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China and American Seapower in East Asia: Is Accommodation Possible?

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ABSTRACT Debates about the future of American seapower in East Asia turn on the argument that American seapower presents a risky and costly luxury that undercuts the cooperative potential of US–China relations. This article asks whether accommodation between China and the United States on the possession and exercise of American seapower in East Asia is possible. Accommodation on this front could significantly lower the risks of unintended escalation and in turn undermine arguments that favour an American retreat from East Asia. The article outlines how accommodation can be achieved on the exercise of American seapower in the region.

KEY WORDS: China, United States, Freedom of Navigation, Accommodation, Maritime Security

American hegemony in East Asia is intimately linked to Washington’s possession and expression of seapower. Although many US analysts argue this allows Washington to exercise benevolent rule of the global maritime commons, not all states are comfortable with America’s overwhelming military strength. China has been chief among these in articulating a rejection of American maritime hegemony in East Asia. As expressed by Wu Xinbo to Secretary of Defense Robert Gates at the 2011 Shangri-la Dialogue:

One major problem with these [US–China military] relations … is United States intelligence and military activities in the Chinese vicinity. While the United States may take access to every part of the world for granted, from a Chinese perspective, especially given the isometric [sic] relationship of the power, sometimes China may find United States activities intimidating and intrusive. As a major military power, the United States could sometimes exercise self-constraint in seeking its global military presence and access and
also to show some sensitivity to the concerns of the countries which are much weaker than the United States. I think this is very core to the equation in building military trust between the United States and China.¹

In Washington, the rise of China, economic challenges and the drawdown of the military after wars in the Middle East have sparked a debate about the suitability and durability of American hegemony in East Asia. Although the US rebalancing toward Asia announced in late 2011 was intended to quiet critics at home and reassure allies abroad, the fact remains that fiscal constraints and growing Chinese confidence at sea suggest that the nature of future American seapower will be different than heretofore. With a view to advancing the debate on the future of American seapower in East Asia, this article asks whether accommodation between China and the United States is possible on the possession and exercise of seapower in East Asia.² In light of Wu Xinbo’s comments above, this seems to be the litmus geostrategic issue between the two powers in East Asia and vital to preventing the negative fallout that has historically accompanied power transitions.

The credibility of contemporary American seapower is impossible to separate from America’s fiscal problems and its willingness to incur the costs of hegemony.³ Several voices in recent years have called for a scaling back of American military commitments globally as part of a strategic retrenchment.⁴ Yet, there is clearly a demand for American seapower in East Asia, despite its sometimes heavy handed nature. In an effort to

undermine these calls for retrenchment by the United States, while contributing to debates about the sustainability of American seapower in East Asia, this article explores avenues for a Sino-US accord on the exercise of American seapower in East Asia. Such an understanding would undermine the retrenchment argument by reducing the likelihood of conflict between the United States and China and by removing an important barrier to improved Sino-American relations on the world’s stage. Washington’s choice is not limited to hegemony or retrenchment; there is an expansive middle ground of policy options that merit discussion. The article explores the strategic restraint perspective, outlines American seapower in East Asia and explores China’s shifting attitude towards it. The penultimate section looks for common ground and looks to other instances of similar disagreements to assess the extent to which an accommodation is feasible. The final section considers the negotiation and practice of accommodation in light of the nascent power transition in East Asia. In doing so, the article highlights the importance of seapower to debates over strategic alignment and explores what accommodation between the US and China might look like. The article treats accommodation as an operational level compromise that accommodates the preferences of the other party; it does not treat accommodation as the result of a sea change in strategic level thinking.

American Seapower and Strategic Restraint

A growing chorus of pundits and policymakers has argued that in tough economic times, there is no overarching strategic policy objective that is served by continuing to be an active presence in East Asia. This perspective is concerned with both the possession of seapower – the costs of maintaining a forward deployed presence – and the exercise of seapower – the risks US forces incur to maintain hegemony. Preponderance, particularly when manifested as the deployment of a large number of ships that rarely engage in naval battle, is expensive and, in the post-Soviet era, unnecessary. Others argue that this presence has costs for US partnership with China on global issues such as climate change, global economic recovery and nuclear non-proliferation, or that it prevents the emergence of a stable regional order.

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Similarly, US commitment to the defence of Taiwan is an unnecessary luxury that impedes the improvement of Sino-US relations. These voices are not isolationist in a traditional sense. They simply support a grand strategy that relies less on preponderance, and is closer to offshore balancing. Overwhelming military power increases the risk of recklessness by the hegemon; America is thus better suited to a more classically defined defensive realist foreign policy. According to this view, the United States should ‘recognize that stability in Asia can no longer be imposed by a non-Asian power’

One of the chief policy implications of this perspective relates to the exercise of American seapower in East Asia, which is a function of an age-old consensus in government that America is more secure if it can project naval power around the world. Proponents argue the freedom of navigation and the associated actions justified on this basis are vital to US national security. According to critics, American intelligence gathering activities in Chinese waters are an unnecessary strain on Sino-US relations and may undermine cooperation on common global challenges. As one prominent critic has argued:

[H]aving a legal right to do something does not make it wise to rub others’ noses in it. Lurking offshore to satisfy a prurient interest in the military preparedness of other nations to defend themselves can clearly be useful. Possibly, in some circumstances, it could be essential. But the best way to preserve the right to do it may be to refrain from doing it too obviously, too frequently, or too intrusively.

Beyond this, two other policy recommendations follow from this perspective. First, the US should conduct a more constrained foreign

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12Ambassador Chas Freeman, ‘Beijing, Washington and the Shifting Balance of Prestige,’ Remarks to the China Maritime Studies Institute, 10 May 2011, Newport RI.
policy in East Asia, focused on diplomacy and mediation. Second, forward deployed forces should be brought home. The Cold War era hub and spokes alliance system should be dismantled as part of a complete withdrawal of American troops from the region. This would entail maintaining command of the commons to ‘preserve the ability to help out if necessary’, but the United States would withdraw from Europe, reduce direct financial assistance to Israel and ‘reconsider’ its security relationship with Japan. Although difficult to reverse in the event of a crisis, the proponents of retrenchment argue that the likelihood of a crisis in East Asia is reduced by American withdrawal. This perspective is not limited to the United States but is shared by analysts in some allied countries as well, such as Australia. Taken together, these views argue that the possession of American seapower is too costly and the exercise of American seapower too risky to endure.

However, strategic restraint may not be feasible for US foreign policy or stability in Asia in the twenty-first century. The primary problem with restraint so-envisioned is that it assumes Chinese military weakness relative to its potential target states, not least due to the geographic buffer provided by the Taiwan Strait and the East China Sea. Although the expeditionary capabilities of the Chinese military remain poor relative to rest of the force, Chinese military modernization has been guided by the strategic rationale to develop the capabilities to deter Taiwanese independence while weakening US resolve to intervene on Taiwan’s behalf. This modernization has occurred concomitant with an enlargement of Chinese naval ambitions. Chinese operations beyond the Japanese islands in the Pacific have certainly increased

13 Brzezinski, ‘Balancing the East, Upgrading the West’.
15 Ibid.
19 Thomas G. Mahnken, ‘China’s Anti-Access Strategy in Historical and Theoretical Perspective’, *Journal of Strategic Studies* 34/3 (June 2011), 313.
anxiety among Japanese strategists. The enduring strategic rationale for US forces in the region, to foster stability and deter aggression, by both China and Japan, endures. The possession of seapower is worth the money.

This perspective seems to resonate in Washington DC. In his address to the Australian Parliament in November 2011, President Obama stated unequivocally that ‘reductions in US defense spending will not – I repeat, will not – come at the expense of the Asia-Pacific’. Secretary of Defense Leon Panetta noted at the 2012 Shangri-la Dialogue that 60 per cent of the US Navy would be stationed in the Pacific by 2020. In addition to the US commitment to supply seapower to East Asia, there seems to be growing demand for it in the region. Perceptions of Chinese assertiveness in regional maritime affairs since 2010, by enforcing its claimed maritime jurisdiction against vessels of rival claimants in contested waters, caused regional states to reach out to the United States for security. States once accused of accommodating or bandwagoning with China’s rise, such as Vietnam and the Philippines, engaged in external balancing behaviour through closer defence ties, and in the case of the latter, seeking security assurances from the United States. There is clearly still an appetite for US seapower among East Asian states, which reinforces the legitimacy of American power. Rebalancing is an effort to strengthen the credibility of America’s regional security posture amid domestic resistance to costly international engagement.

Yet, if Washington intends to stay the course in East Asia, it will increasingly rub against the preferences of a rising China and increase the risks of miscalculation in an increasingly crowded East Asian littoral. However, it may be possible to reduce US risk exposure without wholesale withdrawal from East Asian security commitments; there may be a middle ground. Chief among the concerns of the restraint school is the propensity for adventurism recently featured in Bush era foreign policy. Such adventurism may now be impossible due to

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23Office of the Press Secretary, ‘Remarks By President Obama to the Australian Parliament’, 17 Nov. 2011.
financial constraints and war-weariness on the part of the American populace. As noted by the Pentagon’s 2012 Defense Strategic Guidance, ‘US forces will no longer be sized to conduct large-scale, prolonged stability operations.’ A new era of limited strategic leadership was arguably demonstrated in the campaign against Muammar Gaddafi. US forces led the charge, remained in theatre to provide domain awareness, but the bulk of the combat burden shifted to allies like France, the UK, Italy and Canada. Reaching an accommodation with China on the exercise of American seapower in East Asia could be a valuable feature of post Global Financial Crisis American foreign policy.

The Foundations of American Maritime Hegemony

The possession and exercise of American seapower is integral to American hegemony in East Asia. American regional hegemony has kept East Asia stable despite concerns of growing instability caused by rising military spending, growing energy needs, disputed territories and unresolved historical legacies. The possession of seapower is embodied by the presence of the United States military in region, particularly at sea. This is achieved by its qualitative edge in military forces and by forward deployed US forces on the territory of its regional allies; Japan, South Korea and access arrangements with Southeast Asian states. The ‘hub and spokes’ alliance system has kept the peace in East Asia since the end of World War II by deterring adventurism by would be rivals and is credited with maintaining the stability required for East Asia’s dramatic economic growth. US seapower in East Asia deters aggression on the Korean peninsula and across the Taiwan Strait and provides the public good of secure sea lanes. During the post-Cold War era this system has acted as a hedge against the emergence of alternative multi-polar orders modelled on

alternative structures and norms. Washington values a globally present navy as the foundation of international order, including East Asia. Despite moderate adjustments in force structure, overwhelming American military strength at sea has remained an enduring feature of East Asian international relations since the end of World War II. The possession and exercise of seapower underwrites US maritime hegemony by giving it the necessary freedom of action to collect intelligence, conduct operations, engage in naval diplomacy and maintain its deterrent posture, which reinforces America’s role as the dominant military power.

The exercise of American seapower rests on the norm of freedom of navigation. This centuries old rule has underwritten East Asia’s growth as a region of trading states and allowed freedom of access for US naval vessels. Free access to the seas fostered not only economic growth within individual East Asian states, but also the creation of robust economic interdependence between East Asian states that creates a powerful disincentive for war. The United States is the leading defender of navigational freedoms worldwide despite not being a state party to the United Nations Convention on the Law of the Sea (UNCLOS). This interest emerged during the 1970s as the world negotiated UNCLOS and many states made claims to ocean space that sought to limit access to coastal waters as far offshore as 200 nautical miles. In response, the Office of Ocean Affairs in the US Department of State has published lists of excessive maritime claims by coastal states and has in some cases physically resisted these claims through the Freedom of Navigation Program (FON) in conjunction with the Navy. Although

there several ways in which coastal states can exceed their jurisdictional competence, the most prominent source of dispute relates to military activities in the exclusive economic zone (EEZ). Despite some differences of perspective, most states in the international system interpret regulating military activities as beyond the purview of coastal states’ jurisdictional authority over the EEZ. Washington’s support of this norm is unequivocal and has been coercively applied to several states, allied and non-allied alike. States the world over have tolerated US assertions of it navigational freedoms, such as through the FON programme, as a cost of American hegemony. China is chief among a minority of states that have either passed domestic laws banning military activities in their EEZ or have made statements to this effect. Other states that adopt the Chinese attitude include Bangladesh, Brazil, Cape Verde, India, Iran, Malaysia, Pakistan and Uruguay, Vietnam, and most recently Thailand.36

China’s Perspective on American Seapower

China has historically accommodated American seapower. China’s historical focus on continental security underwrote a bipolar order in East Asia, with American maritime hegemony balancing Chinese continental dominance.37 For most of the history of Communist China, maritime issues were not a concern to Beijing.38 Since the onset of the reform period China has become maritime oriented, yet the stability created by US seapower helped support China’s strategic interests including developing a peaceful external environment that permitted economic growth and the perpetuation of the Chinese Communist Party (CCP) regime.39 China was able to free ride off American SLOC security to gain the benefits of secure trade while not bearing any of the costs. American seapower acted as a restraint on Japanese militarism because it directed pressures from within Tokyo and Washington for greater burden sharing towards less controversial responsibilities such as sea lane security up to

38David G. Muller, China as a Maritime Power (Boulder, CO: Westview Press 1983).
1,000 nautical miles from the Japanese islands. Despite China’s longstanding objections about the way the US exercises its freedom of navigation, it has accommodated the exercise of American seapower in East Asia since the formation of the People’s Republic.

However, recent events indicate a shift in China’s perspective. Chinese scholars lament the growing complexity of China’s strategic environment as a function of perceived US pressure on China’s maritime approaches. Chinese analysts argue that encroachment into its claimed sea areas by non-claimant states like Australia and the United States is the basis of an encirclement strategy to contain China. While this sentiment is an enduring feature of the Chinese discourse on its maritime ambitions, it has become more popular of late. Some argue that Chinese seapower can be used to strengthen control over shipping and resource development in its claimed maritime areas in the Yellow, East and South China Seas. This attitude became noticeably more pronounced following the sinking of the South Korean naval vessel Cheonan and the increased presence of US naval forces in the Yellow Sea. This more assertive perspective reinforced concerns within the region that China’s military modernization contributes to an agenda of territorial revisionism.

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These concerns are illustrated by the growing number of confrontations between Chinese and American ships in regional seas that arise from the legal dispute noted above. In March 2009, the USNS \textit{Impeccable} was confronted by a flotilla of five Chinese vessels as it towed a sonar array in the South China Sea, 75 nautical miles from Hainan Island.\footnote{The incident raised many of the same issues as the 2001 collision between a Chinese fighter and an American reconnaissance plane. See John M. Van Dyke, ‘Military Ships and Planes Operating in the Exclusive Economic Zone of Another Country’, \textit{Marine Policy} 28 (2004), 29–39.} Chinese forces also confronted civilian-crewed research vessels the USNS \textit{Bowditch} and USNS \textit{Victorious} in 2002 and March 2009 in the Yellow Sea. In all cases American ships and aircraft were conducting reconnaissance and research operations that Washington defends as being consistent with freedom of navigation rights under the law of the sea.\footnote{James Kraska, ‘The Legal War Behind the Impeccable Incident’, \textit{World Politics Review}, 16 March 2009.} China, by contrast, argues that these American operations, indeed all types of survey activity, are forbidden in Chinese waters without coastal state permission.\footnote{Cheng Xizhong, ‘A Chinese Perspective on Operational Modalities’, \textit{Marine Policy} 28 (2004), 25–7.}

Although there is a wider global and legal context relating to the exercise of seapower in the EEZ, these incidents cut right to the heart of a Sino-US dispute about the exercise of American seapower in East Asia.

Although it is not a party, the US accepts much of UNCLOS as customary international law. The \textit{Impeccable} was confronted 75 nautical miles off the coast of Hainan Island, well within the Chinese EEZ. Scholars of international law argue that states are entitled to freedom of navigation through a coastal state’s EEZ and the \textit{Impeccable} thus did nothing wrong. Coastal states have exclusive jurisdiction over resource exploitation and other commercial activities, while user states retain
navigational and communication freedoms. While UNCLOS is ambiguous when it comes to distinguishing between those types of survey activities that can be regulated by a coastal state in its EEZ, it is highly unlikely that the *Impeccable*’s survey could be considered as an infringement on China’s coastal state economic rights. It is unlikely that the US government would seek commercial gain from the data collected.

By contrast, from the Chinese perspective the United States is abusing freedom of navigation to conduct intelligence-gathering operations, prejudicial to the security of the Chinese state. Some analysts claim that American operations are testing China’s ability to detect foreign vessels and aircraft by ‘tickling’ their radar stations, interfering with ship to shore communications and attempting to detect how Chinese submarines enter and leave their bases. Beijing views these activities as a form of battlefield preparation and has prohibited them under Chinese domestic law. According to Ji Guoxing, American intelligence gathering activities run counter to UNCLOS Article 301, which stipulates that state parties shall refrain from threatening the sovereignty of any state when exercising their rights at sea. Some Chinese argue that the operations are legal cover for the strategic prerogative of maintaining American hegemony and that American intransigence on the issue is an irritant to other countries.

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The policy challenge that emerges is a lack of predictability at sea. According to US Deputy Assistant Secretary of State Scot Marciel, ‘In some cases we do not share or even understand China’s interpretation of international maritime law.’ For instance, China unexpectedly protested the American naval exercises with South Korea in waters near North Korea in response to the sinking of the Cheonan. Deputy Chief of the Armed Forces General Staff General Ma Xiaotian warned Washington not to deploy the USS George Washington to the Yellow Sea as part of these exercises, which was interpreted as an effort to restrict American access to the Yellow Sea. Symptomatic of the nature of disputes over the interpretation of international law, Chinese objections to the deployment of the aircraft carrier made its deployment a necessity in order to defend freedom of navigation norms.

Furthermore, there are areas of maritime East Asia where the US and China dispute not only what activities they can conduct, but also the very status of the waters, which increases operational uncertainty. Some American scholars have argued that China is engaged in an effort to shape international norms and laws to ensure that these do not limit Chinese freedom of action. US analysts’ fear is China’s perspective is gaining traction following Thailand’s perspective on the issue in the wake of its UNCLOS ratification in 2011. Problematically, American and Chinese interpretations are mutually exclusive. As a result, both sides have a disincentive for accommodation of the other’s posture given the role of state practice in the evolution of international law and the global and legal context in which these disputes are unfolding. Accommodation on these issues in East Asia would surely be expected elsewhere in the world.

The above indicates that China is dissatisfied with the possession – manifested by forward deployed forces – and the exercise – manifested

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60Scot Marciel, Testimony at the Subcommittee on East Asian and Pacific Affairs, Senate Foreign Relations Committee, Maritime Issues and Sovereignty Disputes in East Asia, 15 July 2009.
61Michael Richardson, ‘Steering a Fine Line in the Yellow Sea,’ Straits Times, 23 Aug. 2010.
by US commitment to the freedom of navigation of US seapower in East Asia. Rather than being seen as a stabilizing element, US forces are now seen as an unwelcome, highly-mobile foreign military presence in the Chinese sphere of influence. The primary challenge with disputes over interpretations of international law is that they are zero-sum. Yet, given China’s growing maritime ambitions and its quite legitimate right to field a potent and globally mobile navy of its own, it is vital that the two arrive at some kind of understanding on these issues. The alternative is a scenario in which an incident could escalate quickly and engulf the two powers in conflict. Despite calls for retrenchment at home there is no evidence that the United States is considering a withdrawal from East Asia. Simultaneously, both the possession and exercise of American seapower are rejected by the region’s rising power, which is simultaneously becoming a less predictable foreign policy actor as a function of a growing plethora of inputs into the foreign policy-making process, including a growing diversity of actors and a pluralistic media. All this makes East Asia less stable. Reaching an accommodation on the exercise of American seapower may reduce the probability of conflict.

The Future of American Seapower in East Asia

In light of the above it is worthwhile to explore what an accommodation on American seapower in East Asia might look like. Importantly, reaching an accommodation on the exercise of American seapower in East Asia rests on the assumption that the possession of American seapower in East Asia endures, while recognizing the emerging constraints on US defence policy. Several modifications to the possession and exercise of US seapower have been advanced, which are worth exploring.

It is clear that the post-financial crisis fiscal reality dictates that the possession of American seapower in East Asia will be different than before. The challenge therefore is not to drawdown from the region

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entirely but to change the nature of US arrangements in the region. Some argue that the United States may have to encourage its allies to do more to complement American hegemony, rather than relying heavily on it. Trying to convince American allies to bear their share of the burden has a long, rich tradition in the history of US–Asia alliance politics. According to Michael Auslin, this includes developing a more liberal set of access arrangements with a broader array of countries, including non-treaty allies such as India, Malaysia and Vietnam, modelled on arrangements with Singapore. Others have argued for a more forceful reinforcement of US alliance relations with existing and new allies such as Indonesia through the augmentation of defence ties. This includes the somewhat ambitious aims of facilitating allied acquisition of diesel-electric submarines and cooperative research and development among US allies in Asia. The intention is to enable these states to assist the United States in the protection of the maritime commons. In this view calls to drawdown US global force deployments may weaken America’s capacity at precisely the time at which other states are developing the capabilities to contest US control of the global commons.

As to the exercise of seapower several proposals have been advanced to build confidence between US and Chinese forces. Given the growing frequency of interactions between these forces at sea, it could certainly be argued that the climate is right to construct an incidents at sea agreement, modelled on the US-USSR INCSEA (Incidents at Sea). Indeed, this was what the Military Maritime Consultative Mechanism (MMCM) was supposed to achieve following its inception in 1998. However, this forum has become more of a venue for the dogmatic restatement of well-known positions. To resuscitate this process Mark Valencia has argued that the US should take the lead in negotiating a set of voluntary guidelines regarding military activities in Asian EEZs. This would involve the exercise of restraint by the United States by refraining from active intelligence-gathering operations or interference with coastal state electronics systems, in exchange for Chinese acquiescence to American navigation or over-flight of the Chinese EEZ. However,

this raises questions about how compliance can be measured and ensured given the voluntary nature of the guidelines.\textsuperscript{71}

Alternatively, the lead could come from the Association of Southeast Nations (ASEAN) in the spirit of the codes of conduct declarations in the South China Sea.\textsuperscript{72} An initiative driven by ASEAN would pressure China to sign up, which could in turn pressure Washington to participate as well. However, ASEAN capacity to lead on this issue is suspect given their divisions on maritime issues, on their respective relations with the US and China and on the relevant legal principles. Furthermore, there is no evidence that the United States is interested in any effort to provide guidelines on behaviours the US perceives as totally consistent with the letter and the spirit of UNCLOS.\textsuperscript{73}

Furthermore, such a recalibration of America’s regional posture does not explicitly address the issue of Chinese dissatisfaction with American seapower in East Asia, which is an important ingredient to reducing the risk profile that confronts American forces in East Asia. As it relates to the possession of seapower there may be little recourse. Withdrawal of forward-deployed forces out of range of Chinese missiles accomplishes little compared to maintenance of the status quo. By remaining in range, and vulnerable to Chinese missile strikes, American forces reassure their allies they are committed to their security by accepting the inherent vulnerability of forward deployment. This also signals China that US forces are prepared to accept a degree of vulnerability, but that they can also strike the Chinese homeland if necessary. Total withdrawal of the US Navy from East Asia is tantamount to military abdication from the region, and would be inconsistent with many regional preferences. Guam, Hawaii and California are simply too far from the theatre to credibly police the region’s maritime commons or to deter an adversary.\textsuperscript{74}

Negotiating Accommodation: Agreeing to Disagree

A more flexible alternative is to forge an informal understanding on military activities in the Chinese EEZ. If achieved, this understanding could soften the primary source of China’s dissatisfaction with American seapower, while making the region safer for US vessels. Further, the United States can send a clear signal to Beijing of its

\textsuperscript{71}I am indebted to Andrew Erickson for this point.
\textsuperscript{73}One such failed effort was made by the Ocean Policy Research Foundation in concert with regional states. See Ocean Policy Research Foundation, Guidelines for Navigation and Overflight in the Exclusive Economic Zone, EEZ Group 21, Oct. 2005.
\textsuperscript{74}Auslin, Security in the Indo-Pacific Commons, 20–2.
nonthreatening intentions, thereby putting the onus on China by removing an oft cited barrier to improved military relations. Keeping the agreement informal and secret would eliminate any concern of it building a precedent for the exercise of American seapower in other parts of the globe. Most importantly, this arrangement can be conditional on improved Chinese behaviour during interceptions of American aircraft and vessels, an enduring concern for American forces, and otherwise improved military contacts between the two services. Most importantly, this can be achieved under the current American posture in East Asia and thus does not come at a cost of lost credibility to regional friends and allies. Such an initiative has been absent from the current public debate on efforts to improve military contacts with China. Current efforts revolve around multilateral exercises, the building of cooperative capacity and discussion on navigational issues. This proposal is predicated on the notion that Chinese interceptions of American vessels are an attempt to express Chinese preferences vis-à-vis its maritime domain and not a function of a coherent strategy to engage in risky behaviour to achieve a strategic end.

Several precedents for agreeing to disagree exist elsewhere in both US and Chinese foreign policy. For instance, the United States and Canada dispute the type of access rights user states have to the Northwest Passage (NWP). The United States argues that the NWP meets the geographical criteria of an international strait and thus asserts its right to transit the passage on this basis. Canada by contrast claims the NWP is internal waters and argues that all transits must have Canadian permission. An agree-to-disagree formula emerged in 1985 when a US Coast Guard vessel announced it would transit the NWP. Canada replied by giving it permission, and the US replied by noting that permission was not requested. This formula was formalized in the 1988 Canada–US Arctic Cooperation Agreement. Of course, this

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79 Brian Flemming, Canada-US Relations in the Arctic: A Neighbourly Proposal (Calgary: Canadian Defence & Foreign Affairs Institute 2008).
example may hold few lessons for US–China relations as Canada and the United States are formal treaty allies, deeply economically interdependent and share continental defence responsibilities. Nevertheless, there are operational lessons for the US and China. When Chinese vessels intercept American vessels, they could assert their view that American activities are illegal; American vessels could reply that they disagree. Chinese vessels could then continue to monitor American activities, even arguing they are providing an ‘escort’; American vessels could reply that they do not need an escort. This has occurred between Chinese naval ships and the navies of other countries sailing in East Asian waters in the past.

China is also capable of agreeing to disagree. The 1992 consensus that advanced the relationship with Taiwan was centred on an agreement that there was only one China, but a disagreement as to what that entailed. Although this is considered a domestic issue in Beijing, it is nevertheless an example of China accepting the risk that comes with accommodating the interests of a rival political actor. Sino-Japanese efforts to manage maritime tensions are more relevant to the US-China example. Despite recent denials by the Japanese government, both sides abided by Deng Xiaoping’s modus vivendi to shelve territorial questions while pursuing joint development over the Senkaku/Diaoyu Islands until 2003. Furthermore, both sides sought to prevent nationalist groups from visiting the islands in an effort to manage tensions. Likewise, there is evidence that, as their vessels enforce their EEZ jurisdiction against one another in the disputed area of the East China Sea, both Beijing and Tokyo exercise restraint. Japanese Coast Guard (JCG) vessels have been confronted by China Coast Guard (CCG) vessels while conducting marine research activities in contested areas of the EEZ without incident. Likewise, the CCG has entered the territorial sea of the Japanese controlled Senkaku/Diaoyu Islands on multiple occasions. In both instances vessels have been shadowed, radioed by the other and diplomatic remonstrations have been sent. There have been no conflicts between maritime enforcement vessels, unlike incidents involving civilian vessels in the region.

82For details see Manicom, ‘Beyond Boundary Disputes’, 46–53.
Japan have either reached an understanding or are deterred from detaining on another’s enforcement vessels due to fears of escalation. In any event, both the US and China have ‘agreed to disagree’ before, not least with each other on the status of Taiwan in the Three Communiqués.

The first step to developing an agree to disagree formula is American acceptance of a less frequent intelligence-gathering programme, both at sea and in the air, in an effort to signal its intentions. The United States could notify China of its operations, or most of its operations, that take place in the Chinese EEZ. The Chinese could choose, as Canada does, to interpret this as asking permission in a fashion that is consistent with its domestic laws and give its consent. For its part, China will guarantee that Chinese interceptors will follow accepted patterns of behaviour at sea, thereby reducing the risk of misunderstanding. In particular, civilian Chinese ships will be encouraged to report American vessels to the Chinese authorities and discouraged from vigilantism. If the efforts above to reinforce American seapower are successful, this arrangement should have limited impact on the navigational freedoms that the US has sworn to uphold. An informal arrangement to agree to disagree is useful because it does not affect either side’s legal position. Importantly, because the agreement is informal, it will be difficult for the Chinese to argue that America has acceded to China’s position. American policy-makers should make clear that any statement to this effect, or effort to frame the arrangement as an American concession, would be denied and result in the abrogation of the arrangement and the resumption of the full spectrum of activities in China’s EEZ.

This threat of abrogation should be sufficient to keep the arrangement private. This is vital because, despite the issue’s primacy in the Sino-American relationship, freedom of navigation is first and foremost an issue of global importance for the United States. American assertions of navigational freedoms are not aimed at any particular state; they are aimed at all states. For instance, the central challenge confronted by Canadian policymakers in American Arctic policy is the gentle reminder from their American counterparts that they do not care about the status of the Northwest Passage, but they care about the status of the Straits of Hormuz, or Malacca.

Although legal disputes are zero-sum, this does not make confrontation inevitable. The registration of a diplomatic protest is all that is needed to prevent the establishment of a damaging international

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85Chinese Coast Guard vessels did cut the towed seismic monitoring cable of the Bin Minh 02 operated by PetroVietnam in May 2011. There have been no confrontations between government enforcement vessels in the South China Sea either. See Carlyle A. Thayer, ‘Chinese Assertiveness in the South China Sea and Southeast Asian Responses’, *Journal of Current Southeast Asian Affairs* 30/2 (2011), 77–107.
precedent. As Alan Wachman has observed, the problem described above is not simply one of law, but is a product of ‘the ways in which the strategic aims of Beijing and Washington collide and chafe against one another during a period of rapid transition of stature and perceived power.’ The issue is thus a product of and source of strategic mistrust between the two. As a consequence, building trust on the navigation issue will not obviate all tensions, but could offer ways forward for addressing those problems exacerbated by a perceived tenable legal high ground while making maritime East Asia a safer strategic environment. China will need to live with US seapower as long as it is not prepared to expel it by force. The United States may need to live with a less intrusive maritime operations regimen to build trust with a rising power. Both are examples of a rising power and a hegemon accommodating the other’s preferences. Incurring these costs is integral to signaling American good faith in its efforts to manage the maritime relationship in East Asia and overcome Chinese mistrust of American regional intentions.

The agree-to-disagree formula confronts several challenges. It may not be feasible given the perception of an increasingly hawkish and nationalistic style of Chinese foreign policy. Furthermore, even if Chinese political elites accepted the premise of the proposal, the bureaucracies involved in its implementation, the military and civilian agencies in charge of policing China’s waters, may interpret the move as weakness or a sign of reduced American willingness to maintain its hegemony, which could invite further hawkish behaviour. Moreover, the very suggestion of accommodation with China on American seapower in East Asia risks legitimizing China’s legal perspective. Although this could be dismissed in some quarters as appeasement, accommodation of another’s preferences is also the basis of cooperation. Recent work has illustrated that American seapower is the defining characteristic of the absence of balancing coalitions forming against the US. According to this logic, China and other great powers do not balance against

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American power because they do not see it as a threat: the stopping power of water means they do not fear invasion. Yet, as China’s maritime interests have expanded, so have its threat perceptions as its interests move closer to the operational sphere of the US Navy. Finally it could be argued that the arrangement outlined above asks the China to give up little and the United States to give up a great deal.

However, this perception overlooks the ideational and sometimes emotional nature of threat perceptions. That the US provides public goods and lacks the capacity to invade China may be cold comfort to a nation that perceives its interests as extending beyond the ‘near seas’ into the ‘far seas’. Chinese and American navies will therefore be interacting with greater frequency in the future and it is unlikely that these interactions on the ‘far seas’ will remain as constructive as they are now should tensions between them persist in the ‘near seas’. Finally, incurring a disproportionate share of the costs is part and parcel of exercising leadership in the international system and the most effective way to communicate benign intentions. Conveying expectations that restraint will be reciprocated by the other is a first step to cooperation. Therefore, because United States is prepared to remain East Asia’s hegemon, and because China seems prepared to resist this posture, developing an understanding on the exercise of American seapower reduces the risk profile to American assets in East Asia and sets the stage for a more constructive naval and political relationship globally.

In any event, accommodation should be balanced by efforts to reinforce the possession and exercise of American seapower. American diplomatic efforts should continue to build support for the American position on navigational freedoms by leveraging the threat perceptions of East Asian states. This includes reaching out to states that do not share Washington’s interpretation of navigational freedoms including Vietnam, Malaysia and India, but which have recently been unsettled by Chinese activities at sea. Getting these states on side is integral to perpetuating the accepted version of the norm in question and in establishing the continued legitimacy of the


American force presence in the region. It does little good to reach out
likeminded regional states if these states in fact directly dispute
American interpretation of navigational norms (Malaysia and
Vietnam) or have bad memories of American FON operations in
violation of their Archipelagic Sea Lanes claims (Indonesia). This
effort should be supported by United States ratification of
UNCLOS. Ratification would not limit US freedom of action, but
enhance it and increase the credibility of American pronouncements
on navigational freedoms. Although the idea has been criticized as
less useful than continued assertion of American interpretations of its
navigational freedoms, the two are not mutually exclusive. 93
American FON operations are more credible and legitimate if they
are conducted as a state party to UNCLOS. The United States should
also continue to shift the burden onto East Asian allies, asking more
on efforts to police the maritime commons. More navies policing the
maritime commons in East Asia could provide a pathway to include
China in multilateral activities over time.

Conclusion
This article has taken on the unenviable task of exploring how China
and the United States could reach an accommodation on the possession
and exercise of American seapower in East Asia. As a function of its
emergence as a great power, China has become dissatisfied with
American hegemony in East Asia, chiefly the possession and exercise
of American seapower. Problematically, neither party seems prepared to
accommodate the preferences of the other; the first step to cooperation.
Given the expectation among power transition theorists that such con-
ditions result in catastrophic hegemonic war, the article explored what
accommodation on the exercise of US seapower might look like. The
article argued that it is possible for China and the United States to side-
step disputes on navigational questions despite the zero-sum nature of
their legal interpretations. The two could develop an ‘agree-to-disagree’
formula on military operations in the EEZ. The proposals outlined
herein reflect a middle ground between those that advocate for US
retrenchment from East Asia and those that advocate for a stronger
US regional presence constrained by budget cuts. Arriving at an agree-
to-disagree formula reduces the risk profile confronting American ships
and personnel, thereby undercutting part of the case for retrenchment.
Although China will have to accept the possession of American sea-
power, if China’s emergence is welcomed – rather than resisted by the

93 Dan Blumenthal and Michael Mazza, ‘Why Not Forget UNCLOS’, The Diplomat, 17
United States – it may be possible for the two powers to share the burden of policing East Asia’s maritime commons along with partnered regional states in due course.

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Bibliography


Cossa, Ralph, ‘Not China’s Coastal Waters’, *Japan Times*, 1 Sept. 2010.


Freeman, Amb. Chas, ‘Beijing, Washington and the Shifting Balance of Prestige’, Remarks to the China Maritime Studies Institute, 10 May 2011, Newport RI.


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Lei, David, ‘China’s New Multi-Faceted Maritime Strategy,’ Orbis 52/1 (2008), 139–57.


Muller, David G., China as a Maritime Power (Boulder, CO: Westview Press 1983).


Office of the Press Secretary, ‘Remarks By President Obama to the Australian Parliament’, 17 Nov. 2011.


