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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

MARKUP

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

ON

H.R. 6313

SEPTEMBER 12, 2012

Serial No. 112–179

Printed for the use of the Committee on Foreign Affairs

Available via the World Wide Web: http://www.foreignaffairs.house.gov/ or http://www.gpo.gov/fdsys/

U.S. GOVERNMENT PRINTING OFFICE

75–857PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
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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:]

I

112TH CONGRESS
2D 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. FALEOMAVAEGA (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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) The South China Sea contains vital commercial shipping lanes and points of access between the Indian Ocean and Pacific Ocean and provides a

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

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

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

(4) Although not a party to these disputes, the United States has a national economic and security interest in maintaining peace, stability and prosperity in East Asia and ensuring that no party threatens or uses force unilaterally to assert maritime territorial claims in East Asia, including in the South China Sea, the East China Sea, or the Yellow Sea.

(5) The Association of Southeast Asian Nations (ASEAN) has promoted multilateral talks in disputed areas without settling the issue of sovereignty.

(6) In 2002, ASEAN and China signed a Declaration on the Conduct of Parties in the South China Sea. That declaration committed all parties to those territorial disputes to "reaffirm their respect for and commitment to the freedom of navigation in and overflight 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". Yet, in September 2010, tensions were raised in the East China Sea off of the Senkaku (Diaoyutai) Islands, a territory under the legal administration of Japan, when a Chinese fishing vessel deliberately rammed Japanese Coast Guard patrol boats.

(7) The Government of the People's Republic of China deliberately heightened these tensions by making a series of diplomatic protests, including on one occasion summoning the Japanese Ambassador after midnight, by threatening "further repercussions" if Japan did not immediately release the Chinese ship captain involved in the collisions, and by encouraging anti-Japanese demonstrations in Chinese cities.

(8) On February 25, 2011, a frigate from China's navy fired shots at 3 fishing boats from the Philippines.

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

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

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

(12) On June 3, 2011, Vietnam's Foreign Ministry released a statement that "Vietnam is resolutely opposed to these acts by China that seriously violated the sovereign and jurisdiction rights of Viet Nam to its continental shelf and Exclusive Economic Zone (EEZ).".

(13) On June 9, 2011, three vessels from China, including one fishing vessel and two maritime 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-

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

(18) On June 23, 2011, Secretary of State Hillary Rodham Clinton told visiting Philippines Foreign Secretary Albert del Rosario that "We are determined and committed to supporting the defense of the Philippines.".

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

(20) The United States, on June 23, 2011, stated that it was ready to provide hardware to modernize the military of the Philippines.

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

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

(23) China's official media stated that the sailing route of the Haixun 31 in the South China Sea

was determined to protect its "rights and sovereignty".

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

(25) Singapore further urged China to clarify its claims in the South China Sea with more precision as the current ambiguity as to their extent has caused serious concerns in the international maritime community.

(26) The actions of the Government of the People's Republic of China in the South China Sea have also affected United States military and maritime vessels transiting through international air space and waters, including the collision of a fighter plane of China with a United States surveillance plane in 2001, the harassment of the USNS Impeccable in March 2009, and the collision of a Chinese submarine with the sonar cable of the USS John McCain in June 2009.

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

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

(28) These exercises were to be conducted in international waters, as well as Republic of Korea territorial waters, in the vicinity of the site of the March 2010 North Korean torpedo attack on the South Korean military vessel Cheonan, which resulted in 46 deaths.

(29) These exercises were to include participation by the USS George Washington aircraft carrier group.

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

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

terest in freedom of navigation, open access to Asia's maritime commons, and respect for international law in the South China Sea".

(32) Secretary Clinton further expressed the support of the United States for the Declaration by the Association of Southeast Asian Nations and China in 2002 on the Conduct of Parties in the South China Sea, and stated, "The United States supports a collaborative diplomatic process by all claimants for resolving the various territorial disputes without coercion.".

(33) On October 12, 2010, former Secretary of Defense Robert Gates stated at the ASEAN Defense Ministers Meeting-Plus, "The U.S. position on maritime security remains clear: we have a national interest in freedom of navigation; in unimpeded economic development and commerce; and in respect for international law.". Former Secretary Gates further maintained "The United States has always exercised our rights and supported the rights of others to transit through, and operate in, international waters.".

(34) On June 4, 2011, at the Shangri-La Dialogue in Singapore, former Secretary Gates stated that "maritime security remains an issue of par-

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

(35) On June 5, 2011, at the Shangri-La Dialogue, Liang Guanglie, the Defense Minister from China, said, "China is committed to maintaining peace and stability in the South China Sea.".

(36) On June 14, 2011, Hong Lei, the spokesman for the Chinese Foreign Ministry, stated that "China always upholds and has been committed to a proper resolution of differences and disputes over the South China Sea in a peaceful manner through bilateral direct negotiation and friendly consultation with relevant countries.".

(37) On June 22, 2011, Chinese Vice Foreign Minister Cui Tiankai told reporters, in reference to the South China Sea disputes, that "I believe the individual countries are actually playing with fire, and I hope the fire will not be drawn to the United States.".

(38) On June 29, 2011, the Defense Ministry of the People's Republic of China stated that "Recent drills by the Chinese navy are routine and not connected to the situation in the South China Sea",

further calling for people to view the exercises in a "rational" way.

(39) On April 8, 2012, a Philippine plane spotted eight Chinese fishing boats in the vicinity of the Scarborough Shoal, which both countries claim.

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

(41) A Chinese foreign ministry spokesman condemned a long-planned joint military exercise between the U.S. and the Philippines in April, saying "The major trend of the times in this region is peace and development. Military exercise does not represent the major call of the times.".

(42) In June of 2012, Vietnam passed a law claiming sovereignty over the Paracel and Spratly Islands and called for mutual respect for international law.

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

tion of China's territorial sovereignty" and that China expressed its "resolute and vehement opposition".

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

(45) On June 23, 2012, the China National Offshore Oil Corporation invited bids for oil exploration in areas within 200 nautical miles of the continental shelf and exclusive economic zone of Vietnam.

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

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

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

(49) When the Japanese coast guard told the Chinese ships to leave, the crew told them, "We are conducting official duty in Chinese waters. Do not interfere. Leave China's territorial waters.".

(50) Japan's Vice Foreign Minister Kenichrio Sasae called the exchange "extremely serious" and "unacceptable," and a government spokesperson was quoted as saying, "It is clear that historically and legally Senkaku is an inherent territory of Japan.".

(51) At the July 2012 ASEAN Regional Forum (ARF), Secretary Clinton said, "We believe the nations of the region should work collaboratively and diplomatically to resolve disputes without coercion, without intimidation, without threats, and without the use of force.".

(52) Although ASEAN has agreed on the elements of the Code of Conduct (COC), China stated that it would enter negotiations with ASEAN on the COC "when the time is ripe".

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

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

(55) On July 19, 2012, the Chinese Central Military Commission approved the establishment of the "military defense and watch zone of Sansha" at the division level.

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

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

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

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

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

(61) A State Department spokeswoman said that the United States is concerned about such "unilateral moves" and wants to see "all of these issues resolved at the table".

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that, in light of the congressional finding described in section 1, the Secretary of State should—

(1) reaffirm the strong support of the United States for the peaceful resolution of maritime territorial disputes in the South China Sea, the Taiwan Strait, the East China Sea, and the Yellow Sea and pledge continued efforts to facilitate a collaborative, peaceful proves to resolve these disputes;

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

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

(3) note that overt threats and gun boat diplomacy are not constructive means for settling these outstanding maritime disputes;

(4) call on all parties to these territorial disputes to refrain from threatening force or using force to assert territorial claims;

(5) welcome the diplomatic efforts of Association of Southeast Asian Nations (ASEAN) and the United States allies and partners in Taiwan, Japan, and the Republic of Korea to amiably and fairly resolve these outstanding disputes; and

(6) support the continuation of operations by the United States Armed Forces in support of freedom of navigation rights in international waters and air space in the South China Sea, the East China 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.]

APPENDIX

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.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF FULL COMMITTEE MARKUP

Day *Wednesday* **Date** *9/12/12* **Room** *2172 RHOB*

Starting Time *10:00 a.m.* **Ending Time** *10:06 p.m*

Recesses [ ] (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

Presiding Member(s)

Rep. Ileana Ros-Lehtinen

Check all of the following that apply:

Open Session [✓]
Executive (closed) Session [ ]
Televised [✓]
Electronically Recorded (taped) [✓]
Stenographic Record [✓]

BILLS FOR MARKUP: *(Include bill number(s) and title(s) of legislation.)*

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

COMMITTEE MEMBERS PRESENT:

Attendance sheet attached.

NON-COMMITTEE MEMBERS PRESENT:

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

ACTIONS TAKEN DURING THE MARKUP: *(Attach copies of legislation and amendments.)*

See Markup Summary.

RECORDED VOTES TAKEN (FOR MARKUP): *(Attach final vote tally sheet listing each member.)*

Subject	Yeas	Nays	Present	Not Voting

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *10:06 a.m.*

~~Doug Anderson, General Counsel~~
Chief of Staff, Yleem Poblete

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
	Connie Mack, FL
	Jeff Fortenberry, NE
	Michael McCaul, TX
	Ted Poe, TX
	Gus M. Bilirakis, FL
X	Jean Schmidt, OH
	Bill Johnson, OH
	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
	Russ Carnahan, MO
	Albio Sires, NJ
	Gerry Connolly, VA
	Ted Deutch, FL
	Dennis Cardoza, CA
X	Ben Chandler, KY
	Brian Higgins, NY
	Allyson Schwartz, PA
X	Chris Murphy, CT
	Frederica Wilson, FL
	Karen Bass, CA
	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.

○