

The long term perspective of the South China Sea dispute

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During the last couple of years we have got used to news reports about the tensions in the South China Sea. They come and go in different shapes and strengths, but, silently, it is assumed that they would not get too far. While military conflict is often publicly ruled out as an option by local policy makers as well as scholars and analysts, it is also admitted that there is an absolute lack of options as to how to solve the problem. This has been proven by the recent ASEAN Summit, which unlike as in 2012, managed to pass a communiqué, yet without much progress in its long time position on the issue. However, the situation on the ground has been continuously developing and it may be of concern that it would get too remote. The presented policy paper will take a long term perspective to recent dynamics in the South China Sea, and it will present a view of why the situation is so worrying and what we can expect in the future months and perhaps years.

Background information

The dispute in general can be divided in two separate issues: who *owns* the land features in the related waters (sovereignty) and who has rights to *use* the waters for what purposes (jurisdiction). As for the first one, there are six countries involved: the People's Republic of China, the Republic of China (Taiwan), Vietnam, the Philippines, Malaysia, and Brunei. The first three claim all the land including the Paracel

Islands and the Spratly Islands¹; the other three claim only some of the rocks and islands in the Spratly Archipelago. This creates a complex state of affairs with a number of overlapping claims.

The question of why the claimants are so interested in such seemingly useless rocks moves us to the second issue of the dispute. The South China Sea is first of all a major transport hub through which the vast majority of the goods to and from Northeast Asia are shipped. In fact, as much as one-third of entire world's trade and half of its oil transport cross this region², which makes it probably the most strained shipping lane in world trade nowadays. Of all traded goods, energy imports are the single most important items, and they make the lane vitally important for China, and only slightly less so for rest of the countries in the region. Moreover, not only is the area a transit route for energy, but the sea itself is believed to contain reserves of crude oil and gas. As yet unconfirmed, it remains an open question of how much oil and gas the sea really contains, and how much would be exploitable. Estimates vary widely, from very optimistic Chinese assessment of 100 billion to 200 billion barrels of oil, to U.S. and Russian estimates citing mere 1.6 billion to 1.8 billion barrels of

¹This includes the waters, in the case of China and Taiwan.

²National Strategy for Maritime Security, 2005. Available on-line at (<http://georgewbush-whitehouse.archives.gov/homeland/maritime-security.html>)

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oil³. Another commodity which South China Sea offers is an abundant stock of fish. The South China Sea is one of the richest marine life areas in the world, representing about 10% of the world's fish catch. Finally, the South China Sea may contain other minerals, and it has also additional strategic value as it provides easy access to the open waters of Indian and Pacific Oceans.

A timeline of events in the South China Sea

The timeline of relevant events starts with the occupation of the land features. The biggest atoll in the South China Sea has been occupied by Taiwan since 1956. Next to occupy some features in the Spratlys were the Philippines in 1970, followed by South Vietnam in the Paracel Islands in 1974. However, South Vietnam lost its position soon after to China, who has held the whole Paracel Archipelago ever since. Malaysia occupied its first features in 1983 and continued with another two in 1986. The year 1988 witnessed a Chinese occupation of a feature in the Spratlys and the biggest military incident in the South China Sea so far, in which 74 Vietnamese sailors died when they clashed with Chinese forces. The last occupation of the features occurred in 1994 (China), 1998 (Malaysia) and 1999 (Vietnam).

It was, however, the 1990s which saw overall improvements of the relations in the region, with China having publicly announced in 1995

that it would abide by international law and in 1996 it acceded to the UN Convention of the Law of the Sea (UNCLOS). In 2002 China and ASEAN signed a Declaration of the Conduct of Parties in the South China Sea (DoC 2002), which was intended to set guidelines to minimize likelihood of conflict in the region before a binding Code of Conduct would be negotiated.

The mid-2000s brought a start to oil-related activities, which were at the time conducted jointly and secretly by China, Vietnam, and the Philippines. The exploration, however, became known and it caused widespread criticism in the Philippines for compromising its sovereignty. Thus in 2008 the agreement expired and since then have the countries conducted surveys on their own. As time passed, they became increasingly antagonistic and on a number of occasions tried to prevent each other from cooperating with foreign oil companies, and have sabotaged others' fishery activities.

In the year 2009, the US pivot to the Asia-Pacific region began, and it caused a rather negative reaction from China, with the best example of harassing the US ships in the waters China claims belong to her territory. In May 2009, in accordance with the UNCLOS, countries were required to submit their claims to Exclusive Economic Zones (EEZ) and Extended Continental Shelves (ECS) which led to counter-claims between China, Vietnam, the Philippines, and Malaysia. The end of 2009 saw President Obama visiting the region and the extended attempts of Vietnam to internationalize the issue. The next year Vietnam became the chair of ASEAN and its

³Storey, Ian (2012): China's Bilateral and Multilateral Diplomacy. Center for New American Security, on-line available at (http://www.cnas.org/files/documents/publications/CNAS_CooperationFromStrength_Cronin_1.pdf)

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priority was to move on the process of creating a binding Code of Conduct. Also in the first half of that year, China stepped up its assertive approach, which led to some diplomatic notes of the South China Sea becoming a Chinese 'core interest' and China being a 'big country' while others being 'small'. The rise of tensions was, however, for some time stalled after the ASEAN Regional Forum in July 2010, when the South China Sea became for the first time a topic of discussion, and US Secretary of State Hilary Clinton supported freedom of navigation as a US national interest.

The year 2011 brought about more active behavior on the Philippines' side. In the first few months, the Philippines reported at least five incidents of Chinese attempts to sabotage their surveys and it accelerated the process of military modernization with the support of the USA and its allies. Philippines also protested the Chinese activities at the UN, to which China replied with restating its claims covering most of the sea. Until mid-2011, China also cut the cables of Vietnamese survey ships. On the other hand, the Philippines started to refer to the sea as the West Philippines Sea, its legislators visited the disputed islands, and its diplomacy tried to form a united ASEAN opposition to the Chinese activities. Vietnam responded to Chinese activities with live ammunition drills.

During the first half year of 2011, the tensions peaked and the ASEAN claimants were becoming increasingly active in trying to form an opposition to China. This probably prompted China again into more modest behavior, and in July 2011, China agreed on

signing the guidelines for implementing DoC 2002.

Yet another rise of tensions came in March 2012, when the Philippine Navy and Chinese patrol ships became engaged in a standoff in the disputed Scarborough Shoal. Both sides refused to leave the area for two months⁴. Later on in the same year, both China and Vietnam passed new legislation which broadened the authority of domestic law with regard to the disputed areas, such as upgrading the areas to the "city" level and broadening the authority of domestic law enforcement agencies to operate in the disputed areas. The parties of the dispute also further moved on the cooperation with foreign companies in exploration and drilling activities in the disputed areas.

Whither the South China Sea dispute?

Well into another year, the question may be whether another growth of tensions is to be expected, as has happened in the previous years. Let us analyze the trends which have been established.

Exploration and drilling activities

Joint projects between the claimant parties were terminated in 2008. Since then, many countries have proposed this option, yet with the pretext that they should follow their domestic law, which is unacceptable to others as this would *de facto* mean the acceptance of

⁴Both sides then left simultaneously just before the typhoon season, although Chinese ships were spotted in the area again and it appears that they have set up a permanent presence in the lagoon.

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other party's claims. The claimants are thus accelerating their own activities and cooperation with foreign companies. These all mean that a restart of joint projects are increasingly less likely and would be possible only at a high domestic and perhaps foreign cost. The continuing of the recent trend, however, will sooner or later lead to interference, as different claimants want to do the same activity in the same place. Another question concerns the technical capabilities of claimants, as there is a perception that the country who will first resume oil drilling will be able to secure its presence. Chinese technological progress is especially worrying for other claimants.

Transport routes

All the involved parties (perhaps with the exception of Taiwan) are quickly growing economies which consistently demand more energy inputs. In this situation, in which their domestic sources have become insufficient, the percentage of oil imports (mainly from the Middle East) has been growing and together with it the importance of the transport routes. A good hedge against the risk would be securing additional sources; hence the South China Sea's potential reserves seem like a possibility. Until this is reality, however, there will be increasing attempt to control transport routes. Moreover, both the transport routes' growing importance and the motivation to exploit any possible reserves in the sea point into a trend of upward importance of the region. At the same time, this translates into a mounting willingness to push forward

individual claims and control as much as possible of the region.

Fishing

All claimants depend on maritime resources for providing staples, and they do not plan to reverse the trend. Indeed, it is quite the opposite; for example, Vietnam's development plans explicitly mention growing dependence on the sea to feed its population. Yet fishery resources are getting scarce and countries are accelerating efforts to strengthen their jurisdiction over the region as they believe this would help them to secure their presence. The overlapping jurisdictions and other policies, such as the Chinese annual fishing ban, create, however, a situation in which incidents involving law enforcement agencies and fishermen are increasingly more likely. Far from feeling any relief that military force has been (until now) largely outside of the incidents, the fishermen and coast guards are playing increasingly the roles of strategic foreign policy actors of their governments who wish to maintain the presence in contested waters and land features.

Political representations and domestic opinion

Political representations in the involved countries seem to show no signs of abandoning the recent proactive behavior and nationalistic publics have become used to the situation, even demanding their governments to do more to secure national 'rights'. China has just changed its leadership and new leaders seem to be clearly in power at home. In March 2013 the central government decided to unify its five

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maritime agencies under single organization and Chinese military conducts exercises in the very south of the disputed areas. It is clear that new leaders hold power strongly, yet it is not clear how they would choose to use it. Since 2010, the Philippines have had a new president who has started an army modernization program and has seemed less willing to compromise on the question of sovereignty. After many years of silence, Taiwan also let itself be heard with restating its original claims to whole South China Sea and there are even some signs of strengthening its occupied positions and widening its 'soft power' presence. Vietnam has been probably the most active opponent of China in the couple of years, more recently the government has introduced new legislation strengthening its stance in disputed territories. The public in China and Vietnam have turned increasingly nationalistic, with public protest against the other side's activities. Public opinion in the Philippines is less hostile, yet here, too, the anger has been growing especially since the recent incidents with China.

International organizations' role

In one of the most recent moves of the claimants, Philippines announced it would unilaterally turn to a UN tribunal for arbitration in the row with China. This will not likely bring any resolution, and indeed it might add more fuel to the dispute, as other attempts of Vietnam and the Philippines to internationalize the dispute have done before. Without all the parties accepting the role of mediation, no resolution would be valid or enforced. Yet with the governments having

spent so much of their political capital on sovereignty issues, it is practically impossible for them to accept it, in the situation where it is fairly clear that they would have to abandon at least a portion of their claims. China especially is very unlikely to make a U-turn and accept international mediation.

The role of ASEAN

There is not even a united stance within ASEAN, with some of its countries siding with China or having no interest in the issue. This became obvious during the ASEAN Summit in 2012 when for the first time in ASEAN history no communiqué was issued and even the comments of Cambodian chair were rejected by some countries as not being a consensus. While Brunei managed to broker the communiqué in 2013 which explicitly mentions South China Sea, no cut off has taken place. Finally, according to ASEAN principles which demand a unanimous stance among its members if any policy decision is to be introduced, not much should be expected from ASEAN, provided it does not transform its functioning process.

The role of outside powers

Previous years have seen some non-regional powers getting involved in the politics of disputed area. The US pivot is the most tangible in the South China Sea, and countries such as India and Russia as well as others have also become involved in some form of drilling or military activities in the region. China perceives most of this as 'meddling' in its bilateral relations, yet the other claimants ask for outsiders' assistance, while at the same time are not willing to alienate China too much. The

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involvement of the outside powers in the region is however expected to continue in the recent way, thus with the USA willing to 'check' (at minimum) China's power; India extending its presence in accordance with its "Look East policy"; and other countries also willing to exploit some economic benefits from potential new oil fields. With the growth of the overall strategic importance of the region, it is more likely to expect increased interest from outside powers in regional politics, rather than the opposite.

Conclusion

With the current level of nationalist sentiments and in the absence of any effective dispute resolution plan, it is nearly unthinkable that any country would relinquish the sovereignty claim over any piece of land, even in case of a physical loss. The maritime rights dispute is no easy subject either, primarily for the reason that the countries believe that utilizing a certain area can easily transform into an extended claim and a changed situation on the ground, which would make it effectively ceded to an opponent. In this distrustful situation, the countries are more likely to try to become the first to exploit the resources and secure disputed areas, rather than to consent to being constrained, and conducting consultation and common projects with the other claimants.

In the end, it can be restated that a major military conflict is still in no one's interest. Vietnam and especially the Philippines are far less militarily powerful than their potential adversary. For Malaysia and Brunei the issue is

not so important and they are not likely to step in. Taiwan has not much to gain and lots to lose from a potential conflict, and its main security worries lay elsewhere. Furthermore, all the claimants are increasingly dependent on China economically, and any conflict with her would have drastic consequences. This is very much the case of China, too, which is so dependent on the energy imports coming from Malacca Strait that even a single day's interruption could cause severe domestic problems⁵, which is the biggest security threat for the regime. The USA and any other outside power have also lots to lose if the huge volume of trade passing the sea would stop even for a short time.

However, it is not a major military conflict which makes the dispute threatening, but the possible small and middle scale incidents which would have some impact on the peace and stability of the region. And here the most disturbing thing is that the chance of these incidents is increasing with no signs of improvement in the near future. Thus we can be almost sure that in some intervals the incidents would occur and they may even grow more serious, unless the presented trends are reversed. In a situation where claimants are not willing to conclude the dispute, they can only make small steps without actually being ready to settle it entirely. The space for this is, however, getting smaller.

⁵ See Cronin, Patrick N. – Kaplan, Robert D. (2012): Cooperation from Strength: U.S. Strategy and the South China Sea. The Center for New American Security, on-line available at (http://www.cnas.org/files/documents/publications/CNAS_CooperationFromStrength_Cronin_1.pdf)



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