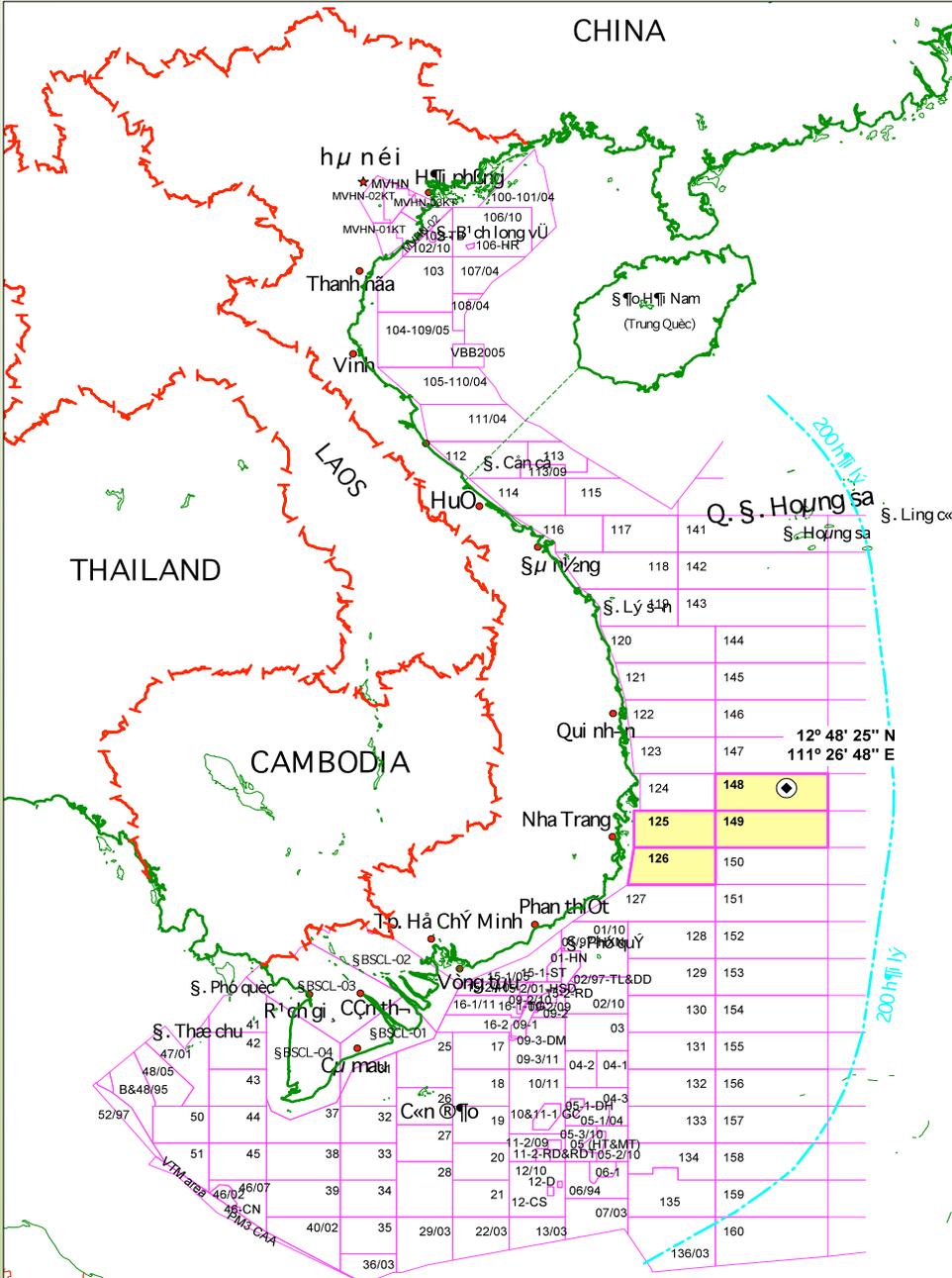


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# China's New Wave of Aggressive Assertiveness in the South China Sea

Carlyle A. Thayer



## China's New Wave of Aggressive Assertiveness in the South China Sea

[Paper to Conference on Maritime Security in the South China Sea, sponsored by the Center for Strategic and International Studies, Washington, D.C., June 20-21, 2011]

Carlyle A. Thayer\*

### Introduction

This paper assesses recent developments affecting the security of the South China Sea in the first half of 2011. The author has discussed earlier developments in several conference papers that cover developments from 2007 until the end of 2010.<sup>1</sup>

By October 2010 the tensions that had arisen earlier in the year over territorial disputes in the South China Sea appeared to have abated. China resumed military-to-military contacts with the United States. China and the Association of Southeast Asian Nations (ASEAN) revived the moribund Joint Working Group to Implement the Declaration on Conduct of Parties in the South China Sea (DOC). These and other development led the author to conclude that there were grounds for cautious optimism that some progress could be made in managing South China Sea tensions.<sup>2</sup> This assessment appeared to be borne out by testimony in April 2011 given by Admiral Robert Willard, Commander U.S. Pacific Command, that the People's Liberation Army Navy (PLAN) had adopted a less aggressive stance in the Pacific.

The events of the past six months have seen a revival of tensions and behaviour on the part of China that has not been witnessed before. China has begun to aggressively interfere in the commercial operations of oil exploration vessels conducting seismic testing in waters claimed by the Philippines and Vietnam. Diplomatic protests by both states over Chinese behaviour have elicited stonewalling, belligerency and condescension from Beijing.

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<sup>1</sup> Carlyle A. Thayer, "Recent Developments in the South China Sea: Implications for Regional Peace and Prosperity," Paper presented to the 2<sup>nd</sup> International Workshop on the South China Sea: Cooperation for Regional Security and Development, co-sponsored by the Diplomatic Academy of Vietnam and the Vietnam Lawyers' Association, New World Saigon Hotel, Ho Chi Minh City, Vietnam, November 12-13, 2010 and Carlyle A. Thayer, "Recent Developments in the South China Sea – Implications for Peace, Stability and Cooperation in the Region," Paper presented to International Workshop on "The South China Sea: Cooperation for Regional Security and Development," co-organised by the Diplomatic Academy of Vietnam and the Vietnam Lawyers' Association, Hanoi, November 27-28, 2009.

<sup>2</sup> Carlyle A Thayer, *Recent Developments in the South China Sea: Grounds for Cautious Optimism?*, RSIS Working Paper No. 220, Singapore: S. Rajaratnam School of International Studies, Nanyang Technological University, Singapore, December 14, 2010.

There are two major drivers that explain Chinese behaviour: sovereignty and hydrocarbon resources.

**Sovereignty.** In May 2009 China protested submissions by Malaysia and Vietnam to the United Nations Commission on Limits of Continental Shelf by officially submitting a map of China's claims. This map contained nine dash lines in a u-shape covering an estimated eighty percent or more of the maritime area of the South China Sea. Having staked its claim China must now demonstrate that it has legal jurisdiction over the South China Sea. China therefore challenges any and all assertions to the contrary by the Philippines and Vietnam. In the case of the Philippines this means challenging the legality of action taken by the Philippines Congress in 2009 approving House Bill 3216 defining national boundaries to include the Kalayaan Island Group (KIG) and Scarborough Shoal.

**Hydrocarbon Resources.** Recent announcements of joint oil and gas exploration by the Philippines and Vietnam have been viewed in Beijing as a challenge to China's tolerance.<sup>3</sup> For example, in February 2011, Forum Energy, an Anglo-French consortium based in the United Kingdom, concluded a two-year survey of oil and gas resources in the South China Sea. President Benigno Aquino III then awarded Forum Energy an exploration contract to explore for gas in the Reed Bank area.<sup>4</sup> In April 2011, a joint venture was set up between PetroVietnam's Petroleum Technical Services Corporation and CGG Veritas of France to conduct seismic surveys off Vietnam coast.<sup>5</sup>

On March 7, 2011 Chinese Foreign Minister Yang Jiechi stated that China's foreign policy would serve the country's economic development. China then warned against any oil exploration in waters it claimed in the South China Sea.<sup>6</sup> According to Song Enlai, chairman of China National Offshore Oil Corporation's (CNOOC) board of supervisors, China loses about 20 million tons of oil annually or about 40 percent of its total offshore production due to the activities of countries in the South China Sea. CNOOC has plans to invest US \$31 billion to drill eight hundred deep-water wells in East Sea, Yellow Sea and South China Sea with the aim of producing 500 million tons of oil by 2020.

In early May China announced that it would step up maritime patrols by at least ten percent in the face of increasing incursions into its territorial waters. Chinese media reported that around one thousand recruits would be added to China's marine service to raise the total to 10,000.<sup>7</sup> That same month China launched a mega oil and gas-

<sup>3</sup> Kavi Chongkittavorn, "Difference perceptions of a rising China," *The Nation*, June 6, 2001.

<sup>4</sup> "Aquino to raise joint South China Sea oil probe to ASEAN," *Zamboanga Today Online*, March 12, 2011 and Joseph Santolan, "Tensions escalate over the South China Sea," World Socialist Web Site, May 3, 2011.

<sup>5</sup> Reuters, "Vietnam accuses China of harassing another boat," June 9 2011.

<sup>6</sup> Aurea Calica, "Palace in no hurry to file China protest," *The Philippine Star*, May 21, 2011.

<sup>7</sup> United Press International, "Vietnam alleges high-seas interference," June 10, 2011.

drilling platform to be used by the CNOOC in the South China Sea. The rig frees China of dependence on foreign-owned contractors for deep-sea drilling. The rig is capable of exploring waters up to 3,000 metres in depth, a capability that neither the Philippines nor Vietnam possesses.<sup>8</sup> Chinese sources indicated that the rig would begin operations in the South China Sea in July and thereby enable China to establish a major presence in the area.

On May 27, the Philippines' Department of Foreign Affairs summoned Chinese officials to convey its concern about the planned location of the new rig in the South China Sea. Philippines officials asked the Chinese diplomats the exact planned location of the new oilrig and stated that it should not be placed in Philippine territory or waters.<sup>9</sup>

## Recent Developments

### China-Malaysia

In June 2009 Malaysia's Prime Minister Dato' Sri Najib Tun Razak paid a state visit to China. In April 2011, Deputy Prime Minister Tan Sri Muhyiddin Yassin went to China to prepare for the return visit of Premier Wen Jiabao. Deputy Prime Minister Muhyiddin met with Vice Premier Li Keqiang on April 18. Li requested bilateral talks on the Spratly Islands issue. Muhyiddin agreed and offered to relay China's request for bilateral talks to other ASEAN members particularly claimant states.<sup>10</sup>

Prior to Premier Wen's visit the media reported that he would sign agreements related to telecommunications and infrastructure construction and that the Spratly issues would not figure prominently. China's Assistant Foreign Minister Hu Zhengyou stated, for example, "The South China Sea problem is an old one. I think that when the leaders of both nations meet they won't deliberately try to avoid it, but as we both understand each other's stance, this won't be a major issue."<sup>11</sup>

On return to Malaysia Muhyiddin made clear that overlapping claims to the South China Sea would be discussed between Prime Minister Datuk Seri Najib Tun Razak and Premier Wen. According to Muhyiddin, "Malaysia is of the opinion that discussions with China on the issue of overlapping claims should be carried out after officials have come up with a basic framework on the claims based on facts, law and history." He further stated, "We believe negotiations among the ASEAN claimants are important. But there will be a case

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<sup>8</sup> Michael Richardson, "China brings out the big rig in energy race," *The Australian Financial Review*, June 1, 2010 and Michael Richardson, "China steps up drilling, intimidation" *The Japan Times*, June 1, 2011.

<sup>9</sup> Pia Lee-Brago, "China Building in PHL Waters; DFA Summoned Envoy," *The Philippine Star*, June 2, 2011.

<sup>10</sup> Bernama, "Talks to revolve claims over Spratlys," *New Straits Times*, April 19, 2011.

<sup>11</sup> Reuters, "China eyes energy, bank deals with Malaysia, Indonesia," April 21, 2011.

where the overlapping claims involve three countries, so discussions will have to be more than bilateral” [see discussion under Shangri-La Dialogue below].<sup>12</sup>

Before setting out on his trip, Premier Wen gave an interview to Malaysian and Indonesian journalists. He was asked, “whether China would hold talks on joint development in these contested islands and reefs with Malaysia and other relevant countries that have cross claims with China?” Premier Wen replied:

China remains committed to the Declaration on Conduct of the Parties in the South China Sea. We take the position that territorial disputes over maritime rights and interests should be peacefully addressed and resolved by the countries concerned through bilateral channels.

We disapprove of referring bilateral disputes to multi-lateral forums because that will only complicate the issue. You have rightly mentioned that although China and Malaysia have some disputes over the mentioned island and reefs in the South China Sea, these disputes have not impeded our efforts to have peaceful co-existence between the two countries.

Secondly, I totally agree that the countries concerned can and should have joint development of resources in the South China Sea because this is in the interest of regional peace in the area and it also serves the interests of all claimant countries.<sup>13</sup>

Premier Wen visited Malaysia from April 27-28 and discussions with Prime Minister Najib mainly focused on economic and educational issues.

## Philippines

According to the Philippines Department of Foreign Affairs, China increased its presence and activities in the Spratly Islands in the fourth quarter of 2010.<sup>14</sup> This increased presence led to six or seven major incursions into waters claimed by the Philippines in the first five months of 2011.<sup>15</sup> The Philippines has not yet officially released the list but from statements by government officials the following list appears indicative:

**Incident 1.** On February 25, three Philippines fishing vessels, F/V *Jaime* DLS, F/V *Mama Lydia* DLS and F/V *Maricris* 12, were operating in the waters off Jackson (Quirino) Atoll 140 nautical miles west of Palawan. According to a report prepared by the Armed Forces of the Philippines (AFP), the fishing vessels were approached by a Jianghu-V Class missile frigate, *Dongguan* 560, which broadcast over its marine band radio, “This is Chinese

<sup>12</sup> “Najib and Chinese Premier to discuss territorial claims,” *The Star Online*, April 26, 2011.

<sup>13</sup> “Premier Wen shows great interest in China-Malaysia ties,” *The Star Online*, April 27, 2011.

<sup>14</sup> Max De Leon ad Estrella Torres, “Business steps in to end Spratlys row,” *Business Mirror*, ABS-CBN News, June 3, 2011.

<sup>15</sup> Jerry E. Esplanada and Tara Quismundo, “Abide by UN pact, China told,” *Philippine Daily Inquirer*, June 3, 2011.

Warship 560. You are in the Chinese territory. Leave the area immediately.” Then the frigate repeatedly broadcast, “I will shoot you.”<sup>16</sup> As the fishing vessels began to withdraw, the Chinese frigate fired three shots that landed 0.3 nautical miles (556 meters) from F/V *Maricris 12*. The F/V *Maricris 12* left the area and then returned on February 28 to recover its anchor that it cut in its hasty departure. The F/V *Maricris 12* spotted three Chinese fishing vessels exploiting marine resources in the area. The Philippine government reportedly did not file a protest with the Chinese Embassy over this incident.<sup>17</sup> The Chinese Ambassador to the Philippines, Liu Jianchao later denied that any Chinese vessel had fired on Filipino fishermen.<sup>18</sup>

**Incident 2.** On March 2<sup>nd</sup> two Chinese white-painted patrol boats, No. 71 and No. 75, ordered MV *Veritas Voyager*, a Forum Energy Plc survey vessel operating in the Reed Bank area off Palawan Island, to leave and twice manoeuvred close in what appeared a threat to ram the MV *Veritas Voyager*.<sup>19</sup> The survey ship was French-owned and registered in Singapore.

The Philippines responded by dispatching two OV-10 aircraft to investigate. The Chinese boats departed without further incident. Foreign Affairs Undersecretary Erlinda Basilio lodged a protest with Chinese Charge d’Affairs, Bai Tian, on March 4<sup>th</sup>. According to one report the note “raised four points to prove that Reed Bank is not part of the disputed area by projecting 85 nautical miles from the base point in the northern part of Palawan and not from the KIG. China questioned this during a meeting with the Philippines, but did not reply in a diplomatic note.”<sup>20</sup>

After the incident, the Philippines announced a temporary halt to seismic testing and ordered the Philippine Navy and Philippines Coast Guard to escort the survey ship when

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<sup>16</sup> Tessa Jamandre, “China fired at Filipino fishermen in Jackson atoll,” ABS-CBN News, June 3, 2011.

<sup>17</sup> Aurea Calica, “PHL to take Chinese incursions to the United Nations,” *The Philippine Star*, June 4, 2011.

<sup>18</sup> Jim Gomez, “China warns neighbors: Stop oil search in Spratlys,” Associated Press, June 9, 2011.

<sup>19</sup> BBC News, Asia-Pacific, “Philippines halts tests after China patrol challenge,” March 8, 2011; Nicholas Heath and Daniel Ten Kate, “Vietnam Says Chinese Boat Harassed PetroVietnam Survey Ship,” *Bloomberg Businessweek*, June 9, 2011; Aurea Calica, “Palace in no hurry to file China protest,” *The Philippine Star*, May 21, 2011 and Tessa Jamandre, “China fired at Filipino fishermen in Jackson atoll,” ABS-CBN News, June 3, 2011. The Sampaguita gasfield in the Reed Bank is estimated to contain between 3.4 trillion to 20 trillion cubic feet of natural gas, “Carps among the Spratlys,” *The Economist*, March 10 2011, online edition.

<sup>20</sup> Tessa Jamandre, “China fired at Filipino fishermen in Jackson atoll,” ABS-CBN News, June 3, 2011

testing resumed.<sup>21</sup> Later, President Aquino instructed the Philippine Coast Guard to provide security for oil and gas exploration activities in the Kalayaan Island Group.<sup>22</sup>

On April 5, the Philippine Mission to the United Nations submitted a letter in response to China's Notes Verbales of May 7, 2009 (CML/17/2009 and CML/18/2009) stating the Philippines' claim to sovereignty over the Kalayaan Island Group, adjacent waters and geological features (relevant waters, seabed and subsoil).<sup>23</sup> China responded on April 14 with a note verbale to the United Nations that accused the Philippines of invading and occupying "some islands and reefs of China's Nansha Islands... The Republic of the Philippines' occupation of some islands and reefs of China's Nansha islands as well as other related acts constitutes an infringement upon China's territorial sovereignty."<sup>24</sup> The Chinese note verbale also argued that on the basis of domestic legislation "China's Nansha Islands is fully entitled to Territorial Sea, EEZ and Continental Shelf."<sup>25</sup>

**Incident 3.** On May 6, a Chinese marine vessel with a flat bed was sighted in Abad Santos (Bombay) Shoal.<sup>26</sup>

**Incident 4.** On May 19 the Armed Forces of the Philippines claimed that two Chinese jet fighters allegedly flew into Philippines' air space near Palawan on May 11. This initial report was never confirmed and appears the least substantiated of the six or seven incidents of reported Chinese incursions.<sup>27</sup>

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<sup>21</sup> AFP, "China stakes claim on disputed islands after spats," March 9, 2011 and Aurea Calica, "Palace in no hurry to file China protest," *The Philippine Star*, May 21, 2011.

<sup>22</sup> "Coast Guard to secure oil exploration in Kalayaan island group," GMA News TV, April 19, 2011. The KIG contains nine geological features: Balagtas (Irving Reef), Kota (Loaita), Lawak (Nanshan), Likas (West York), Pag-asa (Thitu), Panata (Lankiam), Parola (Northeast Cay), Patag Island (Flat Island is also considered a part of the Spratlys) and Rizal (Commodore Reef).

<sup>23</sup> Philippine Mission to the United Nations, letter to the Secretary General of the United Nations, 11-00494, No. 000228, New York, April 5, 2011. See also: AFP, "Philippines protests China's Spratlys claim at UN," April 13, 2011; Tessa Jamandre, "PHL protests Chinese map claiming Spratly Islands," GMA News TV, April 13, 2011 and Jerry E. Esplanada, "PH runs to UN to protest China's '9-dash line' Spratlys claims," *Philippine Daily Inquirer*, April 15, 2011.

<sup>24</sup> Quoted by Tessa Jamandre, "China accuses PH of 'invasion'," ABC-CBN News, April 19, 2011 and Teresa Cerojano, "Beijing counters Manila's UN protest, says Philippines 'started to invade' Spratlys in 1970s," Associated Press, April 19, 2011.

<sup>25</sup> The Chinese note verbale specifically mentioned the Law of the People's Republic of China on Territorial Sea and Contiguous Zone (1992), the Law on the Exclusive Economic Zone and the Continental Shelf of the People's Republic of China (1998) as well as the 1982 UN Convention on Law of the Sea.

<sup>26</sup> Tessa Jamandre, "China fired at Filipino fishermen in Jackson atoll," ABS-CBN News, June 3, 2011.

<sup>27</sup> "Chinese jets intruded into PH space – AFP," *Philippine Daily Inquirer*, May 20, 2011; "Two unidentified aircraft seen over Spratlys – AFP," GMA News TV, May 21, 2011; "AFP validates Kalayaan islands aircraft

**Incident 5.** On May 21, Chinese Marine Surveillance ship No. 75 and Salvage/Research Ship No. 707 were observed heading toward Southern Bank.<sup>28</sup>

**Incident 6.** On May 24, Filipino fishermen reportedly witnessed a China Maritime Surveillance vessel and PLAN ships unloading steel posts, building materials and a buoy near Likas and Patag in the Iroquois Reef-Amy Douglas Bank, 100 nautical miles off Palawan.<sup>29</sup> The fishermen reported their sighting to the AFP the next day. Navy Headquarters in Manila ordered a ship to verify the sighting but bad weather delayed its arrival until May 29 by which time the Chinese ships had departed (presumably with the buoy). Local fishermen removed the steel polls and handed them over to authorities.

The AFP reported this incident on May 27 and the Department of Foreign Affairs summoned the Chinese Charge d' Affaires on May 31 to seek clarification. The following day the Philippines conveyed "serious concerns" in a note verbale to the Chinese Embassy; the note stated, "These ships reportedly unloaded building materials, erected an undetermined number of posts, and placed a buoy near the breaker of the Iroquois Bank."<sup>30</sup> The Chinese Embassy responded, "The reported 'incursion of Chinese ships' is not true...It's only China's marine research ship conducting normal maritime research activities in the South China Sea."<sup>31</sup> Speaking on a TV forum that same day, Defense Secretary Voltaire Gazmin observed, "It's alarming in the sense that the intrusions are increasing. They are staking claim on the areas where we do not have a presence. They want to hoist their flag so they can claim the area."<sup>32</sup> Foreign Affairs Secretary Albert del Rosario charged that "any new construction by China in the vicinity of the uninhabited

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sighting incident," Philippine Information Agency Press Release, May 23, 2011 and Jim Gomez, "China, Philippines warn rivals on Spratlys," *The China Post*, May 24, 2011.

<sup>28</sup> Tessa Jamandre, "China fired at Filipino fishermen in Jackson atoll," ABS-CBN News, June 3, 2011.

<sup>29</sup> Various dates between May 22-24 are reported in the Filipino press. Jun Pasaylo, "China surveillance ships roam Phl waters," *The Philippine Star*, June 1, 2011; Simone Orendain, "Philippines Seeks Answers About Latest South China Sea Incident," Voice of America News, June 1, 2011; Katherine Evangelista, "Philippines military to act with diplomacy over Spratlys dispute – defense chief," *Philippine Daily Inquirer*, June 1, 2011; Johana Paola d. Poblete, "Philippines preparing issues for UN about China 'intrusions'," *Business World*, June 2, 2011; "China denies 'invasion' of South China Sea," ABS-CN News, June 2, 2011; AFP, "Philippines gov't protests to China over oil plans in South China Sea," *The China Post*, June 2, 2011 and Jerry E. Esplanada and Tarra Quismundo, "Abide by UN pact, China told," *Philippine Daily Inquirer*, June 3, 2011.

<sup>30</sup> Quoted by GMA News, "DFA conveys protest to Beijing over Chinese vessels," GMA News TV, June 4, 2011. See also: Pia Lee-Brago, "China Building in PHL Waters; DFA Summoned Envoy," *The Philippine Star*, June 2, 2011. Tessa Jamandre, "China fired at Filipino fishermen in Jackson atoll," ABS-CBN News, June 3, 2011 reported no note verbale was given to the Chinese Charge d' Affaires at the May 31 meeting.

<sup>31</sup> GMA News, "DFA: Stronger sea code to prevent 'repeat of Mischief Reef'," GMA News TV, June 2, 2011 and "China denies incursion into West Philippine Sea," *The Philippine Star*, June 3, 2011.

<sup>32</sup> Dona Z. Pazzibugan, "Chinese intrusions in PH-claimed parts of Spratlys 'alarming,' says Gazmin," *The Philippines Daily Inquirer*, June 2, 2011

Iroquois Bank is a clear violation of the 2002 Association of Southeast Asian Nations (ASEAN)-China Declaration on the Conduct of Parties (DOC) in the South China Sea.”<sup>33</sup>

**President Aquino Lobbies Indonesia and Brunei.** During 2011 President Aquino lobbied his ASEAN colleagues to unify as a bloc on a detailed code of conduct and proposed that a central position on the South China Sea dispute among the ASEAN claimant states was the best way to approach China.

On March 8 President Aquino paid an official visit to Indonesia where he met with President Bambang Susilo Yudhoyono. At a joint press conference after their talks, President Aquino expressed his full support for Indonesia’s leadership role as ASEAN Chair. President Yudhoyono said Indonesia as ASEAN Chair would bring the Spratly Islands issue to the forthcoming ASEAN Summit and East Asia Summit. President Yudhoyono expressed his hope that the South China Sea could become a “zone of possible economic cooperation.” President Aquino replied, “With regard to joint exploration [in the area], that is an idea that has been proposed a few decades past but perhaps we should continue the talks with other claimant countries. There is no room for unilateral action in that particular region.”<sup>34</sup>

On June 1, President Aquino paid an official visit to Brunei Darussalam for discussions with Sultan Hassanal Bolkiah. According to Presidential Communications Operations Secretary Herminio Coloma Jr., the two leaders expressed their desire to maintain peace and stability in the South China Sea through a multilateral dialogue among the ASEAN countries, claimant countries and China. Cloma quoted the Sultan as stating “it’s best to have good relations with China.”<sup>35</sup>

President Aquino told the reporters covering his visit: “We govern ourselves there [Spratly Islands/KIG]. Instead of one country has a bilateral agreement with China and the other has a different bilateral agreement with China. Let’s come together as a body. Why do we have to fight or increase all of these tensions when it profits nobody?”<sup>36</sup> Aquino also renewed his call for the immediate adoption of the implementing guidelines on the DOC.<sup>37</sup> The following day, June 12, Eduardo Malaya, a spokesperson for the

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<sup>33</sup> Pia Lee-Brago, “China Building in PHL Waters; DFA Summoned Envoy,” *The Philippine Star*, June 2, 2011.

<sup>34</sup> Quoted by Adianto P. Simamora, “SBY, Aquino agree on talks over Spratlys,” *The Jakarta Post*, March 9, 2011.

<sup>35</sup> Regina Bengco, “Peace in Spratlys is all they want,” *Malaya.Com*, June 2, 2011; Shirley Escalante, “Philippines, Brunei push for dialogue to settle Spratley Islands dispute,” *Australia Network News*, June 3, 2011 and “China denies incursion into West Philippine Sea,” *The Philippine Star*, June 3, 2011.

<sup>36</sup> Johanna Paola d. Poblete, “Philippines preparing issues for UN about China ‘intrusions’,” *Business World*, June 2, 2011.

<sup>37</sup> “Adoption of territorial guidelines urged,” *Manila Bulletin*, June 2, 2011.

Department of Foreign Affairs, called for a “more binding Code of Conduct or Parties in the South China Sea” in response to Chinese intrusions into Philippine waters.

During his state visit to Brunei President Aquino revealed that the Philippines was preparing to file a complaint to the United Nations in response to Chinese intrusions into its territory. According to Aquino, “We are completing the data on about six to seven instances since February. We will present it to [China] and then bring these to the appropriate body, which normally is the United Nations.”<sup>38</sup> The Aquino Administration is supporting two legislative measures in response to China’s assertiveness in the Spratly Islands. The House of Representative is drawing up the Philippine Maritime Zones bill to delineate the Philippines’ maritime zones, while the Senate is considering the Archipelagic Sea Lanes bill.<sup>39</sup>

**The AFP and Territorial Defence.** On March 28, General Eduardo Oban, chief of the Armed Forces of the Philippines, announced that the Philippines had increased air and naval patrols in the South China Sea and had plans to upgrade Rancudo Air Field on Pag-Asa (Thitu) island and repair barracks.<sup>40</sup> The AFP was allocated US \$183 million in funds from the Capability Upgrade Program to purchase two offshore fast patrol boats, long-range maritime aircraft, surveillance and communication equipment including air defence radar to better protect its territory.<sup>41</sup> President Aquino had earlier released US \$255 million to the armed forces.

The Philippines recently acquired the U.S. Coast Guard Cutter USCGC *Hamilton*, which is expected to enter service in August and then commence patrolling disputed waters in the South China Sea.<sup>42</sup> The Philippines also expects to take delivery of three new Taiwan-manufactured Multi-Purpose Attack Craft early in 2012.<sup>43</sup> In May, a Philippine

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<sup>38</sup> Johana Paola d. Poblete, “Philippines preparing issues for UN about China ‘intrusions,’” *Business World*, June 2, 2011; Amita O. Legaspi, “Palace prepares Spratlys incursions report,” GMA News TV, June 3, 2011 and Jim Gomez, “Philippines plans new UN protest as China denies aggressive acts in Spratly Islands,” Associated Press, June 3, 2011.

<sup>39</sup> GMA News, “DFA: Stronger sea code to prevent ‘repeat of Mischief Reef,’” GMA News TV, June 2, 2011.

<sup>40</sup> Jaime Laude, “AFP to maintain presence in Spratlys,” *The Philippine Star*, March 29, 2011.

<sup>41</sup> Jon Grevatt, “Philippines to invest USD183 million in defence of Spratly Islands,” *Jane’s Defence Weekly*, March 30, 2011; Reuters, “Philippines steps up presence in South China Sea,” March 28, 2011 and Associated Press, “Philippines to bolster watch in disputed Spratlys,” Bloomberg *Businessweek*, March 28, 2011.

<sup>42</sup> “Philippines set to deploy new patrol ship to Kalayaan Islands,” *Manila Bulletin*, April 14, 2011 and AFP, “Philippines to boosts Spratly patrols,” Channel News Asia, April 15, 2011. The USCGC *Hamilton*, a Weather High Endurance Cutter, was renamed the BRP *Gregorio del Pilar* and will be the largest ship in the Philippine navy; Marichu A. Villanueva, “Keeping Phl Navy afloat,” *The Philippine Star*, May 16, 2011.

<sup>43</sup> Reuters, “Philippines says will spend \$255 min on military helicopters, boats,” April 13, 2011.

navy study recommended the acquisition of submarines as a “deterrent against future potential conflicts.”<sup>44</sup>

The Philippines defence and military agencies are drawing up a new strategy in response to development in the South China Sea. The new strategy would focus on both internal security operations and external territorial defence. AFP chief General Oban said the military was planning to set up a cost watch system on the western seaboard in the next two to three years to monitor and secure maritime borders and natural resources.<sup>45</sup> In June it was reported that the Philippines Embassy in Washington was in the market for excess defence equipment from the U.S. under its Foreign Military Sales (FMS) program including one or more patrol ships.<sup>46</sup>

The Philippines also announced a new U.S. training program for its naval forces to enable them to better carry out their mission of providing security for oil exploration activities in the South China Sea.<sup>47</sup>

On May 14, President Aquino and several members of his Cabinet flew out to the USS *Carl Vinson* aircraft carrier in the South China Sea as it headed towards the Philippines. The aircraft carrier made a “routine port call and goodwill visit” accompanied by the USS *Bunker Hill*, USS *Shiloh* and USS *Gridley*.<sup>48</sup> In fact the visit by the carrier was a reaffirmation of the alliance relationship with China left to read into it what it would.

**Visit by Chinese Defence Minister.** China’s Defence Minister, General Liang Guanglie, paid an official visit to the Philippines from May 21-25 for discussions with his counterpart Defense Secretary Voltaire Gazmin. A joint statement issued after the meeting declared, “unilateral actions which could cause alarm should be avoided.”<sup>49</sup> The two ministers also agreed to hold regular discussions to promote trust and confidence and find common ground on territorial disputes in the Spratly Islands. A statement issued the Department of National Defence stated, “both ministers expressed hope that the implementing guidelines of the 2002 Declaration of Conduct would soon be finalized and agreed upon, that responsible behavior of all parties in the South China Sea issue would help keep the area stable while all parties work for the peaceful resolution... Both

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<sup>44</sup> Katherine Evangelista, “Philippines eye submarines to boost navy,” *Philippine Daily Inquirer*, May 17, 2001.

<sup>45</sup> China denies incursion into West Philippine Sea,” *The Philippines Star*, June 3, 2011.

<sup>46</sup> Michael Lim Ubac, “Philippines shops for US military gear,” *Philippine Daily Inquirer*, June 5, 2011.

<sup>47</sup> Shirley Escalante, “Philippines increase security for oil exploration,” *Australia Network News*, April 28, 2011.

<sup>48</sup> Christine O. Avendano, Dona Pazzibugan and Jerome Aning, “Palace sees no terror backlash against Aquino visit to ship,” *Philippine Daily Inquirer*, May 16, 2011.

<sup>49</sup> Jim Gomez, “China, Philippines defense chiefs discuss Spratlys,” *Associated Press*, June 4, 2011.

ministers recognized that unilateral actions which could cause alarm should be avoided.”<sup>50</sup>

When Defence Minister Liang met with President Aquino South China Sea issues were discussed in general, but the latter refrained from directly mentioning the Reed Bank incident of March 2 and the reported intrusion of Chinese aircraft into Philippine air space.<sup>51</sup> President Aquino also told General Liang that more maritime incidents in disputed areas of the South China Sea could spark a regional arms race.<sup>52</sup> Immediately after the defence ministers met, Sun Yi, Deputy Chief of Political Section at the Chinese Embassy in Manila, announced that China looked forward to an “accelerated dialogue” with the Philippines to resolve the dispute in the South China Sea. “It’s a bilateral issue. We repeatedly said that and we believe it’s a bilateral issue,” Sun Yi stated.<sup>53</sup>

**The Philippines and China Exchange Barbs.** On June 4, the Department of Foreign Affairs issued a statement revealing it had lodged a protest with the Chinese Embassy on June 2 over the “increasing presence and activities of Chinese vessels including naval assets in the West Philippines Sea (South China Sea).” The note stated, “These actions of Chinese vessels hamper the normal and legitimate fishing activities of the Filipino fishermen in the area and undermines the peace and stability of the region.”<sup>54</sup>

China responded on June 7 with a statement by Foreign Ministry spokesperson, Hong Lei: “Chinese vessels were cruising and carrying out scientific studies in waters under China’s jurisdiction and their activities were in line with the law... China asks the Philippine side to stop harming China’s sovereignty and maritime rights and interests, which leads to unilateral actions that expand and complicate South China Sea disputes. The Philippines should stop publishing irresponsible statements that do not match the facts.”<sup>55</sup>

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<sup>50</sup> Quoted by “China, PH agree to hold regular talks on Spratlys,” ABS-CBN News, May 23, 2011; Christine O. Avendano and Dona Z. Pazzibugan, “Peaceful Spratlys resolution reaffirmed,” *Philippines Daily Inquirer*, May 24, 2011; Simone Orendain, “Philippines, China Support Discussion on South China Sea,” Voice of America News, May 24, 2011 and Jim Gomez, “China, Philippines warn rivals on Spratlys,” *The China Post*, May 24, 2011.

<sup>51</sup> Willard Cheng, “Philippines, China OK South China Sea dialogue,” ABS-CBN News, May 23, 2011.

<sup>52</sup> Agence France-Presse, “Philippines warns of arms race in South China Sea,” May 24, 2011 and William B. Depasupil, “Philippines Warns of Arms Race in South China Sea,” *Manila Times*, May 25, 2011.

<sup>53</sup> Pia Lee-Brago, “China welcomes dialogue to end ‘Nansha’ dispute,” *The Philippine Star*, May 25, 2011.

<sup>54</sup> “Statement of the Department of Foreign Affairs On the Presence of Chinese Vessels In the West Philippine Sea (South China Sea),” June 4, 2011.

<sup>55</sup> Quoted by Xinhua, “China rejects Philippine’s accusation on South China Sa issue,” June 7, 2011; Agence France-Presse, “China says Philippines harming its maritime rights,” ABS-CBN News, June 7, 2011; Reuters, “China scolds Philippines over disputed waters,” June 8, 2011.

Liu Jianchao, Chinese Ambassador to the Philippines, followed up these comments on June 9. Ambassador Liang responded to complaints by the Philippines government for the first time when he met with reporters in Manila. The ambassador stated that China had not yet started to drill for oil in Spratly Islands. “We’re calling on other parties to stop searching for the possibility of exploiting resources in these areas where China has its claims.”<sup>56</sup> In response to a question how China would react if countries went ahead and continued to explore without Beijing’s permission, the ambassador said China would use diplomatic means to assert its rights. “We will never use force unless we are attacked,” he said. Liang also confirmed to reporter that Chinese forces took action to keep the exploration vessel from Reed Bank. “That’s part of our exercise of jurisdiction. It’s not harassment,” he said.<sup>57</sup>

**Zone of Peace, Freedom and Cooperation.** In launching a new initiative, the Zone of Peace, Freedom, Friendship and Cooperation (ZOPFF/C), President Aquino explained “what is ours is ours, and with what is disputed, we can work towards joint cooperation.”<sup>58</sup> He directed the Department of Foreign Affairs to promote the ZOPFF/C concept through sustained consultations and dialogue.

According to the Department of Foreign Affairs, the ZOPFF/C provides a framework for separating the disputed territorial features that may be considered for collaborative activities from non-disputed waters in the West Philippines Sea (South China Sea) in accordance with international law in general and UNCLOS in particular.<sup>59</sup> A disputed area could be turned into a Joint Cooperation Area for joint development and the establishment of marine protected area for biodiversity conservation. Areas not in dispute, such as Reed Bank that lies on the Philippines’ continental shelf, can be developed exclusively by the Philippines or with the assistance of foreign investors invited to participate in its development.

### China-Vietnam

In December 2008, China and Vietnam agreed to commence bilateral discussions on maritime issues with first priority given to developing a set of “fundamental guiding principles” as a framework for settling specific issues. These confidential discussions began in early 2010 and five sessions were held during the year. According to Vietnamese Foreign Ministry sources, Vietnam and China agreed to settle their

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<sup>56</sup> Jim Gomez, “China warns neighbors: Stop oil search in Spratlys,” Associated Press, June 9, 2011.

<sup>57</sup> Jim Gomez, “China warns neighbors: Stop oil search in Spratlys,” Associated Press, June 9, 2011.

<sup>58</sup> Quoted in “A Rules-Based Regime in The South China Sea By: Albert F. Del Rosario, Secretary of Foreign Affairs,” Public Information Service Unit, June 7, 2011.

<sup>59</sup> Amita O. Legaspi, “Palace prepares Spratlys incursions report,” GMA News TV, June 3, 2011.

differences “through peaceful negotiation” and “refrain from any action to complicate the situation, violence or threat of use of violence.”<sup>60</sup>

Significantly, Vietnam and China agreed to bilateral discussions on matters that did not affect third parties, such as the waters at the mouth of the Gulf of Tonkin. Vietnam wanted to include the Paracel Islands in bilateral discussion but China refused. Vietnam and China also differed on the question of multilateral negotiations. According to Vietnam:

Issues that are related to other countries and parties like the Spratly Islands cannot be settled by Vietnam and China; they require the participation of other concerned parties. For issues that are not only related to countries that border the East Sea such as maritime safety and security, they must be negotiated and settled by all countries that share this common interest.<sup>61</sup>

#### **Four High-Level Meetings.**

During the first half of 2011, China and Vietnam held four high-level meetings in which the South China Sea dispute was discussed. In February 2011, immediately after 11<sup>th</sup> national congress of the Vietnam Communist Party, the new Secretary General, Nguyen Phu Trong, dispatched a special envoy, Hoang Binh Quan, to Beijing. Quan met with Hu Jintao, President and General Secretary of the Chinese Communist Party, and briefed him on the outcome of the party congress. Quan also extended an invitation to Hu and other Chinese party and state leaders to visit Vietnam. In return, Hu extended an invitation to Secretary General Trong to visit China.<sup>62</sup>

In April, Senior Lieutenant General Guo Boxiong, vice chairman of China’s Central Military Commission, visited Hanoi at the invitation of General Phung Quang Thanh, Minister of National Defence. Lt. Gen. Guo was also received by Prime Minister Nguyen Tan Dung and party Secretary General Nguyen Phu Trong. Prime Minister Dung “proposed the two sides talk and seek fundamental and long-lasting measures that both sides are able to accept for the East Sea [South China Sea] issue...”<sup>63</sup> The joint press communiqué issued after the conclusion of Guo’s visit outlined a number of cooperative

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<sup>60</sup> “Answer from Vietnam Ministry of Foreign Affairs Spokesperson Nguyen Phuong Nga to Questions by Greg Torode – *South China Morning Post*,” December 2010; see: Greg Torode and Minnie Chan, “China refuses to yield on Paracels,” *Sunday Morning Post* [Hong Kong], December 12, 2010.

<sup>61</sup> Ibid.

<sup>62</sup> “Chinese president vows to further ties with Vietnam,” Xinhua, February 18, 2011 and “China’s Hu Jintao invites Nguyen Phu Trong,” Voice of Vietnam News, February 19, 2011.

<sup>63</sup> “Party Leader’s Meeting with Chinese General,” Vietnam News Agency, April 14, 2011.

military activities, including increasing the scope of joint naval patrols in the Gulf of Tonkin, but no mention was made of the South China Sea.<sup>64</sup>

Immediately after General Guo's visit, Vietnam hosted a meeting of the heads of the government delegations on boundary negotiations between China and Vietnam (April 18-19). These discussions were held at deputy minister level. China's Foreign Ministry reported that the two vice ministers pledged "to properly handle maritime disputes through friendly consultations and explore solutions with a positive and constructive attitude."<sup>65</sup> While a Vietnamese spokesperson revealed that "the two sides agreed they will sign an agreement on the fundamental guidelines to settle the maritime issues" but negotiations are still continuing and no date has been set to sign the agreement.<sup>66</sup>

The fourth high-level meeting took place in Singapore in June on the sidelines of the Shangri-la Dialogue and involved the two defence ministers, Liang Guanglie and Phung Quang Thanh. This meeting took place under the shadow of the May 26<sup>th</sup> cable-cutting incident. Minister Thanh expressed the concern of Vietnamese party and state leaders over what he termed a "pressing incident" and then offered the conciliatory comment that "Sometime, regrettable cases happen which are beyond the expectation of both sides."<sup>67</sup> Minister Liang replied that China did not want a similar incident to occur in the future. He noted in particular that the People's Liberation Army was not involved in the incident. Four days later there was a second cable-cutting incident.

**China's Unilateral Fishing Ban.** On May 11, the Haikou Municipal Government, Hainan province, issued an announcement imposing China's annual unilateral fishing ban in the South China Sea from May 16-August 1 ostensibly to protect dwindling fish stocks during the spawning season. Vietnam immediately issued a verbal protest: "China's unilateral execution of a fishing ban in the East Sea is a violation of Vietnam's sovereignty over the Hoang Sa [Paracel] archipelago, as well as the country's sovereignty and jurisdiction over its exclusive economic zone and continental shelf..."<sup>68</sup>

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<sup>64</sup> Li Qiong, "China, Vietnam Issue Joint Press Communiqué on CMC Vice Chairman Guo Boxiong's Visit to Vietnam," Xinhua, April 17, 2011.

<sup>65</sup> "Vietnamese Prime Minister Nguyen Tan Dung Meets with Chinese Vice Foreign Minister Zhang Zhijun," Ministry of Foreign Affairs of the People's Republic of China, April 20, 2011.

<sup>66</sup> Quoted in Agence France Presse, "Vietnam, China vow to work on disputed sea pact," April 21, 2011 and Deutsche Presse-Agentur, "Vietnam and China pledge to settle South China Sea disputes," April 20 2011.

<sup>67</sup> "East Sea incident a pressing issue: Vietnamese Defense Minister," *Thanh Nien News*, June 4, 2011. Chinese news media distorted Minister Thanh's remarks by reporting that he agreed to "resolve their differences over the South China Sea through bilateral efforts, and that no third party should be allowed to interfere in such efforts or use the issue to harm the bilateral relations," see: "Chinese DM Meets with Vietnamese Counterpart in Singapore," Xinhua June 4, 2011.

<sup>68</sup> "Vietnam opposes China's fishing ban in East Sea," Voice of Vietnam News, May 14, 2011.

Vietnam also protested the deployment of a Chinese Fishery Administration Vessel, *Leizhou 44261*, to patrol in the waters around the Paracel Islands from May 5-25. Vietnam accused the patrol boat of “causing difficulties for normal fishing activities conducted by Vietnamese fishermen in their traditional fishing ground and making the situation at sea more complicated.”<sup>69</sup>

Vietnamese local authorities reported the arrival of Chinese fishing boats in Vietnamese waters in greater numbers than in the past. The head of Phu Yen Province Border Guard Headquarters stated that, “every day between 120 and 150 fishing boats of China were operated within waters from Da Nang City to the Truong Sa [Spratly] Archipelago... Previously Chinese fishing boats have violated our waters, but this was the first time there were so many boats.”<sup>70</sup> The numbers rose to 200 on some occasions. Vietnamese fishermen formed fishing teams of five to ten boats for protection because of intimidation from larger Chinese craft that sometimes used weapons to threaten them. The Vietnamese government is currently considering a proposal by the Ministry of Agriculture and Rural Development to build ten fishery patrol boats at a total cost of US \$102.14 million.

Although Vietnamese fishermen vowed to defy the ban<sup>71</sup> the Vietnamese press has not reported any major incidents of harassment or detention. On June 1, however, it was reported that Chinese military vessels threatened to use their guns against a Vietnamese fishing boat operating in waters near the Spratly archipelago.<sup>72</sup>

**The First Cable Cutting Incident.** On May 26, three China Maritime Surveillance ships accosted the Binh Minh 02, a Vietnamese seismic survey ship operating in Block 148, in an incident that lasted three hours. China Maritime Surveillance ship No. 84 cut a cable towing seismic monitoring equipment.<sup>73</sup> The next day Vietnam lodged a diplomatic protest with China’s Ambassador claiming that the actions of the China Maritime Surveillance ships violated international law and Vietnam’s sovereignty.<sup>74</sup> Vietnam also sought compensation for the damage caused. The Binh Minh 02 returned to port for

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<sup>69</sup> ‘Chinese Ship Violates Vietnam’s Sovereignty,’ Vietnam News Agency, May 13, 2011.

<sup>70</sup> “Chinese fishing boats violate Vietnam waters; gov’t mulls patrol boats,” *Thanh Nien News*, May 29, 2011.

<sup>71</sup> Deutsche Presse-Agentur, “Vietnam defiant on first day of Chinese fishing ban,” May 16, 2011.

<sup>72</sup> An Dien and Minh Hung, “East Sea undercurrents,” *Thanh Nien News*, June 10, 2011.

<sup>73</sup> “Bao Cao Su Co Tau Truong Quoc Cat Cap Thu Dia Chan Cua Tau Binh Minh 02 Vao Luc 5H58’ Ngay 26/05/2011,” and Reuters, “Vietnam says Chinese boats harassed oil exploration ship,” May 27, 2011. The incident took place 116 nautical miles off the Dai Lanh Cape on the coast of Phu Yen province at 12 degrees 48’25” north latitude and 111 degrees 26’48” east longitude.

<sup>74</sup> “VN condemns Chinese intrusion,” Vietnam News Agency, May 28, 2011.

repairs and resumed its oil exploration activities accompanied by an escort of eight ships.<sup>75</sup>

Some news media erroneously reported that this was the first instance in which the Chinese had cut the cable of a Vietnamese exploration vessel. According to Do Van Hau, a senior PetroVietnam official, “When we conduct seismic survey and drilling operations, they [China] have aeroplanes flying over to survey our activities, they harass us with their vessels, and in extreme cases they cut our [exploration] cables.”<sup>76</sup> The Vietnamese press reported that when Vietnamese conducted continental shelf surveys in 2010 “Chinese vessels also cut Vietnamese ships’ survey cables... and further obstructed Viet Nam from conducting oil and gas exploration in the East Sea...”<sup>77</sup>

China responded to Vietnam protest on May 28 with the following statement: “What relevant Chinese departments did was completely normal marine law-enforcement and surveillance activities in China’s jurisdictional area.”<sup>78</sup> Vietnam retorted on May 29, “the area where Vietnam conducted exploration activities situates entirely in the exclusive economic zone and the 200-nautical mile continental shelf of Vietnam in accordance with the 1982 United Nations Convention on Law of the Sea. It is neither a disputed area nor is it an area ‘managed by China.’ China has deliberately misled the public into thinking that it is a disputed area.”<sup>79</sup> China responded in kind: “the law enforcement activities by Chinese maritime surveillance ships against Vietnam’s illegally operating ships are completely justified. We urge Vietnam to immediately stop infringement activities and refrain from creating new troubles.”<sup>80</sup>

**The Second Cable Cutting Incident.** On June 9, according to Vietnam’s Ministry of Foreign Affairs, a second “premeditated and carefully calculated” incident occurred when Chinese fishing boat No. 62226 equipped with a “cable cutting device” snared the cable of the *Viking II* seismic survey ship operating in survey Block 136-03 in the vicinity of Vanguard Bank (Tu Chinh).<sup>81</sup> Viking II is registered in Norway and was operating under

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<sup>75</sup> Deutsche Presse-Agentur, “Vietnam stands ground in sea dispute, survey ship takes up work,” June 6, 2011; Agence France Presse, “Vietnam complains to China as sea tensions rise,” June 9, 2011 and Nicholas Heath and Daniel Ten Kate, “Vietnam Says Chinese Boat Harassed PetroVietnam Survey Ship,” *Bloomberg Businessweek*, June 9, 2011.

<sup>76</sup> Ben Bland and Kathrin Hille, “Vietnam and China oil clashes intensify,” *The Financial Times*, May 27, 2011.

<sup>77</sup> “National, world security closely linked: minister,” *Viet Nam News*, June 7, 2011.

<sup>78</sup> Quoted in Reuters, “China reprimands Vietnam over offshore oil exploration,” May 28, 2011.

<sup>79</sup> “Vietnam demands China stop sovereignty violations,” *Thanh Nien News*, May 29, 2011.

<sup>80</sup> Quoted by Huy Duong, “The Philippines and Vietnam at the Crossroad,” *Manila Times*, June 9, 2011.

<sup>81</sup> Ian Timberlake, “Sea spat raises China-Vietnam tensions,” Agence France Presse, June 9, 2011. Talisman Energy Inc. a Canadian company based in Calgary announced in April 2011 that it would conduct a major

charter with PetroVietnam.<sup>82</sup> Two China Maritime Surveillance ships and other Chinese fishing craft came to assist the distressed fishing boat. According to Nguyen Phuong Nga, the official Foreign Ministry spokesperson, “China’s systematic acts were aimed at turning an undisputed region into one of dispute, to carry out its ambition to make China’s nine-dash line claim a reality.”<sup>83</sup>

Earlier the *Viking II* had been involved in separate incidents on May 29 and May 31 in which Chinese boats – the *Fei Sheng* No. 16 and Vessel No. B12549 – attempted to approach its rear deck and interfere with its operations. Security escorts with the *Viking II* successfully blocked their approaches.<sup>84</sup>

Chinese authorities claimed that the *Viking II* incident occurred when armed Vietnamese ships chased Chinese fishing boats from the Wan-an (Vanguard) Bank. One of the Chinese boats became entangled in the cable of the *Viking II* ship operating in the same area. The Chinese boat was dragged for more than an hour before the entangled net could be cut. According to the Chinese Foreign Ministry spokesperson, Hong Lei, “The Vietnamese ship put the lives and safety of the Chinese fishermen in serious danger.” Vietnamese Foreign Ministry officials lodged a protest with the Chinese Embassy on the afternoon of the incident and announced that the Vietnam National Oil and Gas Group would be seeking compensation for damages.<sup>85</sup>

**Prime Minister Dung on “Incontestable Sovereignty”.** On June 9, Prime Minister Nguyen Tan Dung responded to growing domestic pressure to demonstrate some backbone in dealing with China by making an unusually strong statement in defence of national sovereignty. Dung said: “We continue to affirm strongly and to manifest the strongest determination of all the Party, of all the people and of all the army in protecting Vietnamese sovereignty in maritime zones of the country.” Dung also reaffirmed “the incontestable maritime sovereignty of Vietnam towards the two archipelagos, the Paracel and Spratlys.”<sup>86</sup> On the same day, President Nguyen Minh Triet, visiting Co To island off Quang Ninh province near the China border, stated that

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seismic program in this area; Nicholas Heath and Daniel Ten Kate, “Vietnam Says Chinese Boat Harassed Petro-Vietnam Survey Ship,” Bloomberg *Businessweek*, June 9, 2011.

<sup>82</sup> Reuters, “Vietnam accuses China of harassing another boat,” June 9, 2011.

<sup>83</sup> Quoted by United Press International, “Vietnam alleges high-seas interference,” June 10, 2011.

<sup>84</sup> An Dien and Minh Hung, “East Sea undercurrents,” *Thanh Nien News*, June 10, 2011.

<sup>85</sup> Ian Timberlake, “Sea spat raises China-Vietnam tensions,” Agence France Presse, June 9, 2011 and Reuters, “China accuses Vietnam in escalating sea tensions,” June 10, 2011.

<sup>86</sup> Interview with *Thanh Nien* quoted by Agence France Presse, “Vietnam PM says sea sovereignty ‘incontestable’,” June 9, 2011 and Deutsche Presse-Agentur, “Vietnam’s top leaders add fire to South China Sea disputes,” June 9, 2011.

Vietnam was “determined to protect” its islands and “we are ready to sacrifice everything to protect our homeland our sea and island sovereignty.”<sup>87</sup>

**Live-Fire Exercises.** On June 9<sup>th</sup> after the Chinese Ambassador to the Philippines called on Vietnam and the Philippines to cease oil exploration, and after China announced it would be conducting routine naval exercises in the Western Pacific,<sup>88</sup> Vietnam raised the stakes by announcing a live-fire exercise. Vietnam’s Northern Maritime Safety Corporation issued a notice that two live firing exercises would be held on June 13<sup>th</sup> in the waters near Hon Ong Island. The exercises would last for a total of nine hours and be conducted during the period 8am-noon and 7pm-midnight (0100-0500 GMT and 1200-1700 GMT). The notice further declared, “All vessels are to refrain from engaging in activities in the area during the live-fire period.”<sup>89</sup> Hon Ong Island is located approximately forty kilometres off Quang Nam province in central Vietnam.

Vietnam’s Foreign Ministry characterized the live-firing exercises as “a routine annual training activity of the Vietnam navy in the area where the Vietnam navy regularly conducts training [activities] that are programmed and planned annually for units of the Vietnam People’s Navy.”<sup>90</sup> Vietnam did not specify how many ships would be involved but made clear no missiles would be fired. The first phase of the exercise involved coastal artillery while the second part of the exercise involved missile corvettes firing their deck gun.

On June 11, the *Global Times*, an English-language newspaper published by the Chinese Communist Party, editorialized that Vietnam’s conduct of a live-firing exercises was the “lowest form of nationalism to create a new enmity between the people of the two countries. Hanoi seems to be looking to dissipate domestic pressure and buck up morale at home, while at the same time further drawing in the concern of international society over the South China Sea dispute.” The editorial stated that China has “never sought to politically blackmail smaller countries. But when a small country turns that around and tries to blackmail China, the Chinese people will on the one hand feel rather angry, while on the other hand find it quite amusing.” In conclusion, the editorial opined, “If Vietnam insists on making trouble, thinking that the more trouble it makes, the more

<sup>87</sup> Deutsche Presse-Agentur, “Vietnam’s top leaders add fire to South China Sea dispute,” June 9, 2011.

<sup>88</sup> Ben Blanchard and Michael Martina, “China says to hold ‘routine’ navy drills in western Pacific,” Reuters, June 9, 2011.

<sup>89</sup> Bao Dam An Toan Hang Hai Mien Bac (Northern Maritime Safety Corporation), “Ve viec ban dan that tren vung bien Quang Nam,” So 107/TBHH-CT.BDATHHMB, June 9, 2011, <http://www.vms-north.vn>. A spokesman for the Vietnam naval command at Da Nang said the exercise would total six hours.

<sup>90</sup> Quoted by John Ruwitch, “Vietnam welcomes international help as sea dispute escalates,” Reuters, June 11, 2011. See also: Margie Mason, “Vietnam plans live-fire drill after China dispute,” Associated Press, June 10, 2011; Agence France Presse, “Vietnam to hold live-fire drill as China rift grows,” June 10, 2011 and Deutsche Presse-Agentur, “Navy official says live-fire drills well inside Vietnam’s territory,” June 11, 2011.

benefits it gains, then we truly wish to remind those in Vietnam who determine policy to please read your history.”<sup>91</sup>

**Anti-China Demonstrations.** China’s new wave of aggressive assertiveness provoked a patriotic response among students and a wider section of the Vietnamese community. Using Facebook and other social networking sites they mounted anti-China demonstrations on two consecutive Sundays in both Hanoi and Ho Chi Minh City. On June 5 an estimated 300 Vietnamese gathered in Hanoi near the Chinese Embassy, while a crowd estimated “at nearly 1,000” to “several thousand” gathered in Ho Chi Minh City.<sup>92</sup> On the following weekend, June 12, two hundred demonstrators took to the streets of Hanoi while another three hundred marched in Ho Chi Minh City in a repeat of the previous weekend’s protests.<sup>93</sup> The protestors held placards reading “Down with China,” “The Spratlys and Paracels belong to Vietnam” and “Stop Violating Vietnam’s Territory.” All the demonstrations were peaceful and dispersed on orders by the police.<sup>94</sup>

**Hacking Attacks.** During early June, growing enmity between nationalists in China and Vietnam spilled over into cyberspace. According to Nguyen Minh Duc, director of the Bach Khoa Internetwork Security Centre, more than two hundred Vietnamese websites were subject to cyber attacks. Among the sites affected were those of the ministries of Agriculture and Rural Development and Foreign Affairs where hackers succeeded in posting Chinese flags and slogans.<sup>95</sup>

### Shangri-la Dialogue

As all these major incidents in the South China Sea occurred prior to the annual meeting of the Shangri-La Dialogue held in Singapore from June 3-5, it was all but inevitable that territorial disputes would be raised by the defence ministers who were present. They spoke diplomatically and their presentations revealed a range of differing assessments.

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<sup>91</sup> Quoted by Associated Press, “China Communist Party newspaper cautions Vietnam,” June 11, 2011.

<sup>92</sup> “Chinese aggression in the South China Sea persists, says Vietnam Foreign Minister,” *IB Times*, June 9, 2011; Reuters, “Vietnam accuses China of harassing another boat,” June 9, 2011 and Ian Timberlake, “‘Facebook effect’ stirs Vietnam-China tensions,” Agence France Presse, June 10, 2011

<sup>93</sup> Deutsche Presse-Agentur, “Vietnamese demonstrate against China as sea disputes heats up,” June 12, 2011; Reuters, “Vietnam allows second anti-China protest in Hanoi,” June 12, 2011 and AFP, “Protesters rally ahead of Vietnam fire drills,” *The Standard*, June 13, 2011.

<sup>94</sup> Some Vietnamese universities warned their students not to take part in anti-China demonstrations. A notice at the Industrial University in Ho Chi Minh City, for example, threatened to expel students who took part in anti-China demonstrations; see: John Ruwitch, “Vietnam allows second anti-China protest in Hanoi,” Reuters, June 12, 2011.

<sup>95</sup> Agence France Presse, “Vietnam complains to China as sea tensions rise,” June 9, 2011 and Ian Timberlake, “Vietnam to hold live-fire drill as China rift grows,” June 10, 2011.

In fact, territorial disputes in the South China Sea were raised in all plenary sessions at the Tenth Shangri-la Dialogue. Malaysia's Prime Minister Dato' Sri Najib Tun Razak offered the upbeat assessment that "ASEAN and China will soon be able to agree on a more binding code of conduct to replace the 2002 Declaration on Conduct in the South China Sea" and that "overlapping claims in the South China Sea... have generally been managed with remarkable restraint." He then offered this insight into Malaysia's policy: "I remain fully committed to the common ASEAN position in terms of our engagement with China on the South China Sea, I am equally determined to ensure our bilateral relationship remains unaffected and, in fact, continues to go from strength to strength."<sup>96</sup>

Secretary of Defense Robert Gates, while not mentioning the South China Sea by name, stated the well known position that the U.S. had a "national interest in freedom of navigation..." He also stressed the importance of customary international law as a guide for "the appropriate use of the maritime domain, and rights of access to it."<sup>97</sup> China's Defence Minister put on record his country's commitment "to maintaining peace and stability in South China Sea." He noted that, "at present, the general situation in the South China Sea remains stable."<sup>98</sup>

In contrast, Vietnam's Defence Minister spoke in detail about the legal basis for activities at sea "to facilitate cooperation for development and deter actions that risk our common interests, regionally and nationally." Minister Thanh specifically raised the Binh Minh 02 cable cutting incident that had aroused "considerable concern on the maintenance of peace and stability in the East Sea." He ended his discussion on this incident with these words: "We truly expect no repetition of similar incidents."<sup>99</sup> Four days later a second cable cutting incident occurred. Commentators were quick to contract General Liang's words with China's deeds.

The Philippine Secretary of National Defence, Voltaire Gazmin, reportedly watered down the draft text of his remarks on the South China Sea before delivery.<sup>100</sup> His address began by noting that, "maritime security is one of our foremost concerns." In an obvious reference to the March 2<sup>nd</sup> incident Gazmin stated that the actions by other states "make... the Philippines worry and concerned. These actions necessarily create

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<sup>96</sup> Dato' Sri Najib Tun Razak, Keynote Address, The 10<sup>th</sup> IISS Asian Security Summit The Shangri-La Dialogue, June 3, 2011.

<sup>97</sup> Robert M. Gates, "Emerging Security Challenges in the Asia-Pacific," The 10<sup>th</sup> IISS Asian Security Summit The Shangri-La Dialogue, June 4, 2011.

<sup>98</sup> Liang Guanglie, "China's International Security Cooperation," The 10<sup>th</sup> IISS Asian Security Summit The Shangri-La Dialogue, June 5, 2011.

<sup>99</sup> Phung Quang Thanh, "Responding to New Maritime Security Threats," The 10<sup>th</sup> IISS Asian Security Summit The Shangri-La Dialogue, June 5, 2011.

<sup>100</sup> Confidential source who spoke with Secretary Gazmin at the Shangri-La Dialogue.

insecurity not only to the government but more disturbingly to ordinary citizens who depend on the maritime environment for their livelihood.” He then gave details of recent incidents involving Chinese vessels without mentioning China by name.<sup>101</sup> Malaysia’s Defence Minister Datuk Seri Dr. Ahmad Zahid Hamidi drew attention to disputes in the South China Sea – geopolitics, Sea Lines of Communication (SLOC) security and competition over petroleum resources. He argued that the 2002 DOC needed to be “supported by actual activities that can promote confidence building among the claimants” and suggested that “claimant countries in the South China Sea work towards identifying and realizing actual confidence-building (CBM) activities that would help alleviate some of the tension in the area.”<sup>102</sup>

## Conclusion

China’s recent aggressive assertion of sovereignty over the South China Sea has raised the security stakes for Southeast Asian states and all maritime powers that sail through these waters. Ensuring the security of the South China Sea is now an international issue that must be addressed multilaterally by all concerned states.

Three major incidents mark the new wave of Chinese aggressive assertiveness. On March 2 Chinese patrol boats operating within the Philippine’s Kalayaan Island Group approached a Philippine seismic survey ship in waters off Reed Bank and ordered it to leave the area. On May 26 three China Maritime Surveillance ships accosted a Vietnamese state-owned oil exploration vessel deep within Vietnam’s declared EEZ. The vessel was ordered to leave the area after a Chinese ship deliberately cut its submerged survey cable. And on June 9, a second Vietnamese exploration vessel was accosted by Chinese boats leading to a second cable-cutting incident.

In May 2009, when Malaysia and Vietnam filed a joint submission to the United Nations Commission on the Limits of the Continental Shelf, China lodged a protest accompanied by a map. The Chinese map contained nine dash marks in a rough u-shape covering virtually all of the South China Sea. China claims “indisputable sovereignty” over the South China Sea. Yet it has never made clear the basis of this claim despite two decades of entreaties by regional states. It is unclear what it is that China is claiming. Does China claim sovereignty over all the rocks and features within these dash marks? Or is China claiming the South China Sea as its territorial waters?

Some maritime specialists speculate that China’s claim is based on the nine rocks it occupies in the Spratly archipelago. In other words, China claims that the rocks are in fact islands in international law and thus attract a 200 nautical mile (370 kilometer) EEZ.

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<sup>101</sup> Voltaire Guzman, “Responding to New Maritime Security Threats,” The 10<sup>th</sup> IISS Asian Security Summit The Shangri-La Dialogue, June 5, 2011.

<sup>102</sup> Bernama, “Comprehensive efforts needed to ensure regional maritime security,” *The Star Online*, June 5, 2001.

This is a legal fiction. Islands must be able to sustain human habitation and have an economic function. Rocks, which do not meet these criteria, cannot claim an EEZ or continental shelf.

China's dash marks cut into the EEZs that have been declared by Vietnam and the Philippines. These EEZs are based firmly in international law. Both states have drawn straight base lines around their coasts and then extended their claim from these baselines seaward out to 200 nautical miles (370 kilometres). Under the United Nations Convention on Law of the Sea littoral states have sovereignty over these waters in terms of exploitation of natural resources such as fisheries or oil and gas deposits on the ocean floor.

In November 2002, China and ASEAN reached agreement on a Declaration on Conduct of Parties in the South China Sea. This was a non-binding document in which the signatories pledged not to use force to settle their sovereignty disputes. The DOC, which contains numerous proposed confidence-building measures, has never been implemented.

Chinese assertiveness in pushing its sovereignty claims in the South China Sea in 2009 and 2010 provoked an international backlash. The issue featured prominently at the ASEAN Regional Forum and at the inaugural ASEAN Defense Ministers Meeting Plus last year. China was out maneuvered diplomatically and sought to limit further damage by agreeing to revive the heretofore-moribund ASEAN-China Joint Working Group to Implement the Declaration on Conduct of Parties. This working group has stalled over China's insistence that territorial and sovereignty claims can only be settled bilaterally by the states concerned. ASEAN members insist on the right to meet together to work out a common position before engaging China.

ASEAN, under the chairmanship of Indonesia, has been pushing China to upgrade the DOC into a more binding Code of Conduct. Some regional diplomats are hopeful that an agreement can be reached by the tenth anniversary of the DOC in November 2012. This is unlikely to be achieved unless ASEAN maintains its unity and cohesion and adopts a common stance. It is clear there are "nervous Nellie's" among its members.

In the early to mid-1990s, when China began to occupy rocks in the Spratlys including the celebrated Mischief Reef, security analysts described Chinese strategy as "creeping assertiveness" and "talk and take". The events of this year are best described as aggressive assertiveness. China is now paying back Vietnam for its role in internationalizing the South China Sea last year when it was Chair of ASEAN. Chinese actions in the Reed Bank area are designed to expose ambiguities in the U.S.-Philippines Mutual Security Treaty over whether or not the Kalayaan Island Group is covered by this treaty.

ASEAN and the international community, both of which rely on transit through the South China Sea, must diplomatically confront China over its aggressive assertiveness. They should bring collective diplomatic pressure to bear on China at the forthcoming

annual meeting of the ASEAN Regional Forum and East Asia Summit to be held later this year to honor its commitments under the DOC.

Meanwhile both the Philippines and Vietnam should take steps to enhance their capacity to exert national sovereignty over their EEZs. Their weakness only invites China to act more assertively. On June 11, Nguyen Phuong Nga, spokesperson for the Ministry of Foreign Affairs, responded to a question about a possible role for the United States and other countries in resolving South China Sea disputes replied, "Maintaining maritime peace, stability security and safety in the Eastern Sea is in the common interests of all nations within and outside the region. Every effort by the international community toward peace and stability in the Eastern Sea is welcome."<sup>103</sup> It is in the interest of the United States and its allies as well as India to assist both nations in capacity building in the area of maritime security. At the same time this "coalition of like-minded states" should back ASEAN in its efforts to secure agreement on a code of conduct for the South China Sea. ASEAN members themselves could draw up a Treaty on Conduct in the South China Sea, and after ratification, open it so accession by non-member states.

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<sup>103</sup> Quoted by John Ruwitch, "Vietnam welcomes international help as sea dispute escalates," Reuters, June 11, 2011.