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China and the South China Sea Disputes: New Strategies Interspersed with Old Ones

By Lye Liang Fook [Guest Writer]

China and the four ASEAN countries of Vietnam, the Philippines, Malaysia and Brunei all have claims made to areas in the South China Sea (SCS). In recent years, the SCS issue has assumed a level of importance that has affected not only relations between China and the individual claimant states but also China's overall ties with ASEAN as a whole. While much has been written about the merits or demerits of the individual claims, very little has been devoted to the new strategies adopted by China on the SCS issue. These new strategies ought to be highlighted as they have a direct bearing on the course of the SCS disputes as well as efforts to conclude a Code of Conduct on the SCS which the new ASEAN Secretary General Le Luong Minh wants to move towards.

On the one hand, there are those who may regard these new strategies as confirmation of a more assertive and even aggressive China with regard to its claims in the SCS. On the other hand, one should not discount the possibility that these new strategies need not necessarily be viewed in an entirely negative light as they can lead to a positive outcome where China, the ASEAN claimant states as well as third parties realize the importance of better understanding and better communication with each other, and try serious to arrive at properly managing the SCS disputes.

RISING SALIENCY

In recent years, the SCS issue has become hotter due to the confluence of a number of factors. One of these are the submissions made by Malaysia and Vietnam in May 2009 to the Committee on the Limits of the Continental Shelf (established under the 1982 United Nations Convention on the Law of the Sea) to extend their continental shelf claims into an area in the SCS beyond 200 nautical miles from their coastlines. China objected to the submissions in a *Note Verbale* by asserting that it has “indisputable sovereignty over the islands in the SCS and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof”.

Where wording is concerned, it has been noted by several maritime law experts that China's assertion appears to be consistent with international law and the UNCLOS. But what has remained controversial is the infamous nine-dotted lines attached to the *Note Verbale* which seems to indicate that China is claiming the area within the nine-dotted lines as its territorial or historical waters. Such a claim would be contrary to the UNCLOS. China's unwillingness or unpreparedness to unequivocally clarify whether it stands by this extensive claim or is merely claiming the islands within the nine-dotted lines (and the maritime zones that could be extended from such islands) has continued to cast doubts on China's intentions and ambitions.

Another factor that has contributed to the saliency of the SCS issue was China's reported assertion that the SCS is a “core national interest”. The *New York Times* first reported Chinese officials as informing two senior US officials, National Security Council Asia Director Jeffrey Bader and Deputy Secretary of State James Steinberg, at a private meeting in Beijing in March 2010 that China considers the defense of its territorial claims in the SCS as a “core interest”. Separately, it was also reported elsewhere that China's State Councilor Dai Bingguo had told then Secretary of State Hillary Clinton in May 2010 during their Strategic and Economic Dialogue that China viewed its claims to the SCS as a “core national interest”. When these two accounts first appeared, it lent concerns that China was elevating the SCS to a level on par with Tibet, Taiwan and Xinjiang. So far, there has been no Chinese official acknowledgement or official document that describes the SCS as a core national interest. However, Chinese officials have publicly stated that the SCS holds very special interest for China.

Perhaps the single most important factor that has raised the saliency of the SCS issue especially in China's eyes is the US factor. China is irked not only by what it regards as unnecessary intervention on the part of the US in the SCS issue but also by the US perceived partiality in standing on the side of ASEAN claimant states. Chinese Foreign Minister Yang Jiechi mounted a robust defense against third-party intervention when Hillary Clinton remarked at the ASEAN Regional Forum in July 2010 that the US had a national interest in ensuring the freedom of navigation in the SCS. More recently, China reacted strongly to a US State Department press statement on the SCS issued in August 2012 that singled out

China's upgrading of the administrative level of Sansha city and the setting up of a military garrison there as running counter to collective efforts to resolve differences and risking the escalation of tensions in the region. China's foreign ministry spokesperson replied by accusing the US of ignoring the facts, and of sending a signal that was not conducive to efforts to safeguard the peace and stability of the SCS and the Asia-Pacific.

In particular, China regards the US reassertion of its role in Asia as emboldening ASEAN claimant states, especially the Philippines and Vietnam, to assert their SCS claims through various activities such as the continued awarding of contracts to foreign companies to conduct oil and gas surveys and exploration; the upgrading of existing military facilities; the rebuilding of old temples by dispatching monks; and calls on Japan to rearm itself and for other third parties such as India to be involved. On its part, the US appears keen to step up its military exchanges and collaboration with the Philippines and Vietnam, the two ASEAN states most active on the SCS issue. Whether there is actual collusion between the US and these claimant states on the issue is a moot point. In China's view, the SCS disputes have not only emboldened the ASEAN claimant states but also provided the US with a convenient platform on which to make itself directly and immediately relevant in an area of heightened concern to the claimant states.

CHINA'S NEW STRATEGIES

To be sure, China has continued to call for the SCS issue to be worked out between China and the ASEAN claimant states. Its constant refrain has been that China and ASEAN have enough "wisdom and capability to properly handle their territorial and maritime disputes". At the bilateral level, China had reached agreement with Vietnam on basic principles to guide the settlement of maritime disputes between them during Vietnamese President Nguyen Phu Trong's visit to Beijing in October 2011. Separately, China and the Philippines reiterated their commitment to address the SCS disputes through peaceful dialogue, during Philippine President Aquino's visit to Beijing in September 2011. While maintaining that the SCS disputes be addressed by the directly concerned parties, Beijing also adopted a number of new strategies in recent years.

One of these is the stepping up of efforts to conduct oil and gas explorations in the SCS including in areas disputed by the ASEAN claimant states. In the past, China had granted foreign companies rights to explore for oil and gas in undisputed areas of the SCS. For instance, in September 2010, Chevron China and BP China were given the green light to explore three deepwater oil and gas blocks (42/05, 64/18 and 53/30) in the SCS. However, in May 2011, in a departure from past practice, the 19 offshore blocks put up by China National Offshore Oil Company (CNOOC – China's largest oil and gas company) for joint exploration with foreign companies, included an area disputed by Vietnam (particularly block 65/24). Going even further, in June 2012, the nine offshore blocks that CNOOC

put up for joint exploration with foreign companies again included an area that Vietnam asserts is not even a contested area but deep inside its Exclusive Economic Zone. China's unveiling of its first indigenous deep water drilling rig in the SCS in May 2012 provides another avenue for China to engage in a more direct and intense competition with the ASEAN claimant states.

Another new strategy that China has adopted is to step up its harassment and even disruption of foreign vessels that carry out seismic surveys, oil explorations or fishing in the SCS. In March 2011, the Philippines complained of harassment of its oil exploration vessels by Chinese patrol ships off Reed Bank (located 50 miles from the Philippine province of Palawan). In the same year, there were other incidents reported where the Philippines claimed that its fishermen were fired upon by Chinese ships; of "foreign markers" being installed on Boxall Reef, Amy Douglas Bank and Reed Bank claimed by both the Philippines and China; and of Chinese surveillance ship intrusions into a new part of the Spratly islands, which are disputed with the Philippines. Likewise, Vietnam reported that a Chinese maritime surveillance ship intentionally cut a submerged cable towed by its seismic survey vessel in its waters in May 2011.

Furthermore, China has become more adept at using administrative and legal measures to assert its claims in the SCS. In response to Vietnam passing a law in June 2012 that categorized the Spratly and Paracel Islands as falling within Vietnam's sovereignty and jurisdiction, China raised the administrative level of Sansha from a county-level to a prefectural-level city with the authority to administer the Spratly, Paracel and Zhongsha Islands and their surrounding waters. A ceremony to mark the official establishment of the city was even held with great fanfare in July 2012. Going further, the Hainan authorities (which administers Sansha city) passed legislation in November 2012 that authorizes its border police to board and turn back foreign ships illegally entering the province's waters. These waters, Chinese authorities later clarified, refer to a 12-nautical-mile zone of the surrounding islands claimed by China. The main purpose of the legislation was apparently to police Vietnamese fishing boats operating in waters off the Paracels.

Perhaps, even more significantly, is China's resolve to go to the hilt in challenging the claims made by the ASEAN states. China has shown that it is prepared to up the ante and apply a host of measures ranging from political and diplomatic pressure to increasing its naval assets and even applying economic means to force the other party to back down. One would recall that the Scarborough Shoal incident started rather innocuously in April 2012 when Philippines naval authorities tried to arrest several Chinese fishermen for allegedly poaching for sharks and collecting rare clams and corals in the area. Two Chinese maritime surveillance ships then intervened to prevent the arrest. This sparked a standoff that lasted for several weeks, involving a number of Chinese marine surveillance and fishery administration ships on the one hand and the Philippines navy and coast guard vessels on the other hand.

At the political and diplomatic level, both sides continued to trade barbs. In May 2012, Chinese Vice Foreign Minister Fu Ying reportedly said that China was not optimistic about the situation concerning the Huangyan Island as the Philippine side had continued to send government vessels to the island and repeatedly made “erroneous remarks” which had misled the Philippine public and the international community. She reportedly added that China was fully prepared to respond to anything the Philippine side did to escalate the situation. Both sides subsequently reached an agreement to withdraw their ships from the area in June 2012. While the Philippines has complied, the Chinese side has apparently not yet done so.

In a clear departure from past practice, China upped the stakes to force the Philippines to back down from its claims to Scarborough Shoal. It tightened the economic screws on the Philippines, short of imposing economic sanctions. In May 2012, China's top quality watchdog, the General Administration of Quality Supervision, Inspection and Quarantine ordered stricter inspections on fruit imports from the Philippines after harmful organisms were reportedly found in several shipments. In particular, Filipino banana exports were held up at Chinese customs for prolonged inspections. Furthermore, at around the same time, China National Tourism Administration also advised Chinese nationals not to visit the Philippines due to safety concerns.

WHITHER CHINA'S NEW STRATEGIES

On the surface, these new strategies seem to show that China has become more assertive and even aggressive. She appears ready to use a gamut of measures to not only meet competing claims from ASEAN claimant states head-on, but also to force these states to back down. While there may be some truth to this view, especially among proponents of the China threat theory, this picture of a China hell-bent on regional domination of its much smaller neighbors on the SCS is not entirely accurate.

There is a prevailing view that a power that is in relative decline such as the US may feel insecure vis-à-vis a rising power such as China. Yet, the same could be argued that a power that is on the rise such as China may have a similar sense of insecurity vis-à-vis a still dominant power such as the US. This sense of insecurity on the part of China could be attributed to a number of factors and chief among them, as mentioned above, is the US reassertion of its role in Asia and what this reassertion implies for a China that already has multifaceted ties with countries in the region.

In particular, China is uncomfortable with the apparent military-centric role of the US in Asia. It has cited the US plans to shift the bulk of its naval assets to the Asia-Pacific by 2020 and its strengthening of military exchanges and ties with Japan, South Korea, Australia, New Zealand, the Philippines and Vietnam as concrete evidence – as opposed to empty denials – that the US pivot is directed at restraining, if not containing, China's

rise. On their part, the ASEAN claimant states, in China's eyes, seem also to have been emboldened by the US reassertion of its influence in Asia to more actively press their SCS claims vis-à-vis China.

Thus the new strategies adopted by China on the SCS can be read as a determined Chinese response to defend its interests in the SCS in the face of more active claims by the ASEAN claimant states made against the backdrop of US reassertion in the region. Such a response should not readily be construed by others as China simply wanting to be more assertive or aggressive. There could equally be a defensive element in this response. China, by showing its readiness to up the stakes in the SCS, could be highlighting to the ASEAN claimant states the high stakes involved if they were to allow the SCS to become the sole issue dictating relations between China and them. China may also intend to register to the US the importance for it to tread cautiously on the SCS issue and not to be partial with regard to individual claims. There may well be a silver lining in all of this in that it could lead the various parties, i.e. China, the ASEAN claimant states and third parties such as the US, to focus on promoting better understanding and better communication with each other, with a view to properly manage the SCS disputes and to prevent them from getting out of hand.

Finally, it is necessary to set the SCS issue in the overall scheme of things that the Chinese leadership, still in transition as a new set of government leaders will be elected this coming March, have to grapple with. The domestic agenda still remains China's foremost priority. China faces a number of pressing domestic challenges that call for urgent attention and immediate action including curbing rampant corruption especially at a high level, addressing the widening urban-rural divide and the growing income gap, maintaining a more balanced economic growth model, and ensuring greater constitutional protection of individuals and even pushing ahead with political reforms. If not handled well, each of these issues has the potential to cause socio-political instability that would threaten the ruling Chinese Communist Party's hold on power. China's SCS claims, while important, is clearly secondary to this domestic preoccupation. Moreover, they constitute only one dimension of China's broad foreign policy orientation of engaging a multitude of countries and regional as well as international institutions to maintain a conducive external environment to sustain China's domestic progress.

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Lye Liang Fook is Assistant Director and Research Fellow at the East Asian Institute of the National University of Singapore. The views expressed here are entirely his own and do not in any way represent those of the institute.

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Editor: Ooi Kee Beng

Institute of Southeast Asian Studies
30, Heng Mui Keng Terrace
Pasir Panjang,
Singapore 119614
Main Tel: (65) 6778 0955
Main Fax: (65) 6778 1735

Homepage: www.iseas.edu.sg