



South China Sea: What Australia Might Do

The United States is conducting freedom of navigation patrols within 12 nautical miles of Chinese-claimed territory in the South China Sea. This fact sheet summarises Australia's current position regarding freedom of navigation operations (FONOPs) and spells out future options.

The Admiral Asks

On October 30 2015 Bonnie Glaser, senior associate at the Center for Strategic and International Studies in Washington DC and a consultant to the US government on East Asia stated: 'Australia and Japan should consider conducting their own FONOPs around China's former LTEs [low tide elevations] to signal their concerns'.¹

On February 22 2016 during a visit to Australia, US Vice Admiral Joseph Aucoin was asked whether all countries with an interest in the South China Sea should conduct US-style FONOPs within a 12 nautical mile zone of Chinese-claimed islands and he responded:

Personally, it's up to those countries but I think it's in our best interests to make sure those sea lines remain open and I'll leave it at that.

He was then asked whether that meant 'it would be valuable for Australia to do freedom of navigation operations' and he replied, 'Yes'.²

His comments generated the following headlines in Australian media:

¹ B Glaser, 2015, South China Sea: US Navy mission justified by China's excessive claims, *The Lowy Interpreter*, October 30 <<http://www.loyyinterpreter.org/post/2015/10/30/South-China-Sea-US-Navy-mission-justified-by-Chinas-excessive-claims.aspx>>

² A Greene, February 22 2016, <<http://www.abc.net.au/news/2016-02-22/aus-should-challenge-claims-in-south-china-sea-says-admiral/7189598>>

- 'Send in the ships: US chief urges challenge to Beijing'³ (*The Australian*);

- 'US naval commander urges Australia to carry out patrols in the disputed islands in the South China Sea'⁴ (*The Sydney Morning Herald*);

- 'US admiral Joseph Aucoin urges Australia to launch 'freedom of navigation' operation'⁵ (ABC).

On March 3 US Admiral Harry Harris, commander of the US Pacific Fleet spoke from New Delhi to revive the idea of a Quadrilateral Security Dialogue between the US, Australia, India and Japan. He called on the four nations to work together to counter powerful nations that 'bully smaller nations through intimidation and coercion', stating:

By being ambitious, India, Japan, Australia and the United States and so many like-minded nations can aspire to operate anywhere in the high seas and the airspace above it.⁶

Pictured: US Admiral Harry Harris, Commander of the US Pacific Fleet, Prime Minister Malcolm Turnbull, US Vice Admiral Joseph Aucoin, Commander of the US Seventh Fleet

³ B Nicholson, February 23 2016

<<http://www.theaustralian.com.au/national-affairs/defence/send-in-the-ships-us-chief-urges-challenge-to-beijing/news-story/8e71f880f3b1fd9e79cc6e88db146cb>>

⁴ D Wroe, February 22 2016 <<http://www.smh.com.au/federal-politics/political-news/us-navy-commander-urges-australia-to-carry-out-patrols-in-disputed-islands-in-the-south-china-sea-20160222-gn0a9w.html>>

⁵ A Greene, February 22 2016, <<http://www.abc.net.au/news/2016-02-22/aus-should-challenge-claims-in-south-china-sea-says-admiral/7189598>>

⁶ E Barry 2016, U.S. Proposes Reviving Naval Coalition to Balance China's Expansion, *The NY Times*, , March 2 <http://www.nytimes.com/2016/03/03/world/asia/us-proposes-india-naval-coalition-balance-china-expansion.html?_r=0>

What the Americans Are Doing

On October 27 2015 a United States navy guided-missile destroyer, the USS Lassen, sailed within a 12 nautical mile zone of a Chinese-built formation in the Spratly Islands. The US reportedly called on allies to participate in future FONOPs.⁷

On January 30 2016 the USS Curtis Wilbur sailed within 12 nautical miles of Triton Island in the Paracel Islands, claimed by China, Vietnam and Taiwan. China has occupied Triton Island for the past 40 years. US Navy Captain Jeff David stated 'This operation was about challenging excessive maritime claims that restrict the rights and freedoms of the United States and others'.⁸ On January 31 *The Sydney Morning Herald* reported that Australia was forewarned about this freedom of navigation exercise.⁹

Following reports on February 16 that China had placed surface to air missiles on Woody Island in the Paracel Island chain of the South China Sea, head of the US Pacific Command Admiral Scott Swift commented that China had done so before: 'That context is important. This isn't exactly something that's new'.¹⁰



Scott Swift

⁷ A Green 2015, South China Sea: Defence experts warn Australia will face pressure to join US on mission to probe China's artificial islands, *ABC*, October 28 <<http://www.abc.net.au/news/2015-10-27/south-china-sea-defence-experts-warn-australia-faces-pressure/6890326>>

⁸ M Ryan 2016, U.S. missile destroyer sailed close to island claimed by China, *The Washington Post*, January 30 <<https://www.washingtonpost.com/news/checkpoint/wp/2016/01/30/u-s-missile-destroyer-sailed-close-to-island-claimed-by-china/>>

⁹ D Wroe 2016, Australia knew of US patrol of South China Sea, January 31 <<http://www.smh.com.au/world/australia-knew-of-us-patrol-of-south-china-sea-20160131-gmi345.html>>

¹⁰ H Hope Seck 2016, China Has Deployed Missiles to Disputed Island Before, *US Admiral Says Military*, February 19 <<http://m.military.com/daily-news/2016/02/19/china-deployed-missiles-disputed-island-before-us-admiral-says.html>>

¹¹ Julie Bishop 2015, Doorstop interview with Michael Sukkar, October 29 <http://foreignminister.gov.au/transcripts/Pages/2015/jb_tr_151029.aspx>

¹² Malcolm Turnbull 2015, Press Conference, Manila, November 18

<<https://www.pm.gov.au/media/2015-11-18/press-conference>>

¹³ ABC's 7.30 program <http://www.abc.net.au/7.30/content/2015/s4360683.htm>

The Australian Response: Diplomacy

Since the first United States FONOP in October last year Australia's position has been to assert its right to freedom of navigation noting that Australian aircraft and navy vessels have flown or sailed throughout the South China Sea for decades.



Julie Bishop

The Australian Government has denied that there have been requests by the US to join them in patrols and maintains the position that all countries with a stake in the South China Sea should avoid increasing tensions in the region by acting with restraint.

On October 29 2015, two days after the USS Lassen was deployed, Foreign Minister Julie Bishop stated: 'We have not been asked to join the United States and we have no plans to do other than what we already do, and that is traverse international waters in accordance with international law'.¹¹

On November 18 2015 when asked directly if Australia would participate in American patrols in the South China Sea Prime Minister Turnbull replied: 'We will consider our position in respect of all of these matters with great care but as to the manner in which we respond to this issue and you've raised the issue of freedom of navigation, we believe in freedom of navigation, obviously, that is one of the objectives'.¹²

One week later on November 26 2015 in an interview with the *ABC's* Leigh Sales, Prime Minister Turnbull played down tensions between China and the US: 'Yes there are issues between the United States and China over atoll building and island building in the South China Sea ... It's a mistake, if I may say so, to focus solely on the points of difference. Obviously it's, in a sense it's more interesting, it's more newsworthy but it fails to capture the remarkable degree of unanimity and common purpose in the global community'.¹³

During his visit to the United States on January 18 2016 Prime Minister Turnbull urged the United States to ratify the United Nations Convention on the Law of the Sea stating, 'Non-ratification diminishes American leadership where it is most needed'.¹⁴

While visiting Japan on February 15 2016 Foreign Minister Bishop was asked whether the United States had asked Australia to participate in FONOPs in the Spratly Islands. She asserted, 'Well that's not correct. We recognise that all countries have the right to freedom of navigation, freedom of over flight in accordance with international laws. The United States has not requested Australia to do anything in that regard'.¹⁵

The next day she was asked if Japan wanted Australia to do more in the South China Sea and replied, 'Well, it's not a question of Japan wanting us to do more. It's a question of what we want to do, and Australia has already made it plain that we will continue to advocate for a peaceful resolution of the different claims over the South China Sea'.¹⁶

In a SKY News interview on February 18 2016 Foreign Minister Bishop was asked whether Australia would conduct unannounced FONOPs. Her response indicated that Australia was not planning to do so: 'Our planes go through the South China Sea. That is what already occurs in accordance with international law, but Australia is not going to add to tensions in the region. We're calling for calm, we're calling for all parties to show restraint and exercise restraint'.¹⁷

On February 22 2016 in response to US Admiral Aucoin's comments, the Defence Minister's office issued a statement: 'As Vice Admiral Joseph Aucoin said, freedom of navigation exercises are a matter for each individual country'.¹⁸

During a visit to China on February 17 Foreign Minister Bishop said she had 'frank and forthright discussions' with Chinese Foreign Minister Wang Yi regarding the South China Sea. When pressed on this she responded: 'I won't go into the specific details of specific cases, but I can assure you that these matters were raised'.¹⁹

On February 26 the ABC reported that former Australian Defence Minister Kevin Andrews urged the government to send FONOPs within 12 nautical miles of disputed territory in the South China Sea.²⁰

On the same day former Prime Minister Tony Abbott said that Australia should increase patrols in the South China Sea 'because this is something that the United States should not have to police on its own'.²¹



Stephen Conroy

On January 21 *The Australian* published an op-ed written by Shadow Defence Minister Stephen Conroy with the headline 'We should assist in policing the South China Sea', suggesting that the Australian Government should join US FONOPs. He wrote: 'Other like-minded countries, including Australia, have an obligation to act in support of international law and norms in the South China Sea'.²² On February 19 he stated: 'We can sail legally, peacefully, through these alleged 12 mile-limits'; it was unclear whether he meant with the United States or on our own.²³

¹⁴ Malcolm Turnbull 2016, Australia and the United States: new responsibilities for an enduring partnership, speech to the Centre for Strategic and International Studies, January 18 <<https://www.pm.gov.au/media/2016-01-18/australia-and-united-states-new-responsibilities-enduring-partnership>>

¹⁵ Julie Bishop, 2016, *NHK World News*, Tokyo, February 15, <http://foreignminister.gov.au/transcripts/Pages/2016/jb_tr_160215b.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D>

¹⁶ Julie Bishop, 2016, doorstop interview – Australian Ambassador's residence Tokyo, February 16 <http://foreignminister.gov.au/transcripts/Pages/2016/jb_tr_160216a.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D>

¹⁷ Julie Bishop, 2016, *Sky News*, interview with Tom Connell, February 18, <http://foreignminister.gov.au/transcripts/Pages/2016/jb_tr_160218.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D>

¹⁸ A Greene, 2016, South China Sea: US admiral Joseph Aucoin urges Australia to launch 'freedom of navigation' operation, *ABC*, February 22 <<http://www.abc.net.au/news/2016-02-22/aus-should-challenge-claims-in-south-china-sea-says-admiral/7189598>>

¹⁹ Julie Bishop 2016, doorstop interview, Beijing, February 17, <http://foreignminister.gov.au/transcripts/Pages/2016/jb_tr_160217.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D>

²⁰ A Greene, 2016, South China Sea: Defence White Paper prompts Kevin Andrews to call for warships to test Beijing's claims, *ABC*, February 26 <<http://www.abc.net.au/news/2016-02-25/kevin-andrews-calls-for-warships-to-test-south-china-sea-claims/7200978>>

²¹ AAP 2016, China putting stability of South China Sea at risk: Tony Abbott, *The Australian*, February 26 <<http://www.theaustralian.com.au/national-affairs/foreign-affairs/china-putting-stability-of-south-china-sea-at-risk-tony-abbott/news-story/ba33f8fb9b77f5e9fc99ce4a11309405>>

²² Stephen Conroy, 2016, We should insist in policing the South China Sea, *The Australian*, January 21 <<http://www.theaustralian.com.au/opinion/we-should-assist-in-policing-the-south-china-sea/news-story/0c30adb18cb6bfb4143b76366409d13>>

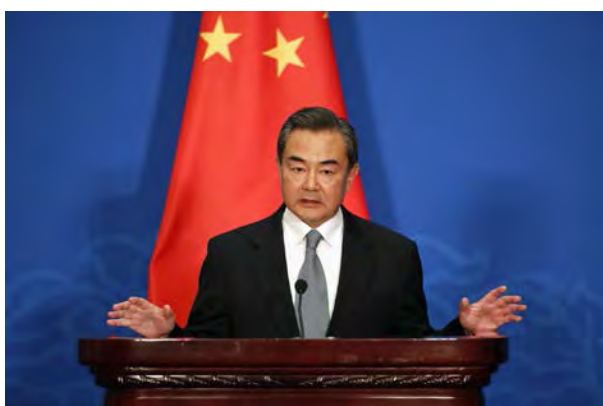
The Chinese Response

Following the USS Lassen operation China sent two of its own warships to the Spratly Islands and summoned the US Ambassador Max Baucus to lodge a formal complaint. A statement by the Chinese Foreign Ministry read, 'The actions of the US warship have threatened China's sovereignty and security interests, jeopardised the safety of personnel and facilities on the reefs, and damaged regional peace and stability'.²⁴

In response to the patrol conducted by the USS Curtis Wilbur in February, the Chinese Ministry of Foreign Affairs responded: 'The US navy vessel violated the relevant Chinese law and entered China's territorial sea without authorization'.²⁵

On February 17 2016 in a joint press conference, the Chinese Foreign Minister Wang Yi responded to Australian Foreign Minister Julie Bishop's urges for China to maintain its pledge of non-militarization in the South China Sea;

Non-militarisation is certainly in the interest of all parties but non-militarisation should not be just about one single country nor should double or multiple standards be exercised when it comes to non-militarisation ... I appreciate what Foreign Minister Bishop just now said about Australia's position on the South China Sea, that is Australia does not take sides and it advocates peaceful solutions to these disputes.²⁶



Wang Yi

²³ D Hurst 2016, Coalition under renewed pressure to send Australian military to South China Sea, *The Guardian*, February 19

<<http://www.theguardian.com/world/2016/feb/19/coalition-under-renewed-pressure-to-send-australian-military-to-south-china-sea>>

²⁴ AP, 2015, China expresses anger at US warship entering South China Sea, sends own destroyers in response, *News Corp*, October 28

<<http://www.news.com.au/technology/innovation/military/china-expresses-anger-at-us-warship-entering-south-china-sea-sends-own-destroyers-in-response/news-story/301bd12d95a97669093fe81353182bf>>

²⁵ Hua Chunying, spokesperson for Chinese Foreign Ministry, 2016, remarks on US Navy Entry into Territorial Waters of Zhongjian Dao of China's Xisha Islands, January 30, <http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2535_665405/t1336822.shtml>

²⁶ Julie Bishop and Wang Yi, 2016, joint press conference, Beijing, February 17 <http://foreignminister.gov.au/transcripts/Pages/2016/jb_tr_160217a.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D>

What the Others Are Doing – Update

In November 2015 ACRI produced a fact sheet – 'South China Sea: what the others are doing'. A survey of New Zealand, the UK, India, Canada, Japan, Singapore and South Korea found that no other likeminded country has committed to joining US FONOPs in the South China Sea.



Malcolm Turnbull and John Key

• New Zealand

In a joint press conference with Prime Minister Turnbull in Sydney on February 19 New Zealand Prime Minister John Key was asked about what the New Zealand Government would do in the South China Sea. He responded:

... in the end the power of diplomacy is the only tool that is really available to any of us, and the question is, as we get a deeper and closer economic relationship with China, does that give us more opportunities to make that case, both privately and publicly? And my view is yes.²⁷

He also stated:

Australia and New Zealand now have free trade agreements with China, we are both part of the Asian Investment Bank - we have regular contact and dialogue. I don't think it's lost on any of the parties that are in a disputed position in the South China Sea that any blow-up of activities there would be very bad for security and economic issues in the region.

²⁷ John Key and Malcolm Turnbull 2016, joint press conference, Sydney, February 19, <<https://www.pm.gov.au/media/2016-02-19/joint-media-conference-rt-hon-john-key-prime-minister-new-zealand>>

- **UK**

On January 5 2016 British Foreign Secretary Philip Hammond made an official visit to China. On Twitter he announced that topics discussed with Chinese Foreign Minister Wang Yi included the South China Sea.²⁸ No official statement was made. Two days later during a visit to the Philippines Foreign Secretary Hammond stated 'Freedom of navigation and overflight are non-negotiable. They are red lines for us'.²⁹

- **India**

On February 11 *Reuters* reported that a US official said India and the US were discussing joint patrols in the South China Sea. A spokesman for the Indian navy, however, was quick to deny this, stating that India has never participated in joint patrols with another country and that there would be no change. The only way the Indian Government would participate in any international military effort would be under the United Nations flag.³⁰

- **Canada**

On February 12 Canadian Foreign Affairs Minister Stephane Dion stated, 'We want all the parties involved to respect the international law and to conclude a code of conduct ... I hope we can closely work with the international community so that any action unilaterally taken to change the status quo is eliminated'.³¹ There has been no statement from Canada on US freedom of navigation patrols.

- **Japan**

In a press conference on February 19 Japan's Foreign Minister Fumio Kishida was asked whether Japan would join US FONOPs. He responded: 'Japan is not thinking about the types of activities that you just mentioned'.³²

- **Singapore**

On March 1 during a visit to China, Singapore's Foreign Minister Dr Vivian Balakrishnan proposed a way to decreased tensions in the South China Sea; he suggested an expansion of the Code for Unplanned Encounters 'which will prevent untoward accidents or miscalculations which will lead to tensions and conflict at sea. And we've suggested expanding this to cover both naval vessels and coast guards'.³³



Vivian Balakrishnan

What the Experts Are Saying

According to Professor James Curran of the University of Sydney, in urging President Obama to ratify the UN Convention on the Law of the Sea (UNCLOS), Prime Minister Turnbull is acting as a 'responsible US ally'. On January 22 he argued:

Some may long for a grand armada of US allies sailing through the South China Sea ... to date no US ally in the region has signalled a preparedness to do so. In their heart of hearts, there is no doubt that the Americans are disappointed. But the Alliance will survive.³⁴

On February 4 Professor Nick Bisley of LaTrobe Asia warned that Australia should think carefully about joining US FONOPs; that doing so would be extremely complex and fraught with risks that could lead to miscalculation.³⁵ He argued that Australia's direct stake in the issue is often

²⁸ Philip Hammond, 2016, tweet, January 5 ,

<<https://twitter.com/phammondmp/status/684543793819828224>>

²⁹ N Calleja, 2016, Navigation, overflight in South China Sea 'non-negotiable rights'-UK Sec. Hammond, *Philippine Daily Inquirer*, January 7

<<http://globalnation.inquirer.net/134676/navigation-overflight-south-china-sea-non-negotiable-rights-uk-sec-hammond#ixzz41nGOul4e>>

³⁰ *Reuters* 2016, US and India consider joint patrols in South China Sea: US official, *CNBC*, February 11, <<http://www.cnn.com/2016/02/11/us-and-india-consider-joint-patrols-in-south-china-sea-us-official.html>>

³¹ L Berthiaume, 2016, Canada voices support for a more internationally involved Japanese military, *National Post*, February 12

<<http://news.nationalpost.com/news/canada/canadian-politics/canada-voices-support-for-a-more-internationally-involved-japanese-military>>

³² Fumio Kishida, 2016, press conference, February 19 ,

<http://www.mofa.go.jp/press/kaiken/kaiken4e_000236.html>

³³ J Koh, 2016, Singapore suggests interim solution to South China Sea dispute, *Channel News Asia*, March 1 <<http://www.channelnewsasia.com/news/singapore/singapore-suggests/2562972.html>>

³⁴ J Curran, 2016, Turnbull brings nuance to US Alliance, *The Lowy Interpreter*, January 22 <<http://www.loyyinterpreter.org/post/2016/01/22/Turnbull-brings-nuance-to-the-Alliance.aspx>>

³⁵ N Bisley, 2016, Australia should think carefully about a FONOP in the South China Sea, *The Lowy Interpreter*, February 4 <<http://www.loyyinterpreter.org/post/2016/02/04/We-should-think-carefully-about-an-Australian-FONOP-in-the-South-China-Sea.aspx>>

inflated – the amount of Australian trade passing through the South China Sea is nowhere near the 60 percent figure that some others have been citing.³⁶

On February 18 Peter Jennings of the Australian Strategic Policy Institute said, however, that Australia and Japan should send military ships and aircraft through the South China Sea:

Our government has been saying almost for a year now that it's considering what its position is and I think sooner or later the consideration needs to stop and we need to demonstrate our interests in freedom of navigation by sending a ship through the region.³⁷

Dr Malcolm Davis, also of the Australian Strategic Policy Institute, believes that Australia is likely to join US FONOPs in the South China Sea: 'There is a strong possibility we'll become more involved in the South China Sea, particularly through freedom and navigation exercises alongside the Americans or other regional partner'.³⁸

On February 26 2016 Professor Rory Medcalf, head of ANU's National Security College, said that Prime Minister Turnbull's coy response to questions about whether Australia would participate in US FONOPs meant that he was still considering the proposition: 'They're clearly keeping their options close to their chest; presumably a decision hasn't been taken and presumably so far we haven't done it. He didn't say it was on the table but he didn't say it was off the table'.³⁹

On February 29 former Ambassador to Washington and Australian Defence Minister Kim Beazley called for Australia to conduct its own freedom of navigation exercises 'not with fanfare' but on the basis of international law stating: 'The best way of doing this is to do it routine. So you're not making announcements, you just do it'.⁴⁰

³⁶ S Bateman, 2015, What are Australia's interests in the South China Sea?, *The Strategist*, May 28 <<http://www.aspistrategist.org.au/what-are-australias-interests-in-the-south-china-sea/>>

³⁷ M McGrath, 2016, Australia won't take sides in South China Sea dispute: Bishop, *SBS News*, February 17 <<http://www.sbs.com.au/news/article/2016/02/17/australia-wont-take-sides-south-china-sea-dispute-bishop>>

³⁸ P Riordan, 2016, South China Sea freedom-of-navigation exercises still an option, experts say, *Australian Financial Review*, February 26 <<http://www.afr.com/news/south-china-sea-freedomofnavigation-exercises-still-an-option-experts-say-20160224-gn30zd>>

³⁹ *Ibid*
⁴⁰ M Wordsworth & J Holman, 2016, South China Sea: Australia must take a stand against China, Kim Beazley says, *ABC*, February 26 <<http://www.abc.net.au/news/2016-02-26/australia-must-take-a-stand-against-china-says-kim-beazley/7204280>>

Australia's Options:

• Join American FONOPs – the difficulties:

On January 26 in *The Australian* Greg Sheridan reported that the national security committee of the cabinet had been considering joining US FONOPs for some months and that the prospect was discussed during Prime Minister Turnbull's visit to the US earlier this year.⁴¹

Australia is not a claimant in the South China Sea and does not take a position on competing claims. China is our biggest trading partner and the growth of its middle class, expected to swell by 850 million in 2030, is the single best economic prospect Australia has.

DFAT overseas trade data shows that the flow of Australia's trade through the South China Sea is perhaps not even half of the 60 percent figure some commentators have cited.⁴² This is not as relevant as the fact that China has not threatened to impede civilian shipping moving through the South China Sea, that is, to interfere with the flow of fuel, food and resources China itself needs and the export trade it depends on.

Other likeminded countries and partners have not committed to joining US FONOPs. Australia would be conspicuously on its own.

Joining a US FONOP would be a highly complex task, fraught with risks (such as accidental conflict with Chinese forces) and complications and would not necessarily achieve any intended outcomes; the real question to be considered is what might happen afterwards. As military strategist Alan Dupont argued on *the ABC's 'Lateline'*:

The risk is that a miscalculation or a collision or somebody doesn't obey orders or someone panics and you get a firing, you get a ramming, you get a ship being sunk ... you have to think about what your response would be.⁴³

⁴¹ G Sheridan, 2016, Malcolm weighs South China Sea exercises, *The Australian*, January 26 <<http://www.theaustralian.com.au/national-affairs/defence/malcolm-turnbull-weighs-south-china-sea-exercises/news-story/ce8f546cb4732f15d0e3c2d747a37ee2>>

⁴² S Bateman, 2015, What are Australia's interests in the South China Sea?, *The Strategist*, May 28 <<http://www.aspistrategist.org.au/what-are-australias-interests-in-the-south-china-sea/>>

⁴³ Alan Dupont, 2016, interview on 'Lateline', *ABC*, March 3 <<http://iview.abc.net.au/programs/lateline/NC1625H024S00>>

• **Conduct our own patrols:**

Some experts have called for Australia to conduct its own freedom of navigation patrols within a 12 nautical mile zone of Chinese-occupied territory in the South China Sea.

The official government position is that Australia has been traversing these waters for decades and will continue to do so without adding to tensions in the region. If Australia decides to shift this policy and conduct patrols in a similar style to the United States – that is, within a 12 nautical mile zone of Chinese-claimed territory – it should only be after careful thought. Nick Bisley argues:

A FONOP should not happen because of a sense that ‘something must be done’ ... Such a rationale massively increases the risks of miscalculation and escalation, badly overstates the ability of such an operation to achieve the lofty goals of pundits and politicians, and needlessly increases the temperature in a region which is already pretty febrile.⁴⁴

Australia could continue to conduct naval and air patrols in the South China Sea. Any indication that Australia has adopted a new policy – and one aimed at China – conceivably gives the Chinese military an excuse for escalation and diminishes Australian opportunities for forceful diplomacy with Beijing.

• **Continued patrols and diplomacy:**

Precisely because the Chinese will not want to provoke Australia into joining American FONOPs Australia has an opportunity to press a case with Beijing for no further militarization of any territory in the South China Sea – natural and man-made – in line with President Xi’s commitment made in Washington on September 25 2015 that China would not pursue militarization of the Spratly Islands.⁴⁵

This invites active Australian diplomacy with China that may press, for example, the need for China to:

- clarify its claims and explain its intentions;
- halt land reclamation in disputed territory;

- uphold the principle of non-militarization;
- accept the principle of freedom of navigation in international waters;
- resolve disputes in accordance with UNCLOS.

These principles comprise Australia’s current policy and are regularly invoked by the Government, as this paper has demonstrated.



USS Curtis Wilbur

Given its alliance with the United States Australia can support America running its FONOPs within 12 nautical miles in line with long-expressed US policy. It can continue to urge the American Congress to ratify UNCLOS as successive US administrations have urged Congress to do. Australia can support the right of claimant states to go to arbitration in line with UNCLOS.

Australia is entitled to test interest by claimant states including China in the prospect of resource-sharing agreements as a long term solution, while urging peaceful management of disputes and promoting confidence-building measures in fisheries management.

A combination of vigorous diplomacy and routine, non-provocative patrolling is an appropriate response by Australia. We are a regional power and American ally; China as our largest trading partner. Australia has an overriding interest in not seeing an escalation in regional tensions or descent into actual conflict. At that point a so-called threat to freedom of navigation becomes real, not imagined.

⁴⁴ N Bisley, 2016, Australia should think carefully about a FONOP in the South China Sea, *The Lowy Interpreter*, February 4 <<http://www.loyyinterpreter.org/post/2016/02/04/We-should-think-carefully-about-an-Australian-FONOP-in-the-South-China-Sea.aspx>>

⁴⁵ M Spetalnick, 2016, U.S. urges China’s Xi to extend non-militarization pledge to all of South China Sea, *Reuters*, February 26 <<http://www.reuters.com/article/us-southchinassea-usa-china-idUSKCN0VZ2F9>>