its claims and a clear reinforcement of the rules and norms concerning rights and obligations at sea that UNCLOS establishes. It should be noted that on at least one occasion in the past—in the period from 1995 to 2008, Beijing was influenced to pursue non-coercive measures by unified international opinion against its behavior. Failure by China to participate in the process or, worse, a decision to ignore unfavorable results, would be a signal from Beijing that no amount of international disapproval will

sway it. Thus, a third impact could be to **encourage others in the region and beyond to enhance coercive capacity and engage in accelerated balancing activities in order to reinforce their claim strength and their overall security in the face of a more powerful China.** A fourth impact could be that China's leaders may have to face domestic political concerns, since the avid Chinese nationalism that Beijing sometimes uses as a weapon against its neighbors could in this case be turned against the leadership. Indeed, there is likely to be especial sensitivity to the perception that China's government lost control of a high profile issue to a small Southeast Asian state and a Japanese judge.

Katherine Morton, University of Sheffield, 2016,

https://www.researchgate.net/publication/304630611_China's_Ambition_in_the_South_China_Sea_Is_a_Legitimate_Maritime_Order_Possible (NK)

What the analysis reveals is that maritime nationalism is now a central motivating force across the legal, strategic and political dimensions of China's stance in the South China Sea.⁷ Assessments that seek to interpret the Chinese position simply on the basis of realpolitik and strategic calculations miss a crucial point:

China's maritime rejuvenation project is a major source of contention, but it is also incurring legitimacy deficits that are undermining its potential to contribute towards building maritime order in positive ways. As a consequence, Beijing is now confronted by serious challenges in its relations with other regional powers that expose the constraints on its maritime ambition. In responding to China's ambition, the question for policy is how to move towards a genuinely rules-based maritime order in east Asia that is

both inclusive and legitimate. Like other states, **China stands to gain from the collective benefits provided by existing rules and institutions governing the oceans and seas.** For its part, it has a role to play in mitigating conflicts and actively working to safeguard the integrity of the maritime commons. But to succeed, this will require deeper integration into the evolving maritime order on the basis of a renewed commitment to collective responsibility. On legitimate maritime order⁸ It is commonplace to assess China's potential to integrate more fully into a rulesbased order

on the basis of a simplistic dichotomy between realist and liberal world-views. From a traditional realist perspective, **order constitutes stability, which in turn privileges the sovereign independence of state**s. Superimposed upon the maritime domain, this interpretation focuses concern upon the relationship between established and aspiring naval states and the central importance of maintaining a balance of power. In contrast, liberals stress the common benefit of order based on collective action requiring a degree of shared sovereignty and institutionalized cooperation. A liberal maritime order is underpinned by the common interest and by international law that seeks a fairer distribution of ocean benefits between naval powers and coastal states. A fundamental proposition in this article is that we need to think more in evolutionary and socially dynamic terms about the relationship between order (understood as the preservation of national integrity) and legitimacy (defined as claims to political authority on the basis of social consent), especially in the context of maritime east Asia.

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Beijing Believes in joint security institutions (Xinbo - Brookings)

Wu Xinbo, 9-1-2000, "U.S. Security Policy in Asia: Implications for China-U.S. Relations," Brookings,

<https://www.brookings.edu/research/u-s-security-policy-in-asia-implications-for-china-u-s-relations/> (NK) `

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In the post-Cold War era, Washington has been advocating an Asia-Pacific security structure with the U.S. as the sole leader and with U.S.-led bilateral alliances as the backbone. This is in essence hegemonic stability. **Beijing believes, however, that regional security rests on the cooperation of regional members and a blend of various useful approaches (unilateral, bilateral and multilateral, institutional and non-institutional, track I and track II, etc.),** not just on one single country and a set of bilateral security alliances. Unilateral security vs. mutual security The United States currently possesses the most powerful military in the world. However, it continues to pump resources into its defense industry to develop even more sophisticated offensive weaponry, thus retaining its paramount superiority in both conventional and strategic arsenals. At the same time, Washington has been pursuing both national missile defense (NMD) and theater missile defense (TMD) systems, aimed at protecting itself from other countries. However, this kind of unilateral security comes at the expense of others' security.

Ben Westcott, Cnn, 1-29-2018, "Asia under Trump: How the United States is losing the region to China," CNN, <https://www.cnn.com/2018/01/27/asia/asia-trump-us-china-intl/index.html> (NK)

In just one year, US President Donald Trump has changed the way Asia looks at the United States. **The cornerstones of American power in Asia**, Japan, Australia and South Korea, **all lost a little faith in their longtime close ally and protector in 2017**, according to Gallup polling. No military assets have been withdrawn, no embassies closed, but the lack of interest expressed by a US administration focused on "America First" has deeply shaken its status in the region. "Nowadays when we attend international conferences (around Asia), nobody really talks about the United States anymore ... it's a little bit strange," Chisuke Masuo, associate professor at Kyushu University's Graduate School of Social and Cultural Studies, told CNN. **Uncertainty about America's commitment to the region has prompted local leaders to strengthen ties with each other, to prepare for the day when the US no longer has their backs.** Meanwhile, **a number of simmering flashpoints across the region could test the US' commitment to its allies, and Masuo said China is likely to use those points of tension to prove its regional supremacy.** "It's the 100th anniversary of the Chinese Communist Party in July 2021, and I think (Chinese President) Xi Jinping will love to demonstrate his people that China has become a dominant power in Asia by then," she said. [...] "(Additionally) so far China has refrained from sending any fighter aircraft to its artificial islands, but given the scale of the facilities they've built on three of these features for aircraft, it's really only a question of time," he said. "That would warrant a reaction from Southeast Asian countries ... so I think China is playing it cautious for the moment. (But) I mean if they do, what options do those countries have other than to protest?" **Several countries in Southeast Asia have already started moving closer to China as US influence in the region fades,** including a startling about-face by Philippines President Rodrigo Duterte in 2017.

Thus, Cardin of the Diplomat writes: Joining UNCLOS would communicate that for the United States, resolution of maritime disputes in the South China Sea is not a question of being for or against any particular country or its claims, but rather for being on the side of international law, institutions and norms

Ben Cardin, 7-15-2011, "The South China Sea Is the Reason the United States Must Ratify UNCLOS," Foreign Policy, <https://foreignpolicy.com/2016/07/13/the-south-china-sea-is-the-reason-the-united-states-must-ratify-unclos/> (NK)

The decision is a hugely important moment for the Asia-Pacific order. Yet Beijing has rejected this opportunity to play a more constructive role in the region, repeatedly stating that it will not abide by the ruling. If Beijing won't be helpful, what can the United States do to strengthen global institutions in the region? **Join[ing] the United Nations Convention on the Law of the Sea (UNCLOS), the international institution through which the ITLOS arbitration was conducted. Such an action would communicate that for the United States, resolution of maritime disputes in the South China Sea is not a question of being for or against any particular country or its claims, but rather for being on the side of international law, institutions and norms.** The United States played an instrumental role in forming UNCLOS in the 1970s, and in subsequent negotiations worked to modify the treaty language to assure that U.S. national interests were safeguarded. Yet although both Democrat and Republican presidents have advocated its passing, the Senate has yet to ratify it. This is regrettable.

<https://www.tandfonline.com/doi/abs/10.1080/03050629.2015.982115?src=recsys&journalCode=gini20>

The results suggest that they can. States with alliances that require higher levels of peacetime military coordination are less likely to be the target of militarized interstate disputes. **A state that has an alliance that requires a high level of military coordination is 23% [4%, 38%] less likely to be the target of a militarized dispute than a state that has an alliance that requires a low level of military coordination.** We find similar results in our robustness check based on the level of peacetime military coordination in the potential target's strongest single alliance. These results provide support for Hypothesis 4 and indicate that states can improve the deterrence capabilities of an alliance by investing in peacetime military coordination.