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Deep Danger: Competing Claims in the South China Sea

MARVIN C. OTT

The waters of the South China Sea are dotted with hundreds of atolls, reefs, and small islands—only one of which has sufficient fresh water to qualify, under traditional international law, as capable of supporting human habitation. Nonetheless, these land features and the 1.35 million square miles of water that surround them are the subject of competing territorial claims by China and Taiwan (whose claims appear to encompass the entire South China Sea and all of its land features) and by five Southeast Asian countries (Malaysia, Brunei, Vietnam, the Philippines, and Indonesia, though Indonesia’s claim is limited to waters at the sea’s extreme southern tip). Major island groups in dispute include the Paracels, which are occupied by China, and the Spratlys, where multiple claimants have placed outposts.

Despite the sea’s evident potential for generating conflict, it remained an obscure afterthought in international politics until the mid-1990s. Even China’s military occupation of the Paracels in 1974, which involved a naval engagement with South Vietnamese forces, was barely noticed by the international press. Claimants to the rest of the sea were not in position to enforce claims or exercise effective authority over such a logistically daunting area. Moreover, the conflicts that inflamed Southeast Asia during the cold war were land-based, and the dominant naval power in the region, the United States, had neither claims of its own nor interest in championing the claims of others.

All this began to change in 1995 when the Philippines discovered that China had erected a forti-

fied military outpost on the Spratly Islands’ remote but aptly named Mischief Reef. The facility was striking in large part because of its location—120 nautical miles from the Philippines (Palawan) but over 600 nautical miles from China (Hainan). The Philippines protested to China. Manila also attempted unsuccessfully to enlist US military support, but did succeed in persuading the Association of Southeast Asian Nations (ASEAN) to express strong collective concern to China.

Beijing responded with sustained outreach to Southeast Asia, and sought to strengthen ties in the region and burnish its image as a “good neighbor.” A centerpiece of this was a Declaration on the Conduct of Parties in the South China Sea, signed by ASEAN and China in 2002, in which all parties pledged good behavior pending the resolution of conflicting claims. China also began to tout its willingness to engage in the “joint development” of presumed petroleum and mineral resources in the South China Sea while setting aside conflicting claims. China’s efforts at reassurance did not, however, involve abandoning its claims to the South China Sea or its facility on Mischief Reef—where construction and upgrades proceeded apace.

By the beginning of 2010 the geopolitics of the South China Sea had settled into three themes. First, the incipient conflict between China’s claims and those of Indonesia, Malaysia, the Philippines, and Brunei had been put on the back burner as the governments concerned proceeded with other business. Second, Vietnam had emerged as the exception to this rule, as Chinese naval and maritime patrol vessels seized Vietnamese fishing boats and pressured Western oil companies exploring under Vietnamese licenses to cease activities. Despite the largely successful delineation of the land border between China and Vietnam, their sea boundary

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in the Gulf of Tonkin remained in serious dispute. Third, a few disturbing incidents occurred in which Chinese patrol craft challenged and harassed US naval surveillance ships operating in international waters within China's exclusive economic zone (EEZ). The most prominent incident, in March 2009, involved the *Impeccable*, which Chinese ships and aircraft tried to force from the area in which it was operating, about 75 miles from Hainan Island. In sum, the South China Sea remained relatively quiescent, yet some ominous storm clouds were visible on the horizon.

CALL AND RESPONSE

In July 2010, US Secretary of State Hillary Clinton spoke at a meeting of the ASEAN Regional Forum (ARF) in Hanoi. (The ARF convenes 27 nations at a ministerial-level conclave to discuss security issues in Asia. Because it is organized around the 10 nations of ASEAN, the ARF's regional focus tends to be Southeast Asian.) At the apparent urging of host Vietnam, Clinton directed her remarks to issues involving the South China Sea. After noting that several Southeast Asian nations lay claim to at least some portion of the South China Sea or its land features, she urged the attendees to endorse two traditional principles of international diplomacy: multilateral negotiations for multilateral disputes and the international status of established commercial sea-lanes.

Regarding the sea-lanes through the South China Sea—which by some measures are the world's busiest—Clinton said: “The United States has a national interest in freedom of navigation, open access to Asia's maritime commons, and respect for international law.” That statement reiterated the long-standing US policy that sea-lanes in the South China Sea were not subject to control or ownership (sovereignty) by any country and that their status was a vital interest of the United States, which regularly traverses them with commercial and naval vessels. Twelve of the twenty-seven representatives at the ARF, including a majority from ASEAN, spoke in support of the US position.

Had the Chinese foreign minister, Yang Jiechi, chosen not to respond, Clinton's statement and the meeting itself would have received only perfunctory attention outside a small circle of specialists and regional officials. But the foreign minister

did react—angrily. He accused the United States of meddling in matters that did not concern it and seemed particularly incensed that other countries, by supporting the United States, had engaged in orchestrated opposition to China.

Lest there be any doubt, a Foreign Ministry spokesperson in Beijing subsequently stated, “We resolutely oppose any country which has no connection to the South China Sea getting involved in the dispute, and we oppose the internationalization, multilateralization, or expansion of the issue.” Meanwhile (following the Hanoi meeting), a spokesman for the Ministry of Defense declared on the record that “China has indisputable sovereignty” over the South China Sea.

The effect of these developments has been to highlight the importance of the South China Sea as an arena of international tension and potential conflict, but also as a test and indicator of China's strategic intentions toward Southeast Asia. Thus, the South China Sea is a growing focus of concern in Washington, at the headquarters of the US Pacific Command in Honolulu, and in a number of Southeast Asian capitals.

For most of the past two decades, a remarkable amount of uncertainty has surrounded China's strategic intent to its south. Academic students of China and government officials, notably in Southeast Asia, have been—and remain—unsure and divided in their views. China has sent conflicting signals, whether inadvertently or by design, that have contributed substantially to the confusion. But since the ARF meetings, close observers have detected a discernible coalescence of opinion—and concern.

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PEACE AND CHARM

For Southeast Asian governments, geography and population dictate that China will be a major, if not overwhelming, issue in their foreign relations. China shares a long land boundary with the region; through more than two millennia of history, imperial China saw the Nanyang (South Seas), through the lens of Confucian civilization, as subordinate and tributary. From this perspective the European and American colonization of most of Southeast Asia interrupted a long-established and natural relationship. But colonization also attracted large numbers of Chinese settlers to the region. This has left contemporary Southeast Asia with a problem-

By asserting sovereignty over sea-lanes, China has taken a position that no major country in the world can support.

atic legacy—large, economically prominent, ethnic Chinese populations.

Southeast Asian governments in the decades since the People's Republic was established have seen China move through the full spectrum of capabilities and behaviors. In the 1950s and even later, China promoted the idea of communist revolutionary power, which championed Marxist insurgencies and urban movements that were intended to overthrow first the colonial and then the postcolonial regimes in the region. Ultimately communist movements came to power in the former states of French Indochina but not beyond.

From the mid-1960s to the mid-1970s China was consumed by Mao Zedong's campaign of extreme domestic radicalization—the Great Proletarian Cultural Revolution. During this time China virtually ceased to be a factor in Southeast Asia, and elsewhere overseas. But with Mao's death, and with Deng Xiaoping's ascent to the position of paramount leader and his embrace of Western-style economic reform, China's overall trajectory and its presence in Southeast Asia took a sharp and welcome turn. Beijing became the champion of increased economic ties as well as regional growth and stability.

The message to Southeast Asia, capsulized as "China's peaceful rise," was that of positive-sum, mutually advantageous relationships. The contrast with earlier periods—all within the professional memory of senior Southeast Asian officials—could hardly have been more dramatic.

In terms of strategic outlook, China's contemporary leaders evoke the classic realists of nineteenth-century Europe—vitaly concerned with prerogatives of sovereignty and the sanctity of borders, animated by calculations of power and influence. From the standpoint of the Chinese regime, Southeast Asia is properly understood as a natural and rightful Chinese sphere of influence, a region where China's interests are paramount. When these are properly acknowledged, Beijing is prepared to adopt policies that benefit Southeast Asia as well as China—a dominion of Confucian harmony and benevolence.

China's presentation of itself to Southeast Asia as a benign neighbor, sometimes characterized as a "charm offensive," reached full flower beginning in the mid-1990s. Diplomatic efforts produced a series of tangible achievements including an ASEAN-China Free Trade Agreement; framework agreements for security cooperation between China and each ASEAN member; the aforementioned

Declaration on the Conduct of Parties in the South China Sea; and an elaborate "dialogue" process of regular, structured interaction on diplomatic, economic, and defense issues.

All of this was underpinned by trade and investment ties, which have grown to the point that China has replaced Japan and America as ASEAN's largest trading partner. Perhaps even more significantly, China has invested heavily in infrastructure (rail, roads, river transport, pipelines, and electrical grids), an undertaking designed to link Southeast Asia and southern China as a single economic unit. At the same time, China is building a "cascade" of massive hydroelectric dams on the upper Mekong River in southern China. These dams will not only produce electric power but will also give China the ability to control the flow of the Mekong River system, with untold consequences for downstream states.

China portrays all of these developments as natural and benign consequences of its "peaceful rise," and as substantial, tangible benefits for Southeast Asia. But one need not be paranoid to see these same developments as consistent with—or precursors to—a Chinese strategy for dominance over Southeast Asia. In the region's capitals, after years of giving credence to China's portrayal of itself in soft-power terms, unease and doubt have grown perceptibly regarding China's growing hard-power capabilities and apparent strategic intent. These doubts are provoked—not exclusively, but in substantial part—by China's statements, actions, and military buildup with regard to the South China Sea.

FOLLOW THE DOTTED LINE

Since its founding the People's Republic of China has published maps adopting a maritime boundary ("the nine-dotted line") first promulgated by the Republic of China in 1936 and encompassing the entire South China Sea. While some other boundary claims by Beijing have sparked immediate controversy (for example, regarding India, Tibet, and the Soviet Union), the expansive notion of China's maritime boundary has usually generated little attention.

This changed only briefly with the Mischief Reef episode—which was followed by China's efforts to assuage Southeast Asian concerns and effectively remove the South China Sea from the diplomatic front burner. It was in Beijing's interest to soft-pedal the issue: An aggressive claim to the entire South China Sea would have pitted China

against ASEAN, and China in any case lacked the military capacity to enforce its claim. Deng had often reminded his countrymen of a traditional Chinese aphorism that roughly translates as “bide your time and conceal your capabilities until you are ready to act.” For Beijing, clarity was a danger and ambiguity was an asset when it came to the South China Sea.

In the years following, a dense conceptual fog enveloped the Chinese position. Some of this was a natural byproduct of the fact that different Chinese voices (academic, diplomatic, military, journalistic) addressed the issue without clear guidance from on high. But much of it was calculated, and the result was uncertainty and disagreement in the small community of outside observers and officials who followed the issue. The prevailing view was that China was claiming something less than full sovereignty—largely because Beijing refrained from using that word. According to this view, the dotted line denoted something other than a legal international boundary, but just what it did denote was murky.

Ample grounds for confusion existed. At various times Chinese officials have cited as a basis for China’s claim different and mutually inconsistent rationales, including historic presence, an archipelagic principle, an EEZ principle, and a continental-shelf principle. China rebuts Japan’s claims to outcroppings in the East China Sea, noting that they are not habitable as international law requires—but China has cited the same kind of land features to justify its own claims to the South China Sea. China’s 1958 “Declaration on China’s Territorial Sea” refers to “high seas” in the South China Sea—which contradicts the notion of a territorial sea.

In addition, legislation adopted by China in 1992 that put the dotted line into law referred to “historic Chinese waters”—a category that has no standing under international law. Beijing has drawn archipelagic baselines around the Paracels (which it claims) but not around the Spratlys (which it also claims). And China has ratified the UN Law of the Sea, but with reservations that make ratification almost meaningless.

Moreover, China has, by declaring a “coastal economic exclusion zone,” given the concept of an EEZ an interpretation unrecognized in interna-

tional law. In an effort to rebut a joint Malaysian-Vietnamese submission to the United Nations, China in 2009 submitted a map that included its dotted-line boundary but contained no justification for it. (Indonesia responded with a formal request to the United Nations that Beijing clarify its claim; China has remained silent.) Indeed, the dotted line has never been precisely demarcated, and large sections of it (for example, near the Natuna Islands) remain entirely opaque.

The fog dissipates when we examine the proposition that China’s dotted line is intended to be exactly what Chinese officials have said it is—a demarcation of China’s maritime border. Inside the line is Chinese sovereign territory.

Consider, first, that the dotted line that appears on all Chinese-produced maps extends around Taiwan—and no doubt whatsoever exists that Beijing views Taiwan as sovereign Chinese territory. China in 1974 deployed naval forces to seize from Vietnam the Paracels, an archipelago that is not characterized by China as separate and distinct

from the South China Sea. And the People’s Liberation Army (PLA) has built an impressive military outpost on a reef located over 600 nautical miles from China.

Consider, too, that China’s 1992 territorial law affirmed the dotted line and mandated that Chinese armed forces defend the country’s maritime territory. China’s rapid buildup in military capabilities has focused on projection of naval and air power beyond China’s shores. The Chinese navy, in the meantime, has stopped Vietnamese fishermen from operating well within Vietnam’s EEZ, while Beijing has warned international oil companies away from Vietnamese offshore leaseholds.

What is more, while China agreed to sign the Declaration on the Conduct of Parties in the South China Sea, it refused to make the agreement legally binding or to refrain from building new structures. Two PLA senior colonels in a public symposium hosted by the US Pacific Command, when asked if the American Seventh Fleet had a right to traverse the South China Sea without China’s permission, answered “no.” And in a recent display of technological prowess, a Chinese submersible descended to the deepest portion of the South China Sea and planted a Chinese flag there. In various discussions Chinese officials have referred to the South

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China Sea as a “core interest”—a term previously reserved for Taiwan and Tibet.

Against this backdrop, the ARF meetings in Hanoi provided a clarifying moment—perhaps no more so than when the Chinese foreign minister stared across the table at his ASEAN counterparts and pointedly observed that some countries are “small” and China is “big.”

SOUTHEASTERN STRICTURES

America’s willingness to stake out a position in support of a maritime commons, not a territorial sea, and in favor of multilateral diplomacy, as opposed to China’s determination to deal with the Southeast Asian countries one at a time, was welcome in many regional capitals. It provided a vital and long-overdue signal that the ASEAN governments did not have to cope with China alone and enjoyed the support of a powerful friend. In this sense, Clinton’s initiative has provided ASEAN a dose of courage and self-confidence in its relationship with China.

That said, US policy makers must maintain a healthy awareness of what Southeast Asian governments are in fact able and willing to do. To employ an overused metaphor, at least some ASEAN members may be prepared to hold America’s coat if Washington duels Beijing. But, for a number of compelling reasons, they cannot be expected to enter the arena themselves in any but carefully circumscribed ways.

First, it has long been a truism that Southeast Asian governments fear being forced to choose between China and the United States. The regional consensus is that the US-China relationship is vitally important to all concerned. When leaders in the region are asked what kind of relationship best protects Southeast Asian interests, the answer is a variation on the Goldilocks principle—“not too hot and not too cold.” A cooperative relationship, but not a deeply collaborative one, would be just right. Just as they fear China-US conflict, the ASEAN countries also fear its opposite—a great power condominium deciding regional issues with little input from Southeast Asia.

Second, China’s influence over and strategic reach into Southeast Asia are deep, powerful, and growing. This is particularly evident in the economic sphere. Between 2009 and 2010, aggregate trade increased roughly 50 percent year-on-year. Not coincidentally, the China-ASEAN Free Trade Area entered into force at the beginning of 2010.

Third, despite significant investments in military modernization, no Southeast Asian country is prepared to confront China militarily. The only country that has done so in recent decades is Vietnam, in response to China’s 1979 invasion across its northern boundary. Vietnamese forces acquitted themselves well in that encounter, but Hanoi is under no illusion that such success could be replicated today. The only naval and air forces that can credibly face off against China in the South China Sea are American—and if it came to that, US commanders could expect little or no operational support from ASEAN, with the possible and limited exception of Vietnam.

Fourth, ASEAN is not the feckless cave of winds that some Westerners describe—but it is also not a unified, purposeful actor regarding the South China Sea. Several ASEAN governments, including those of Laos, Cambodia, and Myanmar, are highly responsive to Chinese interests and have no dog in the fight over the South China Sea. The best that Washington can expect—and only if it is assiduously nurtured—is cautious diplomatic support along the lines of what one saw at the ARF meeting in Hanoi.

BEYOND SERIOUS

The ramifications of a serious Chinese claim to the entire South China Sea are profound. By asserting sovereignty over the sea-lanes, China has taken a position that no major country in the world can support—not the Europeans, not Japan, not India, not Australia, not the United States, and not the principal ASEAN states. Obviously, when a rapidly rising global power takes such a step, the implications are beyond serious.

In addition, the South China Sea, like Taiwan, has the clear potential to spark armed conflict between the United States and China. This is a specter that keeps military planners at the US Pacific Command awake at night. The danger is made greater by China’s evident assumption that the United States is on the decline (along with its defense expenditures) while China is on the rise (including its defense expenditures).

Meanwhile, though it is generally underappreciated, a remarkable and unique security architecture has emerged in Southeast Asia. It is, in Victor Cha’s apt phrase, a “complex patchwork” of multilateral dialogue mechanisms and bilateral security commitments involving the United States. It has effectively kept the peace in the region over the past 35 years and holds promise for continuing to do so for at least the medium term. A major con-

frontation in the South China Sea has the potential to harm that architecture beyond repair.

Recent events and statements have clearly framed the current strategic landscape in the South China Sea. On one hand we have seen several gestures by China that might be broadly characterized as conciliatory. General Chen Bingde, the PLA chief of staff, paid a weeklong visit to Washington in May 2011. In a major address to a US military audience, he stated that “China never intends to [militarily] challenge the [United States],” while noting the continued superiority of American armed forces. Meanwhile, Chinese diplomats have been at pains to suggest that previous references to a Chinese “core interest” in the South China Sea may have been misunderstood. At the annual Shangri-la Dialogue in Singapore in June, China’s defense minister declared that China did not “seek hegemony” in the region.

However, at virtually the same time, both Vietnam and the Philippines have registered public complaints over what they view as China’s hegemonic behavior. Vietnam in May 2011 complained that Chinese patrol boats confronted a Vietnamese oil exploration vessel operating off the coast of southern Vietnam and deliberately cut the ship’s cables—the second such incident in two weeks.

This produced an anti-China protest demonstration in Hanoi. Manila in June accused the Chinese navy of firing on Filipino fishermen, intimidating an oil exploration ship from the Philippines, and placing markers (posts and a buoy) in areas of the Spratlys claimed by the Philippines.

What is most interesting and significant is the Chinese reaction to these and similar events. A Foreign Ministry spokesman demanded that both countries stop infringing on China’s sovereign territory. The authoritative *China Daily* carried an opinion piece by a prominent Chinese academic (Gong Jianhua) claiming that Vietnam and the Philippines had taken advantage of China’s restraint by trying to convert what was a bilateral dispute into a multilateral one.

“In the beginning,” the piece said, “the South China Sea dispute was not referred to any international or regional organization. But after the formation of ASEAN, Vietnam, the Philippines, and some other countries used it as a regional platform to coordinate their positions to ‘speak in one voice’

and gain strategic advantage against China. . . . [And] now the United States has jumped into the dispute.” The author went on to assert that China was at a disadvantage, “with only a small number of disputed islands under its control.” Also, “without a formidable navy . . . China is in an unfavorable position. To become an influential power, China has to transform from a ‘continental power’ to a ‘maritime power.’ And the South China Sea dispute is a real test for it to achieve that goal.”

NO ILLUSIONS

Then—US Secretary of Defense Robert Gates, at his valedictory appearance before the Shangri-la Dialogue, offered an alternative view on the South China Sea. “The US position on maritime security remains clear,” he said. “We have a national interest in freedom of navigation, in unimpeded economic development and commerce, and in respect for international law . . . [including] . . . equal and open access to international waterways.”

Gates described America’s continuing and growing security presence in East and Southeast Asia: “Taken together, all of these developments demonstrate the commitment of the United States to sustaining a robust military presence in Asia, one that underwrites stability by supporting and reassuring allies while deterring, and if necessary defeating, potential adversaries.”

In sum, the South China Sea is a strategic arena of growing significance and not inconsiderable danger. Viewed globally, an era in American strategy is ending as US forces begin their withdrawal from Iraq and Afghanistan. The next strategic era will surely have Asia at its center—the rapid growth of economic and military capability in that region makes it inevitable.

China constitutes the geographic and economic core of Asia, and China’s rising power and ambition will drive events and compel a response from other countries. The United States has long enjoyed dominance in the maritime domain. But Beijing’s growing naval and air capabilities seem clearly intended to challenge that dominance in the South China Sea and in the sea-lanes on Asia’s rim—and thereby challenge a vital American interest in freedom of the seas. The senior leadership of the US Pacific Command has no illusions regarding the dimension of the emerging challenge. ■

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