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Increasing competition in the South China Sea – Need for a new game plan

By Sam Bateman

Synopsis

Increasing competition in the South China Sea between China and the United States and others makes management regimes more difficult. A more cooperative arrangement is required to stop the situation worsening.

Commentary

INCREASING COMPETITION is evident in the South China Sea between China on the one hand, and the United States, the Philippines and Vietnam on the other. This competition makes the development of effective regimes for managing the sea and its resources more difficult.

Earlier this month, the US State Department issued a comprehensive statement on the US position in the South China Sea. Unsurprisingly, China responded shortly afterwards with a robust statement strongly condemning the US position.

This exchange is yet another demonstration of the game of “tit for tat” in the South China Sea - one player replies to another player’s action and the other player responds in turn. Unless the players demonstrate some common interest and mutual understanding, the game can spiral out of control, leading to a “lose-lose” outcome.

None of this is helpful for regional stability, or for the development of effective regimes for managing the sea and its resources. These regimes are becoming even more necessary as competition for marine resources increases, shipping traffic grows, and there is further degradation of sensitive marine habitats.

The US and China

While the US pivot towards Asia has been welcomed in the region, it is equally true that most Southeast Asian countries are apprehensive about growing tensions between China and the US. They don’t like the way great power politics have intruded into the region.

US initiatives, such as the projected deployment of Littoral Combat Ships (LCS) to Singapore, increased naval

exercises in the region, naval assistance to the Philippines, public articulations of the aggressive AirSea Battle concept, and a growing defence relationship with Vietnam, inevitably provoke responses from China. They have the unfortunate consequence of fuelling the arguments of the more aggressive military planners in Beijing.

As Henry Kissinger pointed out in his book *On China*, the game of wei qi (or “Go”) and the fear of strategic encirclement play a key role in Chinese strategic thinking. The South China Sea is of great strategic importance to China; accordingly the US initiatives there can only be seen in Beijing as part of a US plan to contain China. The entry of India into the South China Sea adds to this appreciation.

While the US claims to take no side in the sovereignty disputes in the South China Sea, recent American initiatives look like it has taken sides. This is how the US position can be viewed in the streets of Beijing, Hanoi and Manila. US engagement has had the unintended consequence of boosting nationalistic fervour in all three capitals.

China and Vietnam

A similar game of “tit for tat” is evident in relations between China and Vietnam. In June Vietnam’s National Assembly passed a new maritime law that included a clear statement of Vietnamese sovereignty over insular features of the South China Sea.

This action was highly provocative to China. China’s subsequent release of oil concession blocks off the coast of Vietnam and recent moves to establish Sansha City and a military garrison in the Paracels were likely responses to this Vietnamese provocation.

Who is to blame?

Most Western media comment on developments in the South China Sea put the blame on China for acting assertively and provoking retaliation. However, in most recent instances, it has been China that has been provoked first by actions of another party. This was the case in recent developments between China and both Vietnam and the US. It was also the case in 2009 when Vietnam and Malaysia lodged their joint submission for an extended continental shelf in the South China Sea, effectively claiming all mineral resources of the southern part of the sea as their own.

Putting the blame on China overlooks a basic consideration with the sovereignty disputes in the South China Sea: that China’s sovereignty claims there are at least as good as the claims of other parties. This is the objective opinion of many independent international lawyers. For example, in a substantial paper in 1999, the late Professor Christopher Joyner, Director of Georgetown University’s Institute for International Law and Politics, found no strong legal support for any of the claims. He noted, however, that China’s case was “well documented” while the Vietnamese case had major weaknesses as did the Philippine and Malaysian claims.

What is needed

The game of “tit for tat” in the South China Sea benefits nobody and has to end. Diplomacy by all parties has been ineffective so far in improving the situation. The US and China are not working well together. ASEAN is divided, and the lack of support within ASEAN has driven Hanoi and Manila towards the US.

Attempts to define “areas of dispute” are futile. Even the search for a Code of Conduct will not succeed if it places emphasis on dispute resolution and concessions on sovereignty as confidence-building measures rather than on cooperation. Cooperation must be put back on the agenda. This is an obligation of all parties under the 1982 UN Convention on the Law of the Sea (UNCLOS), but this obligation has been overlooked in recent years.

A cooperative management regime is required based on a functional approach that exploits the common interests of claimant countries. A first step would be to set up a management body for the South China Sea comprised of all bordering countries. ASEAN and China should negotiate the establishment of such a body. The US can bring the “carrots” of experience in oceans management to the table rather than the “sticks” of increased military engagement.

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