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1ST SESSION

S. RES. 167

Reaffirming the strong support of the United States for the peaceful resolution of territorial, sovereignty, and jurisdictional disputes in the Asia-Pacific maritime domains.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 2013

Mr. MENENDEZ (for himself, Mr. RUBIO, Mr. CARDIN, Mr. CORKER, Mr. DONNELLY, and Mr. MURPHY) submitted the following resolution; which was referred to the Committee on Foreign Relations

JUNE 25, 2013

Reported by Mr. MENENDEZ, without amendment

JULY 29, 2013

Considered and agreed to with an amended preamble

RESOLUTION

Reaffirming the strong support of the United States for the peaceful resolution of territorial, sovereignty, and jurisdictional disputes in the Asia-Pacific maritime domains.

Whereas the maritime domain of the Asia-Pacific region includes critical sea lines of communication and commerce between the Pacific and Indian oceans;

Whereas the United States has a national interest in freedom of navigation and overflight in the Asia-Pacific maritime

domains, as provided for by universally recognized principles of international law;

Whereas the United States has a national interest in the maintenance of peace and stability, open access by all to maritime domains, respect for universally recognized principles of international law, prosperity and economic growth, and unimpeded lawful commerce;

Whereas although the United States does not take a position on competing territorial claims over land features and maritime boundaries, it does have a strong and long-standing interest in the manner in which disputes in the South China Sea are addressed and in the conduct of the parties;

Whereas the United States has a clear interest in encouraging and supporting the nations of the region to work collaboratively and diplomatically to resolve disputes without coercion, without intimidation, without threats, and without the use of force;

Whereas the South China Sea contains great natural resources, and their stewardship and responsible use offers immense potential benefit for generations to come;

Whereas in recent years, there have been numerous dangerous and destabilizing incidents in this region, including Chinese vessels cutting the seismic survey cables of a Vietnamese oil exploration ship in May 2011; Chinese vessels barricading the entrance to the Scarborough Reef lagoon in April 2012; China issuing an official map that newly defines the contested “nine-dash line” as China’s national border; and, since May 8, 2013, Chinese naval and marine surveillance ships maintaining a regular presence in waters around the Second Thomas Shoal, located

approximately 105 nautical miles northwest of the Philippine island of Palawan;

Whereas the Association of Southeast Asian Nations (ASEAN) has promoted multilateral talks on disputed areas without settling the issue of sovereignty, and in 2002 joined with China in signing a Declaration on the Conduct of Parties in the South China Sea that committed all parties to those territorial disputes to “reaffirm their respect for and commitment to the freedom of navigation in and over flight above the South China Sea as provided for by the universally recognized principles of international law” and to “resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force”;

Whereas Japan and Taiwan reached an agreement on April 10, 2013, to jointly share and administer the fishing resources in their overlapping claimed exclusive economic zones in the East China Sea, an important breakthrough after 17 years of negotiations and a model for other such agreements;

Whereas other incidences of the joint administrations of resources in disputed waters in the South China Sea have de-escalated tensions and promoted economic development, such as Malaysia and Brunei’s 2009 agreement to partner on exploring offshore Brunei waters, with drilling in offshore oil and gas fields off Brunei beginning in 2011; and Thailand and Vietnam’s agreement to jointly develop areas of the Gulf of Thailand for gas exports, despite ongoing territorial disputes;

Whereas, on June 21, 2013, the Governments of the People’s Republic of China and Vietnam announced that they had agreed to set up and use an emergency fishery hotline to

inform each other of any detainment involving fishermen or boats within 48 hours, to help quickly resolve disputes and as part of efforts to prevent future incidents from derailing ties, and the Governments of the People's Republic of China and Indonesia on May 2, 2013, agreed to establish a hotline for incidents in their disputed waters;

Whereas the Government of the Republic of the Philippines states that it “has exhausted almost all political and diplomatic avenues for a peaceful negotiated settlement of its maritime dispute with China” and in his statement of January 23, 2013, Republic of Philippines Secretary of Foreign Affairs Del Rosario stated that therefore “the Philippines has taken the step of bringing China before the Arbitral Tribunal under Article 287 and Annex VII of the 1982 Convention on the Law of the Sea in order to achieve a peaceful and durable solution to the dispute”;

Whereas, in January 2013, a Chinese naval ship allegedly fixed its weapons-targeting radar on Japanese vessels in the vicinity of the Senkaku islands, and, on April 23, 2013, eight Chinese marine surveillance ships entered the 12-nautical-mile territorial zone off the Senkaku Islands, further escalating regional tensions;

Whereas, on May 8, 2013, the Chinese Communist Party's main newspaper, The People's Daily, published an article by several Chinese scholars questioning Japan's sovereignty over Okinawa, where key United States military installations are located which contribute to preserving security and stability in the Asia-Pacific region;

Whereas the Government of the People's Republic of China has recently taken other unilateral steps, including “im-

properly drawing” baselines around the Senkaku Islands in September 2102, which the 2013 Annual Report to Congress on Military and Security Developments Involving the People’s Republic of China found to be “inconsistent with international law”, and maintaining a continuous military and paramilitary presence around the Senkaku Islands;

Whereas, on April 27, 2013, Chinese Foreign Ministry spokeswoman, Hua Chunying, was quoted as saying, “The Diaoyu Islands are about sovereignty and territorial integrity. Of course it’s China’s core interest.”;

Whereas although the United States does not take a position on the ultimate sovereignty of the Senkaku Islands, the United States Government acknowledges that they are under the administration of Japan and opposes any unilateral actions that would seek to undermine such administration, affirms that the unilateral actions of a third party will not affect the United States acknowledgment of the administration of Japan over the Senkaku Islands, remains committed under the Treaty of Mutual Cooperation and Security to respond to any armed attack in the territories under the administration of Japan, and has urged all parties to take steps to prevent incidents and manage disagreements through peaceful means;

Whereas, on August 3, 2012, a Department of State spokesperson expressed concern over “China’s upgrading of the administrative level of Sansha City and the establishment of a new military garrison there,” encouraged ASEAN and China “to make meaningful progress toward finalizing a comprehensive Code of Conduct,” and called upon claimants to “explore every diplomatic or other peaceful

avenue for resolution, including the use of arbitration or other international legal mechanisms as needed”;

Whereas the United States recognizes the importance of strong, cohesive, and integrated regional institutions, including the East Asia Summit (EAS), ASEAN, and the Asia-Pacific Economic Cooperation (APEC) forum, as foundation for effective regional frameworks to promote peace and security and economic growth, including in the maritime domain, and to ensure that the Asia-Pacific community develops rules-based regional norms which discourage coercion and the use of force;

Whereas the United States welcomes the development of a peaceful and prosperous China, the government of which respects international norms, international laws, international institutions, and international rules; enhances security and peace; and seeks to advance a “new model” of relations between the United States and China;

Whereas ASEAN plays an important role, in partnership with others in the regional and international community, in addressing maritime security issues in the Asia-Pacific region and into the Indian Ocean, including open access to the maritime domain of Asia;

Whereas ASEAN and China announced on June 30, 2013, that official consultations on a Code of Conduct in the South China Sea will commence at the 6th Senior Officials’ Meeting and the 9th Joint Working Group on the Implementation of the Declaration of Conduct of the Parties in the SCS, to be held in China in September 2013; Chinese Foreign Minister Wang Yi reaffirmed that China was willing to advance talks on a code of conduct as part of a “continual, gradual and deepening process”; and Secretary of State John F. Kerry, participating in

the ASEAN Regional Forum Ministerial Meeting on July 2, 2013, expressed the hope that announcement of official consultations between ASEAN and China would be the beginning of sustained and substantive official engagement between the two on developing the new Code of Conduct; and

Whereas, from June 17–20, 2013, the 10 ASEAN members and their dialogue partners Australia, China, India, Japan, New Zealand, Russia, South Korea, and the United States jointly participated in the First ASEAN Defense Ministers’ Meeting Plus Humanitarian Assistance and Disaster Relief (HADR) and Military Medicine (MM) exercise, helping to establish a new pattern of cooperation among the militaries of the Asia-Pacific: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) condemns the use of coercion, threats, or
3 force by naval, maritime security, or fishing vessels
4 and military or civilian aircraft in the South China
5 Sea and the East China Sea to assert disputed mari-
6 time or territorial claims or alter the status quo;

7 (2) strongly urges that all parties to maritime
8 and territorial disputes in the region exercise self-re-
9 straint in the conduct of activities that would under-
10 mine stability or complicate or escalate disputes, in-
11 cluding refraining from inhabiting presently
12 uninhabited islands, reefs, shoals, and other features

1 and handle their differences in a constructive man-
2 ner;

3 (3) reaffirms the strong support of the United
4 States for the member states of ASEAN and the
5 Government of the People's Republic of China as
6 they seek to develop a code of conduct of parties in
7 the South China Sea, and urges all countries to sub-
8 stantively support ASEAN in its efforts in this re-
9 gard;

10 (4) supports collaborative diplomatic processes
11 by all claimants in the South China Sea for resolv-
12 ing outstanding maritime or territorial disputes, in
13 a manner that maintains peace and security, adheres
14 to international law, and protects unimpeded lawful
15 commerce as well as freedom of navigation and over-
16 flight, and including through international arbitra-
17 tion, allowing parties to peacefully settle claims and
18 disputes using universally recognized principles of
19 international law;

20 (5) encourages the deepening of efforts by the
21 United States Government to develop partnerships
22 with other countries in the region for maritime do-
23 main awareness and capacity building; and

24 (6) supports the continuation of operations by
25 the United States Armed Forces in the Western Pa-

1 cific, including in partnership with the armed forces
2 of other countries in the region, in support of free-
3 dom of navigation, the maintenance of peace and
4 stability, and respect for universally recognized prin-
5 ciples of international law, including the peaceful
6 resolution of issues of sovereignty and unimpeded
7 lawful commerce.

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