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## **China's Conflicting Signals on the South China Sea**

*By Barry Desker*

### **Synopsis**

*China's position on the South China Sea disputes has been conflicting, if not confusing. Its grand plan to expand cooperative ties with countries along the "One Belt, One Road" initiative could be undermined by its aggressive posture on the South China Sea.*

### **Commentary**

On 8 JULY 2015, the International Court of Arbitration in The Hague began deliberations on whether it had the jurisdiction to resolve the dispute between the Philippines and China on the exploitation of maritime resources in the South China Sea, where there were overlapping maritime territorial claims. The Philippines argues that the Court is the correct venue for the proceedings. China does not recognise the Court's jurisdiction and claims that the dispute is about sovereignty, not the exploitation of resources.

The Chinese unwillingness to consider third party arbitration has had a negative impact on negotiations on the early conclusion of the Code of Conduct (COC) in the South China Sea. While lip service has been paid to the need for an early conclusion to the negotiations and 'early harvest' initiatives have been discussed, progress has been slow. The negotiations have reminded observers that it took 10 years (from 2002 to 2012) for movement from agreement on the Declaration on the Code of Conduct (DOC) and the onset of negotiations on the COC between ASEAN and China. The worry is that the COC would take a decade or more of negotiations before agreement is reached.

### **China's two-track approach**

The 17th ASEAN/China Summit in Nay Phi Taw, Myanmar, on 13 November 2014, agreed on "the implementation of early harvest measures, including the adoption of the first list of commonalities on COC consultation, the establishment of a hotline platform among search and rescue agencies, a hotline among foreign ministries on maritime emergencies, and a table-top exercise on search and rescue to promote and enhance trust and confidence in the region."

The commonalities re-stated principles on the South China Sea that had been covered in the 2002 Declaration. The Chinese initiated discussion of these issues, resulting in some concern within ASEAN that China's focus on commonalities and search and rescue (SAR) issues could facilitate China's de facto control of the South China Sea as issues where differences existed were avoided.

At the Summit, Chinese Premier Li Keqiang advocated a “dual track” approach, with disputes to be addressed by the countries directly concerned through negotiation and consultation based on historical facts, international law and the DOC while ASEAN and China worked together to uphold peace and stability in the South China Sea through the implementation of the DOC and consultations on the COC. The Chinese approach effectively ruled out third party arbitration or mediation in resolving competing maritime territorial claims.

One consequence of the Chinese strategy has been to increase the centrifugal tendencies within ASEAN on South China Sea issues. Among the claimant states, the Philippines and Vietnam have adopted firm positions towards China and have resisted creeping Chinese moves to establish de facto control. Malaysia and Brunei have generally ignored the increasing presence of Chinese navy, coast guard and fisheries protection vessels in waters claimed by them (although Malaysia has taken a firmer position at meetings with China in recent months).

Indonesia has publicly stated that there are no overlapping claims with China, despite regular Chinese patrols in Indonesian-claimed waters north of the Natuna archipelago. Singapore is not a claimant state and is neutral on the overlapping claims but has pushed hard for the establishment of a framework which would facilitate the settlement of these claims.

Cambodia has been sympathetic to Chinese efforts to downplay the issue, preventing the inclusion of any reference to the South China Sea disputes when it hosted the ASEAN Ministerial Meeting in July 2012, which resulted in the failure to issue a communique for the first time in ASEAN's history. In subsequent internal ASEAN discussions, Cambodia has adopted pro-Chinese perspectives on the issue.

Thailand, Laos and Myanmar regard ASEAN's efforts to shape a settlement of these conflicting claims as a distraction which undermines efforts to build shared interests between China and ASEAN, especially on economic cooperation and development issues. These states on mainland Southeast Asia would be amenable to adopting the Chinese approach to future discussions of maritime territorial claims in the South China Sea.

### **ASEAN's fragile unity**

ASEAN unity on South China Sea issues is therefore fragile. As decisions within ASEAN are reached by consensus, China's co-option of Cambodia in internal ASEAN debates on this subject and the low stake of Thailand, Laos and Myanmar highlight the risk that future Ministerial Meetings and even ASEAN Summits could be held hostage to lowest common denominator agreements. China's interests would be protected while fissures within ASEAN are exposed.

This led to a shift in attitudes among some ASEAN countries towards the United States, which is seen as the only power capable of balancing China. At the US/ASEAN Summit in November 2014, President Obama called for restraint by all parties, whether it is framed as a “moratorium” or as “implementation of paragraph 5 of the DOC” - an intervention which is regarded by China as external interference in a matter to be decided by regional states.

Within Southeast Asia, Vietnam and the Philippines have moved closer to the United States. In a ground-breaking visit, General Secretary of the Communist Party of Vietnam Nguyen Phu Trong visited the United States from 5-10 July and met President Obama. While Vietnam's trade and economic linkages with China have sharply increased, its political and diplomatic ties with the US have shifted from mutual suspicions in the aftermath of the Vietnam War to an emerging partnership.

These developments have been highlighted by Vietnam's participation in the Trans-Pacific Partnership (TPP) negotiations and its support for a larger role in regional affairs by the US, which it regards as a Pacific power. Similarly, the Philippines has moved from instigating the withdrawal of American forces from Clark airbase and Subic naval base in 1992 to renewed military ties, including the signing of a ten-year Enhanced Defence Cooperation Agreement (EDCA), status as a major non-NATO ally and strong support for the US re-balancing of its security interests with a pivot to Asia.

These reactions are a reminder that China's ambitious plans to expand cooperative ties with ASEAN

states could be undermined by the worsening of relations because of conflicting claims in the South China Sea.

### **China's wooing of ASEAN at risk**

During his visit to Indonesia in October 2013, Chinese President Xi Jinping called for a 21st Century Maritime Silk Road aimed at developing a maritime partnership with ASEAN. Xi launched China's initiative to establish the Asian Infrastructure Investment Bank (AIIB) with registered capital of US\$100 billion. Eventually, 50 founding member states, including American allies like the United Kingdom, Germany, France and Italy, signed the Articles of Agreement to establish the Bank in June 2015. Japan followed the US in staying out of the new institution, ostensibly because of concerns with governance issues.

President Xi also pushed for joint investment in the construction of ports, the development of logistics services and the building of roads and railways to enhance connectivity between ports and the hinterland as well as technical and scientific cooperation in environmental issues. These proposals reflect China's infrastructure-driven economic development model and would provide expanded opportunities for China's world-class infrastructure companies.

Xi's initiative in Jakarta tied in well with Indonesian President Joko Widodo's plans to upgrade Indonesia's maritime infrastructure and have been welcomed in the region. ASEAN states strongly supported the AIIB proposal despite active American opposition as the AIIB was seen as helping to overcome the shortfall in infrastructure financing in the region.

The slogan 'One Belt, One Road' underpins Chinese plans for a New Silk Road linking Central Asia to Europe as well as the Maritime Silk Road linking East Asia to the Middle East and Europe. These initiatives were aimed at promoting trade, creating investment opportunities and developing infrastructure networks. At the October 2014 APEC Leaders' Meeting, President Xi announced a US\$40 billion Silk Road fund to invest in infrastructure and natural resource development.

### **Continuities in Chinese strategic planning**

The two silk road proposals draw attention to continuities in Chinese strategic planning as well as changes reflecting emerging risks. China has historically focused westwards towards Central Asia, the source of land-based threats to Chinese regimes. However, today the primary risk westwards lies in support for Uighur separatism by their co-religionists speaking similar Turkic dialects and demands for the independence of Tibet. These two threats are primarily domestic and containable, even though there is a worry that groups such as Islamic State may incorporate Uighur nationalism within their Islamic radical framework for a global jihad.

On the other hand, as Chinese power rises, Chinese policy makers recognise that the only power with the capacity to threaten Chinese interests is the US, the sole superpower, and its web of alliance relationships. Since the Second World War, the US has successfully projected its military power abroad because of its command of naval and air power while its economic capabilities have underpinned its superpower role.

This has resulted in a Chinese re-balancing with a tilt eastwards towards the Pacific. In the decade ahead, there will be a strengthening of Chinese air and sea defence capabilities and a growing emphasis on building closer economic and political ties with the littoral states on the Maritime Silk Road. The contentious handling of China's South China Sea maritime territorial claims may therefore undermine the political alliances and partnerships which China wants to foster with states in the region.

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