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**Congressional Testimony**

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**Combating the Gray Zone: Examining  
Chinese Threats to the Maritime Domain**

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Thank you, Chairman Gimenez, Ranking Member Thenedar, and other Members of the Subcommittee, for granting me the honor of submitting testimony for the record. The primary question posed in this hearing concerns how best to “combat Chinese threats” in the gray zone, so this brief is addressed toward better comprehending the nature and scope of those threats.

So-called “gray zone” activities or tactics are recognizable and controversial elements of the People’s Republic of China’s (PRC) strategy in maritime East Asia. Chinese leaders’ primary aims are to assert sovereignty over disputed island territories, effectively control strategic maritime and air space, and gradually erode U.S. power and alliance commitments in the region.

Most definitions of the gray zone key on the uncertain political and operational space between war and peace; they describe calibrated coercion that does not breach certain escalatory thresholds while achieving certain coercive effects. PRC practices fit this general pattern, the archetypal cases of which are in fact PRC maritime campaigns beginning in the South China Sea (SCS) in the late 2000s, extending into the East China Sea (ECS) in the 2010s, and creeping into the Taiwan Strait in the 2020s.<sup>1</sup> These campaigns involve diverse PRC state and non-state actors operating across the East Asian littoral, in furtherance of one or more of the following strategic objectives:

- 1) Gradual encirclement and establishment of effective control over disputed island territories (viz., Taiwan, Senkaku/Diaoyu Islands, Spratly Islands, Macclesfield Bank features)
- 2) Imposition of PRC (enforcement) jurisdiction over water and air space surrounding disputed territories (e.g., Kinmen Island, Paracel Islands)
- 3) Interference with legitimate commercial activity by coastal states (e.g., harassment of Indonesian oil and gas activities near Natuna, exclusion of Philippines fishing from Scarborough Shoal)
- 4) Challenges to lawful freedoms of navigation and overflight by the United States and its allies (e.g., dangerous intercepts of vessels and aircraft of the United States and Australia exercising high seas freedoms in and around the South China Sea and Taiwan Strait)
- 5) Undermining the credibility of U.S. alliances (e.g., exploiting divergent threat perceptions between U.S. and Philippines re: Second Thomas Shoal, U.S. and Japan re: Senkaku Islands)

China’s maritime gray zone actions are multifaceted, and typically include some combination of the following: (a) PRC maritime law enforcement (MLE) vessels (b) enforcing PRC maritime law and regulations and (c) implementing maritime and boundary policies issued by the state bureaucracy, (d) under the political direction of central Chinese Communist Party (CCP) leadership. These tactics are often observed (e) in coordination with maritime militia forces, as well as (f) in concert with the PRC civilian fishing fleet, marine scientific vessels, and offshore oil and gas industry assets, with (g) People’s Liberation Army (PLA) forces available, but just over the horizon and typically not employed as the direct instruments of coercion.<sup>2</sup>

Leaders in Beijing have found this tactical package to work reasonably well against each of China’s maritime neighbors: Japan, North and South Korea, Taiwan the Philippines, Brunei, Malaysia,

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<sup>1</sup> Andrew Chubb, “PRC Assertiveness in the South China Sea: Measuring Continuity and Change, 1970–2015,” *International Security* 45.3 (2021): 79–121; Ketian Zhang, *China’s Gambit: The Calculus of Coercion* (Cambridge 2024).

<sup>2</sup> See Isaac Kardon, *China’s Law of the Sea: The New Rules of Maritime Order* (Yale 2023).

Indonesia, and Vietnam. Not one of these rival claimants has managed to settle its maritime boundaries with the PRC, which is unique among claimants in having no (0) settled maritime boundaries. Nor do any claimants have any meaningful bilateral negotiations underway with Beijing concerning disputed territorial sovereignty and maritime jurisdiction. In multilateral settings, only a protracted and dilute “Code of Conduct” process is in effect, which does not even aim to resolve but rather to palliate conflicts over some but not all of the disputed SCS islands.<sup>3</sup>

These are the unusual geopolitical conditions under which China has built up its capacity to operate in the gray zone, and thus far successfully make incremental gains at its neighbors’ expense without any effective American counter across four administrations. Washington’s fixation with upholding freedom of military navigation has persisted, and still does not meet the central concerns of regional claimants. For these coastal countries, their maritime resource entitlements and jurisdictional space are slowly being subsumed by the PRC. The United States, meanwhile, has no jurisdiction to defend, only a bedrock interest in military and economic access. That orientation makes each Chinese gray zone provocation appear marginal and not worth the risk of further escalation; yet each such action is cumulative. Over the last twenty years, China has normalized ever-greater effective control over disputed waters that should, by rights, be foreign exclusive economic zones.

Basic uncertainty about exactly what is at stake in the gray zone is a part of the appeal of this concept of operations. Rather than make explicit, legally-cognizable claims and bargaining on that basis, Chinese officials have for decades declined to define the scope and substance of their territorial and jurisdictional claims. This strategic ambiguity is most infamous in the case of the unaccountable “nine-dash line” in the SCS, but it is characteristic of the whole program. China’s varied coercion tactics are non-uniform in different sectors, creating just enough friction and doubt to deny the activities of other states, and to promise sustained higher levels of coercion if targets do not back down.<sup>4</sup>

While specific PRC gray zone activities vary in each case and over time in long-running campaigns (see, for example the patterns of Chinese law enforcement activity in the territorial seas and contiguous zones around the Senkaku/Diaoyu Islands, or episodic enforcement of hydrocarbon rights in southern tier of SCS against Malaysia and Indonesia but not Brunei),<sup>5</sup> there is an overall unity to the approach across the whole region. Generally, Chinese gray zone campaigns establish localized PRC advantages that can be sustained over time without precipitating acute crisis. When these actions target American allies, Beijing has also used its campaigns to degrade alliance cohesion.

Finally, the intensity and efficacy of PRC gray zone activity has increased over the past decade. Access to well-positioned operating bases at Mischief Reef, Fiery Cross Reef, and Subi Reef allows China to employ the superior mass of their constabulary and fishing fleets and remain permanently on station in remote waters. Meanwhile, modernization and expansion of China’s coast guard enables PRC law enforcement across the East Asian littoral, creating the permissive conditions for regularized PRC presence in the disputed territorial waters of the Senkaku Islands as well as the far reaches of the SCS.

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<sup>3</sup> Vietnam is the sole disputant over the Paracel Islands, which have been excluded from the COC process.

<sup>4</sup> See Kardon, *China’s Law of the Sea*, Chapters 3-6; see also Zhang, *China’s Gambit*, Chapters 3-4.

<sup>5</sup> “Trends in China Coast Guard and Other Vessels in the Waters Surrounding the Senkaku Islands, and Japan’s Response,” *Japan Ministry of Foreign Affairs* (April 2024), <https://www.mofa.go.jp/region/page23e000021.html>.

**Recommendation 1: The U.S. government should launch a bottom-up comparative review of how regional states have both failed and succeeded in disrupting or rolling back PRC gray zone operations.** Existing State and Defense Department efforts have improved maritime domain awareness and interoperability with allies and partners, but more systematic attention is warranted from the administration. Comparative insights are urgently needed because the Taiwan Strait is now the site of the most conspicuous new cases of PRC gray zone activity, particularly notable around the now-defunct median line and mainland-adjacent offshore islands.<sup>6</sup> Fortunately, much hard-won experience, knowledge, and capacity is already resident in the region. Japan, for example, has dealt with Chinese patrols in disputed territorial seas for fifteen years; their close observation of Chinese behavioral patterns and coast guard tactics in particular can yield practical lessons for countering the ongoing encirclement campaign around Kinmen Island. The Philippines is currently contending effectively with certain PRC gray zone tactics employed around Second Thomas Shoal; any lessons from this campaign can be applied to check creeping mainland encroachment into the Taiwan Strait.

**Recommendation 2: The primary targets of these gray zone actions are regional states, whose interests must figure more prominently in U.S. policy objectives in East Asia.** Reframing U.S. policy objectives in terms that will resonate with allies and partners in the region will also require bottom-up review of the maritime rights and interests of Japan, South Korea, Taiwan, the Philippines, Malaysia, Brunei, Indonesia, and Vietnam. While the United States is directly affected to some degree by PRC gray zone activities, it is rival claimants in the region that are most persistently harmed. Despite that, American policy in the South and East China Seas has become one-dimensional and ill-suited to our broader national interests in maritime East Asia. Freedom of navigation operations (FONOPs) are the poster-child for an ineffective policy that prioritizes a narrow self-interest in military navigation over a strategic interest in maintaining good order and access to the region, in part by upholding the specific sovereign rights – especially to fisheries and offshore oil and gas – that the United Nations (UN) Convention on the Law of the Sea (UNCLOS) entitles them to enjoy.

**Recommendation 3: China’s efforts to gradually change the international law of the sea can be disrupted by prompt U.S. ratification of the UN Convention on the Law of the Sea.** China’s gray zone approach exploits the basic indeterminacy of international law. Beijing benefits from the United States failing to pursue declarative policies that shore up UNCLOS, restore U.S. standing, and cost little to implement. By professing to be acting in line with their interpretation of the international law of the sea, Chinese officials “use the weapon of international law” to gradually change regional norms – and perhaps even general customary international law.<sup>7</sup> If the United States is to succeed in maintaining a stable maritime order, we will have to invest over the long term in the law of the sea. The current policy of nominal adherence to customary international law does not meet the pointed challenge posed by China in the contemporary international environment. An American self-exemption from certain binding rules (like those governing dispute resolution) is too legalistic to provide meaningful leadership to the international community. Senate advice and consent on UNCLOS – as well as the new High Seas Treaty – would signal renewed American capability to bolster and rejuvenate “rules-based international order” against cynical appeals to sovereign self-interest from China (and Russia).

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<sup>6</sup> Isaac Kardon and Jennifer Kavanagh, “How China Will Squeeze, Not Seize, Taiwan,” *Foreign Affairs* (May 21, 2024), <https://www.foreignaffairs.com/china/how-china-will-squeeze-not-seize-taiwan>

<sup>7</sup> For discussion of scope of challenge to “the rules,” see Kardon, *China’s Law of the Sea*, Chapter 7.