



AUSTRALIANS FOR WAR POWERS REFORM

30 July 2020

The Hon. Scott Morrison MP
Prime Minister
Parliament House
Canberra ACT 2600

c.c. Senator the Hon. Marise Payne, Minister for Foreign Affairs
Senator the Hon. Linda Reynolds CSC, Minister for Defence
The Hon. Anthony Albanese MP, Leader of the Opposition
Senator the Hon. Penny Wong, Shadow Minister for Foreign Affairs
The Hon. Richard Marles MP, Shadow Minister for Defence

Dear Mr Morrison

Australian Relations with China

In light of recent developments I write on behalf of Australians for War Powers Reform, an organisation dedicated to achieving Parliamentary involvement in any decision Australia might make to deploy members of the Australian Defence Force into international armed conflict.

The purpose of this letter is to convey our concern about the state of Australia's relations with its major trading partner, and to outline what we would regard as a preferable approach to managing them.

Let me make clear from the outset that we acknowledge Australia has a number of important issues with China, not the least of which are its claims to substantial areas of the South China Sea based on its "nine dash line" or other claimed "historic rights"; its disputes with neighbouring countries concerning sovereignty over the Paracel Islands and other islands, shoals and reefs; and its claims to maritime resources in the vicinity of low-tide elevations and islands not capable of sustaining human habitation. The first of these is a challenge to the rights of all maritime states to go about their lawful occasions in areas that the applicable international law – the UN Convention on the Law of the Sea (UNCLOS) – would define as international waters. The others are a threat to the peace and prosperity of the region.

The question is what should be done about this. The fundamental answer to this is that, in accordance with our obligations under both the United Nations Charter and Article 1 of the ANZUS Treaty, both we and our US ally should be making every effort to resolve these issues

peacefully. The basis for that peaceful resolution must be the principles laid down by the UN Charter and by UNCLOS. China being, unlike the US, a party to UNCLOS, we have a strong basis for urging China to accept that its adherence to the Treaty means by definition it has set aside “historic claims” that predate UNCLOS in favour of settling competing territorial claims in accordance with UNCLOS principles.

And we respectfully suggest that the only way to make progress on these and other issues is by sustained and patient diplomacy – the prospects of achieving any useful result via “megaphone diplomacy” are effectively zero.

Nor, we suggest, would the formation of an informal alliance such as “the Quad” (US, Japan, Australia, India) be likely to produce any result other than a perception by China that we are participating in an anti-Chinese “containment” policy – an outcome which is more likely to inflame the current tensions than to ameliorate them. The likelihood of China buckling to military pressure, and especially multilateral military pressure, we would rate as extremely low.

In light of the above we are pleased to note the emphasis in the Joint Statement released after AUSMIN 2020 upon UNCLOS as the basis for the peaceful resolution of competing claims, but we are concerned by the intention enunciated in the Joint Statement to pursue “increased and regularized maritime cooperation in the region, as well as the Indian Ocean, bilaterally and in concert with other likeminded and regional partners”.

We regard the conduct of naval exercises in the contested waters of the South China Sea as highly provocative – as indeed no doubt the United States would regard China and its military partners conducting naval exercises in international waters proximate to the Continental US or within the Hawaiian Island chain. This is particularly so against the background of the shrill anti-Chinese rhetoric emanating from Washington, which appears more designed to appeal to a segment of the US electorate than to address in any effective way the issues between the US and China.

Accordingly, we would urge the Australian Government to modify its approach both to the management of our relations with China, and to our collaboration with the United States on this matter of such grave national – and indeed international – importance. Specifically, we respectfully suggest that:

- Australia take no further part in multinational naval exercises in the contested waters of the South China Sea
- Australia pursue our issues with China via diplomatic channels, on the basis of equality and mutual respect, in accordance with normal diplomatic practice
- Australia use whatever influence it can muster in Washington and Beijing to encourage the US and China to lower the temperature and settle their differences by peaceful means, again on the basis of equality and mutual respect, and we urge you to counsel President Trump against taking any form of military action against China.

Our organisation believes as a matter of principle that deployment of the Australian Defence Force into international armed combat should require the authorisation of Parliament. We know that armed conflict in the South China Sea is not desired by either the US or China, but the public stances of those two leading powers currently seem so irreconcilable that a miscalculation leading to an armed clash can by no means be ruled out. Accordingly, we take the position that Australia

should not take part in any further military exercises designed to contest China's maritime claims until specifically authorised by Parliament to do so, after full and informed Parliamentary debate.

We urge you to bring on a debate – either virtually or at the next sitting of Parliament – on the growing tensions between the US and China, and steps which Australia could take to reduce them. Such a debate and a vote by all our elected representatives, can only serve to bring coherence to our national approach to the sensitive matters that face us in our region.

Yours sincerely



(Paul Barratt AO)
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