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A Reassessment of U.S. Freedom of Navigation Operations in the South China Sea

By Stockton Raso

EXECUTIVE SUMMARY

There was a time when U.S. freedom of navigation operations (FONOPs) were relatively low-key and routine operations signaling U.S. commitment to international law and the freedom of the seas. However, in the past decade, these operations in the South and East China Seas have become a topic of intense debate. The messaging from the United States has remained consistent since the program's inception in 1979. However, some countries, particularly China, increasingly object to the notion of Freedom of Navigation.

Although there had been FONOPs in this region before, the South China Sea became a focus of the U.S. FON program from 2016 to 2023.¹ As instances of FONOPs in the region increased, so too, did the ire drawn from the Chinese. As one analyst noted, "Chinese responses went from measured rejection of U.S. messages to the creation of Chinese counter-narratives, and ultimately to threats."² In 2015, the Chinese had zero military-grade facilities in the Spratly Islands, and today they are fielding full military bases on several islands.³ From this it is evident that China is not deterred by U.S. FONOPs. Instead, China uses them as a pretext for more aggressive actions and further militarization of its claims.

Furthermore, there are significant financial and personnel costs of the ships and sailors carrying out the

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operational side of the program, costs that exceed the potential value gained from the exercises. The U.S. Navy truly is a global navy, and as a result, it is stretched thin across its many areas of responsibility. Every ship that is occupied doing a FONOP is one less ship for other responsibilities. The time spent performing these operations is time not spent training for more serious contingencies. As Under Secretary of Defense for Policy Elbridge Colby, noted in a Center for Strategic and International Studies (CSIS) forum “there is a cost” to FONOPs and it can be measured in lost time in “restoring our warfighting edge.”⁴ The benefits of these operations do not warrant the amount of manpower and resources spent on them.

In addition to the financial and operational costs, there is a serious risk of accidents that could escalate dangerously. Incidents such as the 2018 near collision between USS Decatur and a Chinese destroyer underscore these inherent risks, a point analyzed in greater detail later in this paper. Such close encounters are fraught with risks of miscommunication and rapid escalation. Historical precedents like the 2001 Hainan Island incident demonstrate how quickly seemingly routine encounters can escalate into broader crises, a risk even greater today given the strained U.S.-China relationship.

FONOPs as currently conducted in the South China Sea have immense costs and are counterproductive to U.S. interests in the region. It is time to move away from dangerous and costly freedom of navigation patrols toward a more nuanced strategy that eases tensions and decreases the risk of escalation. Such a strategy must include an increased role for diplomacy to explore areas of compromise between the United States and China. Additionally, there should be an established process that aims to prevent maritime accidents in the first place but also addresses what will happen between the countries should there be such an event. Finally, the United States should seek to incorporate regional countries and organizations in building a more stable, inclusive maritime order with China playing a major role in such a solution.

FONOPs Exacerbate the U.S.- China Security Dilemma

Realist scholars argue that provocative demonstrations near rival states exacerbate the security dilemma, intensifying rather than reducing tensions.⁵ When

viewed through this lens, FONOPs, intended as demonstrations of commitment to international law, are viewed as hostile actions and become problematic. What the United States perceives as defensive or normative the Chinese perceive as aggressive provocation, prompting military countermeasures. Consequently, the more vigorously the United States asserts freedom of navigation, the more entrenched and defensive China becomes. This behavior is described by the proverbial escalation spiral, as each state is incentivized into military escalation based on a misperception of each other.

Advocates of restraint caution against unnecessary interventions and provocative military operations that may lead the United States into avoidable and costly conflicts. From this viewpoint, FONOPs are a risky expenditure of resources, personnel, and political capital with uncertain benefits. While maintaining freedom of navigation is important, these operations can exacerbate the situation and increase the potential for conflict without enhancing America’s core security interests.

Chinese Responses to Freedom of Navigation

Starting in 2016, the pace of U.S. FONOPs quickened in the South China Sea. The first came on January 30th when the guided-missile destroyer USS Curtis Wilbur came within 12 nautical miles of Triton Island in the Paracels. Pentagon spokesman Capt. Jeff Davis said, “This operation challenged attempts by the three claimants - China, Taiwan, and Vietnam- to restrict navigation rights and freedoms.”⁶ China responded the very same day on the foreign ministry website stating: “The American warship has violated relevant Chinese laws by entering Chinese territorial waters without prior permission, and the Chinese side has taken relevant measures including monitoring and admonishments.”⁷ Three days after the event, Chinese Foreign Ministry spokesperson, Lu Kang, stated that these operations do “not accord with international law. It disregards sovereignty, security and maritime interests of coastal countries and jeopardizes the region’s peace and stability.”⁸

The second FONOP of 2016 occurred on May 10th when the USS William P. Lawrence came within 12 nautical miles of a Chinese installation on Fiery Cross Reef, an artificial island in the Spratlys. China

dispatched various military aircraft and ships to the area demanding the U.S. ship leave the area.⁹ Again, the Chinese issued a strong statement about the operation damaging “regional peace and stability”. However, in this instance, Senior Colonel Yang Yujun used the operation as a pretext for China’s construction of military facilities on the islands: “The provocative actions of U.S. military ships and airplanes have exposed the U.S. motive of trying to destabilize the region and seek benefit from it. It also proves again the rationale and necessity of China’s construction of defense facilities on relevant islands and reefs... Based on our needs, we will intensify our patrol in relevant waters and airspace, and improve our defense capabilities to firmly protect national sovereignty and security as well as to preserve peace and stability in the South China Sea.”¹⁰ It’s important to note that from this point onwards, the Chinese began to use FONOPs as a justification for the exact “kind of activity that the U.S. was seeking to challenge.”¹¹

Despite the strong denunciations and aggressive Chinese reactions, the United States continued FONOPs undeterred. In 2019, the rate of FONOPs reached their peak with nine separate operations. By 2023, when the United States conducted operations near Second Thomas Shoal, which is claimed by the U.S.-allied Philippines, China’s reaction intensified further. An editorial in the Global Times highlighted just how contentious the situation had become: “Faced with disturbances from the US and the Philippines... the Chinese side will undoubtedly make comprehensive preparations, demonstrating a firm determination and strong capabilities to defend national sovereignty, security, and the peace and stability of the South China Sea region. Anyone who misjudges or underestimates this is playing with fire. The US has repeatedly claimed that it hopes to maintain military communication with China and seek to install a “guardrail” for US-China relations. It is essential to emphasize to the US that at any time, there can be no “guardrail” for US military adventurism and provocative actions against China. This is akin to high-altitude operations without a safety rope; a momentary lapse can lead to a fall, and the risks involved would be unbearable.”¹²

This sequence underscores how seemingly routine naval patrols are viewed as provocative military operations hostile to China. The differing perceptions of these operations lead to greater tension between the

United States and China.

Mismatched Maritime Perceptions Are a Recipe for Escalation

These strong Chinese responses reflect deeper differences between U.S. and Chinese perceptions of maritime rights and responsibilities. As China has risen to become a strong maritime power, it has inevitably clashed with the pre-existent maritime power, America. From China’s perspective, increased naval activity in the South China Sea is a logical expansion aligned with protecting maritime commerce and securing strategic waters near its coastline. Beijing views U.S. military surveillance close to its bases as fundamentally provocative, reflecting a critical misunderstanding by Washington of China’s maritime intentions.¹³

Chinese officials frequently stress that China supports freedom of navigation in the South China Sea. They often cite that commercial shipping has never been and will not be impeded by China. Instead, they view the U.S. FONOPs as conflating the issue of commercial navigation, which all sides agree should be free, with military navigation, which China believes should be subject to more conditions in certain zones.¹⁴ China rejects the U.S. interpretation of the United Nations Convention on the Law of the Sea (UNCLOS) and views Washington’s enforcement of its component clauses as hypocritical because the United States has not ratified UNCLOS.¹⁵ Chinese experts assert that the United States simply uses the banner of “freedom of navigation” to conduct military surveillance and intelligence-gathering in China’s Exclusive Economic Zone (EEZ) without China’s consent.¹⁶

From the U.S. perspective, the United States has been the preeminent maritime power in the world and has enforced global maritime norms which they view as beneficial not only for the United States but for the entire world.¹⁷ Since the beginning of the FON program, the U.S. government has emphasized that it carries out these operations “to challenge a wide variety of excessive maritime claims made by allies, partners and competitors” and that they “are not focused on any particular claimant”, as well as that they are not executed in response to current events.¹⁸ When it comes specifically to China, the United States believes FONOPs “pose[s] little threat

to China — provided China does not engage in aggressive action that would spark a U.S. military response.”¹⁹ Therefore, Washington views any Chinese denunciation of FON operations as “a signal that China desires to expel the United States from the region and establish control over the South China Sea, if not beyond, in part to permit it greater freedom of action to coerce Taiwan or countries elsewhere in Asia.”²⁰

These differing perceptions are not simply the result of U.S. - China competition but are partly due to the lack of clear maritime rules. Both countries believe they support genuine freedom of navigation but have differing definitions. These differing interpretations of the same law speak to the need for a more robust maritime order, specifically in the Indo-Pacific region. If there is no change in this underlying issue, then there will remain the potential for risk and conflict in the South and East China Seas.

FONOPs Increase the Risk of Incidents and Escalation

These mismatched maritime perceptions not only deepen tensions but significantly heighten the risks of dangerous incidents and potential escalation. During these operations naval vessels from the United States and China now routinely operate in close proximity, sometimes engaging in dangerous maneuvers. As illustrated by the 2018 USS Decatur incident and the 2001 Hainan Island incident, the potential for a collision or misunderstanding remains ever-present.

The USS Decatur Incident

As mentioned earlier, a near collision occurred in 2018 between the USS Decatur and the PRC Lanzhou. During the transit through the Spratly Islands, Decatur was aggressively challenged by the Chinese destroyer in a manner that nearly caused a catastrophic collision. According to the U.S. Navy, “the PRC destroyer conducted a series of increasingly aggressive maneuvers accompanied by warnings for Decatur to depart the area. The PRC destroyer approached within 45 yards of Decatur’s bow, after which Decatur maneuvered to prevent a collision.”²¹ Analysts suggest that such dangerously provocative maneuvers likely received direct approval from senior Chinese leadership, possibly including President Xi

Jinping himself.²²

This event prompted Jonathan Panter, a former U.S. Naval Surface Warfare Officer, (the officers responsible for ship handling) - to write a sobering article in Foreign Policy titled “Will Americans Die for Freedom of Navigation?” In this article he explains the nature of ship handling and why there is heightened risk in these kinds of situations.

“In assessing the risk of accidents, two principles of ship handling are instructive. First, a warship displacing thousands of tons and moving at high speeds generates enormous momentum. After turning its rudder, the ship continues to advance on its original course before the turn is complete, a significant danger if another ship is ahead of it. When attempting to stop, even by reversing propulsion, it may continue to move forward for hundreds of feet.

Second, ships do not turn like cars but instead pivot about an axis. The ship’s stern swings in the opposite direction from the turn. When accelerating (as is common in evasive maneuvers), the pivot point leaps forward, aggravating the stern’s swing. This presents a danger of collision when another vessel alongside it attempts to turn away. The Venturi effect, whereby water in the narrow space between the ships exerts suction, can exacerbate the danger.”²³

The Lanzhou started about 500 yards on Decatur’s port side and then overtook the Decatur and cut across her bow at a distance of only 45 yards. This proximity caused the Decatur to take evasive maneuvers to avoid collision.²⁴ However, according to Panter, “Given the principles above, the collision could have been bow to beam (during the Chinese approach) or stern to beam (during the U.S. destroyer’s evasive turn).”²⁵ In either case, a collision like that could have pierced the hull and damaged vital parts of the ship such as electrical distribution or communication. Loss of these shipboard systems could lead to further escalation, including hindering the ability for higher authorities to communicate with the ship’s captains in efforts to de-escalate the situation.

The Hainan Island Incident

Such a collision would surely prompt a broader crisis that would require skilled diplomacy between the

United States and China. This event is reminiscent of the 2001 Hainan Island incident in which a Chinese J-8 fighter jet collided with a United States Navy intelligence aircraft EP-3E Aries II. The J-8 could not withstand the damage from the collision and both the pilot and plane were lost. The EP-3 survived the collision, but the damage was such that they were forced to make an emergency landing on nearby Hainan Island. The PRC detained all 24 crew members and took possession of the EP-3.

Unsurprisingly, both countries blamed the other for the accident. Fortunately, after diplomatic efforts and the issuance of the “letter of the two sorries”, the crew was released. The U.S.- China relationship is under greater strain today than in 2001, it is not guaranteed that the parties would peacefully resolve a similar crisis, and even if they did, it could still come at great cost.²⁶ It’s important to note that the Chinese pilot killed in the accident, Wang Wei, was posthumously honored as a “Guardian of Territorial Airspace and Waters” demonstrating how sensitive these territorial issues are to the Chinese.²⁷

Freedom of Navigation Operations and Their Regional Implications

During the first Trump Administration this cycle of U.S. FONOPs followed by increasing Chinese aggressiveness in the South China Sea continued. The FONOPs in the first year of the Trump administration were initially met with softer Chinese responses in the hopes that maybe things would be different with the new administration. However, by 2018, it was clear that this would not be the case, and China adopted the same hostile tone as before. When the USS Hopper transited near the Scarborough Shoal, the Chinese sent PRC Huangshan to shadow the vessel and demand it leave the area. Afterwards, China responded by claiming that the United States is undermining stability in the region and if it continues to do so, “it will become a lonely pirate left with only a few companions from outside the region.”²⁸

The Chinese response is unsurprising, but the Philippine reaction is illustrative of the difficult position regional countries find themselves in vis-a-vis China and the United States. Scarborough Shoal is a territory that China seized from the Philippines in 2012. This FONOP was an opportunity for the Philippines to make clear their position

on Scarborough Shoal and show their support for America’s presence in the region. However, in a statement released by the Philippine presidential spokesman, they responded, “That is America’s problem because for our part, we have different tactics in dealing with China. We have reached a point where we have independent foreign relations, and a problem of America is no longer a problem of the Philippines.”²⁹ If a staunch U.S. ally like the Philippines is hesitant to show full-throated support for American FONOPs then one can imagine how other Asia-Pacific states feel.

While many regional countries may privately welcome U.S. presence as a balance against China, they are also uneasy about being caught in the middle of U.S.-China competition. Countries like Malaysia and Indonesia often emphasize neutrality and prefer diplomatic resolution through multilateral forums. Vietnam cautiously supports U.S. engagement but avoids direct endorsement of provocative operations that could trigger Chinese retaliation. The Association of Southeast Asian Nations (ASEAN) has often been muted or divided in its statements on South China Sea issues, partly because some members worry that overt support for U.S. FONOPs would provoke China without actually resolving disputes.

Furthermore, U.S. FONOPs sometimes raise expectations among allies that Washington will more directly support their claims, creating a sort of moral hazard leading countries to take actions that they would not normally undertake without the U.S. backstop. These expectations could lead to disappointment, like they did when China seized Scarborough Shoal from the Philippines in 2012, which saw no U.S. military response beyond statements. Allies could misread a FONOP as a sign that the U.S. military will always be there, when in fact the United States might hesitate in an actual shooting incident involving an ally’s ship and China. A U.S. FONOP might be viewed favorably from a smaller state, but it is not a U.S. security guarantee.

The Questionable Benefits of Freedom of Navigation Operations

If the goal of FONOPs is to aggravate tensions and enrage the Chinese, then they are an unmitigated

success. As these incidents show, this is an area where “China complains loudly and regularly”³⁰ but it is important to note, that Chinese complaints are not evidence of effectiveness. Instead, they show the diplomatic and political cost incurred for little gain. As Under Secretary Colby, hardly a dovish figure, noted, these operations “really don’t stop anything” that China is doing.³¹

They have not compelled China into changing any of its territorial claims, including the notorious “nine-dash line”. Despite a decade of increasing naval patrols in the South China Sea, aimed at challenging this claim, Chinese officials are more adamant than ever regarding Chinese sovereignty and territory. Their willingness to absorb the diplomatic and military friction that comes from holding fast to these claims is evidenced by their refusal to acknowledge the 2016 ruling of the arbitral tribunal organized under UNCLOS that ruled China’s nine-dash line had no legal basis. If a tribunal backed by international law does not lead to any significant change in Chinese policy, then it is unrealistic to expect that U.S. FONOPs would do so.

These operations have failed to prevent further militarization of the islands China claims in the region. In fact, the trend suggests Chinese militarization accelerated in parallel with U.S. FONOPs. In other words, the presence of U.S. ships may have given China a greater sense of urgency to fortify while it can. In 2022, U.S. Indo-Pacific Command (INDOPACOM) assessed that China had fully militarized three of its artificial islands, arming them with fighter jets, bombers, and advanced missile systems.³² China has constructed air strips, radar installations, missile shelters, barracks and gun emplacements on Fiery Cross Reef, Subi Reef, and Mischief Reef.³³

Moreover, Chinese leaders have grown adept at framing FONOPs to their domestic audience as American aggression, which in turn justifies China’s military investments. These operations may perversely strengthen nationalist support within China for a harder line. In a propaganda battle, Beijing can point to U.S. warships off its coast as validation of the narrative that the U.S. military is an outside interferer intruding in Asian waters.³⁴ These points indicate a failed strategy. FONOPs have become, to some extent, a ritual that the United States conducts in order to “show the flag”, but they do little else.

The Financial and Operational Strain of FONOPs on an Overextended Navy

While FONOPs are designed to uphold international maritime law, they impose significant financial and operational burdens on the U.S. Navy, which is already stretched thin across multiple global commitments. The U.S. Navy maintains a global presence with nearly 100 ships deployed daily to fulfill various missions including peacetime engagements, deterrence and crisis response. This extensive deployment schedule leaves limited flexibility for additional operations without affecting overall readiness. These FONOPs divert critical assets from other strategic areas and reduce the time available for essential training and maintenance, potentially compromising the Navy’s preparedness for high-end conflicts.³⁵

Each individual FONOP involves substantial financial outlays, including fuel, maintenance and personnel costs. Moreover, the wear and tear on vessels from frequent deployments accelerate the need for repairs and overhauls, further straining the Navy’s budget. Given the limited impact of FONOPs on altering the behavior of nations with excessive maritime claims, it’s important to assess whether the benefits justify the costs. Alternative strategies, such as diplomatic engagement and multilateral efforts, may offer more sustainable solutions for upholding international maritime norms without overextending naval resources.

Proposals and Alternatives to Freedom of Navigation Operations

Crisis Prevention and Management

Perhaps the most important proposal regarding future operations is to establish procedures to prevent and manage future maritime crises. During the Cold War, there were many dangerous incidents that occurred at sea between the Soviet Union and the United States, including ship shadowing, harassing each other, aggressive maneuvers, and near-collisions. This prompted the two sides to negotiate the 1972 Incidents at Sea Agreement (INCSEA) which established protocols for safe encounters. The United States and the USSR realized their shared interest in avoiding

war and thus struck agreements to regulate their maritime interactions.

The United States and China are under similar incentives today and although they are both parties to the Code for Unplanned Encounters at Sea (CUES), there could be a more robust bilateral agreement reached. In this same vein, U.S. - China crisis communication could be expanded. The U.S. Department of Defense and the PRC Ministry of Defense opened a channel for crisis communication in October of 2020. This is an important step, but experts suggest that a “comparable dialogue should be established between the U.S. State Department and the Chinese Foreign Ministry given their important roles during political-military crises. As part of these dialogues, the two sides should discuss principles that could prevent emergence or escalation of crises that emerge at sea.”³⁶

Less Frequent and Quieter Operations

An easy proposal is simply to decrease the frequency and publicity of FONOPs. It is not necessary to loudly and frequently conduct these operations to preserve freedom of navigation, so the United States ought to do them quietly and only when necessary. For example, instead of public announcements and media coverage for each South China Sea FONOP, the U.S. Navy could conduct them without fanfare (as was often the case pre-2015). This would still challenge the legality of excessive claims without embarrassing the other side, fueling nationalist outrage, and escalating tensions.

A 2021 paper from the Quincy Institute for Responsible Statecraft suggests reducing “formal, announced freedom of navigation operations and other surveillance operations... in areas close to China’s coast or in disputed areas” as a trust-building measure.³⁷ The theory being advanced is that unilateral U.S. restraint in military operations could be met with reciprocal restraint by China or America could negotiate with China and find some sort of quid-pro-quo arrangements in exchange for reducing FONOPs. Even absent a deal, simply spacing out FONOPs could lower the temperature and give more room for diplomatic solutions to be pursued. Additionally, this significantly reduces the chances of an accident and gives the Chinese an opportunity to downplay a low-key operation instead of using it as a pretext for more

aggressive actions.

Negotiations for a More Robust Maritime Order

Much of the tension in the East and South China Seas is the result of an ill-defined global maritime order with gaps that leave crucial issues up to interpretation. Citing these gaps, Rachel Odell of the Quincy Institute attacks the crux of the issue arguing “the most significant challenge facing the global maritime order is not China’s defiance of some existing standards: It is the absence of clear standards. Thus, rather than decrying China’s threat to the -rules-based order- in a rhetorical ritual of great-power rivalry, U.S. diplomatic energy would be better spent leading and supporting efforts to build and strengthen that order in its maritime dimension.”³⁸ As the two leading maritime powers, it is critical that both the United States and China participate in crafting additional agreements to create a more coherent and coordinated maritime environment. Furthermore, due to the crowded nature of the South China Sea, there must be regional maritime agreements that are suited to its unique circumstances. Implementing these policy alternatives is essential not just for mitigating risks and accidents in the short-term, but also for fostering long-term regional stability.

Conclusion

Though intended to preserve international maritime law, U.S. FONOPs in the South China Sea have paradoxically undermined regional stability and American strategic interests. Originally intended as routine operations signaling commitment to open seas, these naval patrols have evolved into contentious flashpoints, exacerbating tensions between Washington and Beijing. Instead of influencing China to reconsider its territorial ambitions, these patrols have repeatedly provided Beijing with a convenient rationale to further militarize disputed areas. The cycle of U.S. naval operations followed by Chinese escalation reveals that FONOPs have become not only strategically ineffective but dangerously counterproductive.

Moreover, the risk of dangerous naval incidents, such as the near collision involving the USS Decatur, highlights the severe consequences inherent in

continued aggressive FONOP posturing. Incidents like the 2001 collision near Hainan Island highlight the speed and ease with which seemingly minor events can escalate into major geopolitical confrontations. Today's deteriorating U.S.-China relationship heightens the risk of miscalculation and unintended escalation, emphasizing the urgency of a more cautious approach.

Financially, the frequent deployment of U.S. naval forces to conduct FONOPs places significant strain on an already overstretched Navy. Each ship committed to FONOPs is one fewer available for essential operational tasks or crucial training activities. These cumulative costs extend beyond the financial considerations, as operational tempo accelerates wear on ships, undermines fleet readiness, and reduces flexibility in responding to genuine crises elsewhere. Policymakers must critically assess if the modest diplomatic and symbolic achievements of these operations are truly worth the extensive resources and personnel commitments.

The United States must pivot to a more nuanced maritime strategy emphasizing diplomacy, multilateral cooperation, and carefully structured naval protocols to prevent crises. Historical precedent, such as the Cold War-era, INCSEA, demonstrates that negotiated naval protocols significantly reduce maritime risks without sacrificing core national interests. Crisis management frameworks, supported by robust communication channels between the United States and China, would mitigate escalation risks and clarify naval interactions.

Additionally, reducing the frequency and public prominence of naval patrols could allow space for diplomatic engagement. Less overtly provocative operations, conducted quietly without fanfare, could preserve legal positions without fueling Chinese nationalism or further militarization. Such a strategic adjustment could open pathways for reciprocal restraint, potentially slowing or reversing militarization trends in the region.

Finally, the United States should intensify efforts to build a clearer maritime order through multilateral diplomacy. Engaging ASEAN nations, Japan,

Australia, and even China in defining distinct maritime norms and standards would alleviate ambiguity and reduce misperceptions that currently drive regional tensions. This diplomatic approach would foster shared regional responsibility for maritime stability, positioning the United States not as an antagonist but as a constructive partner.

In short, the United States faces a critical choice: continue a strategy of costly, risky naval confrontations that achieve little, or embrace diplomatic alternatives that promise greater stability, security, and strategic effectiveness. Adopting a smarter, more nuanced maritime policy is not just prudent—it is imperative for long-term regional stability and U.S. national security interests.

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