

DIALOGUE ON THE SOUTH CHINA SEA 5-6 November 2015

The South China Sea: Historical Perspectives and Implications

Discussants explored historical perspectives and their implications for the territorial disputes in the South China Sea. Attendees shared their research findings and insights about the navigation practices across the South China Sea in the 1st and 2nd millennia AD until the 15th century, based on historical documents and archaeological data. The historical basis of China's perspective on the South China Sea sovereignty claims were also discussed. To this end, the Chinese national archive was highlighted as an important source of historical evidence which shows China as first among the coastal states in the region to have claimed the sovereignty of maritime features such as rocks, reefs, islands and their adjacent waters in the South China Sea. On the territorial disputes between ASEAN claimant states and China over the South China Sea, one view was that the possible solution for the future settlement of these disputes was to take into account historical and legal factors.

The Interests and Role of ASEAN, China and Other Powers in the South China Sea

Another topic of discussion was how emerging challenges were threatening the stability of the China-ASEAN relations, despite ASEAN acting as an important buffer for China's strategic relationships and rivalries with the other major powers. These challenges included a growing perception in China of ASEAN's "ungratefulness" towards Chinese goodwill and ASEAN's resistance against China's desire to shape the regional order. However, panellists predicted that there would be no dramatic changes to China's policy in the near future as a fragmented ASEAN would be detrimental to China. Participants also discussed strategic-military perspectives on China's forward outposts in the South China Sea. Due to the South China Sea's central location in the middle of Southeast Asia, China was using it as a "boomer bastion" to underpin its defensive strategy. It was suggested that there was a need for China to closely examine its maritime and strategic interests to see where the South China Sea issue fit into its evolving naval strategy. While one perspective argued that it would be power and not law or diplomacy that would prove decisive in the resolution of the disputes, another perspective impressed on the utility and importance of arbitration as the best way forward to deal with the issue.

The 21st Century Maritime Silk Road and the South China Sea Disputes

It was also discussed how even though the Maritime Silk Road and other initiatives opened up a new wave of cooperation between China and ASEAN, the South China Sea dispute had the potential to derail this cooperation, and could setback the China-ASEAN relationship which had progressed so quickly and successfully since the early 1990s. Panellists opined that ASEAN claimant states, China, and ASEAN itself must regain the initiative on the South China Sea and should find ways to manage the dispute such that all parties could focus on economic development and cooperation. Discussants posited the theory that power politics governed the actions of all states, big or small, which made it difficult to evaluate if

the Maritime Silk Road would be successful. The Maritime Silk Road was in the initial stages of implementation but the reactions of small regional states as well as China would determine its success in the end. During the discussion, participants debated whether the Maritime Silk Road would promote cooperation or competition, the possible strategic dimensions of the initiative, and how it might affect the future international order. It was also discussed whether China-led initiatives like the Maritime Silk Road and the One Belt, One Road could be viewed a revival of the ancient Chinese tributary system.

International Law, including the Implications of the Permanent Court of Arbitration Decision on the Philippine Case

Participants exchanged views on the Permanent Court of Arbitration decision on the 29 October 2015 Philippines vs. China case, especially in terms of its implications on international law, the Chinese legal position towards the arbitration's proceedings, the jurisdiction and admissibility of its decision, and the implications of the USS Lassen's intrusion into the South China Sea. It was highlighted that the case had to be understood in the context of Annex VII of the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Panellists outlined procedural history, Chinese and Philippine arguments, the categories of maritime dispute, and its implications on arguments for the Freedom of Navigation (FON). Additionally, participants discussed the relevance of international law as a dispute settlement mechanism, in both territorial and maritime spheres of jurisdictions. What this arbitration case meant for other states involved in the dispute, and the legal basis of China's nine-dashed line was also debated.

Options for Cooperation: Dispute Management and Conflict Prevention

Panellists opined how even though there was an assumption that unintended circumstances could spark an escalation of the conflict in the South China Sea, this did not need to be the case. During the Cold War, for example, inadvertent events did not escalate into armed conflict. Discussants suggested working on restoring the ASEAN capability to act as a single voice and highlighted the importance of implementing the Code of Conduct to prevent further escalation of the conflict. Panellists pointed out that the Code of Conduct was in a serious phase of negotiations and suggested several ways to boost bilateral ties between China and the ASEAN countries to enhance cooperation and reduce conflict. These included direct telephone lines between militaries, exchanging officers for military training, China providing humanitarian assistance to ASEAN, joint patrol of the South China Sea and holding more academic dialogues. A final observation was made that it was essential for countries to use the rule of law to minimise conflict.