

THE SOUTH CHINA SEA: WHY IT MATTERS TO “GLOBAL BRITAIN”

BY DR JOHN HEMMINGS AND JAMES ROGERS



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About the authors

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Executive Summary

- Over the course of 2018, the United Kingdom (UK) has renewed its economic, political and strategic focus on the Indo-Pacific region, particularly Southeast and East Asia, with a particular uptick in the presence of the Royal Navy.
- This coincides with the rise of geopolitical tensions in the South China Sea – the meeting point of the Indian and Pacific oceans – and the emergence of the People's Republic of China as a revisionist power.
- Beijing's unlawful and excessive claims in the South China Sea and military activity are a danger to the rules-based international system and a threat to British interests, as well as those of its allies and partners.
- As a custodian of the rules-based order, the UK has a role to play in challenging attempts to undermine the rules on which the world depends.
- The Royal Navy has already undertaken – in late August 2018 – an operation to reject Chinese claims over international waters near the Paracel Islands.
- Building on this operation and to permanently undermine unlawful and excessive claims, the UK should adopt a Freedom of Navigation policy, carefully tailored to suit the emerging strategic environment.
- In addition, the Royal Navy should aim to maintain a permanent presence in the Indo-Pacific region, and Southeast Asia in particular, to reassure UK allies and partners and dissuade – even deter – foreign powers from making revisionist claims and undertaking aggression.
- To facilitate such a move, the Royal Navy requires the means to maintain a permanent forward presence, including more vessels and enhanced naval facilities in Southeast Asia.

The China Seas are an area of vital national interest to the United Kingdom, trumping inward Chinese investment and diplomatic niceties as a priority. Whilst many scholars have long admired the problem, in this report Dr John Hemmings and James Rogers explain not only the “why” but also “how” and what the British government should be doing about it.

Prof. Peter Roberts

Director of Military Sciences, Royal United Services Institute

Dr John Hemmings and James Rogers make the case that the South China Sea issue has implications for British national interests. They conduct an assessment of HMS Albion’s Freedom of Navigation manoeuvre last summer in the context of “take notice, take action”. I am hopeful others will follow the example set by both authors and expand on this research and awaken Europeans to their strategic interests, which are being challenged by the People’s Republic of China’s actions.

Admiral (rtd.) Scott H. Swift

Commander, United States Pacific Fleet (2015-2018)

The issues raised in this Policy Paper are of considerable importance for global security and our maritime nation in particular. The illegal activity of the People’s Republic of China in the South China Sea is increasingly dangerous and should not be ignored. I support the conclusions of a need for an increased British naval presence in the region and for additional actions in support of Freedom of Navigation.

Admiral (rtd.) Rt. Hon. The Lord West of Spithead

First Sea Lord (2002-2006)

“Despite its nature as a Universal Principle, free use of international waters in the South and East China Seas has failed for decades to attract the close attention of Europe. However, Hemmings and Rogers have made a crystal clear case that the UK should conduct FONOPs in line with the US, Japan, and other regional states. Their recommendations for a new initiative for the UK, already partially realized, would help counter China’s wilful, destabilizing actions in the areas.”

Vice Admiral (Rtd.) Yoji Koda

Former Commander in Chief, JMSDF Fleet (2007-2008)

Contents

Executive Summary	3
INTRODUCTION	7
1. “GLOBAL BRITAIN” ENTERS THE SOUTH CHINA SEA.....	9
2. DEVELOPMENTS IN THE SOUTH CHINA SEA.....	11
3. WHY THE SOUTH CHINA SEA MATTERS TO “GLOBAL BRITAIN”.....	15
4. OPTIONS FOR “GLOBAL BRITAIN”.....	18
5. CONCLUSION	22
APPENDIX A.....	24

INTRODUCTION

The United Kingdom (UK) has been steadily expanding its strategic horizon in the Indo-Pacific in a way that gives real meaning to “Global Britain”, even as it has been heavily self-absorbed in withdrawing itself from the European Union (EU). In addition to raising its diplomatic and economic profile, the UK has increased its naval presence in the Indo-Pacific over the past 12 months – an indicator of the growing importance of the area to British national interests.¹ In the words of Gavin Williamson, the Secretary of State for Defence:

For the first time since 2013, Britain has been deploying ships to the Pacific region. We have three this year, and this isn’t something we want to see as a flash in the pan but actually a commitment to the region that goes forward over the coming years.²

Indeed, with the opening of a new naval base in Bahrain and a Joint Logistics Facility in Oman, the UK has been rebalancing “East of Suez” for almost a decade. However, like the United States (US) and France, it has begun to enlarge its perspective further still to encompass the broader Indo-Pacific. The progressive adoption of the term “Indo-Pacific” – by the Prime Minister, the Foreign Secretary, the Defence Secretary and the First Sea Lord in various speeches – has indicated a growing alignment of interests between the UK and regional countries, particularly those – like the so-called “Quad” – concerned with keeping maritime communication lines open, upholding access to regional markets and maintaining the broader “rules-based international system” (see Box 1).³

Box 1: “Global Britain” and the Rules-based International System

As Global Britain, we are reinvesting in our relationships around the world. We are championing the rules-based system, which has served our interests as a global trading nation and is of vital importance as geopolitics becomes more contested. ...

As the world has become more uncertain and volatile, we are committed to deploying the full suite of our security, economic and influence capabilities to protect and promote our security, economic and influence interests, whether by deterring our adversaries, disrupting terrorists and criminals, strengthening allies, stabilising conflicts, responding to humanitarian crises, supporting trade and investment or tackling climate change.

The rules-based system we helped to develop has enabled global cooperation to protect shared fundamental values of respect for human dignity, human rights, freedom, democracy and equality ... we are committed to upholding and renewing the rules-based international system.

We will always respond robustly to attempts to harm the UK and destabilise the world order.

– National Security Capability Review, March 2018⁴

¹ This interest has been growing over the past few years. In October 2016, the Royal Air Force sent Eurofighter Typhoons through the South China Sea. Sir Michael Fallon, the then Secretary of State for Defence, explained that the UK reserves the right to uphold freedom of navigation at any time: “We flew RAF Typhoons through the South China Sea last October and we will exercise that right whenever we next have the opportunity to do so, whenever we have ships or planes in the region.” See Packham, C., ‘Britain plans to send warship to South China Sea in move likely to irk Beijing’, *Reuters*, 27 July 2017, available at: <https://www.reuters.com/article/us-southchinasea-britain/britain-plans-to-send-warship-to-south-china-sea-in-move-likely-to-irk-beijing-idUSKBN1AC1CB>, last visited: 18 December 2018.

² Carrell, S., ‘South China Sea: UK could send aircraft carrier to back Australian vessels’, *The Guardian*, 21 July 2018, available at: <https://www.theguardian.com/world/2018/jul/21/south-china-sea-uk-could-send-aircraft-carrier-to-back-australian-vessels>, last visited: 18 December 2018.

³ The Quad is a strategic grouping of states, consisting of Japan, India, Australia, and the United States. Meanwhile, the rules-based international system has been defined as a term in the Foreign and Commonwealth Office; its meaning and place in British foreign policy can be seen in a speech by The Rt Hon Mark Field MP, Minister for Asia and the Pacific, at the Foreign and Commonwealth Office, available at <https://www.gov.uk/government/speeches/global-britain-supporting-the-rules-based-international-system>, last visited: 18 December 2018.

⁴ ‘National Security Capability Review’, *HM Government*, March 2018, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705347/6.4391_CO_National-Security-Review_web.pdf, last visited: 19 December 2018.

As a 2018 report from the Henry Jackson Society sought to argue, the UK’s rebalancing makes sound economic as well as strategic sense insofar as the centre of gravity of the global economy is moving to the Indo-Pacific, which will affect deeply UK national interests.⁵ This Policy Paper aims to explain how Britain’s national interests are directly tied to the region, specifically developments in the South China Sea. In particular, we argue:

1. The South China Sea is a critical for the so-called “Royal Route”, one of the world’s most important maritime communication lines, upon which the UK has extensive commercial interests;
2. The People’s Republic of China (PRC) has shown an increasing willingness to challenge and act outside the rules-based system, revealing a deeply worrying strategic intent, which appears revisionist in character and hegemonic in nature;
3. A large number of states similarly concerned with the PRC’s actions and ambitions are close UK allies or partners, including the US, Japan, the Philippines and Vietnam, as well as the other members of the Five Power Defence Arrangements (FPDA): Australia, Malaysia, New Zealand and Singapore;
4. The implications of the actions of the PRC, particularly regarding the Law of the Sea in the South China Sea, if imitated by other great powers, could have severe consequences for the UK’s national interests in maintaining unrestricted access to regional markets, to such an extent that the wider rules-based system could be undermined.⁶

Consequently, this Policy Paper will argue that to dissuade the PRC from seeking to further unilaterally revise the rules-based system, the UK should adopt its own Freedom of Navigation Policy. This would empower the Royal Navy to assist British allies and partners – not least the US, Japan, the Philippines, Vietnam and the countries of the FPDA – to prevent the further erosion of the Law of the Sea in the South China Sea, along with the wider rules-based system.

⁵ Dr Hemmings, J., ‘Global Britain in the Indo-Pacific’, *The Henry Jackson Society*, Research Paper 002, May 2018, available at: <https://henryjacksonsociety.org/wp-content/uploads/2018/05/Global-Britain-in-the-Indo-Pacific-WEB.pdf>, last visited: 18 December 2018.

⁶ ‘How much trade transits the South China Sea?’, *China Power: CSIS*, 27 October 2017, available at: <https://chinapower.csis.org/much-trade-transits-south-china-sea/>, last visited: 18 December 2018.

1. “GLOBAL BRITAIN” ENTERS THE SOUTH CHINA SEA

Over the course of 2018, the Royal Navy became more active in the South China Sea, the fulcrum point between the Indian and Pacific Oceans. HMS Sutherland and HMS Argyll – frigates on operational deployments – passed through the South China Sea in February and June 2018, while HMS Albion, an amphibious assault vessel, is now widely understood to have challenged the PRC’s unlawful maritime claims on 31 August.⁷ Although the Ministry of Defence has not formally published the full details of the type of manoeuvre made by HMS Albion, it is highly likely that the vessel cruised through the Paracel Islands, which are occupied by China but claimed also by Taiwan and Vietnam.⁸ In so doing, the British objective was not to challenge Chinese, Taiwanese or Vietnamese sovereign claims on the islands – the UK, like most countries, takes no stance on these – but was rather to deny PRC “straight baseline” claims. While a number of other countries’ naval vessels have passed through the South China Sea – two French amphibious assault vessels went through, with British helicopters on board, in 2017 and 2018 respectively⁹ – it is unclear whether any vessels other than those of the US (and UK) have undertaken what the Americans term “Freedom of Navigation Operations” (FONOPs).¹⁰ According to Admiral Scott Swift, former Commander of the US Pacific Fleet, a number of countries with interests in the region have increased the frequency and duration of their respective navies’ operations in the contested areas of the South China Sea over the last year. He also notes that the proximity of those operations to areas of disputed maritime claims has decreased as well, a change that has been noted by the Chinese Foreign Ministry and others in the region.¹¹

However, unlike previous movements in the South China Sea by foreign warships – other than those of the US – the PRC’s response to HMS Albion’s presence was particularly robust. A frigate and jets from the People’s Liberation Army Navy (PLAN) were immediately sent to the area to harass the British vessel.¹² Later, the *Global Times* – a nationalist newspaper for the Chinese Communist Party – insisted that the Royal Navy had “violated Chinese and international law, and infringed upon Chinese sovereignty and Chinese national security”.¹³ In addition, a spokesperson from China’s Ministry of Foreign Affairs denounced HMS Albion’s transit, stating that it would even risk a future UK-PRC trade agreement.¹⁴

⁷ Kelly, T., ‘Exclusive – British Navy Warship sails near South China Sea islands, angering Beijing’, *Reuters*, 6 September 2018, available at: <https://uk.reuters.com/article/uk-britain-china-southchinasea-exclusive/exclusive-british-navy-warship-sails-near-south-china-sea-islands-angering-beijing-idUKKCNILM00V>, last visited: 18 December 2018.

⁸ According to Bill Hayton, Associate Fellow of the Asia Programme at Chatham House, Admiral Philip Jones, the First Sea Lord, stated that the HMS Albion challenged the PRC’s unlawful claims in the Paracel archipelago. See: Hayton, B., @bill_hayton, *Twitter*, 28 November 2018, available at: https://twitter.com/bill_hayton/status/1067742907204100096, last visited: 18 December 2018.

⁹ Two Merlin helicopters were embarked on FS Mistral and two Wildcats on FS Dixmude, which cruised through the South China Sea in 2017 and 2018 respectively. See ‘Commando helicopter squadron returns home from Far East mission’, *Royal Navy*, 24 July 2017, available at: <https://www.royalnavy.mod.uk/news-and-latest-activity/news/2017/july/24/240717-commando-helicopter-squadron-returns-from-far-east-mission>, last visited: 18 December 2018; ‘Wildcats join French task group for unique Pacific mission’, *Royal Navy*, 27 February 2018, available at: <https://www.royalnavy.mod.uk/news-and-latest-activity/news/2018/february/27/180227-wildcats-join-french-task-group-for-unique-pacific-mission>, last visited: 18 December 2018.

¹⁰ Standifer, C., ‘A Brief History of U.S. Freedom of Navigation Operations in the South China Sea’, *USNI News*, 29 May 2017, available at: <https://news.usni.org/2017/05/29/brief-history-us-freedom-navigation-operations-south-china-sea>, last visited: 18 December 2018. For a history of US FONOPs, see Connelly, A. and M. Coyne, ‘History of US Freedom of Navigation Operations’, *Lowy Institute*, 2016, available at: http://interactives.lowyinstitute.org/fonops_maps/2016.html, last visited: 18 December 2018.

¹¹ ‘Japanese submarine conducts first drills in South China Sea’, *Reuters*, 17 September 2018, available at: <https://www.reuters.com/article/us-japan-southchinasea-submarine/japanese-submarine-conducts-first-drills-in-south-china-sea-idUSKCN1LX07S>, last visited: 18 December 2018.

¹² Tang, D., ‘Royal Navy warship HMS Albion involved in South China Sea “provocation”’, *The Times*, 6 September 2018, available at: <https://www.thetimes.co.uk/article/royal-navy-warship-hms-albion-involved-in-south-china-sea-provocation-td2dzcnmv>, last visited: 18 December 2018.

¹³ ‘China slams British navy’s South China Sea intrusion’, *Global Times*, 6 September 2018, available at: <http://www.globaltimes.cn/content/1118686.shtml>, last visited: 18 December 2018.

¹⁴ *Ibid.*

The PRC’s response appears to have been carefully coordinated to escalate and impose costs on the UK not “vertically”, but “horizontally”. First, given the dominant role that Brexit plays in the UK’s domestic discourse, Chinese policymakers are well aware of the place that future investment plays in Whitehall debates. Second, there are signs that the PRC has developed a strategy for imposing political and economic costs on close allies of the US when those allies choose to align with Washington’s interests over those of Beijing.¹⁵ The question therefore arises: if the UK is going to undertake future manoeuvres in the South China Sea in support of the rules-based system, is it not time for the British government to generate a more sophisticated understanding of regional dynamics, as well as a more systematic menu of policy options?

¹⁵ For example, South Korea paid a heavy economic price for deploying the US Terminal High Altitude Area Defence (THAAD) system on its soil in 2017, while the US escaped criticism. More recently, Beijing has exacted a heavy political cost on Canada for its role in detaining Ms Meng Wanzhou - by detaining two prominent Canadians in the PRC - while continuing to negotiate with the Administration of President Donald Trump.

2. DEVELOPMENTS IN THE SOUTH CHINA SEA

Geographically, the South China Sea is a semi-enclosed sea of the Pacific Ocean, surrounded by Brunei, Malaysia, the Philippines, the PRC, Taiwan and Vietnam.¹⁶ The Strait of Malacca – the world’s second most important maritime choke point (after the Strait of Hormuz) – emerges in the South China Sea just south of Singapore.¹⁷ The Royal Route – one of the world’s premier maritime communication lines – runs through the South China Sea, linking the prosperous consumer societies of Western Europe to the industrial heartlands of East Asia in China, South Korea and Japan. Indeed, it is estimated that US\$3.37 trillion of trade passes through the South China Sea each year, equivalent to roughly one-third of all global maritime trade.¹⁸ Asia’s manufacturing centres are also connected by the South China Sea to energy suppliers – for both oil and gas – in the Middle East and East Africa. Although other possible routes exist – such as a detour around the outer edge of the Philippines through the Lombok Strait – any constriction or disruption to trade in the South China Sea would exact heavy costs on regional and global trade.¹⁹

Given its growing significance, it should come as no surprise, then, that the South China Sea has become a highly contested area for the major powers.²⁰ This is unfortunate given that all the surrounding countries (except Taiwan and Cambodia) have signed the United Nations Convention on the Law of the Sea (UNCLOS), which – as Box 2 shows – was designed to introduce a universal framework for maritime jurisdiction in international law for coastal states. The fact that there are numerous contested islands, rocks and low-tide elevations in the South China Sea has not helped, providing the foundations for geostrategic action.

Box 2: What is the United Nations Convention on the Law of the Sea (UNCLOS)?

UNCLOS was designed to codify maritime relations between nations, thereby extending the rules-based system to the maritime domain. According to the convention:

1. All coastal states may claim both a territorial sea and a contiguous zone, each with diameter of 12 nautical miles (24 nautical miles in total), to surround their sovereign territories, including both islands and rocks. Only the territorial sea is sovereign.
2. Low-tide elevations – such as sandbanks that may become visible during low tides – and artificial islands may not generate territorial waters (although low-tide elevations can be used to extend both a territorial sea and contiguous zone if they are located within a coastal state’s territorial sea).
3. Archipelagic states such as Indonesia and the Philippines are permitted to establish so-called “straight baselines” to join up their island territories, and to extend their territorial and contiguous seas to cover wider areas than might otherwise be lawful. Coastal states – such as the PRC – are not allowed to establish “straight baselines” between any insular territories.
4. Naval vessels passing through any foreign territorial or contiguous seas are not required to give advance notice or seek permission from the sovereign power prior to transit, as long as they undertake only “innocent passage”. Passage is *not* considered “innocent” if a naval vessel threatens to use force against the sovereign power, undertakes military exercises, gathers intelligence, spreads propaganda, launches or takes on board military aircraft or devices, interferes with the coastal state’s communication systems, or engages in any other activity that does not have a direct bearing on passage.²¹

¹⁶ For an excellent analysis of the strategic features of the South China Sea, see Holmes, J., ‘Strategic Features of the South China Sea: A Tough Neighborhood for Hegemons’, *US Naval War College Review*, 67.2 (2014).

¹⁷ Hirst, T., ‘The world’s most important trade route?’ *World Economic Forum*, 21 May 2014, available at: <https://www.weforum.org/agenda/2014/05/world-most-important-trade-route/>, last visited: 18 December 2018.

¹⁸ ‘How much trade transits the South China Sea?’, *China Power: CSIS*, 27 October 2017.

¹⁹ Some costs have been calculated by CSIS in ‘How much trade transits the South China Sea?’, *China Power: CSIS*, 27 October 2017.

²⁰ Major powers can be defined in many ways; however, our definition can be found in Rogers, J., ‘Audit of Geopolitical Capability: Assessment of 20 Major Powers’, *The Henry Jackson Society*, January 2019, available at: <https://henryjacksonsociety.org/publications/geopoliticalcapabilityaudit/>, last visited: 5 January 2019.

²¹ ‘United Nations Convention on the Law of the Sea’, *United Nations*, available at: http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf, last visited: 18 December 2018.

The PRC, which had a hand in creating UNCLOS and ratified it in 1997, has been the leading revisionist state.²² Beijing has tried to undermine the sovereign claims of its maritime neighbours – such as the Philippines and Vietnam – through a variety of interlocking tactics, combining contradictory and excessive interpretations of UNCLOS with an incremental or “salami-slicing” approach, leading to the progressive militarisation of the maritime space. In particular, as Box 3 shows, the PRC has used its maritime militia,²³ coastguard and the PLAN to quietly encroach on many of the islands, rocks and low-tide elevations in the South China Sea, before transforming them into large military bases, with airstrips, naval facilities, garrisons and radars.²⁴

Box 3: What the PRC is doing in the South China Sea

The PRC makes two types of claims: (I) Territorial claims and (II) Jurisdictional claims. There are three fundamental problems with China’s claims in the South China Sea, which fall in one or the other category:

1. Contrary to international law, the PRC has grouped together tiny, widely dispersed islets in the Paracel Islands to surround them with “straight baselines” – inside of which it claims sovereignty over every islet, rock, submerged feature, and even the waters. In doing so, the PRC seeks to nationalise waters that were previously international. They take the same approach to the Spratlys, although they have not as yet published baselines. **(Territorial)**
2. Furthermore, from these straight baselines, the PRC claims a territorial sea surrounding the entire group of islets, rather than individual features as the law requires. It asserts that foreign naval vessels must gain PRC permission before sailing through them, despite the fact that international law allows all vessels the right to “innocent passage” in territorial seas. **(Jurisdictional)**
3. The PRC compounds its error by claiming expansive resource zones beyond the band of territorial sea. This undermines the right of neighbouring coastal states to manage and extract resources international law gives them. Additionally, in these vast zones, the PRC asserts the right to control certain foreign military activities in ways that infringe on the freedom of the seas provided by law to all states. **(Jurisdictional)**

Thus, both in their breadth and their depth Chinese claims exceed that which international law, as laid out in UNCLOS, allows.

- Prof. Peter Dutton, US Naval War College, Newport, Rhode Island

So, what is the PRC’s ultimate objective in the South China Sea? The overall strategy has never been formally explained in any policy document or speech, but it has become increasingly apparent that Beijing is seeking to establish sovereignty over international space throughout the entire littoral, its undersea resources and the maritime communication lines that traverse it. From the new military bases that it created on the three rocks and low-tide elevations, the PRC has created overlapping strategic “bubbles” from which to expand outwards, each protected by longer-range ballistic missiles on the Chinese mainland and shorter-range anti-ship and surface-to-air missiles on the new insular facilities.²⁵ These are further

²² For an overview of the PRC and UNCLOS, see Wang, Z., ‘China and UNCLOS: An Inconvenient History’, *The Diplomat*, 11 July 2016, available at: <https://thediplomat.com/2016/07/china-and-unclos-an-inconvenient-history/>, last visited: 18 December 2018.

²³ The maritime militia is described as “an armed mass organization of mobilizable personnel who retain their normal economic responsibilities in daily civilian life. A reserve force of immense scale, the militia is organized at the grassroots level of society”: Erickson, A. S. and C. M. Kennedy, ‘China’s Maritime Militia’, *Centre for Naval Analyses*, available at: https://www.cna.org/cna_files/pdf/chinas-maritime-militia.pdf, last visited: 18 December 2018.

²⁴ For a dynamic map of the facilities in the South China Sea, see: ‘Military facilities in the South China Sea’, *Google Maps*, 5 January 2019, available at: <https://drive.google.com/open?id=1BTkeu21NZOEhNskweRB9F8gA7L20yHI3&usp=sharing>, last visited: 5 January 2019. Equally, for some excellent images of the extent of these islands, see SpaceKnow, ‘China’s Island Build-Up: The View from Space’, *The Diplomat*, 11 July 2018, available at: <https://thediplomat.com/2018/07/chinas-island-build-up-the-view-from-space/>, last visited: 18 December 2018; Phillips, T., ‘Photos show Beijing’s militarisation of South China Sea in new detail’, *The Guardian*, 6 February 2018, available at: <https://www.theguardian.com/world/2018/feb/06/photos-beijings-militarisation-south-china-sea-philippines>, last visited: 18 December 2018.

²⁵ On the missile ranges, see Yeo, M., ‘How far can China’s long-range missiles reach in the South China Sea?’, *Defense News*, 4 May 2018, available at: <https://www.defensenews.com/naval/2018/05/04/how-far-can-chinas-long-range-missiles-reach-in-the-south-china-sea/> last visited: 18 December 2018. Moreover, it is worth noting that the USG believes both HQ-9 and YJ-12 missiles remain stored on some of the PRC’s artificial island bases.

complemented by the PLAN’s growing inventory of increasingly sophisticated submarines and surface vessels. This intricate complex of “anti-access” and “area-denial” weapons is used to undergird Beijing’s excessive and unlawful maritime claims.²⁶ It is in this sense, as Professor Andrew Lambert of King’s College, London, points out, that:

the greatest challenge facing contemporary sea states is the creeping continentalisation of maritime space, restrictions on the right to use the seas. ... Soon, the Western Pacific Basin will be covered by land-based [Chinese] defences deployed to deny maritime access. Continental strategies have always attempted to reduce the threat from the sea, using coastal forts, mines and restrictive treaties.²⁷

As Map 1 below shows, “continentalisation” in the South China Sea has even been informally delineated by the PRC through the establishment of a so-called “Nine-Dash Line”.²⁸ This line delineates an area supposedly based on Imperial China’s historic usage and stretches some 2,000 km from the Chinese coastline, encircling more than 90% of the South China Sea.²⁹ Refusing to explain or define the claim, the PRC merely provided a map of the Nine-Dash Line in a diplomatic note submitted to the United Nations in 2009, claiming that “it has indisputable sovereignty over the islands in the South China Sea and the adjacent waters”.³⁰ While there has been speculation that Beijing will ultimately replace the Nine-Dash Line by drawing straight baselines between the four island groups – the Pratas Islands, Paracel Islands, Spratly Islands and the Macclesfield Bank area³¹ – this has not yet been confirmed as policy. China has declared “straight baselines” around the Paracel islands, treating them as a single geographical unit. If it were to declare “straight baselines” around the “Four Sha” group, they would effectively cover a similar proportion of the South China Sea as the current Nine-Dash Line. According to Article 47 of UNCLOS, such baselines may only be drawn if they enclose an *archipelagic* country’s “main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1”. Julian Ku, the Maurice A. Deane Distinguished Professor of Constitutional Law at Hofstra University, notes that Beijing’s Four Sha idea is excessive because, aside the fact that China not an insular state, its “total land mass is vastly disproportionate to its maritime entitlements – far beyond UNCLOS’ 9:1 ratio.”³²

Given the lack of clarity by Beijing on the Nine-Dash Line, the Philippines decided to appeal to a Tribunal under Article VII of UNCLOS to rule on PRC claims. While making clear that neither party wished to argue any issues relating to Chinese sovereignty – an issue that Beijing said was off the table – Manila instead asked the Tribunal to rule on the legitimacy of the *nature* of the PRC’s claims and their consistency with UNCLOS. In its findings, the Tribunal found that:

²⁶ On the PRC’s anti-access and area denial systems, see Tengredi, S. J., *Anti-Access Warfare: Countering A2/AD Strategies* (Naval Institute Press, 2013). On the PRC’s wider strategy, see Yoshihara, T. and Holmes, J., *Red Star Over the Pacific: China’s Rise and the Challenge of U.S. Maritime Strategy* (Annapolis, Maryland: Naval Institute Press, 2013) and Friedberg, A. L., *A Contest for Supremacy: China, America, and the Struggle for Mastery in Asia* (W. W. Norton, 2012).

²⁷ Lambert, A., *Seapower States: Maritime Culture, Continental Empires and the Conflict that Made the Modern World* (New Haven, Massachusetts, 2018), p.320.

²⁸ Tsirbas, M., ‘What Does the Nine-Dash Line Actually Mean?’, *The Diplomat*, 2 June 2016, available at: <https://thediplomat.com/2016/06/what-does-the-nine-dash-line-actually-mean/>, last visited: 18 December 2018.

²⁹ ‘The South China Sea Arbitration (The Republic of the Philippines v. The People’s Republic of China)’, PCA Press Release, 12 July 2016, available at: <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Press-Release-No-11-English.pdf>, last visited: 18 December 2018.

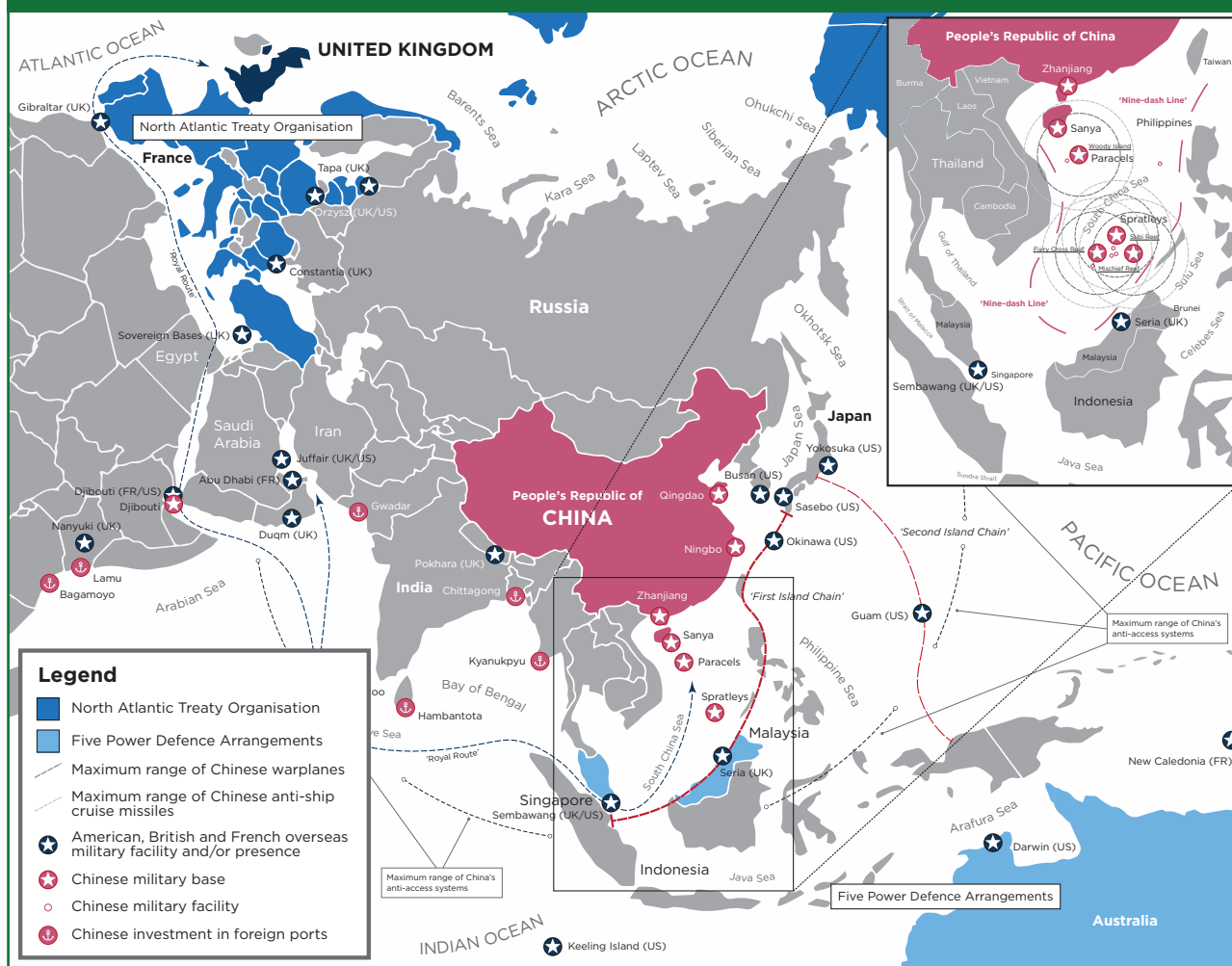
³⁰ Although the Line was used in an international context for the first time in 2009, it has been used by various interior ministries since 1947. See Hayton, B., *The South China Sea: The Struggle for Power in Asia* (London: Yale University Press, 2014), p.59; Note Verbale CML/18/2009, *United Nations*, 7 May 2009, available at: http://www.un.org/depts/los/clcs_new/submissions_files/vnm37_09/chn_2009re_vnm.pdf, last visited: 18 December 2018. For a contextual background on the Nine-Dash Line, see Beech, H., ‘Just Where Exactly Did China Get The South China Sea Nine-Dash Line From?’ *Time*, 19 July 2016, available at: <http://time.com/4412191/nine-dash-line-9-south-china-sea/>, last visited: 18 December 2018.

³¹ Ku, J., and C. Mirasola, ‘The South China Sea and China’s “Four Sha” claim: New Legal Theory, Same Bad Argument’, *Lawfare Blog*, 25 September 2017, available at: <https://www.lawfareblog.com/south-china-sea-and-chinas-four-sha-claim-new-legal-theory-same-bad-argument>, last visited: 19 December 2018.

³² *Ibid.*

China’s claims to historic rights was incompatible with the detailed allocation of rights and maritime zones in the Convention and concluded that to the extent China had historic rights to resources in the waters of the South China Sea, such rights were extinguished by the entry into force of the Convention ... the Tribunal concluded that historical navigation and fishing by China in the waters of the South China Sea represented the exercise of high seas freedoms, rather than a historic right, and there was no evidence that China had historically exercised exclusive control over the waters of the South China Sea.³³

MAP 1: The South China Sea in geopolitical context



The PRC has not only ignored the ruling, but it has also dismissed the legitimacy of the Tribunal itself. Its island building has continued unabated to the extent that the South China Sea has effectively become the pivot for a wider Chinese-controlled “first-island chain”, stretching from Borneo to the Kuril Islands.³⁴ So, in addition to creating a new sphere of influence in Southeast Asia, the PRC’s control of the South China Sea allows it to project power into the Indian Ocean and up into Northeast Asia.³⁵ Indeed, this indicates a wider strategy of area denial, given that many other Northeast Asian countries – Japan, Taiwan and South Korea – are close US allies and trade partners “upstream” from the South China Sea and rely heavily (more than 90% in Japan’s case) on it for their energy supplies.

³³ ‘The South China Sea Arbitration (The Republic of the Philippines v. The People’s Republic of China)’, PCA Press Release, 12 July 2016.

³⁴ Huang, E., ‘China’s Master PLAN: How Beijing Wants to Break Free of the “Island Chains”’, *The National Interest*, 19 May 2017, available at: <https://nationalinterest.org/blog/the-buzz/chinas-master-plan-how-beijing-wants-break-free-the-island-20746>, last visited: 19 December 2018.

³⁵ Dr Hemmings, J., ‘The Potential for Sino-US Discord in the South China Sea’, *The RUSI Journal*, 156.2 (April/May 2011).

3. WHY THE SOUTH CHINA SEA MATTERS TO “GLOBAL BRITAIN”

Although many British observers – with their preference for a more limited UK strategic focus on Europe (especially in light of “Brexit”) – have downplayed the significance of the South China Sea, the British government has rightly recognised that the country has significant and growing interests in the region.³⁶ The “Global Britain” vision provides both the impetus and the framework to approach the “continentalisation” of the South China Sea. Insofar as “Global Britain” (see Box 1) has started to be transformed into a concrete approach, one of the key themes has been that the UK should pay heed to a changing geo-economic order, while throwing its full weight behind upholding the rules-based system.

The South China Sea therefore matters to the UK for a number of economic, geostrategic, economic-strategic, military and legal reasons, all interlocking:

1. From an economic viewpoint, the South China Sea is the primary trade corridor connecting Europe and East Asia. Though the British Isles are still some distance from the waterway, nearly 12% of UK seaborne trade – £97 billion in imports and exports – passes through the South China Sea each year (for comparison, total UK-India trade is around £16 billion per year).³⁷ Doubtless this amount will only increase as East Asia grows in economic gravity and assumes a greater share of the global economy. Moreover, the South China Sea is an entry point for Britain’s trading relationships with the Association of Southeast Asian Nations (ASEAN), Japan, Korea, and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), including Japan, Vietnam, Malaysia, Singapore, Brunei and Australia, to which the UK has stated an interest in negotiating accession after it withdraws from the EU.
2. As Map 1 shows, from a geostrategic standpoint, the fact that the UK already has an established foothold in the region means it would be foolish to ignore developments in the South China Sea. After all, the British Armed Forces have a regional defence staff and a naval logistics facility in Singapore (with the largest fuel stores in Southeast Asia), and the British Army’s jungle warfare training installation and battalion of Gurkhas are located in Brunei. Just beyond the South China Sea, the UK has military facilities in Nepal and on the British Indian Ocean Territory, i.e., Diego Garcia – part of a “strategic array” of military facilities linking back to the British home islands.³⁸ The British government plans to strengthen the terminus of this “array” in the coming years, with a greater naval concentration in Southeast Asia, either in Singapore or Brunei.³⁹ Meanwhile, the South China Sea abuts the FPDA – the only strategic grouping in Southeast Asia, of which the UK is a member. Although the FPDA does not have a mutual defence clause, it does require consultation between the five participants – Australia, Malaysia, New Zealand, Singapore and the UK – in the event of a threat to

³⁶ See: Shetler-Jones, P., ‘Brexit, Global Britain and the Euro-Asia Security debate’, *Europe-Asia Security Forum*, 6 January 2019, available at: <https://euroasiasecurityforum.com/2019/01/06/brexit-global-britain-and-the-euro-asia-security-debate/>, last visited: 6 January 2019.

³⁷ ‘How much trade transits the South China Sea?’, *China Power: CSIS*, 27 October 2017. For UK-India trade, see: Office for National Statistics, Who does the UK trade with? 3 January 2018, available at: <https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/articles/whodoestheuktradewith/2017-02-21>

³⁸ Rogers, J., ‘European (British and French) Geostrategy in the Indian Ocean’, *Journal of Indian Ocean Studies*, 9.1 (2013); Scott, D., ‘Britain Returns to the Indian Ocean?’, *The Round Table*, 107.3 (2018).

³⁹ Hope, C., ‘Britain to become ‘true global player’ post-Brexit with military bases in South East Asia and Caribbean, says Defence Secretary’, *Telegraph on Sunday*, 30 December 2018, available at: <https://www.telegraph.co.uk/politics/2018/12/29/britain-become-true-global-player-post-brexit-new-military-bases/>, last visited: 31 December 2018.

either Malaysia or Singapore.⁴⁰ Indeed, the UK participates in FPDA drills and exercises – “Bersama Shield” and “Suman Warrior” – every five years to demonstrate its interest in the wider Southeast Asian region and to ensure that the Five Powers’ armed forces remain interoperable.⁴¹

3. From the perspective of the economic-strategic nexus, countries surrounding the South China Sea – especially those that are not seeking to revise maritime law – are more likely to embark on viable and lucrative trading partnerships with the UK if the Royal Navy is able to help underwrite more robustly their own security. Admiral Sir Philip Jones, the former First Sea Lord, argued in 2017:

The opening of HMS Jufair in Bahrain later this year has been warmly welcomed by our partners in the Gulf as a sign of the UK’s enduring commitment to the region. ... It also begs the question about whether the Royal Navy’s work in support of UK prosperity should end at the Gulf, or whether we need to project to the Indian Ocean, and beyond. The Asia-Pacific region contains two of the three largest economies in the world, and five of the largest sixteen. If the UK does wish to forge new global trading partnerships, this is somewhere we need to be.⁴²

Indeed, there is already some evidence for this: it is thought that Australia’s and Canada’s decision to select the Type 26-class frigate for their future naval needs is connected to Britain’s renewed strategic visibility in the Indo-Pacific, and the South China Sea, especially.⁴³

4. Militarily, the US – Britain’s closest and most powerful ally – has pervasive geostrategic interests in East and Southeast Asia. Future confrontation involving the US and the PRC would almost certainly affect the UK-US and wider NATO alliances. The military facility on Diego Garcia in British Indian Ocean Territory – leased by the US until at least 2036 – means that any regional confrontation is almost certain to draw Britain in. It is unlikely that the PRC would leave Diego Garcia – one of the world’s largest overseas military facilities, providing reach over swathes of the Indian Ocean – unscathed simply because it is on a British overseas territory. Equally, it would be hard to envisage a situation whereby the UK, a permanent member of the UN Security Council, could remain uninvolved in the event of a crisis between the PRC and Taiwan or Vietnam, let alone the US, Japan or Australia.⁴⁴

⁴⁰ According to the Communiqué issued at the end of the Five Power Meeting on the Defence of Malaysia and Singapore in London in 1971, “The Ministers also declared, in relation to the external defence of Malaysia and Singapore, that in the event of any form of armed attack externally organised or supported by the threat of such attack against Malaysia and Singapore, their Governments would immediately consult together for the purpose of deciding what measures should be taken jointly or separately in relation to such attack or threat.” See Wah, C. K., ‘The Five Power Defence Arrangements and AMDA’, *Institute of Southeast Asian Studies*, 1974, p.16.

⁴¹ Parameswaran, P., ‘Five Power Defense Arrangements in the Spotlight with Military Exercise’, *The Diplomat*, 12 October 2017, available at: <https://thediplomat.com/2017/10/five-power-defense-arrangements-in-the-spotlight-with-military-exercise/>, last visited: 19 December 2018.

⁴² Jones, P., ‘DSEI maritime conference 2017: Speech by Admiral Sir Philip Jones, First Sea Lord’, *HM Government*, 11 September 2017, available at: <https://www.gov.uk/government/speeches/dsei-maritime-conference-2017>, last visited: 19 December 2018.

⁴³ See Childs, N., ‘Australia’s new frigates: strategic signals’, *International Institute for Strategic Studies*, 30 June 2018, available at: <https://www.iiss.org/blogs/military-balance/2018/06/australias-new-frigates>, last visited: 19 December 2018.

⁴⁴ Indeed, it is worth noting that the UK has been developing closer relations with both countries. HMS Albion was travelling between Japan and Vietnam when the PRC was provoked by its presence in the South China Sea. For more on the development of the UK-Japan partnership, see: Shetler-Jones, P., ‘Britain’s quasi-alliance with Japan’, Simón, L. and Speck, U., *Natural Partners: Europe, Japan and security in the Indo-Pacific*, Elcano Royal Institute (2018), available at: <http://www.realinstitutoelcano.org/wps/wcm/connect/e1b07fbd-ac5f-4d8d-874c-1fe1b7ff1892/Policy-Paper-2018-Natural-Partners-Europe-Japan-security-Indo-Pacific.pdf?MOD=AJPERES&CACHEID=e1b07fbd-ac5f-4d8d-874c-1fe1b7ff1892>, last visited: 30 December 2018. For more on the emergence of closer relations between the UK and Vietnam, see Parameswaran, P., ‘Warship Visit Highlights UK-Vietnam Defense Ties’, *The Diplomat*, 4 September 2018, available at: <https://thediplomat.com/2018/09/warship-visit-highlights-uk-vietnam-defense-ties/>, last visited: 19 December 2018.

5. Finally, from the perspective of international law, what occurs in the South China Sea has a direct bearing on the rules-based system, upon which Britain and a great many countries depend. The PRC's behaviour there is not unique – other countries have excessive maritime claims – but its claims have the most potential impact on the maritime trading order. Given that 80% of global merchandise trade is moved by sea – of which the UK ports handle 5% – the consequences of other maritime nations emulating the PRC's claims would be severe.⁴⁵ Furthermore, Beijing's sidelining of the Tribunal that formed to hear the Philippines' claims in relation to the South China Sea is a major blow to international law.⁴⁶ Moreover, its decision to follow that with the building of three large military bases – each of which is larger than the US base at Hawaii – and four smaller military facilities to support its unlawful claims implies that force and coercion have supplanted international law in the eyes of the PRC.

⁴⁵ Mangan, D. J., 'Future of the Sea: Trends in the Transport of Goods by Sea', *Government Office for Science*, August 2017, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/640171/Trends_in_the_transport_of_goods_by_sea.pdf, last visited: 19 December 2018.

⁴⁶ Cohen, J. A., 'Like it or not, UNCLOS arbitration is legally binding for China', *East Asia Forum*, 11 July 2016, available at: <http://www.eastasiaforum.org/2016/07/11/like-it-or-not-unclos-arbitration-is-legally-binding-for-china/>, last visited: 19 December 2018.

4. OPTIONS FOR “GLOBAL BRITAIN”

Of course, in response to the PRC’s revisionist activity in the South China Sea, the UK could always relinquish its part in upholding the rules-based system and adopt a more passive approach. The Royal Navy could still maintain a periodic presence, not least when cruising to Japan or South Korea, but operations like those carried out by HMS Albion on 31 August 2018 near the Paracel archipelago would be discontinued. This would prevent the PRC from escalating “horizontally” in response to British patrols, and would prevent hostile economic and commercial measures from being taken by the PRC that might damage the British economy. After all, Beijing is acutely aware that, as it withdraws from the EU, the UK is keen to attract foreign investment from Chinese companies and open the growing Chinese market to British products, both tangible and intangible.

However, although this passive approach would reject the PRC’s assertion of the so-called Nine-Dash Line, it would not counter attempts to revise the rules-based system; indeed, if left uncontested, those regional countries – such as Vietnam, the Philippines and Malaysia – may become increasingly reluctant to challenge the PRC’s unlawful maritime claims, even as they have their own misgivings in relation to UNCLOS. As the extracts in Appendix A show, the British government has already decided – and demonstrated with HMS Albion on 31 August 2018 – that it is unprepared to simply accede to revisionist claims in the South China Sea. The opportunity for a passive stance has, therefore, already been closed off. This is no bad thing: such a posture would only undermine the UK’s role as a global leader in upholding the rules-based system, while simultaneously reducing British standing with important allies and partners, not least the US, Japan, the Philippines, Vietnam and the countries of the FPDA.

Consequently, the time has come for the UK to create its own national Freedom of Navigation Policy, one that transparently and publicly challenges all excessive and illegal claims in the region – not just those of the PRC.⁴⁷ As Admiral Sir Philip Jones, former First Sea Lord, recently told the *Financial Times*, “If you [e.g., the PRC] are going to have a different interpretation of that to the majority of nations then that has to be resisted. Otherwise you could see right around the world nations who will start to make their own interpretations.” He went on, “I expect we will do more of that as we transit through with the ships we have there.”⁴⁸ However, aside from simply maintaining a periodic naval presence in the South China Sea to reject the PRC’s bizarre claims to the entire sea, there are essentially two ways the UK could help uphold the Law of the Sea:

1. Freedom of Navigation *Movements* (FONMOVs): these would involve a Royal Navy vessel cruising into territorial or contiguous waters claimed by the PRC (or other states) and passing directly as if undertaking “innocent passage”, but without giving advance notice (as per PRC demands);
2. Freedom of Navigation *Exercises* (FONEXs): these would involve a Royal Navy vessel cruising into territorial or contiguous waters claimed by the PRC (or other states) in a way not befitting of “innocent passage” (and without giving advance notice), such as launching a helicopter and/or conducting drills (such as “man overboard” exercises).

Of course, each option would be tailored in relation to the nature of the foreign claim. In the context of the South China Sea, if the PRC has merely mounted a jurisdictional claim – i.e.,

⁴⁷ For a truly excellent overview of US Freedom of Navigation Operations, see Freund, E., ‘Freedom of Navigation in the South China Sea: A Practical Guide’, *Belfer Center for Science and International Affairs, Harvard Kennedy School*, June 2017, available at: <https://www.belfercenter.org/publication/freedom-navigation-south-china-sea-practical-guide>, last visited: 19 December 2018.

⁴⁸ Bond, D., ‘Royal Navy Chief vows to send ships through South China Sea’, *Financial Times*, 22 October 2018, available at: <https://www.ft.com/content/efe13b86-d507-11e8-ab8e-6be0dcf18713>, last visited: 19 December 2018.

where it claims advance authorisation for passage, which is contrary to UNCLOS stipulations – the UK could undertake a FONMOV, cruising directly through PRC-claimed territorial seas or contiguous zones to reassert the right of “innocent passage”. In those areas where the PRC’s claim is territorial – i.e., where artificial islands have been built on low-tide elevations, and claims mounted on the surrounding seas, or where “straight baseline” claims have been asserted – the UK could embark on a FONEX, to underwrite the fact that the claim is itself unlawful. In all cases, the UK would remain transparent, announcing what form of operation was undertaken, where the Royal Navy’s vessel(s) went, and for what purpose.

So how might the UK put these two forms of mission into practice? There are essentially two options:

1. Increase the number of FONMOVs undertaken across the globe – wherever Royal Naval vessels operate – to demonstrate British support of the rules-based system. In regard to the South China Sea, these FONMOVs would take place to counter PRC demands for advance notification of foreign passage.
2. Begin to undertake FONEXs, ideally with regional allies and partners such as France, Japan, India and the FPDA, particularly within areas of sea boxed in through the PRC’s unlawful “straight baseline” claims, such as the Paracel Islands, or in any illegally claimed territorial or contiguous seas surrounding fake islands built on low-tide elevations, such as Mischief Reef, Subi Reef or Fiery Cross Reef.⁴⁹ There are three ways these FONEXs could be realised:
 - a. Unilaterally, by Royal Navy warships, similarly to HMS Albion’s operation in the Paracel Islands on 31 August 2018;
 - b. Bilaterally, through use of a “SHIP-RIDER” programme, involving the hosting of non-UK military officers or assets on board Royal Navy vessels as they carry out a FONEX (or British military officers or assets on allied ships). By creating in effect a bilateral ship, this would diffuse the direction of the PRC’s potential ire, while only using one vessel, thereby preventing unnecessary escalation through increased ship numbers.
 - c. Multilaterally, using two or more warships, with one vessel – to avoid unnecessary escalation – breaking away from the main force to pursue a FONEX, leaving the other vessels in support to deter wider escalation.

This system would help the UK and the Royal Navy to delineate what form of operation is required to counter, proportionally, any form of excessive or illegal activity and to reassert that they are acting in support of the rules-based system, not against any specific country. Therefore, the UK would be well advised to begin mounting FONMOVs – Option 1 – in any territorial and contiguous seas where the PRC claims advance authorisation for passage. Equally, Britain would also do well to mount further FONEXs – Option 2 – to counter unlawful PRC “straight baseline” claims in their entirety, as well as any claims to territorial or contiguous seas that come about through the construction and establishment of fake islands on low-tide

⁴⁹ Gavin Williamson, the Secretary of State for Defence, has already stated that he anticipates enhanced naval cooperation between the UK and Australia: “Australia and Britain see China as a country of great opportunities, but we shouldn’t be blind to the ambition that China has and we’ve got to defend our national security interests.” See ‘Britain to sail warship through disputed South China Sea’, *The Guardian*, 13 February 2018, available at: <https://www.theguardian.com/uk-news/2018/feb/13/britain-to-sail-warship-through-disputed-south-china-sea>, last visited: 19 December 2018. Since then, Julie Bishop, Australia’s Foreign Minister, has confirmed her satisfaction that the UK will become more present in her country’s own vicinage. In her words, “At such a critical juncture in world affairs, we feel it is vital for like-minded nations to join together to promote peace and stability. We couldn’t be more delighted that the UK will be taking an increasing role in the Indo-Pacific.” See Carrell, S., ‘South China Sea: UK could send aircraft carrier to back Australian vessels’, *The Guardian*, 21 July 2018.

elevations. To reduce the degree to which the PRC could escalate against the UK, both “horizontally” and “vertically”, FONEXs would ideally be undertaken alongside regional and extra-regional allies and partners.⁵⁰ Just as it would likely welcome a UK Freedom of Navigation Policy, particularly if it draws in other allies and partners, the US is likely to prefer – as Box 4 shows – a more visible UK presence in the South China Sea.⁵¹

Box 4: Why the US would like greater British visibility in the South China Sea

The US would welcome a persistent British presence in the South China Sea for four interrelated reasons:

1. Historically, maritime-based coalitions – centred first on British and, later, American seapower – were essential to strategic success against revisionist, continental powers.
2. British activism in maritime Asia would telegraph to Beijing that further Chinese aggrandisement would meet the collective resistance of like-minded seafaring powers.
3. Britain’s naval presence would demonstrate to Beijing that the US enjoys the support of many close allies in and beyond the Western Pacific, leveraging a key competitive advantage over the PRC.
4. British naval presence would tap into longstanding Chinese fears of internationalisation of disputes and diplomatic isolation in times of crisis or war.

The UK’s naval presence, in conjunction with other regional and extra-regional powers, would signal that Beijing cannot continue to advance its maritime ambitions in a resistance-free environment. Even a modest British contribution would help to maintain a favourable balance of naval power in the South China Sea, reinforcing the message that Beijing confronts a coalition of the world’s most capable navies. The more friction the PRC encounters, the more likely it will think twice about challenging the rules-based system, thus shoring up deterrence.

– Prof. Toshi Yoshihara, Centre for Strategic and Budgetary Assessments, Washington, DC

Indeed, insofar as the PRC may one day miscalculate and use force to assert its claims in or over the South China Sea, it seems logical that it may first seek to lash out against a country weaker than the US, both to establish a precedent and to discourage future American patrols.⁵² Here, as Professor Lambert points out, “Sea states must act together to ensure the seas remain open for trade, as well as for diplomacy and war: without ocean access their political and economic model will fail, along with their values.”⁵³ Consequently, as Box 5 shows, insofar as this is a contest of wills – even a contest between an authoritarian power and the democracies – the UK would do well to send HMS Queen Elizabeth through the South China Sea once fully operational, as the former Foreign Secretary Boris Johnson and the current British Ambassador to the US Kim Darroch have indicated.⁵⁴ In addition, the UK ought to establish a more permanent maritime presence, with future Type 26- or Type 31-class frigates forward-deployed to Singapore or Brunei. Indeed, depending on the PRC’s own behaviour, the UK might also reserve the right to deploy an Astute-class nuclear attack submarine to mount periodic patrols in the region.

Equally, the UK would do well to consider embedding itself in existing regional security architecture, such as the US–Japan–Australia Trilateral or the US–Japan–India–Australia Quad

⁵⁰ Joshi, S. and Graham, E., “‘Global Britain’ on the line in the South China Sea”, *The Interpreter*, 22 February 2018, available at: <https://www.lowyinstitute.org/the-interpreter/global-britain-line-south-china-sea>, last visited: 19 December 2018.

⁵¹ Gavin Williamson, the Secretary of State for Defence, drew attention to the fact that the US needs more willing partners in the South China Sea: “The US is looking for other countries to do more. This is a great opportunity for the UK ... to do more, to exercise leadership.” See ‘Britain to sail warship through disputed South China Sea’, *The Guardian*, 13 February 2018.

⁵² Peck, M., ‘The Next South China Sea Crisis: China vs. Britain and France?’, *The National Interest*, 9 June 2018, available at: <https://nationalinterest.org/blog/the-buzz/the-next-south-china-sea-crisis-china-vs-britian-france-26189>, last visited: 19 December 2018.

⁵³ Lambert, A., *Seapower States*, p.320.

⁵⁴ Doherty, B., ‘Britain’s new aircraft carriers to test Beijing in South China Sea’, *The Guardian*, 27 July 2017, available at: <https://www.theguardian.com/uk-news/2017/jul/27/britains-new-aircraft-carriers-to-test-beijing-in-south-china-sea>, last visited: 19 December 2018; Brunstrom, D., ‘British fighters to overfly South China Sea; carriers in Pacific after 2020: envoy’, *Reuters*, 2 December 2016, available at: <https://www.reuters.com/article/us-britain-southchinasea-fighters/british-fighters-to-overfly-south-china-sea-carriers-in-pacific-after-2020-envoy-idUSKBN13R00D>, last visited: 19 December 2018.

or, even, to propose the formation of new architecture that includes a mutual consultation agreement like that of the FPDA, if not a mutual defence clause akin to NATO’s Article 5. Such action would help to deter reckless behaviour at sea or even outright attacks on those nations that wish to actively participate in reasserting freedom of navigation in international waters.

Box 5: Why HMS Queen Elizabeth should cruise through the South China Sea

When fully operational in 2020–2021, HMS Queen Elizabeth, at 70,000 tonnes the largest aircraft carrier ever built for the Royal Navy, will be – alongside US Gerald Ford class supercarriers – the most powerful piece of conventional military apparatus ever put to sea. Armed with a group of stealth F35B Lightning II Joint Combat Aircraft, “Big Lizzie” – as the tabloid press calls her – will amplify the UK’s ability to project significant force into almost any strategic theatre.

Sending HMS Queen Elizabeth, alongside a group of escorts – destroyers, frigates, nuclear submarines and auxiliary vessels – into the South China Sea would send a powerful demonstration not only of the Royal Navy’s global reach, but also of the UK’s willingness and determination to uphold the Law of the Sea and underpin the rules-based system.

Indeed, the Prime Minister, Theresa May, has already connected the British decision to procure HMS Queen Elizabeth with upholding the Law of the Sea. As she stated on board the new vessel in August 2017:

Britain can be proud of this ship, and what it represents. It sends a clear signal that as Britain forges a new, positive, confident role for ourselves on the world stage in the years ahead, we are determined to remain a fully engaged global power, working closely with our friends and allies around the world.

As a leading member of NATO, the foremost military power in Europe and a permanent member of the UN Security Council, Britain has an enduring responsibility to help sustain the international rules-based order, and to defend the liberal values which underpin it.⁵⁵

And to show that this move has wider international support, and to diffuse and spread the PRC’s likely ire, the UK’s allies and partners, such as France, Japan, India and the FPDA partners, who also have similar interests in upholding the rules-based system in the Indo-Pacific, should be encouraged to send their own vessels to assist. The Dutch have already committed to sending a vessel to participate in HMS Queen Elizabeth’s first operational tour.⁵⁶

⁵⁵ ‘HMS Queen Elizabeth, Portsmouth: Theresa May’s Speech’, *HM Government*, 16 August 2017, available at: <https://www.gov.uk/government/speeches/hms-queen-elizabeth-portsmouth-theresa-mays-speech>, last visited: 19 December 2018.

⁵⁶ ‘Prime Minister hails new era of Dutch-UK security cooperation post-Brexit’, *HM Government*, 24 October 2018, available at: <https://www.gov.uk/government/news/prime-minister-hails-new-era-of-dutch-uk-security-cooperation-post-brexit>, last visited: 19 December 2018.

5. CONCLUSION

The South China Sea may seem like a distant geopolitical theatre to the UK and therefore largely peripheral to core British national interests. However, nothing could be further from the truth: aside its economic significance to British trade, which is considerable and growing, it marks a sort of litmus test for the durability of the rules-based system. In 2014, the PRC’s activities in the South China Sea were likened to another “Munich” moment by Benigno Aquino III, the then President of the Philippines, who evoked this powerful metaphor to underscore the fact that attempts to appease revisionist authoritarian powers tend only to invite further aggression. While using a historic comparison such as Munich might seem extreme, there are disturbing parallels, not least because the PRC promised that it would not militarise its islands in the South China Sea – a promise that was soon broken.

There are broad similarities in how rising powers seek to reorder the system in which they rise. Those that do so peacefully usually have their national interests accommodated. China has sought to learn how to rise peacefully from the great powers of the past. *The Rise of the Great Powers* television series, commissioned by the CCTV, was extremely influential and its creators are said to have briefed the Politburo. However, in the South China Sea, it is clear that Beijing has indulged in geopolitical re-ordering of the system much more carefully than Berlin did in 1938, using a “salami-slicing” process that has lasted more than a decade (thus far). Further, given the noises it makes about its own “Malacca dilemma”, Beijing knows full well that US Navy power, combined with the economic interdependence between the Chinese economy and other countries that use the South China Sea, means that any military confrontation would exact heavy costs.⁵⁷ However, this does not rule out the prospect for inadvertent escalation: already, some of the PLAN’s responses to lawful British and American naval movements on the high seas in the South China Sea – to say nothing of the smaller navies and coastguards it has attempted to push out of the way – have been dangerous.⁵⁸ Indeed, through “continentalisation”, as well as the PRC’s own naval build-up, Beijing is gradually beginning to gain the upper hand in the region, which may eventually lead it to miscalculate.⁵⁹ This possibility is compounded by the fact that the traditional dichotomy between war and peace – as so eloquently outlined by Sir Nicholas Carter, the Chief of the General Staff, in January 2018 – has broken down, a development the PRC has itself actively facilitated with the use of its maritime militia.⁶⁰

To no small extent, then, as Beijing has succeeded in achieving its goals through “salami-slicing” tactics, Western powers such as the US and the UK have had difficulty stopping it.⁶¹ However, if the Law of the Sea is to be upheld in Southeast Asia, as well as in international waters elsewhere, the time has come to adopt a more robust and coordinated approach. The largest

⁵⁷ Storey, I., ‘China’s “Malacca Dilemma”’, *China Brief*, 6.8 (2006).

⁵⁸ On one occasion, a PLAN gunboat came within 41 metres of USS Decatur, a perilously close distance, as it tried to chase the American destroyer away. See Martinez, L., ‘Chinese warship came within 45 yards of USS Decatur in South China Sea: US’, *ABC News*, 1 October 2018, available at: <https://abcnews.go.com/Politics/chinese-warship-45-yards-uss-decatur-south-china/story?id=58210760>, last visited: 19 December 2018. For a scenario where a collision leads to armed confrontation, see Holmes, J., ‘A Collision: Is This How a U.S.-China War in the South China Sea Starts?’, *The National Interest*, 6 November 2018, available at: <https://nationalinterest.org/blog/buzz/collision-how-us-china-war-south-china-sea-starts-35347>, last visited: 19 December 2018.

⁵⁹ Hayton, B., *The South China Sea: The Struggle for Power in Asia* (New Haven, Connecticut: Yale University Press, 2014), p. 238. For an interesting analysis of the prospect of a PRC-US great power war, see Coker, C., *The Improbable War: China, the United States and the Logic of Great Power Conflict* (London: C. Hurst and Co, 2015).

⁶⁰ Carter, N., ‘Dynamic security threats and the British Army: Chief of the General Staff General Sir Nicholas Carter KCB CBE DSO ADC Gen’, *Gov.uk*, 22 January 2018, available at: <https://www.gov.uk/government/speeches/dynamic-security-threats-and-the-british-army-chief-of-the-general-staff-general-sir-nicholas-carter-kcb-cbe-dso-adc-gen>, last visited: 19 December 2018. On the PRC’s pursuit of a “grey zone” – specifically “non-militarised coercion” – in the South China Sea, see Dutton, P., ‘China’s Maritime Disputes in the East and South China Seas’, *US Naval War College Review*, 67.3 (2014).

⁶¹ For an excellent overview of the West’s failure to understand what the PRC has been trying to achieve, see Friedberg, A. L., ‘Competing with China’, *Survival: Global Politics and Strategy*, 60.3 (2018).

issue until now has been developing the collective response that is needed for the rules-based system to be upheld. For this reason, it is necessary for a “Global Britain” to formulate a Freedom of Navigation Policy, which is purposeful, proportionate and transparent. Through a combination of FONMOVs and FONEXs – with the latter being undertaken preferably with like-minded European maritime powers and Indo-Pacific allies and partners, ideally through some form of regional architecture – it may be possible for the UK to help uphold the rules-based system by dissuading the PRC from expanding further its excessive and unlawful activities in the South China Sea.

The ultimate issue – left until last – is the extent to which the UK is actually able to continue to project itself into the South China Sea with any degree of regularity. As the PLAN grows in strength, and as Chinese anti-access and area-denial systems increase in power and sophistication, the UK may need a larger, better-provisioned Royal Navy, at a time when its dissuasive capacity may be needed more than ever. In particular, the Royal Navy needs to develop and strengthen its counter anti-access and area-denial capabilities to allow it to operate in increasingly contested environments, which include both land and sea. Given the stakes involved, and the UK’s own interests, the British government, policymakers and civil society would do well to take note and to take remedial action. Military spending must continue to be adjusted in a way that is commensurate with the strategic environment. As in the past, Britons will support such measures if told clearly and openly of the threats to peace and the risks to their freedoms.

Policy Recommendations:

Given the importance of the South China Sea to “Global Britain”, the UK would do well to:

1. Emphasise the strategic importance of both the South China Sea and Freedom of Navigation to the UK, and to “Global Britain” in particular;
2. Devise and operationalise a Freedom of Navigation Policy and signal the intention to operationalise it systemically, particularly when revisionist powers seek to undermine the Law of the Sea;
3. Consider joining established regional security architecture or, even, the establishment of new architecture, to deter attacks on smaller countries that seek to uphold the Law of the Sea;
4. Plan for a multinational fleet centred on HMS Queen Elizabeth to cruise into the Indo-Pacific – and the South China Sea in particular – once the supercarrier becomes fully operational in 2020 or 2021;
5. Pursue a “Pacific dimension” for the Royal Navy with a permanent facility in Singapore and/or Brunei, to complement the beefed-up presence in the Gulf and Arabian Sea;
6. Ensure that the Royal Navy is upheld in strength – with increases in the number of vessels to enable a more persistent British naval presence in the Indo-Pacific – so that the UK boosts its ability both to reassure its partners and dissuade potential competitors from contemplating revisionist action.
7. Generate new strategies and invest in new capabilities – such as direct-energy weaponry, advanced missiles and unmanned systems, etc. – to circumvent potential opponents’ increasingly sophisticated anti-access and area-denial systems.

APPENDIX A

Since 2010, the British government has made a number of announcements pertaining to the law of the sea, Freedom of Navigation and the South China Sea:

Competition between states in the Middle East, South Asia and East Asia, including in the South China Sea, brings risks of miscalculation and conflict.

- National Security Capability Review, March 2018⁶²

We need the sea-lanes to stay open and the arteries of global commerce to remain free flowing.

- Strategic Defence and Security Review, 2015⁶³

The UK Government is concerned by the tensions in the South and East China Seas. The UK has significant political and economic interests in the Asia Pacific region, as reflected in the recent strengthening of our diplomatic network there. It is important that all nations in the region resolve any maritime disputes peacefully and within the rule of law, while protecting and promoting freedom of navigation and trade.

- UK National Strategy for Maritime Security, 2014⁶⁴

We've been sending a clear message to all that the freedom of navigation is absolutely critical.

**- Gavin Williamson MP,
Secretary of State for Defence, June 2018**⁶⁵

[Freedom of Navigation] vindicate[s] our belief in the rules-based international system and in the freedom of navigation through those waterways which are absolutely vital for world trade.

**- Boris Johnson MP,
Secretary of State for Foreign and Commonwealth Affairs, July 2017**⁶⁶

We want to see claims dealt with by rules-based, not power-based, solutions in Asia as elsewhere.

**- Philip Hammond MP,
Secretary of State for Foreign and Commonwealth Affairs, August 2015**⁶⁷

⁶² 'National Security Capability Review', *HM Government*, 28 March 2018, available at: <https://www.gov.uk/government/publications/national-security-capability-review-nscr>, last visited: 19 December 2019.

⁶³ 'National Security Strategy and Strategic Defence and Security Review 2015: A Secure and Prosperous United Kingdom', *HM Government*, November 2015, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/478933/52309_Cm_9161_NSS_SD_Review_web_only.pdf, last visited: 19 December 2018.

⁶⁴ 'The UK National Strategy for Maritime Security', *HM Government*, May 2014, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/310987/20140508_NSMS.pdf, last visited: 19 December 2018.

⁶⁵ Smith, N., 'UK sends "strongest of signals" on free navigation in South China Sea', *The Telegraph*, 3 June 2018, available at: <https://www.telegraph.co.uk/news/2018/06/03/uk-sends-strongest-signals-free-navigation-south-china-sea/>, last visited: 19 December 2018.

⁶⁶ Doherty, B., 'Britain's new aircraft carriers to test Beijing in South China Sea', *The Guardian*, 27 July 2017.

⁶⁷ Martina, M., 'Britain calls for freedom of navigation in South China Sea', *Reuters*, 12 August 2015, available at: <https://uk.reuters.com/article/uk-southchinasea-china-britain/britain-calls-for-freedom-of-navigation-in-south-china-sea-idUKKCN0QH1H020150812>, last visited: 19 December 2018.

Our engagement in Asia is as much about security as it is about as trade and prosperity, since these are all inextricably linked ... I assure you that we will always encourage not just here but all over the world ... a rules-based rather than a power-based solution to disputes.

**- William Hague MP,
Secretary of State for Foreign and Commonwealth Affairs, January 2014**⁶⁸

And we're concerned about the tensions in the South China Sea. ... To be clear, we are not taking sides. We don't support the claims of any claimant over another. Our commitment is to the rules-based international system, international law, and the maintenance of freedom of navigation and overflight - both of which we consider non-negotiable.

We expect all parties to avoid actions which could further raise tensions, and to implement the UNCLOS tribunal's ruling. We urge the resumption of peaceful negotiations, including on a binding code of conduct in the South China Sea.

**- Sir Michael Fallon MP,
Secretary of State for Defence, June 2016**⁶⁹

The British government takes no position on the underlying sovereignty claims in the south and east China Seas. But we are clear that provocative behaviour, in the air, or at sea, or in cyberspace, challenges the stability of the region and increases the risk of miscalculation with potentially global impact.

In this respect, we too are disturbed by the scale and speed of current land reclamation activities and the risk that these actions may pose to maritime freedom of navigation and to the stability of the South China Sea. So we call on all parties to refrain from activities that increase tension, to pursue urgently the settlement of maritime and other disputes peacefully in accordance with international law.

**- Sir Michael Fallon MP,
Secretary of State for Defence, May 2015**⁷⁰

And it is why in the South China Sea we urge all parties to respect freedom of navigation and international law, including the ruling of the Permanent Court of Arbitration in The Hague.

**- Mark Field MP,
Minister for State for Asia and the Pacific, August 2018**⁷¹

⁶⁸ 'Britain seeking bigger role in Asia', *Independent*, 30 January 2014, available at: <https://www.independent.ie/world-news/britain-seeking-bigger-role-in-asia-29964996.html>, last visited: 19 December 2018.

⁶⁹ 'Defence Secretary Speaks at Shangri-La Dialogue', *HM Government*, 4 June 2016, available at: <https://www.gov.uk/government/news/defence-secretary-speaks-at-shangri-la-dialogue>, last visited: 19 December 2018.

⁷⁰ 'Shangri-la Dialogue: Singapore's 50th birthday', *HM Government*, 1 June 2015, available at: <https://www.gov.uk/government/speeches/shangri-la-dialogue-singapores-50th-birthday>, last visited: 19 December 2018.

⁷¹ Field, M., 'Global Britain: supporting the Rules Based International System', *HM Government*, 17 August 2018, available at: <https://www.gov.uk/government/speeches/global-britain-supporting-the-rules-based-international-system>, last visited: 19 December 2018.

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