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## **Hardening Positions over Dangerous Grounds: Recent Developments in the South China Sea Dispute**

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CSIS Conference on Maritime Security in the South China Sea  
June 20-21, 2011, Washington D.C.

In the first six months of 2011, tensions generated by territorial and maritime boundary disputes in the South China escalated to a point not seen since the end of the Cold War, surpassing even the 1995 Sino-Philippine crisis over Mischief Reef. This troubling state of affairs has been provoked by a combination of factors, including increasing competition over maritime resources (principally crude oil, natural gas and fish) and because the claimant countries appear more determined than ever to assert their sovereignty and sovereign rights claims. Meanwhile, as regional states modernize their armed forces and strengthen their garrisons on occupied islets, negotiations between ASEAN and China to implement confidence building measures (CBMs) contained in the 2002 Declaration on the Conduct of Parties in the South China Sea (DoC) have lost traction, possibly rendering the agreement inutile. Moreover, the emerging geopolitical competition between the United States and China in Southeast Asia, especially in the maritime domain, has further complicated the dispute. While all parties have emphasized their commitment to peace and stability in the South China Sea the three principal protagonists —China, Vietnam, and the Philippines— have hardened their positions. Most worryingly, Beijing's increasingly aggressive tactics are exacerbating tensions and fueling instability, significantly raising the risk of an armed confrontation at sea either by accident or design. This paper assesses recent developments in the South China Sea and the positions of the three major players: China, Southeast Asia, and the United States.

### **China: The Friendly Elephant Runs Amok**

As in other parts of the world, Chinese diplomacy in Southeast Asia suffered a series of setbacks in 2010. Although the ASEAN states continued to position themselves to take advantage of China's growing economic primacy in Asia, anxiety levels were raised due to Beijing's increasingly strident nationalism, growing military muscle, and

more assertive behavior in the South China Sea. In concert with the United States, a number of Southeast Asian countries took the unprecedented step of articulating their concerns at the ASEAN Regional Forum (ARF) in July and then again at the inaugural ASEAN Defense Ministers' Meeting Plus (ADMM-Plus) in October, both of which took place in Hanoi. Having expressed their dissatisfaction at Chinese truculence, the expectation was that Beijing would reassess and then recalibrate its approach to the South China Sea disputes.

Beijing clearly took note of these concerns, and since January senior Chinese leaders have sought to soothe Southeast Asians through a revitalized "charm offensive". In January Chinese Foreign Minister Yang Jiechie met with his ASEAN counterparts in Kunming; in late April Premier Wen Jiabao paid visits to Malaysia and Indonesia; and in June General Liang Guanglie became the first Chinese defense minister to attend the annual Shangri-La Dialogue in Singapore. Yang, Wen, and Liang used these opportunities to reemphasize the central themes of China's foreign and defense policies: peaceful rise, good neighbourly policies, no hegemonic ambitions, and a defensive defense policy. Specifically on the South China Sea problem, Chinese officials have reiterated their continued support for the DoC, non-use of force to resolve the dispute, respect for freedom of navigation, and desire to engage with the other claimants in joint development of maritime resources. At Shangri-La, General Liang said that China was committed to maintaining "peace and stability" in the area, was "actively keeping dialogues and consultations" with ASEAN on implementing the DoC, and described the overall situation as "stable".<sup>1</sup>

While welcoming China's rhetorical commitment to peace and stability, Southeast Asian officials have been perplexed and alarmed at the disconnect between Beijing's words and actions in the South China Sea since the beginning of the year, and especially in the period March to June. Indeed recent incidents point to a disturbing trend: China has moved from being assertive in 2010 to being aggressive in 2011. Three sets of incidents illustrate China's evolving tactics.

First, vessels belonging to the civilian maritime agency China Marine Surveillance (CMS), as well as Chinese fishing trawlers, have been used to deter energy companies from undertaking exploration work in the South China Sea, even in areas within their legitimate 200 nautical miles exclusive economic zones (EEZ). On March 3, two CMS vessels harassed the Philippine-chartered MV Veritas Voyager near Reed Bank (west of Palawan Island) forcing it to withdraw.<sup>2</sup> On May 26 CMS

vessels deliberately cut cables towing seismic survey equipment behind the PetroVietnam vessel Binh Minh 02 which was operating within Vietnam's EEZ. On June 9 a specially-equipped Chinese trawler severed the cables of another Vietnamese-chartered survey ship, Viking 2. At the Shangri-La Dialogue, Vietnamese Defense Minister Phung Quang Thanh revealed that similar incidents had occurred in 2010. The Chinese government has called on Southeast Asian countries to halt exploration activities "where China has its claims".<sup>3</sup>

Second, China has tightened enforcement of its annual unilateral fishing ban in northern areas of the South China Sea (which this year runs from May 16 to August 1) and has detained dozens of Vietnamese fishing boats. Moreover, in an apparent attempt to enforce fishery jurisdiction claims further south, PLA-Navy and CMS vessels reportedly fired warning shots at Filipino fishing boats near Jackson atoll on February 25 and at Vietnamese trawlers on June 1.<sup>4</sup>

Third, between May 21 and 25 —the exact same period when General Liang was in Manila and agreeing with his Filipino counterpart Voltaire Gazmin that both sides should avoid "unilateral action which could cause alarm"<sup>5</sup>— Chinese ships unloaded construction materials at Amy Douglas Reef in the Philippines' EEZ and possibly planted markers on Reed Bank and Boxall Reef.<sup>6</sup> As the DoC specifically calls on the parties not to "inhabit" unoccupied geographical features, these incidents represent the most serious breach of the agreement to date.

China has brushed aside accusations by Manila and Hanoi that its actions have not only violated their sovereign rights, but also the United Nations Convention on the Law of the Sea (UNCLOS) and the DoC. Instead, Chinese officials maintain that they are part of its "exercise of jurisdiction" in the South China Sea and that "economic activities conducted by Chinese enterprises in waters under Chinese jurisdiction are completely normal".<sup>7</sup>

What accounts for Beijing's more aggressive behavior? There are a number of possible explanations. First, China sees itself as the aggrieved party. Beijing maintains that while it has adhered to the DoC's central principals, Vietnam and the Philippines have repeatedly violated the agreement by undertaking unilateral actions such as sponsoring oil and gas exploration activities. Furthermore, by "plundering" maritime resources, these countries have been "harming" China's sovereign rights and economic interests.<sup>8</sup> As China's dependence on crude oil imports deepens —55 per cent in 2010, up from 52 per cent a year earlier— the energy security dimension of

the South China Sea dispute becomes even more pronounced as Beijing seeks to exploit hydrocarbons closer to home.<sup>9</sup> But even as Beijing warns Southeast Asian countries to stop exploration work in their own EEZs, Chinese energy corporations are investing in advanced deepwater drilling technology to gain access to untapped energy deposits in the South China Sea. CNOOC, for instance, plans to invest US\$30 billion in its South China Sea operations over the next two decades in an effort to transform the area into a “new Daqing”.<sup>10</sup> In addition to the accusation that Southeast Asian claimants are misappropriating maritime resources, China has also criticized certain ASEAN members for “internationalizing” the dispute by raising the issue at regional security forums such as the ARF and encouraging US “meddling” which “complicates” the problem.<sup>11</sup> China maintains that the territorial disputes in the South China Sea should be resolved bilaterally and should not be referred to multilateral forums, a formula that strengthens its hand vis-à-vis smaller countries.<sup>12</sup> Second, the modernization of the Chinese Navy, together with the expansion of the CMS, increasingly provides Beijing with the tools to apply coercive pressure against the other claimants.

Third, following statements of concern issued by Secretary of Defense Robert Gates and Secretary of State Hillary Clinton in 2010 regarding rising tensions in the South China Sea (of which more later), Beijing maybe testing America’s resolve and watching to see how Washington will respond. And finally, in the run-up to the change of Chinese leadership at the 2012 Chinese Communist Party (CCP) Congress, no Chinese leader can appear to be weak on the ultrasensitive issue of sovereignty, and the PLA maybe taking advantage of this to press home gains in the South China Sea.

### **Southeast Asia: Mounting Criticism of China**

Growing friction in the South China Sea over the past year has brought into sharper relief the consequences of ASEAN and China’s failure to effectively implement the DoC over the past 9 years. The agreement, a non-binding document without sanctions, is designed to freeze the status quo in terms of the number of atolls presently occupied, and mitigate tensions and foster trust through the application of cooperative confidence building measures (CBMs). The DoC calls on the parties to

“exercise self restraint in the conduct of activities that would complicate or escalate disputes”. Talks between ASEAN and China aimed at putting the agreement into effect have been disappointing, to say the least. It was not until 2006 that ASEAN and China agreed to establish a Joint Working Group (JWG) to draw up guidelines to implement the DoC. The JWG has met infrequently (only 6 times) since then and talks are currently stalled because, as noted, China prefers a bilateral approach to the problem and objects to ASEAN officials consulting with each other before meeting with their Chinese counterparts.

As negative trends have accelerated, there have been growing calls from within ASEAN to speed up the implementation process and frame a formal Code of Conduct (CoC) as envisaged by the DoC. Foreign Minister Marty Natalegawa of Indonesia—the current Chair of ASEAN—has on several occasions this year expressed his frustration at the lack of progress and the urgent need for a breakthrough.<sup>13</sup> ASEAN defense ministers seem to be in agreement on the need to press forward lest the situation become even tenser. At the 5<sup>th</sup> ASEAN Defence Ministers’ Meeting (ADMM) in May, the Joint Declaration reaffirmed ASEAN’s commitment to “fully and effectively implement the [DoC] and to work towards the adoption of a regional Code of Conduct”.<sup>14</sup> Vietnamese Defense Minister Thanh and his Malaysian counterpart called for the effective implementation of the DoC at the Shangri-La Dialogue in June, while Philippine Foreign Secretary Alberto del Rosario has argued that a CoC would “concretely express our collective goal for rules-based actions by all parties concerned”.<sup>15</sup> ASEAN Secretary-General Surin Pitsuwan has called for the “full implementation” of the DoC by the 10<sup>th</sup> anniversary of its signing in 2012, but given the obstructionist tactics of China, and foot dragging by certain ASEAN members, there is little cause for optimism that this target will be achieved. The DoC has been characterized as being on life support: China’s seeming intent to occupy Amy Douglas Reef in May could well have pulled the plug on it.

One of the Southeast Asian claimants, Malaysia, has taken a relatively relaxed view of the current situation in the South China Sea, at least officially. At the Shangri-La Dialogue, Malaysian Prime Minister Najib Razak sounded remarkably upbeat considering the spike in tensions. Delivering the conference’s keynote speech, he declared that Malaysia did not feel threatened by China; that the modernization of the PLA should not cause “undue alarm”; that overlapping territorial claims in the South China Sea had been “managed with remarkable restraint”; and that he was optimistic

that ASEAN and China would “soon” be able to agree on a CoC to replace the DoC.<sup>16</sup> Prime Minister Najib’s soothing words were hardly surprising: since the early 1990s it has been official policy in Malaysia to downplay the negative strategic implications of China’s rising power, even as the Malaysian Armed Forces prepare for conflict scenarios in the South China Sea.<sup>17</sup>

Vietnam and the Philippines, on the other hand, the two claimant countries at the sharp end of China’s aggressive moves in the South China Sea, have been decidedly critical of Beijing. Both countries have called on China to prove its commitment to regional peace and stability: at Shangri-La, Thanh said Vietnam expected China to honor its policies and statements; Philippine Defense Secretary Voltaire Gazmin warned that if it did not, Beijing risked “losing face”.<sup>18</sup> Hanoi and Manila have also rejected China’s expansive claims in the South China Sea, arguing that the infamous 9-dotted line map cannot possibly be justified under international law and, therefore, that it cannot be used as the basis to decide joint development projects.<sup>19</sup> Instead, Foreign Minister del Rosario has called for the “segregation” of disputed features from “undisputed waters” of the South China Sea consistent with UNCLOS and for the establishment of a Joint Cooperative Area where joint development can take place.<sup>20</sup> However, as China refuses to explain in detail what it is claiming in the South China Sea, and how it justifies these claims under UNCLOS, reaching agreement on which areas are “undisputed” will be highly problematic, if not impossible. Vietnam and the Philippines have both protested China’s harassment of their survey ships and vowed to carry on exploration work in their EEZs.

But there have also been notable differences in Manila and Hanoi’s approach to the PRC over recent developments in the South China Sea. Due to the weakness of its armed forces, the Philippines has long been forced to rely on diplomacy as its first line of defence. As Gazmin recently conceded: “The option open to us is first the diplomatic protest. We are in no position to confront the forces that are intruding in our territory simply because we don’t have the capability.”<sup>21</sup> However, the Reed Bank Incident in March has prompted the government of President Benigno Aquino to address the shortcomings faced by the Armed Forces of the Philippines (AFP). To that end Aquino has promised an additional US\$255 million for the AFP to strengthen its presence on Philippine-occupied atolls in the Spratlys. The armed forces have asked that the extra money be used to purchase air defense radars, communication facilities, long-range patrol aircraft and fast patrol boats.<sup>22</sup> The modernization of the AFP is an

urgent necessity, for as the head of the Philippine Navy has pointed out: “For us to be taken seriously by other claimants, we have to back our claim with credibility. We cannot rely on mere words”.<sup>23</sup> Making the AFP’s external defense capabilities credible is, however, a costly and long-term project.

Vietnam’s response has been much more robust than that of the Philippines. Hanoi has described the cutting of seismic survey cables by Chinese vessels as “premeditated attacks” and a “grave violation” of Vietnamese sovereignty.<sup>24</sup> Vietnam has vowed to continue offshore seismic work and has provided its survey ships with armed escorts.<sup>25</sup> Senior Vietnamese leaders have pledged to defend the country’s sovereignty, seemingly at all costs: Prime Minister Nguyen Tan Dung has promised to “uphold the party and people’s determination in safeguarding Vietnam’s sovereignty” while President Nguyen Minh Triet declared “We are ready to sacrifice everything to protect our homeland, our sea and island sovereignty”.<sup>26</sup> And in a replay of tactics last adopted in December 2007, the Vietnamese authorities allowed anti-China demonstrations to take place in Hanoi and Ho Chi Minh City over two consecutive weekends in June, though they were quickly shut down.<sup>27</sup> On June 13 Vietnam significantly upped the ante by conducting a live-fire naval exercise of central Quang Nam province and the following day issued a decree concerning the modalities of a military draft, both of which were designed to send a clear and unambiguous message to the PRC that it was fully committed to defending its territorial claims and would not give in to coercion.<sup>28</sup>

### **The United States: Promises of a Stronger Military Presence in Southeast Asia**

US policy toward the South China Sea has been relatively consistent since the mid-1990s and was reiterated by Secretary of State Clinton at the ARF last year: America has a “national interest” in freedom of navigation, does not take sides on competing claims, opposes the use of force or threat to use force, and supports a peaceful resolution of the dispute based on international law. However, as tensions have ramped up since 2007, senior administration officials have voiced concern about growing instability in the South China Sea, and the potential damage it could cause to US economic and strategic interests. At the Shangri-La Dialogue in 2010, for instance, Secretary of Defense Robert Gates described the dispute as “an area of

growing concern” for America, while Clinton called the South China Sea “pivotal” to regional security.

While US policy has remained consistent, there have been important refinements over the past 12 months. Although the US has stated that it does not take a position on competing claims, Hillary Clinton did just that at the ARF in 2010 by stating that “legitimate claims to maritime space in the South China Sea should be derived solely from legitimate claims from land features”, a pointed comment that clearly challenged the legitimacy of China’s 9-dotted line map.<sup>29</sup> In 2010, both Gates and Clinton called for the “concrete implementation” of the DoC, with the latter even suggesting that America was willing to facilitate negotiations between ASEAN and China, an unrealistic and unworkable offer that was later withdrawn.

At the 2011 Shangri-La Dialogue, Gates was more positive about America’s relations with China than he had been the previous year, mainly due to the restoration of bilateral military ties. In his speech, Gates did not refer directly to the South China Sea dispute, though he reiterated that when it came to matters of “maritime security” America continues to have “a national interest in freedom of navigation, in unimpeded economic development and commerce, and in respect for international law”.<sup>30</sup> In the Question and Answer session which followed, Gates was asked a series of questions regarding heightened tensions in the area: while he would not be drawn on specific incidents his replies reemphasized the need to strengthen existing conflict management mechanisms such as the DoC: “I feel that without rules of the road and without agreed approaches to dealing with these kind of problems there will be clashes...”.<sup>31</sup>

Perhaps more importantly, Gates used his final appearance as defense secretary at Shangri-La to drive home the message that despite daunting financial problems at home, America remained committed to “sustaining a robust military presence in Asia, one that underwrites stability by supporting and reassuring allies while deterring, and if necessary defeating, potential adversaries”.<sup>32</sup> Germane to the South China Sea dispute, Gates promised that in the coming years the US Navy would increase the number of port calls, naval engagements and training exercises in Asia so as to “help build partner capacity to address regional challenges”. Concrete examples of US capacity building support for Southeast Asian claimants quickly followed: in early June a US attack submarine participated in Cooperation Afloat Readiness And Training (CARAT) exercises with the Malaysian navy for the first time in the

program's 17 year history; in late June US and Philippine forces were scheduled to undertake CARAT exercises off Palawan Island; and in July it was reported that the Vietnamese navy would participate in CARAT-like skills exchange with the US military.<sup>33</sup> Both Vietnam (albeit indirectly) and the Philippines have called on the United States to ensure the maintenance of peace and stability in the South China Sea; according to Gazmin, "The US presence is a deterrence to any unlawful activity in the South China Sea."<sup>34</sup> As the US State Department stated it was "troubled" by recent developments, the nuclear-powered aircraft carrier *USS George Washington* departed Japan and was steaming toward the South China Sea.<sup>35</sup>

## Conclusion

Since the beginning of 2011 there has been a dangerous escalation of tensions in the South China Sea as competition over maritime resources has increased, claimant countries have hardened their positions on sovereignty claims, and China has adopted more aggressive tactics. At the time of writing it remains unclear how quickly the contending parties —particularly Vietnam and China— will cool their tempers and resume dialogue. The next critical development will be to see how the South China Sea dispute is handled at the ARF in July, and at the East Asia Summit in November.

## Notes

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<sup>1</sup> Fourth Plenary Session - General Liang Guanglie: English Translation, The Shangri-La Dialogue, Singapore, Sunday 5 June 2011 < <http://www.iiss.org/conferences/the-shangri-la-dialogue/shangri-la-dialogue-2011/speeches/fourth-plenary-session/general-liang-guanglie-english/>>

<sup>2</sup> For more details see Ian Storey, "China and the Philippines: Implications of the Reed Bank Incident", *China Brief*, Volume XI, Issue 8 (May 6, 2011).

<sup>3</sup> The comment was made by China's Ambassador to the Philippine Liu Jianchao. See "China to neighbours" Stop oil search in Spratlys", Associated Press, June 9, 2011.

<sup>4</sup> "China fired at Filipino fishermen in Jackson atoll", [abs-cbsnews.com](http://abs-cbsnews.com), June 3, 2011; "Territorial Hissings", *The Irrawaddy*, June 6, 2011.

<sup>5</sup> "Philippines, China seek restraint in the South China Sea", Reuters, May 23, 2011.

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- <sup>6</sup> “PH pulls China markers”, *Philippine Daily Inquirer*, June 16, 2011.
- <sup>7</sup> “China to neighbours: Stop oil search in Spratlys”, Associated Press, June 9, 2011; “China scolds Phl over sea dispute”, *The Philippine Star*, June 9, 2011.
- <sup>8</sup> “China says Philippines harming its maritime rights”, Agence France Presse, June 7, 2011; Gong Jianhua, “Sea dispute a real test for China”, *China Daily*, June 8, 2011.
- <sup>9</sup> “Oil bonanza in the South China Sea”, *Global Times*, April 19, 2011.
- <sup>10</sup> Ibid.
- <sup>11</sup> “Keep off Spratlys now, China tells US”, *Philippine Daily Inquirer*, March 17, 2011.
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- <sup>13</sup> “Breakthrough needed on South China Sea talks: ASEAN”, *Jakarta Post*, January 17, 2011; “Why the South China Sea is turning more turbulent”, *Christian Science Monitor*, June 3, 2011.
- <sup>14</sup> Joint Declaration of the ASEAN Defence Ministers on Strengthening Defence Cooperation of ASEAN in the Global Community to Face New Challenges, Jakarta, May 19, 2011 < <http://www.asean.org/26304.htm>>.
- <sup>15</sup> “PH pushes rules-based approach”, *Philippine Daily Inquirer*, June 7, 2011.
- <sup>16</sup> Keynote Address - Dato' Sri Najib Tun Razak, The Shangri-La Dialogue, Singapore, Friday 03 June 2011 < <http://www.iiss.org/conferences/the-shangri-la-dialogue/shangri-la-dialogue-2011/speeches/keynote-address/dato-sri-najib-tun-raza/>>.
- <sup>17</sup> See Chapter 10 “Malaysia and China: Rhetoric and Reality” in Ian Storey, *Southeast Asia and the Rise of China: The Search for Security* (Abingdon, Oxon.: Routledge, 2011)
- <sup>18</sup> “Gazmin: China to lose face with incursions”, *Philippine Daily Inquirer*, June 8, 2011.
- <sup>19</sup> During the Question and Answer session at the 2010 Shangri-La Dialogue, General Thanh said the map had no legal justification. In April, in a letter submitted to the United Nations Commission on the Limits of the Continental Shelf, the Philippines asserted that China’s map has “no basis under international law”. See < [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/mysvnm33\\_09/phl\\_re\\_chn\\_2011.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/phl_re_chn_2011.pdf)>.

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- <sup>23</sup> “The Unsinkable Alexander Pama”, *The Philippine Star*, March 27, 2011.
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- <sup>27</sup> “Hundreds of Vietnamese protest against China in sea dispute”, DPA, June 5, 2011; “New anti-China demos in Vietnam”, Channel News Asia, June 12, 2011.
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- <sup>30</sup> First Plenary Session - Dr Robert Gates, The Shangri-La Dialogue, Singapore, Friday 03 June 2011.
- <sup>31</sup> Ibid.
- <sup>32</sup> Ibid.
- <sup>33</sup> “Submarine participation the highlight of 17<sup>th</sup> US-Malaysia CARAT exercise”, Commander Task Force 73 Public Affairs, June 8, 2011; “Philippines, US to hold war games”, *The Philippine Star*, June 12, 2011; “Vietnam, US to hold naval exercises”, *South China Morning Post*, June 14, 2011.
- <sup>34</sup> “Vietnam welcomes int’l moves for East Sea peace”, *Thanh Nien*, June 12, 2011; “Manila spars with Beijing on Spratlys”, *Straits Times*, June 8, 2011.
- <sup>35</sup> East Asia and the Pacific: Daily Press Briefing - June 10, 2011