

TO PROMOTE PEACEFUL AND COLLABORATIVE RESOLUTION OF
MARITIME TERRITORIAL DISPUTES IN THE SOUTH CHINA
SEA AND ITS ENVIRONS AND OTHER MARITIME AREAS
ADJACENT TO THE EAST ASIAN MAINLAND

MARKUP

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

ON

H.R. 6313

SEPTEMBER 12, 2012

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TO PROMOTE PEACEFUL AND COLLABORATIVE RESOLUTION OF MARITIME TERRITORIAL DISPUTES IN THE SOUTH CHINA SEA AND ITS ENVIRONS AND OTHER MARITIME AREAS ADJACENT TO THE EAST ASIAN MAINLAND

WEDNESDAY, SEPTEMBER 12, 2012

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10 o'clock a.m. in room 2172, Rayburn House Office Building, Hon. Ileana Ros-Lehtinen (chairman of the committee) presiding.

Chairman ROS-LEHTINEN. The committee will come to order. Before we begin today's markup and hearing, I would like to ask my colleagues and all who are joining us today to please stand for a moment of silence to honor United States Ambassador to Libya, Chris Stevens, Foreign Service Information Management Officer Sean Smith, and two other fellow Americans killed in Libya yesterday. [Moment of silence.]

Please be seated. I know I speak for all of the members of our committee when we say that our prayers go out to their families and their friends. They died in service of our Nation, and we are forever grateful. They risked their lives to help the people of Libya free themselves from the oppression of Ghadafi and rebuild their nation. Yet on a day marking the 11th anniversary of the deplorable attacks against our Nation on September 11, 2001, radicals chose to attack and kill our diplomats in Benghazi.

Similarly, I would like to take this opportunity on behalf of our committee to thank the men and women serving in our Embassy in Egypt, who also came under attack yesterday by those who continue to seek the support of, and assistance from, the United States. Let us be clear, there is no justification for the murder of our diplomats and attacks on our Embassies. We have nothing for which to apologize. We must ensure that the perpetrators of this recent round of 9/11 attacks are held accountable. Thank you, ladies and gentlemen.

And before we begin today's hearing, pursuant to notice, the committee meets to consider H.R. 6313 sponsored by our colleague, Mr. Faleomavaega. It is a bipartisan measure to promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea. Without objection, all members may have 5 days to submit statements and extraneous material on this bill for the record. According to the expedited procedures sent to all member offices yesterday, we will now move immediately to adoption of the bill.

[H.R. 6313 follows:]

112TH CONGRESS
2^D SESSION

H. R. 6313

To promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2012

Mr. FALCOMAVAEGA (for himself and Ms. ROS-LEHTINEN) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds the following:

5 (1) The South China Sea contains vital com-
6 mercial shipping lanes and points of access between
7 the Indian Ocean and Pacific Ocean and provides a

1 maritime lifeline to Taiwan, Japan, and the Korean
2 peninsula.

3 (2) China, Vietnam, the Philippines, Taiwan,
4 Malaysia, and Brunei have disputed territorial
5 claims over the Spratly Islands, and China, Taiwan,
6 and Vietnam have disputed territorial claims over
7 the Paracel Islands.

8 (3) In 2009, the Government of the People's
9 Republic of China introduced the 9-dotted line (also
10 known as the Cow Tongue line) to officially claim
11 most of the 648,000 square miles of the South
12 China Sea, more than any other nation involved in
13 these territorial disputes.

14 (4) Although not a party to these disputes, the
15 United States has a national economic and security
16 interest in maintaining peace, stability and pros-
17 perity in East Asia and ensuring that no party
18 threatens or uses force unilaterally to assert mari-
19 time territorial claims in East Asia, including in the
20 South China Sea, the East China Sea, or the Yellow
21 Sea.

22 (5) The Association of Southeast Asian Nations
23 (ASEAN) has promoted multilateral talks in dis-
24 puted areas without settling the issue of sovereignty.

1 (6) In 2002, ASEAN and China signed a Dec-
2 laration on the Conduct of Parties in the South
3 China Sea. That declaration committed all parties to
4 those territorial disputes to “reaffirm their respect
5 for and commitment to the freedom of navigation in
6 and overflight above the South China Sea as pro-
7 vided for by the universally recognized principles of
8 international law”, and to “resolve their territorial
9 and jurisdictional disputes by peaceful means, with-
10 out resorting to the threat or use of force”. Yet, in
11 September 2010, tensions were raised in the East
12 China Sea off of the Senkaku (Diaoyutai) Islands,
13 a territory under the legal administration of Japan,
14 when a Chinese fishing vessel deliberately rammed
15 Japanese Coast Guard patrol boats.

16 (7) The Government of the People’s Republic of
17 China deliberately heightened these tensions by mak-
18 ing a series of diplomatic protests, including on one
19 occasion summoning the Japanese Ambassador after
20 midnight, by threatening “further repercussions” if
21 Japan did not immediately release the Chinese ship
22 captain involved in the collisions, and by encour-
23 aging anti-Japanese demonstrations in Chinese cit-
24 ies.

1 (8) On February 25, 2011, a frigate from Chi-
2 na's navy fired shots at 3 fishing boats from the
3 Philippines.

4 (9) On March 2, 2011, the Government of the
5 Philippines reported that two patrol boats from
6 China attempted to ram one of its surveillance ships.

7 (10) On May 26, 2011, a maritime security ves-
8 sel from China cut the cables of an exploration ship
9 from Vietnam, the Binh Minh, in the South China
10 Sea in waters near Cam Ranh Bay in the exclusive
11 economic zone of Vietnam.

12 (11) On May 31, 2011, three Chinese military
13 vessels used guns to threaten the crews of four Viet-
14 namese fishing boats while they were fishing in the
15 waters of the Truong Sa (Spratly) archipelago.

16 (12) On June 3, 2011, Vietnam's Foreign Min-
17 istry released a statement that "Vietnam is reso-
18 lutely opposed to these acts by China that seriously
19 violated the sovereign and jurisdiction rights of Viet
20 Nam to its continental shelf and Exclusive Economic
21 Zone (EEZ).".

22 (13) On June 9, 2011, three vessels from
23 China, including one fishing vessel and two maritime
24 security vessels, ran into and disabled the cables of

1 another exploration ship from Vietnam, the Viking
2 2, in the exclusive economic zone of Vietnam.

3 (14) On June 13–14, 2011, the Government of
4 Vietnam held a live-fire military exercise on the
5 uninhabited island of Hon Ong, 25 miles off the
6 coast of Vietnam in the South China Sea.

7 (15) On June 25, 2011, Chinese Peoples' Lib-
8 eration Army Major General (Ret.) Peng Guangqian
9 stated in a television interview that "China once
10 taught Vietnam a lesson. If Vietnam is not sincere,
11 it will receive a bigger lesson", adding that "If Viet-
12 nam continues to act tough, play with the knife,
13 sooner or later it will get cut."

14 (16) On June 26, 2011, the Chinese news agen-
15 cy Xinhua announced that China and Vietnam had
16 agreed to hold talks on how to resolve conflicts aris-
17 ing from a sovereignty dispute over the South China
18 Sea after a June 25 meeting in Beijing between Dai
19 Bingguo, the senior Chinese official in charge of for-
20 eign affairs, and Vietnamese Vice Foreign Minister
21 and Special Envoy Ho Xuan Son.

22 (17) It was reported, on June 17, 2011, that
23 the Philippines removed a string of wooden markers
24 that Manila determined was placed by China in dis-

1 puted areas of the South China Sea amid growing
2 regional tensions.

3 (18) On June 23, 2011, Secretary of State Hil-
4 lary Rodham Clinton told visiting Philippines For-
5 eign Secretary Albert del Rosario that “We are de-
6 termined and committed to supporting the defense
7 of the Philippines.”.

8 (19) Philippines Foreign Secretary del Rosario
9 stated that the Philippines is a small country, but is
10 “prepared to do what is necessary to stand up to
11 any aggressive action in our backyard”.

12 (20) The United States, on June 23, 2011,
13 stated that it was ready to provide hardware to mod-
14 ernize the military of the Philippines.

15 (21) The United States and the Philippines
16 conducted combined naval exercises in the Sulu Sea,
17 near the South China Sea, from June 28 to July 8,
18 2011.

19 (22) On June 17, 2011, China dispatched one
20 of its largest patrol ships, the Haixun 31, on a voy-
21 age through disputed areas of the South China Sea
22 in a deliberate show of force en route to a port of
23 call in Singapore.

24 (23) China’s official media stated that the sail-
25 ing route of the Haixun 31 in the South China Sea

1 was determined to protect its “rights and sov-
2 ereignty”.

3 (24) A spokesperson for Singapore’s Ministry of
4 Foreign Affairs pointed out, on June 20, 2011, that
5 “as a major trading nation, Singapore has a critical
6 interest in anything affecting freedom of navigation
7 in all international sea lanes, including those in the
8 South China Sea”.

9 (25) Singapore further urged China to clarify
10 its claims in the South China Sea with more preci-
11 sion as the current ambiguity as to their extent has
12 caused serious concerns in the international mari-
13 time community.

14 (26) The actions of the Government of the Peo-
15 ple’s Republic of China in the South China Sea have
16 also affected United States military and maritime
17 vessels transiting through international air space
18 and waters, including the collision of a fighter plane
19 of China with a United States surveillance plane in
20 2001, the harassment of the USNS Impeccable in
21 March 2009, and the collision of a Chinese sub-
22 marine with the sonar cable of the USS John
23 McCain in June 2009.

24 (27) In July 2010, People’s Daily, the official
25 newspaper of the Chinese Communist Party, re-

1 ported that General Ma Xiaotian, deputy chief of the
2 general staff of the People's Liberation Army, said
3 that China "strongly opposed" combined naval exer-
4 cises to be conducted in the West (Yellow) Sea by
5 the United States and the Republic of Korea.

6 (28) These exercises were to be conducted in
7 international waters, as well as Republic of Korea
8 territorial waters, in the vicinity of the site of the
9 March 2010 North Korean torpedo attack on the
10 South Korean military vessel Cheonan, which re-
11 sulted in 46 deaths.

12 (29) These exercises were to include participa-
13 tion by the USS George Washington aircraft carrier
14 group.

15 (30) In July 2010, Chinese Major General Luo
16 Yuan, a researcher at the Chinese Academy of Mili-
17 tary Sciences, in an interview with a Hong Kong TV
18 station, stressed the importance of the Yellow Sea as
19 "a gateway to China's capital region" and said that
20 "if a U.S. aircraft carrier enters the Yellow Sea, it
21 will become a living target".

22 (31) On July 23, 2010, Secretary of State Hil-
23 lary Rodham Clinton stated at the Association of
24 Southeast Asian Nations Regional Forum that "the
25 United States, like every nation, has a national in-

1 terest in freedom of navigation, open access to
2 Asia’s maritime commons, and respect for inter-
3 national law in the South China Sea”.

4 (32) Secretary Clinton further expressed the
5 support of the United States for the Declaration by
6 the Association of Southeast Asian Nations and
7 China in 2002 on the Conduct of Parties in the
8 South China Sea, and stated, “The United States
9 supports a collaborative diplomatic process by all
10 claimants for resolving the various territorial dis-
11 putes without coercion.”.

12 (33) On October 12, 2010, former Secretary of
13 Defense Robert Gates stated at the ASEAN Defense
14 Ministers Meeting-Plus, “The U.S. position on mari-
15 time security remains clear: we have a national in-
16 terest in freedom of navigation; in unimpeded eco-
17 nomic development and commerce; and in respect for
18 international law.”. Former Secretary Gates further
19 maintained “The United States has always exercised
20 our rights and supported the rights of others to
21 transit through, and operate in, international
22 waters.”.

23 (34) On June 4, 2011, at the Shangri-La Dia-
24 logue in Singapore, former Secretary Gates stated
25 that “maritime security remains an issue of par-

1 ticular importance for the region, with questions
2 about territorial claims and the appropriate use of
3 the maritime domain presenting on-going challenges
4 to regional stability and prosperity”.

5 (35) On June 5, 2011, at the Shangri-La Dia-
6 logue, Liang Guanglic, the Defense Minister from
7 China, said, “China is committed to maintaining
8 peace and stability in the South China Sea.”.

9 (36) On June 14, 2011, Hong Lei, the spokes-
10 man for the Chinese Foreign Ministry, stated that
11 “China always upholds and has been committed to
12 a proper resolution of differences and disputes over
13 the South China Sea in a peaceful manner through
14 bilateral direct negotiation and friendly consultation
15 with relevant countries.”.

16 (37) On June 22, 2011, Chinese Vice Foreign
17 Minister Cui Tiankai told reporters, in reference to
18 the South China Sea disputes, that “I believe the in-
19 dividual countries are actually playing with fire, and
20 I hope the fire will not be drawn to the United
21 States.”.

22 (38) On June 29, 2011, the Defense Ministry
23 of the People’s Republic of China stated that “Re-
24 cent drills by the Chinese navy are routine and not
25 connected to the situation in the South China Sea”,

1 further calling for people to view the exercises in a
2 “rational” way.

3 (39) On April 8, 2012, a Philippine plane spot-
4 ted eight Chinese fishing boats in the vicinity of the
5 Scarborough Shoal, which both countries claim.

6 (40) A Philippine coast guard cutter and two
7 Chinese maritime surveillance craft began a tense
8 10-day standoff, with the Philippine vessel, citing
9 the upcoming typhoon season, withdrawing but the
10 Chinese ships remained in the area. Moreover, China
11 constructed barriers to prevent Philippine vessels
12 from entering the Scarborough Shoal where it was
13 reported that Chinese flags were raised.

14 (41) A Chinese foreign ministry spokesman
15 condemned a long-planned joint military exercise be-
16 tween the U.S. and the Philippines in April, saying
17 “The major trend of the times in this region is peace
18 and development. Military exercise does not rep-
19 resent the major call of the times.”

20 (42) In June of 2012, Vietnam passed a law
21 claiming sovereignty over the Paracel and Spratly
22 Islands and called for mutual respect for inter-
23 national law.

24 (43) China quickly criticized the law, with a
25 foreign ministry statement calling it a “serious viola-

1 tion of China's territorial sovereignty" and that
2 China expressed its "resolute and vehement opposi-
3 tion".

4 (44) In June of 2012, China's cabinet, the
5 State Council, approved the establishment of a pre-
6 fecture-level government in the city of Sansha to
7 oversee the areas claimed by China in the South
8 China Sea.

9 (45) On June 23, 2012, the China National
10 Offshore Oil Corporation invited bids for oil explo-
11 ration in areas within 200 nautical miles of the con-
12 tinental shelf and exclusive economic zone of Viet-
13 nam.

14 (46) On June 28, 2012, the Chinese Defense
15 Ministry announced that military authorities were
16 considering establishing a military presence in the
17 prefecture capitol of Sansha.

18 (47) Also on June 28, Chinese military press
19 spokesman Senior Colonel Geng Yansheng an-
20 nounced that the PLA had begun "regular, combat-
21 ready patrols" in the South China Sea.

22 (48) On July 11, 2012, Chinese patrol ships
23 were spotted near the disputed Senkaku (Diaoyutai)
24 Islands in the East China Sea.

1 (49) When the Japanese coast guard told the
2 Chinese ships to leave, the crew told them, “We are
3 conducting official duty in Chinese waters. Do not
4 interfere. Leave China’s territorial waters.”.

5 (50) Japan’s Vice Foreign Minister Kenichiro
6 Sasac called the exchange “extremely serious” and
7 “unacceptable,” and a government spokesperson was
8 quoted as saying, “It is clear that historically and le-
9 gally Senkaku is an inherent territory of Japan.”.

10 (51) At the July 2012 ASEAN Regional Forum
11 (ARF), Secretary Clinton said, “We believe the na-
12 tions of the region should work collaboratively and
13 diplomatically to resolve disputes without coercion,
14 without intimidation, without threats, and without
15 the use of force.”.

16 (52) Although ASEAN has agreed on the ele-
17 ments of the Code of Conduct (COC), China stated
18 that it would enter negotiations with ASEAN on the
19 COC “when the time is ripe”.

20 (53) A day following the conclusion of the ARF
21 meeting on July 14, 2012, a Chinese naval warship
22 ran aground while on patrol about 60 miles from the
23 province of Palawan in the Philippines on Half
24 Moon Shoal in the disputed Spratlys.

1 (54) While the grounded warship was in the
2 process of removing itself from the Half Moon Shoal
3 a day later, Xinhua announced that 30 Chinese fish-
4 ing boats, guarded by an official government ship,
5 had set sail for the South China Sea.

6 (55) On July 19, 2012, the Chinese Central
7 Military Commission approved the establishment of
8 the “military defense and watch zone of Sansha” at
9 the division level.

10 (56) On July 26, 2012, China then appointed
11 a Chief Commander and a Political Commissar of
12 “the military defense and watch zone of Sansha”.

13 (57) On July 23, 2012, Philippine President
14 Benigno Aquino III announced in his state of the
15 nation address that the Philippines had purchased
16 more than 40 military aircraft, including attack heli-
17 copters and two refurbished C-130 cargo planes, as
18 well as a second former U.S. Coast Guard cutter.

19 (58) In the nationally televised address before
20 Congress, President Aquino stressed that he would
21 not back down to Chinese pressure, saying “I do not
22 think it excessive to ask that our rights be respected,
23 just as we respect their rights as a fellow nation in
24 a world we need to share.”.

1 (59) A day earlier, on July 22, China's Central
2 Military Commission approved the deployment of a
3 garrison of soldiers to guard Chinese claims in the
4 Spratlys, the Paracels and the Macclesfield Bank.

5 (60) On July 24, 2012, China declared a new
6 municipality on Yongxing, or Woody Island, where
7 the previously announced military garrison will be
8 stationed.

9 (61) A State Department spokeswoman said
10 that the United States is concerned about such "uni-
11 lateral moves" and wants to see "all of these issues
12 resolved at the table".

13 **SEC. 2. SENSE OF CONGRESS.**

14 It is the sense of Congress that, in light of the con-
15 gressional finding described in section 1, the Secretary of
16 State should—

17 (1) reaffirm the strong support of the United
18 States for the peaceful resolution of maritime terri-
19 torial disputes in the South China Sea, the Taiwan
20 Strait, the East China Sea, and the Yellow Sea and
21 pledge continued efforts to facilitate a collaborative,
22 peaceful proves to resolve these disputes;

23 (2) condemn the use of threat or force by naval,
24 maritime security, and fishing vessels from China in
25 the South China Sea and the East China Sea as well

1 as the use of force by China's North Korean ally in
2 the Yellow Sea;

3 (3) note that overt threats and gun boat diplo-
4 maey are not constructive means for settling these
5 outstanding maritime disputes;

6 (4) call on all parties to these territorial dis-
7 putes to refrain from threatening force or using
8 force to assert territorial claims;

9 (5) welcome the diplomatic efforts of Associa-
10 tion of Southeast Asian Nations (ASEAN) and the
11 United States allies and partners in Taiwan, Japan,
12 and the Republic of Korea to amiably and fairly re-
13 solve these outstanding disputes; and

14 (6) support the continuation of operations by
15 the United States Armed Forces in support of free-
16 dom of navigation rights in international waters and
17 air space in the South China Sea, the East China
18 Sea, the Taiwan Strait, and the Yellow Sea.

Chairman ROS-LEHTINEN. Without objection, the bill and the Ros-Lehtinen amendment, number 132 which merely fixes two typographical errors, which all members have before them, will be considered as read and considered en bloc.

[The amendment referred to follows:]

AMENDMENT TO H.R. 6313

OFFERED BY MS. ROS-LEHTINEN OF FLORIDA

Page 15, line 15, strike “finding” and insert “findings”.

Page 15, line 22, strike “proves” and insert “process”.



I ask unanimous consent that H.R. 6313, as amended, be agreed to by the committee. Hearing no objection, it is so ordered. Without objection, the chair is authorized to seek consideration of H.R. 6313, as amended, under suspension of the rules, and staff is directed to make any technical or conforming changes. With a concluding thank you to the ranking member, and especially to Mr. Faleomavaega for authoring the bill, the markup is adjourned.

[Whereupon, at 10:06 a.m., the committee proceeded to other business.]

A P P E N D I X



MATERIAL SUBMITTED FOR THE HEARING RECORD

**FULL COMMITTEE MEETING AND HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS**

*U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128*

Ileana Ros-Lehtinen (R-FL), Chairman

September 10, 2012

You are respectfully requested to attend an OPEN markup of the Committee on Foreign Affairs, to be held in Room 2172 of the Rayburn House Office Building **(and available live via the Committee website at <http://www.hcfa.house.gov>)**:

DATE: Wednesday, September 12, 2012

TIME: 10:00 a.m.

MARKUP OF: H.R. 6313, To promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland.

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.



Hearing/Briefing Title: Markup of H.R. 6313, To Promote Peaceful and Collaborative Resolution of Maritime Territorial Disputes in the South China Sea and its Environs and other Maritime Areas Adjacent to the East Asian Mainland.

Date: 9/12/12

Present	Member
X	Ileana Ros-Lehtinen, FL
X	Christopher Smith, NJ
	Dan Burton, IN
	Elton Gallegly, CA
X	Dana Rohrabacher, CA
	Donald Manzullo, IL
	Edward R. Royce, CA
X	Steve Chabot, OH
	Ron Paul, TX
X	Mike Pence, IN
X	Joe Wilson, SC
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	David Rivera, FL
X	Mike Kelly, PA
	Tim Griffin, AK
	Tom Marino, PA
	Jeff Duncan, SC
	Ann Marie Buerkle, NY
	Renee Ellmers, NC
X	Robert Turner, NY

Present	Member
X	Howard L. Berman, CA
	Gary L. Ackerman, NY
X	Eni F.H. Faleomavaega, AS
	Brad Sherman, CA
	Eliot Engel, NY
	Gregory Meeks, NY
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	William Keating, MA
	David Cicilline, RI

9/12/12 Foreign Affairs Committee Markup Summary

H.R. 6313, “To promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland.”

The Chair called up H.R. 6313 and one amendment, Ros-Lehtinen 132, which were considered *en bloc*.

By unanimous consent, the bill and amendment were agreed to, and the Chair was authorized to seek House consideration of H.R. 6313, as amended, under suspension of the rules.

The Committee adjourned.

