



**S. RAJARATNAM SCHOOL
OF INTERNATIONAL STUDIES**
A Graduate School of Nanyang Technological University

RSIS COMMENTARIES

RSIS Commentaries are intended to provide timely and, where appropriate, policy relevant background and analysis of contemporary developments. The views of the authors are their own and do not represent the official position of the S.Rajaratnam School of International Studies, NTU. These commentaries may be reproduced electronically or in print with prior permission from RSIS. Due recognition must be given to the author or authors and RSIS. Please email: RSISPublication@ntu.edu.sg or call 6790 6982 to speak to the Editor RSIS Commentaries, Yang Razali Kassim.

The South China Sea: When the Elephants Dance

Sam Bateman

16 August 2010

The situation in the South China Sea has deteriorated recently. The three key players -- China, the United States and Vietnam -- can all accept some responsibility for the deterioration and should now mediate their differences.

Deterioration in the Sea

THE SOUTH CHINA SEA has long been a vexed issue. While China, Taiwan and Vietnam each claim sovereignty over all the islands and reefs of the sea, Brunei, Malaysia, and the Philippines claim some of the Spratly islands. These conflicting claims cause problems both within ASEAN and between ASEAN countries and China. The Declaration on Conduct of Parties in the South China Sea (DOC) agreed between ASEAN and China in 2002 was a significant achievement that has helped to keep the situation in control.

However, the situation has deteriorated recently. Three key players have emerged – China, the United States, and Vietnam. These are now the “elephants” of the South China Sea whose dancing around disturbs the stability of the region and worries other regional countries. When elephants are dancing, smaller creatures can get trampled; in this case, the smaller creatures are the other Southeast Asian countries.

China and Vietnam become “elephants” due to the extent of their sovereignty claims, recent assertive actions, and the growing tension between them. The claims by China and Vietnam to all the features of the sea are the most intractable aspect of the sovereignty disputes.

The United States is the new bull “elephant” in the South China Sea through its status as a global power with important regional interests. It has declared a “national interest” in preserving freedoms of navigation through the South China Sea. US Secretary of Defence Gates stated at the 2010 Shangri-La Dialogue that the US is not taking sides with the sovereignty claims but opposes any action that

threatens freedoms of navigation.

Origins of the Current Situation

Two events are the initial “triggers” of the current situation. The first was the incident in the South China Sea in March 2009 when the United States ocean surveillance vessel USNS *Impeccable* was harassed by Chinese vessels in an area south of Hainan. China claimed the operations of the *Impeccable* were marine scientific research requiring Chinese consent, and were prejudicial to the defence and security of China. The US, on the other hand, argued strongly that the operations were a legitimate freedom of navigation available to other states in a country’s exclusive economic zone (EEZ).

This incident became one “trigger” for the present situation because it increased the sensitivity of China to US operations in the South China Sea and alarmed the US. On the US side, it demonstrated a possible Chinese threat to the freedoms of navigation and overflight. The US interest in these freedoms in the South China Sea is mainly associated with military ships and aircraft. There seems little doubt about their availability to commercial shipping. China has stated on several occasions that it respects general freedoms of navigation and overflight in the South China Sea.

The second incident leading to the present situation is the joint submission by Malaysia and Vietnam in May 2009 to the Commission on the Limits of the Continental Shelf (CLCS). This amounted to a claim by these countries to the resources of the entire southern part of the China Sea. This was highly provocative to China. Predictably there was a furious response with China protesting that the submission “seriously infringed China’s sovereignty, sovereign rights and jurisdiction in the South China Sea”. As the CLCS will not consider submissions relating to an area subject to a sovereignty dispute, the submission by Malaysia and Vietnam may be seen as a political gesture that only served to inflame the situation.

Next Steps

All three “elephants” should accept some responsibility for the current situation. They need to mediate their differences and pursue preventive diplomacy initiatives. China and the US should ensure that their differences in Northeast Asia, including over Taiwan, do not spill over into Southeast Asia. They should more actively pursue dialogue to reach a common understanding on issues of the law of the sea, including a common understanding of the rights and duties of states in an EEZ. They might reactivate their Military Maritime Consultative Agreement to manage incidents such as that involving the USNS *Impeccable* safely. They should also avoid “tit for tat” naval exercising in the area.

China and Vietnam, as well as other claimant countries, should closely observe the spirit of the DOC and endeavour to expand it into a binding code of conduct. China should remove the ambiguity associated with its ubiquitous U-shaped line claim in the area, and clarify just what precisely it claims in the South China Sea. The U-shaped line extends south nearly to Indonesia’s Natuna Islands and encloses even Louisa Reef off Brunei. It has been variously referred to by China as its “historic waters”, an EEZ covering the entire South China Sea, or simply as the geographical limit of features claimed by China in the sea.

The recent incident involving a Chinese patrol vessel forcing the release of a Chinese fishing vessel arrested by an Indonesian patrol boat for fishing in Indonesia’s EEZ, shows the problems that can arise. While this incident may have occurred within China’s U-shaped line, it was clearly within Indonesia’s EEZ as established by the boundary agreement with Vietnam. That agreement has never been protested by China.

More Carrots than Sticks

The US could also contribute more constructively to the situation. Rather than wielding a big “stick” with naval exercises and operations, it could bring more “carrots” to the scene by offering skills and expertise to help manage the marine environment, resources and safety at sea. This suggests a role for the US Coast Guard and other national agencies rather than one for the US Navy.

The ultimate tragedy of the South China Sea is that while the sovereignty problems are unresolved and the present situation continues, the sensitive marine environment of the sea is not being protected, marine habitats are being destroyed, fish stocks are being over-fished, and cooperation for good order at sea and marine safety is lacking. All stakeholders in the South China Sea should act to redress this situation and institute effective arrangements for functional cooperation to deal with these important issues.

Sam Bateman is Senior Fellow in the Maritime Security Programme at the S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University. He is a former Australian naval officer with a research interest in the law of the sea and maritime sovereignty disputes.