What Does a “Pivot” or “Rebalance” Look Like?  
Elements of the U.S. Strategic Turn Towards Security in the Asia-Pacific Region and Its Waters  

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Commander Odom would like to dedicate this Article to the memory of the late Jon Van Dyke, a professor at the William S. Richardson School of Law at the University of Hawai‘i, who suddenly and unexpectedly passed away in November 2011. Commander Odom had the privilege to meet and get to know Professor Van Dyke during the final years of his life, as they both travelled throughout the Asia-Pacific region speaking at legal conferences. Professor Van Dyke was both a pillar of the international law community and a highly respected voice on international affairs in the Asia-Pacific region. He will be remembered as a man of conscience with an unwavering faith in the rules of law that govern how we relate to each other, to our governments, and to other nations. He was an intellectual gentleman and he will be missed.
INTRODUCTION

Recently, the Obama Administration finalized its strategic vision for and approach to contributing to global security. This undertaking did not happen overnight, but rather was a collective effort by the Administration’s national security team that was developed and refined over a period of two-and-a-half years.¹ An early and important step in that effort was the issuance of the President’s National Security Strategy in May 2010 (“2010 Strategy”). In the opening lines of the 2010 Strategy, the President declared:

Our national security strategy is, therefore, focused on renewing American leadership so that we can more effectively advance our interests in the 21st century. We will do so by building upon the sources of our strength at home, while shaping an international order that can meet the challenges of our time . . . . [I]t reaffirms America’s commitment to pursue our interests through an international system in which all nations have certain rights and responsibilities. This will allow America to leverage our engagement abroad on behalf of a world in which individuals enjoy more freedom and opportunity, and nations have incentives to act responsibly, while facing consequences when they do not.²

To achieve the U.S.-desired end-state of advancing national interests, the 2010 Strategy highlighted three approaches: (1) renewing the foundation of America’s economic, diplomatic, and military strength; (2) pursuing comprehensive engagement with nations, institutions, and peoples around


the world; and (3) promoting a just and sustainable international order. Underlying the 2010 Strategy were two fundamental beliefs of U.S. strategy about global security and stability: (1) there is an international order in place that is worth preserving, and (2) the United States can and should be a leader in a global effort to uphold and preserve that order.

While the 2010 Strategy identified the basic elements of the Obama Administration’s vision for global security, one thing that the 2010 Strategy did not do was emphasize one region of the world over any other. In fact, in terms of the Asia-Pacific region, the only indicator of a potential U.S. emphasis was a sentence in the 2010 Strategy about U.S. alliances in the region and a future intent to “continue to deepen and update these alliances to reflect the dynamism of the region and strategic trends of the 21st century.”

Building upon the 2010 Strategy, the Obama Administration subsequently released a series of strategic guidance documents on matters involving global security. In that same timeframe, senior Administration officials delivered a series of speeches and press briefings on the subject.

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3 Id. at 9-13.

4 Id. at 42.

5 The term “strategic guidance document” was recently coined by the Pentagon. This term, which is not a pre-existing term in the U.S. military doctrine, originally referred specifically to a January 2012 document. There exist three other executive security strategy documents: a National Security Strategy (issued by the President), a National Defense Strategy (issued by the Secretary of Defense), and a National Military Strategy (issued by the Chairman of the Joint Chiefs of Staff). The January 2012 Pentagon document was not any of these.

Much of the operative language in these documents, speeches, and briefings is relatively similar to and consistent with the 2010 Strategy, but the more recent releases contain a noticeable geographic turn. This rhetorical mosaic of unclassified documents and public remarks reflects a deliberate and coordinated effort to collectively clarify or refine this U.S. strategic perspective.

Geographically, the Obama Administration’s strategic refinement over the past two-and-a-half years clearly reflects a shift in focus from one region of the world to another. Specifically, the U.S. focus moves away from the European regional focus of the early- and mid-twentieth century and the Middle Eastern regional focus of the past several decades, to the Asia-Pacific region and its waters for the twenty-first century ahead. Fiscal constraints and the need to “prioritize” resources towards geographic areas of “greatest importance” were the primary reasons for the transition from a relatively region-neutral 2010 Strategy to a deliberate rebalance towards the Asia-Pacific region in 2012.

The unveiling of this refined strategic vision and approach has generated a significant amount of attention from both U.S. and foreign observers outside the Obama Administration. Many of these outsiders wonder what practical effect the strategic shift means for the U.S. role in global security during the months, years, and decades ahead. This shift


has also received a large amount of coverage by both U.S.\textsuperscript{9} and international\textsuperscript{10} news media outlets. Regrettfully, much of this news coverage errs on the side of superficiality. In a hyper-kinetic information age, nightly news’ sentence-long sound bites on strategic policy are now outpaced by the instantaneous speed of one-word Tweets read around the


world. A clear example of this oversimplification of foreign policy matters is how the news media quickly seized upon the active verbs used by senior U.S. officials—words such as “pivot,”11 “rebalance,”12 “shift,”13 and “turn”14—to describe the strategic direction of U.S. security policy. These bumper-sticker-sized phrases cannot accurately capture the true nature of this significant national effort.

What is missing from the discussion is an organized distillation of the core elements of the U.S. “pivot” or “rebalance.” Before any outsider—be they a foreign government official, an international journalist, or a security affairs expert—can discuss the U.S. strategic shift, the following question should be asked: what exactly does this strategic U.S. pivot or rebalance to the Asia-Pacific region and its waters look like? Answering that question is the goal of this article. Answering this question will additionally contribute to international understanding of the U.S.’ strategic approach.

In particular, this article will attempt to look beneath these Tweet-sized verbs and examine three substantive elements of this refined U.S. approach to global security. First, this article will discuss the U.S. pivot towards its relationships with nations and institutions in the Asia-Pacific region. Second, the article will discuss the rebalance of the U.S. Government’s presence, particularly its military presence, in the Asia-Pacific region and its waters. Third, this article will discuss the U.S. shift in focus towards upholding and promoting a rules-based international order that exists around the world, including in the Asia-Pacific region. A discussion of these three elements as derived from the U.S. Administration’s own words should provide the reader with a valuable overview of the current U.S. strategic approach to global security, especially as it applies to the Asia-Pacific region and its waters.

I. RELATIONSHIPS WITH REGIONAL NATIONS AND INSTITUTIONS

One element of the U.S. strategic approach involves a pivot towards the U.S. relationships with other Asia-Pacific nations and regional institutions. U.S. Secretary of State Hillary Clinton has described this pivot as “build[ing] a web of partnerships and institutions.”15 Like the network of bilateral and multilateral relationships developed between the

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11 Secretary Clinton, America’s Pacific Century, supra note 1.
12 Assistant Secretary Campbell, U.S. Engagement in Asia Lecture, supra note 6; Secretary Panetta, Defense Strategic Guidance Briefing, supra note 6; Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.
13 President Obama, Remarks to the Australian Parliament, supra note 6; Secretary Panetta, Defense Strategic Guidance Briefing, supra note 6; Assistant Secretary Campbell, U.S. Engagement in Asia Lecture, supra note 6.
14 Secretary Clinton, America’s Pacific Century, supra note 1.
15 Secretary Clinton, America’s Pacific Century, supra note 1.
North American (namely, the United States and Canada) and Western European nations during the twentieth century, this future Asia-Pacific web, supported by the United States, would be “durable” and “consistent with American interests and values.” Ultimately, this network of relationships will be the “touchstone” of U.S. security efforts in the region. As Secretary of Defense Leon Panetta has recently assured Asia-Pacific defense officials, the United States “will play an essential role in promoting strong partnerships that strengthen the capabilities of the Pacific nations to defend and secure themselves.” Given the strategic emphasis on relationships, let us now examine in greater depth the U.S. Government’s approach to each category of these relationships—strengthening treaty alliances, building new partnerships, engaging regional institutions, and building a cooperative relationship with China in greater depth.

A. Emphasize and Strengthen Existing Alliances

The United States seeks to “emphasize,” “modernize,” and “strengthen” its relationships with its treaty allies in the Asia-Pacific region. In the Asia-Pacific region, the United States has treaty alliances with five nations: Australia, Japan, South Korea, the Philippines, and Thailand. None of these alliances were established recently; rather, they have “underwritten” peace and security in the Asia-Pacific region for over fifty years and have helped to create the conditions for the economic rise of Asian-Pacific nations. In recent statements, U.S. leaders have characterized these five alliances as “a vital foundation” for Asia-Pacific security. In the lexicon of a rebalanced strategy, these alliances have been described as the “fulcrum” for U.S. security efforts or a “strategic turn” in the region. Individually and collectively, these alliances “leverage” the U.S. presence in the Asia-Pacific region and “enhance” U.S. leadership in the region.

16 Id.
17 Id.
18 Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.
19 PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.
20 Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.
21 President Obama, Remarks to the Australian Parliament, supra note 6; Secretary Clinton, American Pacific Century speech, supra note 6; Assistant Secretary Campbell, Korea Keynote Address, supra note 6.
22 Secretary Clinton, American Pacific Century speech, supra note 6; Secretary Clinton, America’s Pacific Century, supra note 1.
23 PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.
24 Secretary Clinton, America’s Pacific Century, supra note 1.
25 Secretary Clinton, American Pacific Century speech, supra note 6.
Senior U.S. officials have expressed an appreciation for the unique characteristics of each of these individual alliances as well as the special circumstances and security needs of Australia, Japan, Korea, Philippines, and Thailand. If the United States were to treat each alliance with a one-size-fits-all approach, it would ignore critical realities, including the cultural and political history of each ally, the origins and development of the respective alliances, their unique relationships with their respective neighbors, and the particular security threats facing each of those allies. It would also overlook what each relationship can contribute to the overall security effort in the region and the world. As a result, the United States must treat each alliance according to the unique characteristics and special needs of each nation.

Along with acknowledging the special traits of each of these allies, the United States also recognizes a unifying trait that all of these allies have in common with the United States. Specifically, they all share a “common vision of a stable regional order with clear rules of the road” and a “commitment to democracy and human rights.” This shared political vision demonstrates that these alliances are deeply rooted and enduring. It also increases the likelihood that the desired end-states of those allies are more likely to align with U.S. interests, including those concerning matters of security.

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26 Id.; Secretary Clinton, America’s Pacific Century, supra note 1; Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.

27 President Obama, Remarks to the Australian Parliament, supra note 6; Secretary Clinton, America’s Pacific Century, supra note 1; Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.

28 President Obama, Remarks to the Australian Parliament, supra note 6; Secretary Clinton, American Pacific Century speech, supra note 6; Secretary Clinton, America’s Pacific Century, supra note 1; Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.


30 President Obama, Remarks to the Australian Parliament, supra note 6; Secretary Clinton, America’s Pacific Century, supra note 1; Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.


32 Secretary Clinton, American Pacific Century speech, supra note 6.
Recognizing these converging interests in security, a rules-based order, democracy, and human rights, U.S. leaders acknowledge that the United States and these particular allies must do more in the future than merely “sustain” their alliances. Rather, they must “update” those alliances for “a changing world.”\textsuperscript{33} In this strategic effort, the current U.S. Presidential Administration has pledged to adhere to three guidelines.\textsuperscript{34} First, the United States will maintain “political consensus” and “political support” from the American people for the “core objectives” of these security alliances.\textsuperscript{35} Second, the United States will help to ensure these security alliances are “nimble and adaptive” in order to “deliver results,” “successfully address new challenges,” and “seize new opportunities.”\textsuperscript{36} Third, the United States will help to ensure that the alliances’ “defense capabilities and communications infrastructure are operationally and materially capable of deterring provocation from the full spectrum of state and non-state actors.”\textsuperscript{37} Following these three guidelines will not only help to leverage these relationships for the benefit of the allies involved, but also to maximize the effect of promoting security and stability in the Asia-Pacific region.

B. Build New Partnerships

In addition to strengthening its long-standing treaty alliances, senior U.S. officials have indicated that the United States seeks to work effectively with “emerging powers” in the Asia-Pacific region.\textsuperscript{38} The United States realizes that it needs to “extend [its] relationship building beyond this traditional core of key partners.”\textsuperscript{39} It intends to “work…closely” with a “broad range of players” in the Asia-Pacific region.\textsuperscript{40} To do so, it will “build closer and more extensive partnerships”\textsuperscript{41} with these partner nations and “deepen”\textsuperscript{42} those “working relationships.”

In aggregate, these emerging partners and existing allies will help to form

\textsuperscript{33} Id.; Secretary Clinton, America's Pacific Century, supra note 1
\textsuperscript{34} Secretary Clinton, American Pacific Century speech, supra note 6.
\textsuperscript{35} Id.; Secretary Clinton, America's Pacific Century, supra note 1.
\textsuperscript{36} Secretary Clinton, American Pacific Century speech, supra note 6; Secretary Clinton, America's Pacific Century, supra note 1.
\textsuperscript{37} Secretary Clinton, American Pacific Century speech, supra note 6; Secretary Clinton, America's Pacific Century, supra note 1.
\textsuperscript{38} Secretary Clinton, American Pacific Century speech, supra note 6.
\textsuperscript{39} Assistant Secretary Campbell, U.S. Engagement in Asia Lecture, supra note 6.
\textsuperscript{40} Id.
\textsuperscript{41} Secretary Panetta, Defense Strategic Guidance Briefing, supra note 6.
\textsuperscript{42} Secretary Clinton, American Pacific Century speech, supra note 6.
a security “web” in the region that the participating nations, including the United States, can leverage to promote their common interests.

With this conceptual framework in mind, a factual question to consider is: which nations does the United States include in this category of “emerging powers”? Based upon a review of public sources, it is unclear whether there is an official or definitive list within the U.S. Government. However, in recent senior-level speeches and strategic documents, the United States has commonly identified several Asia-Pacific nations as some of those emerging partners. This list of nations includes India, Indonesia, Singapore, Malaysia, Vietnam, Brunei, Cambodia, New Zealand, and Mongolia.

Importantly, each of these U.S. partnerships with emerging powers will reflect the unique interests of the partner nation, and the ways in which the United States can support and cooperate with the partner nation’s security interests. For example, with Indonesia, the United States helps to counter piracy and violent extremism. With Malaysia, the United States works to prevent the proliferation of weapons of mass destruction. With Singapore, the United States will deploy Navy ships to the nation’s ports and waters and fly in rotational crews to man those ships, thereby enabling the two nations to continuously cooperate on a wide range of common security efforts. By catering to the individualized needs of each partner, the United States will maximize “collective capability and capacity for securing common interests.”

In addressing the unique security interests of these partner nations and the “shared problems” that these nations and the United States collectively face, the United States will gradually “expand” the “network

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43 Secretary Clinton, America’s Pacific Century, supra note 1.
44 President Obama, Remarks to the Australian Parliament, supra note 6 (identifies Malaysia, Singapore, Vietnam, Cambodia, and India as emerging partnerships); Secretary Clinton, American Pacific Century speech, supra note 6 (identifies Indonesia, India, Singapore, New Zealand, Malaysia, Mongolia, Vietnam, Brunei, and the Pacific Island nations as emerging partners); Secretary Clinton, America’s Pacific Century, supra note 1 (identifies China, India, Indonesia, Singapore, New Zealand, Malaysia, Mongolia, Vietnam, Brunei, and the Pacific Island countries as emerging partners); Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6 (identifies India, Singapore, Indonesia, Malaysia, Vietnam, New Zealand, and “other nations”).
45 President Obama, Remarks to the Australian Parliament, supra note 6.
46 Id.
47 Id.
48 Id; see discussion infra Part II.B.
49 PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.
50 Secretary Clinton, America’s Pacific Century, supra note 1.
of cooperation” between these emerging powers and the updated U.S. treaty alliances in the region. This new network of cooperation will constitute a “more comprehensive approach” to U.S. security strategy and engagement in the Asia-Pacific region. The objective will be to “build a successful regional architecture” that helps all of these like-minded nations, including the United States, to “shape and participate in a rules-based regional and global order.”

C. Engage Regional Multilateral Institutions

Senior U.S. officials have made clear that, in addition to strengthening its relationships with traditional allies and emerging partners, the United States will seek to “reengage” with regional organizations and multilateral institutions. These Asia-Pacific multilateral institutions include, among others, the Association of Southeast Asian Nations (“ASEAN”), the ASEAN Regional Forum (“ARF”), the Asia-Pacific Economic Cooperation (“APEC”) forum, and the East Asia Summit.

The Asia-Pacific region faces many complex transnational security challenges that cannot be solved by one nation or even through bilateral relationships. Examples of such transnational threats include piracy, weapons proliferation, and human trafficking. In the modern maritime security environment, threat situations are rarely binary (i.e., country vs. country) in nature; rather, they often involve state and non-state actors projecting or operating from one nation, drawing unwitting support from one or more other nations, and jeopardizing the security interests of a greater community of nations. Consequently, solutions to these challenges require the “mustering” of “collective action” and “multilateral cooperation,” in which these regional organizations and institutions can play a vital role. As one senior U.S. official recently told an international audience:

These institutional commitments are extraordinarily important because we believe [that] for Asia to play its

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51 PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.

52 Secretary Clinton, America’s Pacific Century, supra note 1.

53 Id.

54 Id.

55 President Obama, Remarks to the Australian Parliament, supra note 6; Clinton, American Pacific Century speech, supra note 6.


57 Id.
critical role in the 21st century, we need better, more sustaining [sic] institutions to help support dialogue cooperation across a range of issues. And we are confident that the region is prepared for a period of intense institution building. The United States wants to be [a] part of that.\textsuperscript{58}

At the same time, however, these multilateral institutions will not “supplant” the U.S. bilateral relationships with treaty allies or its partnerships with emerging powers. Rather multilateral institutions will “supplement” the bilateral relationships and emerging partnerships, and visa-versa.\textsuperscript{59} International relations, at its core, are the relationships between individual nations. Yet international cooperation through multilateral institutions is becoming increasingly important as transnational threats increase in complexity and gravity, and as rogue states and non-state actors become more clever and capable of exploiting gaps and seams in the existing international order.

The United States acknowledges that some nations in the region have called upon the United States to “play an active role” in helping set the agenda for these multilateral institutions.\textsuperscript{60} The current U.S. Administration is answering that call, and is highlighting its support for constructive dialogue and security-related efforts within these organizations. In general, the United States “seek[s] to make a major effort to build and help support the institutions of Asia in the 21st century.”\textsuperscript{61} Examples include the United States hosting the 2011 APEC forum in Hawai‘i, President Obama’s attendance at the 2011 East Asia Summit in Bali (the first U.S. president to do so in the Summit’s six-year history), and Secretary Clinton’s active contribution to the 2010 and 2011 ARF meetings in Hanoi.\textsuperscript{62} Yet the U.S. support for these multilateral Asia-Pacific institutions runs deeper than merely showing up for annual meetings.

The United States intends to help address shared security challenges in these forums. These challenges include countering the proliferation of weapons of mass destruction, promoting maritime security, and encouraging cooperation in the South China Sea.\textsuperscript{63} For example, when President Obama met with the leaders of the ASEAN member states in November 2011, he proposed the creation of a Southeast Asia Maritime

\textsuperscript{58} Assistant Secretary Campbell, U.S. Engagement in Asia Lecture, supra note 6.

\textsuperscript{59} Secretary Clinton, America’s Pacific Century, supra note 1.

\textsuperscript{60} Secretary Clinton, American Pacific Century speech, supra note 6.

\textsuperscript{61} Assistant Secretary Campbell, U.S. Engagement in Asia Lecture, supra note 6.

\textsuperscript{62} Secretary Clinton, American Pacific Century speech, supra note 6; Assistant Secretary Campbell, U.S. Engagement in Asia Lecture, supra note 6.

\textsuperscript{63} President Obama, Remarks to the Australian Parliament, supra note 6.
Partnership [“SAMP”] to “provide a multi-agency approach to cooperation and capacity building on maritime awareness, management and security.” Additionally, these Asia-Pacific multilateral institutions provide a cooperative forum in which to improve response efforts for natural disasters. For the United States’ part, it can contribute to disaster responses in the region with not only aid and financial resources, but also with expertise and capabilities. Thus, the United States stands ready to help these multilateral institutions build capacity and respond swiftly and effectively to natural disasters. Making these regional institutions stronger and more capable improves the likelihood of a “closely coordinated regional response” when a disaster strikes, whether it affects one nation or several nations.

Ultimately, one of the greatest roles these Asia-Pacific multilateral institutions can play is to strengthen and uphold the international rule of law. International law consists of rules reflecting the rights and responsibilities of sovereign states. These rule-sets are wide-ranging, from protecting intellectual property to preserving freedom of navigation (for example, as reflected in the United Nations Convention on the Law of the Sea [“UNCLOS”]) and safety of navigation (e.g., the International Regulations for Preventing Collisions at Sea and the Code for Unaltered Encounters at Sea). These rules must be upheld through positive and negative reinforcement, as appropriate. That is, “constructive behavior”

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65 Secretary Clinton, American Pacific Century speech, supra note 6.

66 Id.

67 Id.


70 The Code for Unaltered Encounters at Sea (“CUES”) are not a legally-binding treaty or agreement, but rather a set of communication protocols that were developed by the Western Pacific Naval Symposium, a group composed of the senior Navy leaders of Asia-Pacific nations. A copy of the CUES are available at http://navy.mil.my/wpns2012/images/stories/dokumen/WPNS%202012%20PRESENTATION%20FOLDER/ACTION%20ITEMS%20WPNS%20WORKSHOP%202012/CUES.PDF.
must be rewarded with “legitimacy and respect,” while behavior that undermines peace, stability, and prosperity must be deterred and any offenders held responsible.

To have an “effective international order,” one nation cannot uphold that order on its own. Instead, a “more robust and coherent regional architecture” of multilateral regional institutions would help “form the basis of an effective international order.” In recent years, many of these Asian-Pacific multilateral institutions have developed greater capability. Likewise, the United States is “committed” to helping these regional institutions “grow in effectiveness and reach.” Ultimately, they can “work together” and “muster collective action when it is called for” to hold an individual nation accountable when it undermines peace, stability, and prosperity in the region.

D. Build a Cooperative Relationship with China

Finally, along with strengthening alliances and partnerships and supporting regional institutions, senior U.S. officials seek to continue efforts to “build a cooperative relationship with China.” The United States believes China is “a key to being able to develop a peaceful, prosperous, and secure Asia-Pacific in the 21st century.” Consequently, the current U.S. Presidential Administration has characterized the bilateral relationship with China as the “most complete and consequential relationship with an emerging power” and “one of the most important” in the world. The United States has a “profound interest in the rise of a peaceful and prosperous China” and “welcomes that rise.” As a result, this U.S. administration has affirmed that the United States is “fundamentally committed to developing a positive and cooperative relationship with China.”

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71 Secretary Clinton, American Pacific Century speech, supra note 6.
72 Id.
73 Id.
74 Id.
75 Secretary Clinton, American Pacific Century speech, supra note 6.
76 Secretary Clinton, America’s Pacific Century, supra note 1.
77 President Obama, Remarks to the Australian Parliament, supra note 6.
78 Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.
79 Secretary Clinton, American Pacific Century speech, supra note 6.
80 Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.
81 President Obama, Remarks to the Australian Parliament, supra note 6.
82 Secretary Clinton, American Pacific Century speech, supra note 6.
After the Obama Administration unveiled its strategic pivot towards the Asia-Pacific region, some voices outside the U.S. Government have claimed that the shift is primarily intended to contain China’s rise. Many of these voices of doubt and criticism have originated from within China itself. Aware of these concerns, senior U.S. officials have deliberately and expressly disputed that claim. Secretary of Defense Panetta could not have been clearer when he announced, “I reject that view entirely.” To the contrary, U.S. officials appreciate the fact that U.S.-China cooperation can benefit both nations in many areas of common interest. On economic matters, Secretary Clinton clearly stated, “[W]e believe a thriving China is good for China, and a thriving China . . . is good for America.” Thus, the two nations need to “work together” in


84 Secretary Clinton, America’s Pacific Century, supra note 1 (“We all know that fears and misperceptions linger on both sides of the Pacific. Some in our country see China’s progress as a threat to the U.S.; some in China worry that America seeks to constrain China’s growth. We reject both those views.”); Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6 (“I know that many in the region and across the world are closely watching the U.S.-China relationship. Some view the increased emphasis by the United States on the Asia-Pacific region as some kind of challenge to China. I reject that view entirely. Our effort to renew and intensify our involvement in Asia is fully compatible—fully compatible—with the development and growth of China.”); see also Department of Defense News Briefing with General Martin E. Dempsey, Chairman of the Joint Chiefs of Staff, June 7, 2012, available at http://www.jcs.mil/speech.aspx?id=1710 (“GEN. Dempsey: Well, the countries that I've visited—I haven't visited all of them, but the countries that I've visited, they have two questions. One question is, you know, are you trying to come back here to establish bases and, you know, a permanent presence? And the second one is, are you coming back here with the intent of containing China? So to the first of those two questions: I don't carry around a backpack with American flags and run around the world planting them. In fact, quite to the contrary, what we want to do is – and consistent with our new strategy—we want to be out there partnered with nations and have a rotational presence that would allow us to build up common capabilities for common interests in the region because we think that'll be stabilizing. We think, in fact, the opposite. Our absence will be the destabilizing influence. Now to China. We are—this—and I assured anyone that chose to ask me the question—our new strategy and our rebalancing to the Pacific is not intended to contain China. It’s a— it’s—it is—it seems to me to be somewhat evident that the strategic challenges of the future—whether those are economic challenges, whether they’re demographic challenges, whether they’re military challenges—are migrating to the Pacific. You know, it’s—just by virtue of the size, the scope, the scale of populations and economies, that is the region of the world where we all ought to be engaged. And we all ought to be engaged with the intent of avoiding confrontation. And the way you avoid confrontation is by being transparent and, in my view, present, so you don’t create miscalculation. And that’s the message that we carried into the —into the Pacific.”) (emphasis added).

85 Secretary Clinton, American Pacific Century speech, supra note 6.
order to “ensure [a] strong, sustained, [and] balanced future global growth.”

Economics and commerce, however, are not the only areas where U.S.-China cooperation can benefit both nations.

Regarding regional security matters, the United States and China both “have a strong stake in peace and stability in East Asia.” On previous occasions, China demonstrated that it can partner with the United States in efforts to constructively address security threats, including the reduction of tensions on the Korean Peninsula, as well as the prevention of the proliferation of weapons of mass destruction. Thus, it is no surprise that the U.S. officials have indicated that it is “essential” for the United States and China to “expand” their “areas of common interest.”

As a result, the United States will “continue to seek to dialogue” with China, and will encourage U.S. allies and partners to do the same. This dialogue will help “constructively contribute to the security” in the Asia-Pacific region. But, first, this effort will require building a positive and cooperative relationship between the United States and China.

To build a relationship such as this, it is critical that the two nations establish and maintain effective channels of dialogue. Three years ago, the foreign affairs and finance leaders of the two nations began an annual Strategic and Economic (“S&E”) Dialogue. Secretary Clinton has characterized this dialogue as “the most intensive and expansive talks ever conducted” between the two nations. In May 2011, within the structure of the S&E Dialogue, the two nations held their first annual Strategic Security Dialogue. The objective of this Dialogue was to “intensify dialogue between civilian and military officials” in order to have “open and frank discussions” on the bilateral relationship’s “most sensitive issues,” such as maritime security and cyber security. These senior-level forums for dialogue also convened in 2012. This hopefully forecasts the

86 Id.

87 PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.

88 Assistant Secretary of State Kurt Campbell, Remarks to the Media on Departure at the Beijing Capital Airport, Beijing, China, Jan. 4, 2012, available at http://www.state.gov/p/eap/rls/rm/2012/01/180111.htm.

89 President Obama, Remarks to the Australian Parliament, supra note 6.

90 Secretary Clinton, American Pacific Century speech, supra note 6.

91 Generally, the distinction between allies and partners is the existence (i.e., ally) or absence (i.e., partner) of a mutual security treaty or mutual defense treaty. However, the United States does refer to some nations as non-treaty allies (e.g., Israel and Egypt).

92 Admiral Willard, U.S. Commitment to the Security of the Asia Pacific Region Briefing, supra note 6.

93 Secretary Clinton, American Pacific Century speech, supra note 6.

94 Id.
continuation of these dialogues in the future, as they will provide a stable and reliable channel for the two nations to communicate on significant security and economic matters.

Unfortunately, one continuing challenge for the United States in building a positive and cooperative relationship with China is the nature of military-to-military relations between the two nations. Although there has been some progress in security dialogues at the strategic level (i.e., at the ministry or department level) of the two governments, progress regarding discussions between the two nations at the operational (i.e., theater) and tactical (i.e., local) levels of their militaries has unfortunately lagged.\textsuperscript{95} Consequently, the relationship between the two militaries is not where U.S. leaders believe “it needs to be.”\textsuperscript{96} Thus, the United States is “working hard to develop and build stronger relations with China,” with the U.S. Secretary of Defense publicly committed to “building a healthy, stable, reliable, and continuous mil-to-mil relationship” with the Asian nation.\textsuperscript{97} As such, the United States will look for more opportunities to cooperate with China on security matters in order to provide “greater communication between our militaries to promote understanding and avoid miscalculation.”\textsuperscript{98} It will also seek to “deepen” the partnership in humanitarian assistance, counter-drug, and counter-proliferation efforts.\textsuperscript{99} The hope is that the United States will successfully “manage the relationship” with China, through a “positive trajectory” in which China “emerges as a constructive partner” in the overall security of the Asia-Pacific region.\textsuperscript{100}

In sum, to promote security and stability in the Asia-Pacific region, the United States cannot rely upon any single international relationship in the region any more than it can promote it alone. Therefore, the United States will seek to strengthen its relationships with its treaty allies. It will build closer relationships with emerging partners and will help to support multilateral institutions. All the while, it will positively manage a cooperative relationship with a rising China. The hope is that this network of relationships will enhance security and stability, thereby advancing U.S. interests in the region.

\textsuperscript{95} Admiral Willard, Foreign Press Briefing, \textit{supra} note 6.
\textsuperscript{96} \textit{Id.}
\textsuperscript{97} Secretary Panetta, Remarks to Shangri-La Dialogue, \textit{supra} note 6.
\textsuperscript{98} President Obama, Remarks to the Australian Parliament, \textit{supra} note 6.
\textsuperscript{99} Secretary Panetta, Remarks to Shangri-La Dialogue, \textit{supra} note 6.
\textsuperscript{100} Admiral Willard, U.S. Commitment to Security of the Asia Pacific Region Briefing, \textit{supra} note 6.
II. ACCESS AND PRESENCE IN THE REGION

In addition to building and strengthening relationships with nations and multilateral institutions in the Asia-Pacific region, a second element of the U.S. strategic approach involves a rebalancing of U.S. access to and presence in the Asia-Pacific region and its waters, particularly military access and presence. In some ways, the logical relationship between security access and security presence is circular in nature: access permits presence, and presence preserves access, especially when it comes to preserving the rights, freedoms, and uses of the sea and airspace. As a result, it is important to consider how the United States perceives these concepts of access and presence in its rebalanced security strategy.

A. Maintain Regional Access

The United States recognizes that there are some state actors and non-state actors in the world, including within the Asia-Pacific region, that “pose potential threats to access in the global commons.” These threats are manifested in those actors’ “opposition to existing norms,” as well as “other anti-access approaches.”

Regarding regional access, the current U.S. Presidential Administration has repeatedly stated that the United States has a “strong” national interest at stake in both “freedom of navigation” and “open access to Asia’s maritime domain.” More emphatically, President Obama has declared that the United States stands for an international order in which “commerce and freedom of navigation are not impeded.” The United States has characterized these areas of the global commons as “the vital connective tissue of the international system.” Because of these strong national interests, the United States will do what is necessary in order to “maintain regional access and the ability to operate freely in keeping with [its] treaty obligations and with international law.” Ways to maintain this regional access include, for example, conducting routine military activities, executing freedom of navigation operations, and participating in bilateral and multilateral military exercises.

101 PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.
102 Id.
103 Secretary Clinton, American Pacific Century speech, supra note 6.
105 President Obama, Remarks to the Australian Parliament, supra note 6.
106 PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.
107 Id.
Yet the United States cannot maintain this access for all nations by itself; it also depends upon a collective and cooperative effort between nations. This collective action relies upon U.S. relationships with Asia-Pacific nations and, in particular, the previously-discussed multilateral institutions. For example, in 2010, the United States “helped shape a region-wide effort to protect unfettered access to and passage through the South China Sea.”

This effort was on display at the ARF meeting hosted by Vietnam in July 2010. During this ARF meeting, Secretary Clinton publicly identified the national interests of the United States and other nations in the South China Sea, and expressed concerns over the ongoing situation in those waters.

It is “critical” for regional institutions, such as ASEAN, to “develop mutually agreed rules of the road that protect the rights of all nations to free and open access to the seas.”

That U.S. effort to collectively maintain access for all nations in the region, however, will not end with the South China Sea. Instead, the United States will “continue to lead global efforts with capable allies and partners to assure access to and use of the global commons.”

This collective effort will be achieved in multiple ways, including “strengthening international norms of responsible behavior” and “maintaining relevant and interoperable military capabilities.”

Together, the United States, along with regional allies, partners, and institutions, can work to uphold the existing international order, particularly those aspects of the order that guarantee maritime and air access to the Asia-Pacific region.

B. Maintain a Strong Military Presence in the Region

One of the “most important contributions” that the United States brings to the Asia-Pacific region is its “security presence.” For over a half century, the United States has underwritten regional peace and stability with that security presence, working closely with allies and partners, which resulted in an environment where nations in the region could economically prosper.

As a result, it is no surprise that one of the most emphatic elements of the rebalanced U.S. security strategy involves the presence of U.S. military forces in the Asia-Pacific region and the prioritization of resources associated with that presence. Concerning that

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108 Secretary Clinton, America’s Pacific Century, supra note 1.
110 Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.
111 PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.
112 Id.
113 Assistant Secretary Campbell, U.S. Engagement in Asia Lecture, supra note 6.
114 Secretary Clinton, America’s Pacific Century, supra note 1.
rebalanced prioritization of a U.S. security presence in the region, President Obama declared in a speech to the Australian Parliament in November 2011:

As we end today’s wars, I have directed my national security team to make our presence and mission in the Asia Pacific a top priority. As a result, reductions in U.S. defense spending will not—I repeat, will not—come at the expense of the Asia Pacific. My guidance is clear. As we plan and budget for the future, we will allocate the resources necessary to maintain our strong military presence in this region. We will preserve our unique ability to project power and deter threats to peace. We will keep our commitments, including our treaty obligations to allies like Australia. And we will constantly strengthen our capabilities to meet the needs of the 21st century. Our enduring interests in the region demand our enduring presence in the region.115

Regarding the overall U.S. military presence in the region, President Obama assured, “[t]he U.S. is a Pacific power, and we are here to stay.”116 Similarly, the Secretary of Defense announced in the region, “I want to make very clear that the United States is going to remain a presence in the Pacific for a long time. That means . . . that we are not anticipating any cutbacks in this region. If anything, we’re going to strengthen our presence in the Pacific.”117 Thus, senior U.S. officials have sought to send a clear message to the region that the United States is willing to support its strategic shift with one of the clearest objective manifestations: that is, budgetary prioritization that will fund a continuous presence.

To effectuate this prioritization in the rebalanced strategy, the U.S. military will focus on “enhanced presence, power projection, and deterrence” in the Asia-Pacific region.118 This pivot involves a “diversified capability,” in which a long-standing presence on bases in Northeast Asia will be bolstered by a “myriad of different kinds of arrangements” elsewhere in the region, including in Southeast Asia and Oceania.119 While a geographic shift of forces, assets, and resources is warranted by the rising importance of the region, a concentration of those capabilities in only one nation or one sub-region would be ill advised to

115 President Obama, Remarks to the Australian Parliament, supra note 6.

116 Id.

117 Secretary of Defense Leon Panetta, quoted in Elisabeth Bumiller, U.S. Pivots Eastward to Address Uneasy Allies, supra note 7.

118 Secretary Panetta, Defense Strategic Guidance Briefing, supra note 6.

119 Assistant Secretary Campbell, U.S. Engagement in Asia Lecture, supra note 6.
achieve the desired effects. In reality, security threats and challenges of various types exist throughout the region. Thus, the force presence should be effectively distributed and dispersed to effectively counter those threats, often in a time-sensitive manner.

This prioritization of military presence includes a shared commitment to posturing U.S. forces side by side with allied forces. In particular, the United States will “maintain a strong presence”\(^\text{120}\) in Japan and the Republic of Korea, as the United States continues to posture military personnel in those two nations to help “protect the region.”\(^\text{121}\) It also includes a “new posture”\(^\text{122}\) in Australia and “enhance[d] opportunities for more joint training and exercises” that will bring the two nations’ militaries “even closer together.”\(^\text{123}\) In addition to strengthening the bilateral security relationship between the United States and Australia, this U.S. military presence in northern Australia will be capable of “rapidly deploying” across the Asia-Pacific region, thereby enabling the United States to work more effectively in the region and to “tackle common challenges” such as natural disasters and maritime security.\(^\text{124}\) Yet the United States cannot rely solely upon locating personnel and resources where they have been stationed traditionally, but must also consider new sites and unconventional methods of maintaining a capable presence throughout the region.

As the United States builds partnerships with emerging powers in the region, this U.S. military presence prioritization includes enhancing\(^\text{125}\) its presence in Southeast Asia and the Indian Ocean. One way it will enhance this presence is by “growing” the defense relationship with Singapore.\(^\text{126}\) For example, the United States will be deploying littoral combat ships to Singapore, and is examining other ways to train and operate together with Singaporean forces.\(^\text{127}\) The U.S. Navy is also considering creative options, such as keeping certain Navy ships in the region and flying in rotational crews to man them, all to achieve the goal of a “persistent presence” in the Western Pacific.\(^\text{128}\) Perhaps Admiral

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\(^{120}\) President Obama, Remarks to the Australian Parliament, supra note 6.

\(^{121}\) Secretary Clinton, American Pacific Century speech, supra note 6.

\(^{122}\) President Obama, Remarks to the Australian Parliament, supra note 6.

\(^{123}\) Secretary Clinton, America’s Pacific Century, supra note 1.

\(^{124}\) Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.

\(^{125}\) Secretary Clinton, America’s Pacific Century, supra note 1.

\(^{126}\) Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.

\(^{127}\) Secretary Clinton, America’s Pacific Century, supra note 1.

Robert Willard, the senior U.S. military commander in the Asia-Pacific region at the time, summed it up best when he explained, “[A]ny rebalancing that can take place over time to permit the United States to more effectively be present in the region I think is a positive step.” Ultimately, this presence element of the strategic rebalance seeks to achieve a delicate balance of its own: it must recognize that the United States cannot rely only upon foreign bases located on allied territory and U.S. ships deployed and underway from stateside bases. Simultaneously, the United States must also respect the political sensitivities that might arise from emerging partners when they cooperate more closely with the United States.

To maximize efficient use of limited forces and resources, this “moderniz[ed]” U.S. defense posture will aim for three strategic objectives. First, the posture will be “broadly” and “geographically distributed.” This broad geographic distribution of U.S. forces will provide “vital advantages.” These advantages include “better positioning” of U.S. forces to provide support, for example, to humanitarian assistance and disaster relief efforts. A broad distribution also enables U.S. forces to serve collectively with allied and partner forces in the region as “a more robust bulwark” against threats or efforts to undermine regional peace and stability, as a deterrent to those threats, and, when necessary, as a responder to those threats. Second, the modernized presence of U.S. forces will be “more flexible,” in that those forces will possess “new capabilities” to ensure that they “can operate freely.” This flexibility will allow U.S. forces to “respond faster to the full range of

Audrey McAvoy, *Admiral: Positive Signs for U.S.-China Military Ties*, ASSOCIATED PRESS, July 25, 2012, available at http://news.yahoo.com/admiral-positive-signs-us-china-military-ties-233952858.html (quoting Admiral Samuel Locklear, Commander, U.S. Pacific Command, who stated, “There won’t be families [in Singapore], there won’t be commissaries. We’ll use the pier space given to us by the Singapore military at Changi. So they’ll just be ships operating there in coordination with our Singapore partners, other partners in the region. There won’t be a U.S. base with a gate on it, and all the things that you’re used to seeing.”).

131 Secretary Clinton, American Pacific Century speech, *supra* note 6; Secretary Clinton, *America’s Pacific Century*, *supra* note 1.
132 Secretary Clinton, American Pacific Century speech, *supra* note 6.
133 Secretary Clinton, *America’s Pacific Century*, *supra* note 1.
134 *Id.*
135 Secretary Clinton, American Pacific Century speech, *supra* note 6.
challenges.”\textsuperscript{137} Third, the U.S. presence will be “more sustainable.”\textsuperscript{138} For purposes of military planning, military forces are assumed to be only as useful as their ability to operate and sustain themselves logistically (e.g., food, supplies, spare parts for equipment, etc.); not only today and tomorrow, but also for weeks and sometimes months without returning to port or garrison. This effort to increase sustainability will involve U.S. forces helping allies and partners “build their capacity,” through more training and exercises.\textsuperscript{139} Focusing on these three resource objectives will help to ensure that the United States maximizes its benefit from limited resources.

A potentially sensitive issue associated with the U.S. presence in the region involves the precise location of those U.S. forces and the temporal nature of that U.S. presence. The sustained operation of U.S. forces far from U.S. soil often depends upon geographic locations and physical facilities within the sovereign territory of regional allies and partner nations, and depends upon their consent to any U.S. presence. For nations where the United States already has forces present, such as the traditional allies in Northeast Asia, this effort will involve “modernizing the basing arrangements.”\textsuperscript{140} For other Asia-Pacific nations where the United States does not have a long-standing presence, however, the senior U.S. military commander in the Asia-Pacific region has clearly stated that the United States is not seeking to establish new bases in the region.\textsuperscript{141} Instead, an enhanced posture of U.S. forces in nations such as Australia, Singapore, and the Philippines, will involve “rotat[ing] forces” on a more temporary basis.\textsuperscript{142} These force rotations will enable U.S. personnel to deploy to a host nation for a period of only a few weeks or months, thereby avoiding the establishment of a long-term institutional footprint (e.g., housing, medical, commissaries, and dependent schools) necessary to accommodate the typical two and three-year assignments to which U.S. military personnel are accustomed. While this new approach is

\textsuperscript{137} Id.

\textsuperscript{138} Id.

\textsuperscript{139} Id.

\textsuperscript{140} Secretary Clinton, \textit{America's Pacific Century}, supra note 1. An example of these efforts to modernize basing arrangements with traditional allies in Northeast Asia is the negotiations that have occurred over the past few years between the United States and the Government of Japan to relocate Marine Corps Air Station Futenma on Okinawa (commonly known as the Futenma Replacement Facility), which would better support U.S. military activities in the region, while addressing some of the concerns of the local Japanese population. \textit{See} Emma Chanlett-Avery and Ian E. Rinehart, \textit{United States Military Presence in Okinawa and the Futenma Base Controversy}, CRS REPORT FOR CONGRESS R42645, Congressional Research Service, August 3, 2012.

\textsuperscript{141} Admiral Willard, Foreign Press Briefing, supra note 6.

\textsuperscript{142} Id.
unconventional, the desired net effect is the same: a U.S. presence that continuously cooperates with allies and partners in the region and is capable of effectively and efficiently addressing common security challenges.

At the same time, the United States clarifies that its security presence in the region is not confined to U.S. forces that are based on the sovereign territory of allies and partners. It also includes a persistent presence in the waters and airspace of the Asia-Pacific region. For many decades, the United States has “maintained a continual presence” in the region’s waters, such as the South China Sea, and the region’s sea lines of communication.143 By “sharpen[ing]” the “technological edge” and “investing” in a wide range of capabilities to “rapidly project military power” in the Asia-Pacific region, the United States seeks to provide its military forces with “freedom of maneuver in areas in which [U.S.] access and freedom of action may be threatened.”144 In the rebalancing of U.S. security strategy, the United States currently maintains that maritime presence, and “will continue to contribute” to regional peace and security with that Naval presence in the waters of the Asia-Pacific region.145 As Admiral Willard stated in a briefing to international news media, “In terms of the Western Pacific, we are present in the South China Sea and East China Sea and elsewhere on a very routine basis. And we have no intentions of going anywhere.”146

This presence element of the U.S. strategic rebalance is not completely new. Since the nation’s founding, the United States has forward deployed its military forces far from U.S. soil and shores to act as an instrument of national power in advancing national interests abroad. Thus, it should come as no surprise that a U.S. strategic rebalance to the Asia-Pacific region would rely upon the effective presence of U.S. forces in the region. Yet, in an era of budgetary constraints, U.S. civilian and military leaders are pursuing ways to maximize U.S. presence and cooperation in the region, through bolstering its posture alongside allied forces, enhancing its presence in partner nations, and continually exercising the full panoply of rights, freedoms, and uses of the sea and airspace guaranteed to all nations. If it is true that presence preserves access, then it is also true that absence, reduced presence, or an ill-planned concentration of forces can most surely jeopardize that access. The United States cannot afford that risk.

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143 Admiral Willard, U.S. Commitment to Security of the Asia Pacific Region, supra note 6.

144 Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.

145 Admiral Willard, U.S. Commitment to Security of the Asia Pacific Region, supra note 6.

146 Id.
III. PROMOTE THE RULES-BASED INTERNATIONAL ORDER

A third element of the U.S. strategic approach involves a shift in focus to uphold and promote a “rules-based international order.” Senior U.S. officials and leaders of other nations have used this phrase, but what it means needs to be understood. From the U.S. perspective, a rules-based international order appears to include the following characteristics and qualities: (1) the order establishes “a set of rules that all play by.” It “reinforce[s] a system of rules and responsibilities,” (3) it is composed of a constellation of principles, including “open and free commerce, . . . open access by all to their shared domains of sea, air, space, and cyberspace, and resolving disputes without coercion or the use of force,” (4) it “reward[s] constructive behavior with legitimacy and respect,” (5) it “hold[s] accountable those who undermine peace, stability, and prosperity,” (6) it “ensures underlying stability,” and (7) it “encourages the peaceful rise of new powers, economic dynamism, and constructive defense cooperation.” These are all positive attributes of a rules-based international order.

This legal-order element has remained constant in the Obama Administration’s effort to develop a strategic approach to global security over the past two-and-a-half years. The 2010 Strategy declared that the United States would “pursue” an international order that “recognizes the rights and responsibilities of all nations” and that “can advance our own interests by serving mutual interests.” Additionally,

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148 Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.

149 Secretary Clinton, American Pacific Century speech, supra note 6.

150 Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.

151 Secretary Clinton, American Pacific Century speech, supra note 6.

152 Id.

153 PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.

154 Id.

the 2010 Strategy announced that the United States would work with other nations to “strengthen enforcement of international law.”\footnote{Id.} Similarly, in unveiling the rebalanced U.S. security strategy in late 2011 and early 2012, President Obama declared that the United States “stand[s] for an international order” in which “the rights and responsibilities of all nations and all people are upheld” and “international law and norms are enforced.”\footnote{President Obama, Remarks to the Australian Parliament, supra note 6.} Moreover, the United States has made clear that it is not only going to stand for that rules-based international order, but it will do what is necessary to “promote” that order.

Of course, this begs the question: how exactly will the United States promote it? The recent strategic guidance issued at the highest levels of the U.S. Government has specifically identified several ways to promote a rules-based international order.

First, the United States will promote the rule-based international order by working with allies to encourage other nations to “play a responsible role in the international community.”\footnote{PRIORITIES FOR 21ST CENTURY DEFENSE, supra note 6.} This effort includes exercising positive influence at international forums, such as the United Nations, and via international activities, such as the Proliferation Security Initiative. It also includes helping the developing nations in the region to build capacity and capability to address their own security threats, some of which might first arise as internal threats, but which can quickly grow into international concerns.

Second, the United States will promote the rules-based international order through the new partnerships that it builds in the region. It will ask these emerging partners to “join [the United States] in shaping and participating in a rules-based and global order.”\footnote{Secretary Panetta, The U.S. and Japan: An Enduring 21st Century Alliance, supra note 31.} Every nation is self-interested and a nation will only accept an international order if that nation believes that either it helped shape the order during its formation, or the order that pre-dated that nation’s rise nevertheless promotes its interests. Acceptance of the international order by individual nations—be they influential or developing nations—can only add to the overall legitimacy of the order.

Third, the United States will promote the rules-based international order through regional institutions, such as the East Asia Summit, APEC, ASEAN, and the ARF. Within these institutions, the United States will seek to “muster collective action when it is called for” to reinforce the rules and responsibilities of each nation, to reward constructive behavior,
and to hold to account negative behavior by state and non-state actors.\textsuperscript{161} As previously discussed\textsuperscript{162} these threatening actors often exploit gaps and seams in the international order. Bilateral relationships can be leveraged only so much to counter some of these threats, so multilateral institutions and cooperation can help to fill those gaps and transcend those seams.

Fourth, the United States will promote the rules-based international order via a cooperative relationship with China. As a rising power, China will enjoy increased influence in the international community. Other nations, particularly developing nations, will watch to see whether China will respect the existing rule-sets of the international order. To date, China’s record is mixed and the verdict on that question is still to be determined.\textsuperscript{163} For those specific rule-sets that China might seek to challenge, the United States must be direct in addressing the need for China to play a constructive role. Thus, the United States will “speak candidly” to China about “the importance of upholding international norms.”\textsuperscript{164} For example, Vice President Joseph Biden told his Chinese counterpart Xi Jinping during his February 2012 visit to Washington, “[C]ompetition can only be mutually beneficial if the rules of the game are understood, agreed upon and followed.”\textsuperscript{165} Similarly, President Obama told the world at the 2011 APEC meeting in Hawai’i that China must “play by the rules”\textsuperscript{166} in international relations. In the future, the United States will continue to “make a case” to China that “[r]espect for international law and a more open political system would also strengthen China’s foundation, while at the same time increasing the confidence of China’s partners.”\textsuperscript{167} The United States sees that a truly peaceful rise of China can provide a positive example to other rising nation as well as provide evidence that the existing rules-based order is worth upholding.

Finally, the United States will promote the rules-based international order through a military presence in the region, thereby preserving its access and maintaining security and stability. By its nature,

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\item[161] Secretary Clinton, American Pacific Century speech, supra note 6.
\item[162] See discussion supra Part I.C.
\item[164] President Obama, Remarks to the Australian Parliament, supra note 6.
\item[165] Amy Dudley, Deputy Press Secretary for Vice President Joseph Biden, Press Release, Vice President Biden’s Turn to Host Vice President Xi of China in the U.S. (Feb. 15, 2012), available at http://www.whitehouse.gov/blog/2012/02/15/vice-president-biden-s-turn-host-vice-president-xi-china-us.
\item[166] David Nakamura, Obama at APEC Summit: China Must “Play by the Rules,” WASHINGTON POST, Nov. 12, 2011.
\item[167] Secretary Clinton, American Pacific Century Speech, supra note 6.
\end{footnotes}
The international rules-based order is derived from a body of international law where state action and inaction can have legal consequences. In particular, the international law of the sea is based upon both conventional law (e.g., UNCLOS) and customary law. That latter source of law depends upon “persistent objector” actions of user states to prevent anti-access maritime laws and practices of coastal states from becoming incorporated into international law. As Admiral Samuel Locklear, the current senior U.S. military commander in the Asia-Pacific region, explained to the U.S. Senate:

The U.S. Navy is a key provider of the military presence that underlies peace and stability across the globe, including in the South China Sea. I believe it is essential for the U.S. Navy to maintain its presence and assert its freedom of navigation and overflight rights in the South China Sea in accordance with customary international law. Preservation of the rights, freedoms, and uses of the sea depend largely upon their continual exercise. Around the world, U.S. military forces conduct operations to prevent excessive maritime claims asserted by coastal states from limiting our national interest in freedom of navigation. In the South China Sea, we have expressed our freedom of navigation interest for many decades, through diplomatic protests and operational assertions against excessive maritime claims asserted by several nations. Of note, we challenge excessive maritime claims asserted by any nation, including claims by allies and partners. Our military presence in the South China Sea includes Freedom of Navigation Operations (FONOps), Sensitive Reconnaissance Operations (SRO), Special Mission Ship (SMS) operations, and other routine military transits, operations, and exercises. The United States should sustain our military presence in international waters and uphold its commitments to its allies and partners in order to maintain peace and stability in the region.169

This explanation of the relationship between access and presence was spurred by questions from the U.S. Senate about the U.S. military’s role in the South China Sea; however, due to the customary nature of

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168 For a discussion about the long-accepted concept of customary international law known as the “persistent objector,” see IAN BROWNLEE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 11 (6th ed. 2003).

international law, this explanation of how presence upholds the rules-based order applies equally to waters throughout the Asia-Pacific region.

As a practical matter, any method to promote the rules-based international order, such as the ones identified above, will not be employed in isolation, but rather will be leveraged simultaneously with others. Take, for example, the ongoing security situation in the South China Sea. In recent years, China has dramatically increased the size of its military. With its rising military capabilities, China “began to show some muscle.”170 In the South China Sea, it began to “assert” itself.171 It started moving to block oil exploration to countries.172 Given these circumstances, the United States has taken specific action in order to uphold and promote the rules-based international order in the South China Sea.

One example of deliberate U.S. action designed to uphold the rules-based order is exhibited by the emphasis that senior U.S. officials have placed on the importance of that order as it has built its relations with regional institutions such as with the ARF throughout 2010, 2011, and 2012. For the South China Sea situation, Secretary Clinton “felt strongly” that the United States “had to say freedom of navigation is an international right.”173 Regarding competing territorial claims in the South China Sea, the United States has respected the methods174 for resolving those disputes. Specifically, the United States made it clear that it would not be calling winners and losers, but rather would “strongly assert the rule of law and a rules-based approach to solving these issues.”175

Additionally, the United States has promoted the international order as a system that benefits all nations globally, as it builds a cooperative relationship with China. Consider how Secretary Clinton conveyed the following message to China’s leaders:

But as—I’ve said this to the Chinese. Take the South China Sea. If we don’t have a rules-based approach in the South China Sea that looks at international law and custom, and resolves disputes through these mechanisms that either are

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171 Id.

172 Id.

173 Id.

174 These methods include peaceful negotiations (bilateral or multilateral), international arbitration, and litigation in international courts and tribunals. See UNCLOS, supra note 68, Part XV (“Settlement of Disputes”).

175 Stengel, supra note 170.
already established or need to be created, then what are you going to say when you decide you want to go through the Arctic because now there’s less ice, and the Russians say no, it’s ours, or anywhere else that people are going to start claiming by force as opposed to international norms? Thus, the United States seeks to remind the world via the myriad of relationships—with allies, partners, regional institutions, and China alike—that the rules-based international order “is not just about any one nation.” Instead, it is about “how we’re going to have a global set of rules that people are going to follow in order to maximize positive results for everyone.”

CONCLUSION

Every nation has an interest in global security and stability, and no nation can single-handedly keep the world secure and stable. Due to finite resources and the need for efficient whole-of-government approaches (e.g., diplomatic, economic, military, law enforcement, etc.) in an increasingly interconnected world, national governments must strategize their interests and prioritize their resources to take the most effective state action possible in the existing security environment. The current global security situation is different from the World War II era, the Cold War, and even the more-recent Global War on Terror. For the United States in particular, with the end of War in Iraq and the drawdown of the War in Afghanistan, it is no surprise that the U.S. Government has recently sought to recalibrate its efforts to promote global security.

This article has discussed three elements of that “pivot,” “shift,” “rebalance,” or “turn” in U.S. security strategy that was developed over the past two-and-a-half years. First, realizing that no single nation can secure the world on its own, the United States will strengthen relationships with allies, build relations with new partners, reengage and support

176 Id.
177 Id.
178 Id.
179 “Whole of Government” is a term commonly used by the United States Government and the governments of some other nations to describe the employment of all appropriate instruments of a government’s power, with effective coordination between departments and agencies, to address a threat, problem, or situation. See, e.g., Glossary of Terms for Conflict Management and Peacebuilding, U.S. INSTITUTE OF PEACE, available at http://glossary.usip.org/resource/whole-government-approach (“Whole of Government. An approach that integrates the collaborative efforts of the departments and agencies of a government to achieve unity of effort toward a shared goal. Also known as interagency approach. The terms unity of effort and unity of purpose are sometimes used to describe cooperation among all actors, government and otherwise.”); see also NATIONAL SECURITY STRATEGY, supra note 2, at 14-16.
multilateral institutions, and develop a positive and cooperative relationship with China. Second, recognizing the fundamental nexus between preserving access and maintaining presence, the United States will ensure that its security presence ashore with allies and partners, as well as its presence at sea with its naval forces, will continue to contribute to peace and security in the region. Third, understanding that genuine peace and security depends upon an order in which nations are equal and enjoy the same rights and responsibilities, the United States will uphold and promote the existing rules-based international order, through its international relationships, and through an international presence. Relationships, presence, and legal order: these are the three essential elements of a rebalanced U.S. strategic approach to global security.

While this refined U.S. approach to security strategy applies globally, each of the three elements discussed in this article places a special emphasis on the Asia-Pacific region. The recent U.S. strategic guidance has specifically identified alliances with Asia-Pacific nations, partnerships with Asia-Pacific nations, reengagement with and support for Asia-Pacific institutions, and development of a cooperative relationship with the rising Asia-Pacific nation of China. It has emphasized the importance of preserving access and maintaining a U.S. security presence in the Asia-Pacific region and its waters. To uphold the existing rules-based international order, the United States has emphasized rallying support among nations and institutions in the Asia-Pacific region to uphold that order, by collectively rewarding those who respect it and isolating those who ignore it.

With this U.S. emphasis on the Asia-Pacific region and its waters in the rebalanced approach to global security, an outside observer might assume that the United States is inserting itself into a region where it has not been present for a while. Such an assumption, however, would be inaccurate.180 Simply put, the United States “has been, and always will be, a Pacific nation.”181 But the deliberate shift to the Asia-Pacific region is

180 Assistant Secretary Campbell, Korea Keynote Address, supra note 6 (“The truth is, the United States has never left Asia. We have been deeply engaged in the region with its countries and peoples, not just for decades, but for hundreds of years. What we are hoping to convey, is that after a period of necessary and intense engagement in the Middle East and South Asia, the United States is returning to a focus, to a recognition that in the twenty-first century, the lion’s share of the history of the world will be written in the Asia-Pacific region. And the United States wants to be a part of that; we want to be an active friend and open engager with all the countries in the Asia-Pacific region. And so what you are seeing in Asia is not simply a momentary surge or a quick policy push that will be quickly replaced by a focus elsewhere. I don’t believe that’s the case. I think what you are witnessing is a fundamental reorientation of American priorities to a place where we all understand that the greatest dynamism, the greatest possibilities lie, in the Asia-Pacific region.”).

181 President Obama, Remarks to the Australian Parliament, supra note 6 (“As President, I have, therefore, made a deliberate and strategic decision—as a Pacific nation,
clear. As Secretary of Defense Panetta candidly assured his counterparts in the region during the summer of 2012, “We have made choices and we have set priorities, and we have rightly chosen to make this region a priority.” Ultimately, the larger question, for future consideration, is whether the elements and priorities of this strategic turn by this “Pacific nation” will successfully achieve the goal of a pacific region and world.

the United States will play a larger and long-term role in shaping this region and its future, by upholding core principles and in close partnership with our allies and friends. Let me tell you what this means. First, we seek security, which is the foundation of peace and prosperity. We stand for an international order in which the rights and responsibilities of all nations and all people are upheld. Where international law and norms are enforced. Where commerce and freedom of navigation are not impeded. Where emerging powers contribute to regional security, and where disagreements are resolved peacefully. That’s the future that we seek . . . . This is the future we seek in the Asia Pacific—security, prosperity and dignity for all. That’s what we stand for. That’s who we are. That’s the future we will pursue, in partnership with allies and friends, and with every element of American power. So let there be no doubt: In the Asia Pacific in the 21st century, the United States of America is all in.”

182 Secretary Panetta, Remarks to Shangri-La Dialogue, supra note 6.