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**Future Scenarios of the South China Sea Maritime Disputes**

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# **Future Scenarios of the South China Sea Maritime Disputes**

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## **Executive Summary**

The focus of this paper is to analyze three future scenarios in the maritime disputes in the South China Sea. These namely are:

1. 'No War Scenario': The paper argues that the probability of war in the foreseeable future between the US and China over the South China Sea is unlikely. There are no signs to suggest that the US is preparing for major armed clashes with the Chinese navy in the South China Sea as the US and China share more of a convergence of common rather than a divergence of interests.

Low-level military confrontations and skirmishes are possible but war among the claimant states over the sovereignty disputes is unlikely. China has repeatedly stated that it will not use force to resolve the sovereignty and maritime border disputes in the South China Sea.

2. 'Impasse Scenario': As long as disputing states believe that sovereignty is exclusive, there will be no solution to the sovereignty disputes in the South China Sea. The South China Sea maritime disputes are complex and there is no quick 'fix' for sovereignty disputes.

3. 'Peace Scenario': China and the other claimants can conclude a 'South China Sea Peace Treaty' with the inclusion of 'No First use of Force' to preclude violence and make the South China Sea a maritime region of peace, freedom and cooperation. Peace can only be achieved by collective efforts among the disputing parties and cannot be taken for granted. Peace has to be earned via hard work from all the claimants and has to be enduring and not be temporary.

Ultimately, the way forward towards a viable solution to resolving the South China Sea maritime disputes between China and other claimant states depends on the political wisdom, will and determination of the disputing states. Lofty nationalistic aspirations have to be tempered with a degree of flexibility and pragmatic realism to ensure every actor in the dispute receives access to a viable stake in the region to ensure lasting peace in the South China Sea.

Keywords: sovereignty disputes, war, peace, impasse

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## Introduction

Geographically, the South China Sea is the 'hub' of the Indian/Pacific Ocean and is one of the busiest sea lanes for seaborne global trade. Since the discovery of hydrocarbon resources (oil and gas) under the seabed in the 1970's, the South China Sea has evolved from a sea of relative tranquility in the 1950s and 1960s to a present day sea of choppy waves caused by the growing contention and scramble for a slice of the bountiful resources held within the area. These overtures and jockeying for sovereign rights and claims by various regional actors have turned the South China Sea into a hotspot for maritime disputes and a modern day test of wills against a backdrop of saber rattling and naval power posturing.

Essentially, the crux of the South China Sea's maritime disputes centers on three main focal areas. These include inter alia disputes over sovereignty and sovereign rights, i.e. the issues of who legally owns the islands, reefs and who has the right to control the adjacent water; ownership and control over the resources below the sea beds, and finally, who has the right and to what extent is allowed to fish beyond its territorial sea.

These three main areas of contention bring together friction points that lend a degree of complexity and body to the South China Sea maritime disputes. In one instance, overfishing and the depletion of fish stock contribute to the intensification of the disputes as countries struggle to feed their growing populace. In another, the scramble for resources by multi-national energy corporations intensifies the claimant states' strife to control resources exploration in the South China Sea with the view of reaping the plentiful profitable bounties held within the area. Certain friction points even result from intrinsic domestic motivation and political obligations. Rising domestic nationalism push the claimant states to be more assertive and in some degrees to resort to military adventurism.

Last but not least, the growing extra-regional major powers' involvement in the South China Sea maritime disputes enhances the complexity of the intractable maritime disputes in the South China Sea. Indeed, one analyst depicts the South China Sea as the sea of future conflicts in the 21<sup>st</sup> century.<sup>1</sup> Will future conflicts turn into hot wars among the six claimants?

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<sup>1</sup> Robert, D. Kaplan, 'The South China Sea is the Future of Conflict,' *Foreign Policy*, September /October 2011, p.1.

Among the six claimants, i.e. The People's Republic of China (hereafter China), the Republic of China (hereafter Taiwan), Vietnam, Malaysia, the Philippines and Brunei, China is the most important claimant and helmsman in shaping and steering towards the course of war or peace in the South China Sea maritime disputes.

China's 'Fifth Generation' paramount leader Xi Jinping<sup>2</sup> is the most critical lead actor in determining to a great extent the future of the South China Sea in the first term of his leadership (2013-2018). Does he have the political wisdom and political will to maintain the South China Sea as a calm 'Sea of Peace' or agitate it into a turbulent 'Sea of War' in the future?

While these situations pose intriguing questions and valid concerns, the main focus of this paper is to analyze three future scenarios of the maritime disputes in the South China Sea. The first deals with the 'No-War Scenario,' the second analyses the reasons for the 'Impasse Scenario,' while the third projects the 'Peace Scenario,' followed by a brief conclusion. The main thesis of this article is to argue that the imbroglio of the South China Sea maritime disputes will remain at impasse in the foreseeable future.

## **I. No War Scenario**

Will China use force to resolve and settle once and for all the maritime disputes in the South China Sea in the foreseeable future? Will the US get engulfed in a major armed clash with China by virtue of the Mutual Defense Treaty between the United States and the Republic of the Philippines (August 30, 1951) should Beijing decide to use force to occupy the Tithu Island in the Spratlys which is claimed by both China and the Philippines?

With the exception of the Sino-US EP-3 Reconnaissance plane incident over the sky of the South China Sea in April 2001, the naval clashes in the South China Sea were by and large low intensification armed skirmishes. Since the Sino-Vietnamese naval clashes in 1974 over the Paracel Islands and the 1988 clashes over the Fiery Cross Reef,<sup>3</sup> the PLANavy has on balance been relatively restrained in using its military

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<sup>2</sup> Xi Jiping (born in 1953) succeeded Hu Jintao as Secretary General of the Communist Party of China in 2012 and became President of the People's Republic of China in March, 2013; he is concurrently the Chairman of the Central Military Commission.

<sup>3</sup> For more details on the March 1988 sovereignty disputes over the Spratly Islands, see Shee Poon Kim, 'The March 1988 Skirmish Over the Spratly Islands and Its Implications for Sino-Vietnamese Relations,' in *Fishing in Troubled Waters*, R.D. Hill, (ed), Hong Kong: University of Hong Kong, 1991, p.129. See also Peter Dutton, 'Three Disputes and Three Objectives: China and the South China Sea,'

muscle to threaten its adversaries.

This section of the paper argues that the probability of war in the foreseeable future between the US and China over the South China Sea is almost nil. There are no signs to suggest that the US is preparing for major armed clashes with the Chinese navy in the South China Sea.<sup>4</sup> In fact, President Obama's policy on the South China Sea can be succinctly summarized as a want for maintaining peace and order. His policy goals are:

First, in line with the US' consistent policy since the emergence of Pax Americana after World War II, Obama wants to ensure that the South China Sea is an international sea of commons, i.e. not belonging to any country. The US therefore rejects the 'China Sea' or 'West Philippine Sea' or 'Vietnam's East Sea' thesis. Since the US is not a claimant, Washington takes a neutral position on the sovereignty claims in the South China Sea.

Second, Obama wants to see the South China Sea as an open and free sea-lane of navigation. The US is a great maritime power which engages in large sea-borne trade with the Asia-Pacific countries.<sup>5</sup> Geographically, The South China Sea is the 'pivot' of Obama's Trans-Pacific Partnership (TPP) maritime trade with the Asia-Pacific region.

Third, the US maintains that the South China Sea maritime disputes must be resolved peacefully without resorting to force via principles of international law.

Fourth, Obama wants to preserve the US' strategic interests in the South China Sea as part of the US' larger picture strategic interest in the Asia-Pacific region. The US' security interests in the South China Sea are linked to larger security goals in the Asia Pacific region, including maintaining alliances with Japan, South Korea, Australia, etc. For President Obama, to maintain peace in the South China Sea is important for the US to serve as a 'moderating' force in these maritime disputes. In this sense, the US

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Naval War College Review, Autumn 2011, Vol. 64, No. 4, pp. 42-67.

<sup>4</sup> It is alleged that neo-conservative Pentagon planners initiated an 'Air-Sea Battle' strategy aimed primarily at rising China. See Robert E. Kelley, 'Why the West Should Relax About China,' *The Diplomat*, September 6, 2013 at <http://thediplomat.com/2013/09/06/why-the-west-should-relax-about-china/>. See also Amitai Etzioni, 'Who Authorized Preparations for War with China?' *Yale Journal of International Affairs*, Summer 2013, pp. 37-51, at <http://icps.gwu.edu/files/2013/06/Who-Authorized-Preparations-for-War-With-China.pdf>.

<sup>5</sup> In 2013, the total Sino-US trade alone was US\$562,449.8 million. See U.S Department of Commerce, United States' Census Bureau, 'Trading Goods with China,' at <http://www.census.gov/foreign-trade/balance/c5700.html>.

can be a balancing factor in the dynamics of the South China Sea by restraining the claimant states from any excessive aggressive behavior in the maritime disputes. A credible US presence is a *sine qua non* to preserve peace and order in the South China Sea.

From China's perspective, the US' involvement in the South China Sea in the wake of Secretary of State Hillary Clinton's assertive speech at the ASEAN Regional Forum (ARF) in July 2010 triggered a ripple in the South China Sea.<sup>6</sup> China sees Obama's strategic 'pivot' policy in the South China Sea as a subtly disguised attempt at containing China.<sup>7</sup> The regular US/Philippine military exercises off the coast of the Palawan Island were perceived as challenging China's sovereignty claim over the Scarborough Shoal. These military exercises from China's perspective add 'fuel to the fire' in the South China Sea maritime disputes and make it more difficult for the claimant states to find a solution to these complex maritime disputes.<sup>8</sup>

In any case, the US and China realize that war in the South China Sea is not a good option for the two countries. There quite simply will be no winners from this outcome. On that note, low-level military confrontations and skirmishes are possible but war among the claimant states over the sovereignty disputes is unlikely. A settlement of resource disputes can best be done through dialogues, negotiations and cooperation by the direct concerned parties, but not by war.

China will not go to war in the South China Sea for the following reasons: first, most of its energy imports<sup>9</sup> have to pass through the South China Sea. War will disrupt China's energy supply chain from abroad and undermine sea-borne trade. As an economy which is increasingly dependent on external energy and other mineral resources, China has to minimize her energy insecurity by promoting economic

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<sup>6</sup> *China Daily*, April 7, 2013. See also Gordon G. Chang, 'Hillary Clinton Changes America's China Policy,' *Forbes*, July 28, 2010, at <http://www.forbes.com/2010/07/28/china-beijing-asia-hillary-clinton-opinions-columnists-gordon-g-chang.html>. See also Mark Landler, 'Offering to aid Talks, U.S. Challenges China on Disputed Islands,' *The New York Times*, July 23, 2010, at [http://www.nytimes.com/2010/07/24/world/asia/24diplo.html?\\_r=0](http://www.nytimes.com/2010/07/24/world/asia/24diplo.html?_r=0) and

<sup>7</sup> Interview with a senior Chinese scholar on June 1, 2013.

<sup>8</sup> Shang Jun, 'Commentary: A calm South China Sea needs no flame-stoker,' *Xinhuanet*, August 11, 2014, at [http://news.xinhuanet.com/english/china/2014-08/11/c\\_133547782.htm](http://news.xinhuanet.com/english/china/2014-08/11/c_133547782.htm).

<sup>9</sup> In December 2012, China became the world's largest importer of oil (6.12 million barrels per day, compared to the US with 5.98 million barrels per day). See Toh Han Shih, 'US exports crude oil to China,' *South China Morning Post*, April 18, 2013, at <http://www.scmp.com/business/commodities/article/1217040/us-exports-crude-oil-china>. The Energy Information Administration (EIA) in its September 2013 report mentioned that China's net oil import has outstripped the US' and that this new trend is expected to continue in 2014. See Zachary Keck, 'It's Official: China's the World's Largest Oil Importer,' *The Diplomat*, October 11, 2013, at <http://thediplomat.com/2013/10/its-official-chinas-the-worlds-largest-oil-importer/>.

cooperation with the littoral states along the South China Sea and the Indian Ocean.

Second, the ever closer growing complex symbiotic economic interdependence between China and the ASEAN states is the main factor preventing the claimant states in the South China Sea maritime disputes from going to war with each other. Mutual reliance breeds greater accommodation with zero sum games in all likelihood left off the table. Deepening mutual economic interdependence would be more prudent for the claimant states than to use war as an option in resolving sovereign and resources disputes in the South China Sea.

Since the implementation of the ASEAN/China Free Trade Agreement (ACFTA) in 2010, China has emerged as the most important economic partner of the ASEAN grouping in terms of trade, investment, aid, particularly developmental projects for the Great Mekong Subregion (GMS) states. In line with this development, President Xi Jinping in his speech to the Indonesian Parliament on October 3, 2013, called upon ASEAN to build, together with China, a 'Community of Common Destiny,' with bilateral trade between China and ASEAN to reach US\$1 trillion by 2020.<sup>10</sup> With so many trade dollars at stake, claimants are unlikely to involve in any major naval armed conflicts for fear of killing the golden goose.

Third, war undermines China's peaceful rise and invalidates China's claim of peaceful neighborly foreign policy.

Fourth, China adopting a hard-line military adventurist policy would incur a political cost of 'trust deficit' between China and the ASEAN claimant states. Once incurred, the other claimant states would thus come to rely more on the US for security protection thereby undermining China's strategic interests in the South China Sea by virtue of the ushering in and extension of US presence at the behest of the other states in the South China Sea to counter China's rising assertiveness. Unsurprisingly, China has repeatedly stated that it will not use force to resolve the sovereignty and maritime border disputes in the South China Sea.<sup>11</sup>

## **II. Impasse Scenario**

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<sup>10</sup> 'China to build community of common destiny with ASEAN,' Xinhua, ChinaDaily online, October 3, 2013, at [http://news.xinhuanet.com/english/china/2013-10/03/c\\_132770494.htm](http://news.xinhuanet.com/english/china/2013-10/03/c_132770494.htm).

<sup>11</sup> See 'China 'will not use force' in South China Sea disputes,' BBC, June 14, 2011, at <http://www.bbc.co.uk/news/world-asia-pacific-13759253>; See also Zaobao, August 12, 2012.

Sovereignty disputes are sensitive and contested by all the claimant states who perceive the scramble for resources by and large as a zero-sum game. Sovereignty claims are linked to nationalism and shaped by domestic politics of the claimant states. Vietnam who has been subjugated by external powers historically before is particularly sensitive to nationalism. The May 2014 anti-Chinese riots were a good example.

From Vietnam's perspective, the Paracel and the Spratly Islands disputes vis-à-vis China are part of an overall struggle for independence, nation-building, identity and security. The South China Sea is very critical for Vietnam's development, security and national survival. Hydrocarbon resources and other mineral resources under the seabed as well as fisheries are essential to sustain the ever larger growing Vietnamese population.<sup>12</sup> In response to rising nationalist aspirations and sentiments, Vietnamese leaders cannot afford to appear weak vis-à-vis other claimant states. Nationalism thus makes it difficult for the claimant states to resolve sovereignty and sovereignty rights issues in the South China Sea maritime disputes.

In the case of China's present 'Fifth Generation' new leadership under the Xi Jinping team who is in the process of consolidating the Chinese Communist Party's (CCP) power, sovereignty disputes in the South China Sea have been upgraded to 'core interests',<sup>13</sup> equal to the status of Tibet, Xinjian or Taiwan. Thus it is understandable that China is consistently rejecting any negotiations on sovereignty issues through international arbitration. As long as disputing states believe that sovereignty is exclusive, there will be no solution to the sovereignty disputes in the South China Sea.

Why is there no legal solution in the foreseeable future?

The Philippines used the legal strategy to resolve the territorial disputes with China based on norms in accordance with the International Law of the Sea by submitting a

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<sup>12</sup> In 2012, Vietnam's population was estimated at 88.78 million, rising 1.06% from 2011. See General Statistics Office of Vietnam, at [http://www.gso.gov.vn/default\\_en.aspx?tabid=501&thangtk=12/2012](http://www.gso.gov.vn/default_en.aspx?tabid=501&thangtk=12/2012). And by 2013, it is supposed to reach 90.388 million. See 'Vietnam Population 2013,' December 5, 2013, at <http://www.worldpopulationstatistics.com/vietnam-population-2013/>.

<sup>13</sup> In March 2010, China elevated the South China Sea as part of its 'core interests', see Toshi Yoshihara and James R. Holmes, 'Can China Defend a "Core Interest" in the South China Sea?' *The Washington Quarterly*, Spring 2011, 34:2, pp.45-59. See also Wang Qian and Zhang Yunbi, 'President Xi vows to protect maritime interests,' *People's Daily Online*, August 1, 2013, at <http://english.peopledaily.com.cn/90785/8348261.html>, and 'Beijing won't barter away core interests,' Kevin Voigt and Natalie Robehmed, 'Explainer: South China Sea – Asia's most dangerous waters,' CNN, June 28, 2011, at <http://edition.cnn.com/2011/WORLD/asiapcf/06/25/south.china.sea.conflict/index.html>. *The Straits Times*, August 21, 2013.



nearly 4,000 page memorial for legal arbitration on March 30, 2013 to the Permanent Court of Arbitration in The Hague.<sup>14</sup> President Aquino's submission was aimed at China as a litmus test to see whether China intends to play by international rules or its own rules.<sup>15</sup>

For China, a loss in arbitration to a small power will have serious adverse domestic repercussions for Xi's leadership. Moreover, losing the case to the Philippines will embolden other claimants and have other negative flow on implications for China in the East China Sea disputes with Japan.

Another stumbling block to resolving the dispute via a legal solution is China's inherent lack of strong legal governance and tradition. Along the same lines, China's public opinion is also not receptive to arbitration. Chinese leaders are concerned with their image or otherwise commonly known as "face". Losing a legal battle in an international court would mean losing domestic and international "face" for Xi Jinping. Chinese prefer keeping settlements of disputes outside the court. China does not feel secure with international legal governance as a medium of dispute resolution since the World Court is by and large dominated by foreign judges and is based on an international legal system heavily influenced by western norms.

China and its adversaries have different views on how to resolve the sovereignty imbroglio. For the Philippines, the sovereignty disputes in the Spratlys can be resolved through legal means, i.e. submission to the International Court of Justice (ICJ) for arbitration. Indeed, within ASEAN, there were three legal cases, i.e. 1. Cambodia/Thailand over the Preah Vehear Temple (1962); 2. Malaysia/Indonesia over the Sidapan Ligitan Island disputes (2002); and finally 3. the Pedra Branca dispute (2008) between Singapore and Malaysia which has been settled by the ICJ. For China, the sovereignty dispute is political and historical but not legal. At best, Beijing still upholds the thinking that 'sovereignty is ours'<sup>16</sup> and is therefore not subject to

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<sup>14</sup> See Shannon Tiezzi, 'The Philippines' UNCLOS Claim and the PR Battle Against China,' *The Diplomat*, April 1, 2014, at <http://thediplomat.com/2014/04/the-philippines-unclos-claim-and-the-pr-battle-against-china/>; see also Raul Dancel, 'High stakes for Philippines in its legal fight with China,' *The Straits Times*, April 17, 2014 at <http://www.straitstimes.com/news/opinion/eye-the-world/story/high-stakes-philippines-its-legal-fight-china-20140417>.

<sup>15</sup> Peter, A. Dutton, *The Sino-Philippine Maritime Row: International Arbitration and the South China Sea*, *East and South China Seas Bulletin* No. 10, March 15, 2013, p.6, Center for a New American Security, at [http://www.cnas.org/files/documents/publications/CNAS\\_Bulletin\\_Dutton\\_TheSinoPhilippineMaritimeRow\\_0.pdf](http://www.cnas.org/files/documents/publications/CNAS_Bulletin_Dutton_TheSinoPhilippineMaritimeRow_0.pdf).

<sup>16</sup> For a Chinese perspective, see Li Jinming, 'Current Situation of the South China Sea Dispute and the Involvement of Large Countries outside the Region' (in Chinese), in Wang Qin (ed) *Annual Report*

negotiations.

China argues that it already owns the Scarborough shoal in the South China Sea and therefore there is no legal basis to submit it for arbitration.<sup>17</sup> In fact, since 2000, China's position over the sovereignty disputes with Vietnam and the Philippines have been hardening rather than softening to be more accommodating.

Ambiguities in China's 'Nine-Dash Line' (1947),<sup>18</sup> which in itself legally problematic, further diminishes the chances of a dispute resolution through legal means. Because of this ambiguity, China does not want to submit the sovereignty dispute for fear of being disadvantaged,<sup>19</sup> as the 'Nine-Dash Line' has created more problems when used as a basis of claim for China.<sup>20</sup>

Another impediment to the resolution of sovereignty disputes comes in the form of China's reluctance to comply with ASEAN's efforts to draft a legally binding Code of Conduct (COC). ASEAN's COC cannot be the legal basis for a solution as China perceives it only as a useful mechanism for promoting good diplomacy rather than to resolve the sovereignty impasse. China does not want the COC to limit its options in the South China Sea maritime maneuvers.

Last but not least, China perceives that time is on its side and therefore Beijing can afford to adopt a 'wait and see' strategy. Thus from China's perspective, there is no need to solve the sovereignty and sovereign rights disputes urgently.

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*on the Development of Southeast Asia*, (2012), pp.91-110, (Beijing, China: Social Science Academic Press). For a critique on the meaning of 'Sovereignty is Ours,' 'what is mine is mine, what is yours is also mine, but we are willing to share yours', see Bhaskar Roy, 'Spratly Islands A New Geostrategic Game? – Analysis,' *Eurasia Review*, June 24, 2011, p.1, at <http://www.eurasiareview.com/24062011-spratly-islands-a-new-geostrategic-game-analysis/>.

<sup>17</sup> *People's Daily* online July 18, 2013. See also 'Beijing rejects South China Sea arbitration,' *The Straits Times*, February 20, 2013.

<sup>18</sup> See Le Hong Hiep, 'South China Sea Disputes Keep Vietnam-China Relations Cold', ISEAS Perspective, April 5, 2013, No. 22, p.2. Stein Tonnesson points out that the 'U Shaped Dash Line' was based on the Republic of China's map in 1947. See Stein Tonnesson, 'Steps Forward for China to Resolve its Disputes in the South China Sea,' *Global Asia, a Journal of the East Asia Foundation*, Vol. 8 No. 2, Summer 2013, June 20, 2013, p.5, at <http://www.globalasia.org/Issue/ArticleDetail/18/steps-forward-for-china-to-resolve-its-disputes-in-the-south-china-sea.html>.

<sup>19</sup> See Le Hong Hiep, 'South China Sea Disputes Keep Vietnam-China Relations Cold', ISEAS Perspective, April 5, 2013, No. 22, *ibid*, p.3.

<sup>20</sup> Stein Tonnesson argues that the 'U-shaped line' cannot represent a Chinese claim to all the waters within it. See Stein Tonnesson, 'Steps Forward for China to Resolve its Disputes in the South China Sea,' *Global Asia, a Journal of the East Asia Foundation*, Vol. 8 No. 2, Summer 2013, June 20, 2013, p.5, at <http://www.globalasia.org/Issue/ArticleDetail/18/steps-forward-for-china-to-resolve-its-disputes-in-the-south-china-sea.html>.

Meanwhile, the People's Liberation Army (PLA) is strengthening its naval capability with an annual military budget of more than double digits in annual growth at an average of 11.8% from 2000 to 2011. In 2012, China's published defense budget was RMB 670.274 billion which was an increase of RMB 67.604 billion over 2011 (11.2% growth rate),<sup>21</sup> and is planned to be increased by 12.2% to Yuan 808.2 billion (US\$131.57 billion) in 2014.<sup>22</sup> China knows that the South China Sea maritime disputes are complex and there is no quick 'fix' for sovereignty disputes.

While the salient points above outline why sovereignty disputes are unlikely to be resolved anytime soon, the importance of studying China's South China Sea policies and strategies cannot be understated. Given the dynamics of the situation, Beijing is the most important claimant state that will likely change the overall status quo. Indeed, China's announcement on November 2013 of its Air Defence Identification Zone (ADIZ) in the East China Sea was a manifestation of China's desire to expand its air and maritime space with implication of changing the status quo to Beijing's advantage. Domestically, it was partly a response to Chinese demand by its people's rising nationalistic aspirations to take a tougher stand on the sovereignty disputes, particularly vis-à-vis the challenges posed from Japan's Prime Minister Abe's hawkish policy. China's ADIZ aims directly to challenge Japan's territorial claims over the Diaoyutai/Senkaku islands and the surrounding waters and airspace. The ADIZ can be interpreted as part of a long-term grand strategy of Xi Jinping's 'Chinese Dream' for China to become a great maritime power in the 21<sup>st</sup> century as Ming's China was in the 15<sup>th</sup> century. In China's foreign policy parlance, the ADIZ had ended a chapter of Deng Xiaoping's '*taoguang yanghui*' (keeping low posture) and turned the page towards one of 'strategic assertiveness' foreign policy paradigm.<sup>23</sup>

What are the implications of China's ADIZ for the disputing ASEAN states, Japan and the US?

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<sup>21</sup> See Ben Dolven (et al), Maritime Territorial Disputes in East Asia: Issues for Congress, CRS Report for Congress, Congressional Research Service January 30, 2013, p.24, at <http://www.fas.org/sgp/crs/row/R42930.pdf>.

For a discussion on this topic see Xiao Tiefeng, 'Misconceptions About China's Growth in Military Spending,' Carnegie Endowment for International Peace, May 28, 2013, at <http://carnegieendowment.org/2013/05/28/misconceptions-about-china-s-growth-in-military-spending/g76a>.

<sup>22</sup> See *Xinhua News*, 'China defense budget to increase 12.2 pct in 2014,' March 5, 2014 at <http://english.peopledaily.com.cn/90786/8555003.html>. See also 'China Congress reveals growth target and defence boost,' BBC News, March 5, 2014, at <http://www.bbc.com/news/world-asia-china-26429481>.

<sup>23</sup> Pepe Escobar, 'China vs US 'sea-to-shining-sea'', *Asia Times*, December, 18, 2013, at <http://www.atimes.com/atimes/China/CHIN-01-181213.html>.

China's ADIZ is the beginning of Beijing's intention to expand the East China Sea maritime zone to include the South China Sea.<sup>24</sup> This prompted the US Secretary of State, John Kerry, on his visit to Vietnam and the Philippines in December 2013 to urge China not to declare a defense zone in the South China Sea.<sup>25</sup> Shoring up commitment and support for the Philippines, Kerry announced on December 17, 2013 that the US would extend aid to the tune of US\$40 million to enhance Manila's sea defense capabilities.<sup>26</sup>

From a long term perspective, China intends to remove not only Japan's control of its maritime zone in the disputed area in the East China Sea, but also the US presence and control over the Western Pacific Ocean.<sup>27</sup> In response to China's growing maritime power, the Obama administration has shifted from a 'Risk Aversion' strategy in the South China Sea to a more robust strategy in the wake of China's ADIZ. Thus on December 6, 2013, speaking to the House Committee on Foreign Affairs, Assistant Secretary of State for East Asia and Pacific Affairs, Daniel Russel for the first time declared that China's sovereignty claim based on the 'Nine-Dash Line' was inconsistent with international law.<sup>28</sup>

China's growing maritime assertiveness has muddied the waters in Sino-US strategic relationships. China's ADIZ strategy can be interpreted as a litmus test for Obama's pivot policy in East Asia. The US in turn has responded more forcefully in the wake of China's announcement of the ADIZ in the East China Sea so as to strengthen its allies' positions in the East and the South China Sea respectively.

In short, the implementation of the ADIZ together with other measures shows clearly Beijing's intention to change the status quo in the South China Sea with the aim of creating a new *fait accompli*. China's ADIZ strategy has contributed on balance to regional uncertainty and instability in the maritime disputes in the South China Sea. Such actions have increased external great powers' involvement in the strategic competition in the Pacific Ocean which makes ASEAN's efforts to find an amicable solution to the maritime disputes more difficult, if not impossible.

## **China's South China Sea Policies and Strategies**

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<sup>24</sup> Asahi Shimbun mentioned that China has a plan for the ADIZ in the South China Sea, see *The Straits Times*, February 2, and 12, 2014.

<sup>25</sup> *The Straits Times*, December 18, 2013.

<sup>26</sup> *The Straits Times*, December 18, 2013, *ibid*.

<sup>27</sup> S. Kapila, 'South China Sea and the United States', - Analysis, *Eurasia Review*, December 24, 2013.

<sup>28</sup> *The Straits Times*, February 7 and February 12, 2014.

China's employment of its radically new ADIZ strategy warrants a closer look at China's South China Sea policies and strategies in the context of understanding China's position in the South China Sea maritime disputes.

What are then China's South China Sea policies and strategies? Beijing's policies are succinctly characterized by three phases, i.e. first, the period of 'benign neglect' in the 1950s to the 1960s; second, the period of 'growing concern' in the 1970s to the 1980s; third, the period of 'creeping assertiveness' from the 1990s to the 2010s.

Since President Xi became China's Fifth Generation paramount leader in March 2013, the first and foremost focus of his leadership (2013-2018) is to consolidate his power and strengthen the legitimacy of the CCP rule. Xi's leadership priority is mainly focused on domestic and not external issues. Foreign policy issues including the South China Sea maritime disputes become secondary in his overall policy priorities as he is preoccupied with handling the daunting serious domestic political, economic, social and environmental challenges facing China.

Xi's biggest challenge politically is how to tackle the widely prevailing deep-rooted 'structural' corruption. Xi is fully aware that if corruption remains unchecked, it can lead to the collapse of the CCP rule.<sup>29</sup>

In the economic sphere, Xi has to contend with addressing the growing income gap between the privileged rich and the poor.<sup>30</sup> Xi must manage the wide development gap between the Eastern coastal region and the rural Western region, the large local government debts, potential busting of the property bubble, shady financial and banking practices as well as the management of water resources among other problems.

Xi also has to find answers to minimize growing social protests and fulfill the rising aspirations of the middle-class. In addition, Xi has to tackle the thorny issue of

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<sup>29</sup> See Xi Jinping's speech at the Politburo Standing Committee Members' meeting, BBC News, November 15, 2012, at <http://www.bbc.co.uk/news/world-asia-china-20338586>; for some comments see also Tania Branigan, 'Xi Jinping vows to fight 'tigers' and 'flies' in anti-corruption drive,' *The Guardian*, January 22, 2013, at <http://www.theguardian.com/world/2013/jan/22/xi-jinping-tigers-flies-corruption>. See also John Wong, 'China's experience with graft: The good and the bad,' *The Straits Times*, August 30, 2014, at <http://www.straitstimes.com/news/opinion/invitation/story/chinas-experience-graft-the-good-and-the-bad-20140830>.

<sup>30</sup> 900 million people live with a per capita income of around US\$3000 to US\$3500 annually, while 500 million have an average income of about US\$1500 to US\$1700 only. See George Freedman, 'Recognizing the End of the Chinese Economic Miracle', Stratfor Global Intelligence, July 23, 2013, at <http://www.stratfor.com/weekly/recognizing-end-chinese-economic-miracle>.

improving the living environment by reducing air and water pollution.

With so many domestic problems to deal with, it comes as no surprise why Xi's leadership priority is mainly focused on domestic and not external issues.

Notwithstanding, in so far as Xi's 'sea' policy is concerned, he will most likely continue Hu Jintao's policy of Harmonious Ocean (2009) and peaceful sea in the East and the South China Sea.<sup>31</sup> He will also continue to implement and promote China's peaceful foreign policy rise. In other words, Xi wants to ensure continuation of a stable external environment including the South China Sea so as to concentrate on sustainable development internally. For this reason, Xi cannot afford to create more 'luan' (disorder) in the South China Sea by inflaming the maritime disputes further. 'Stability' is the key concept in his statecraft. An analysis of Xi's thinking on his South China Sea policy shows that he is 'historically conscious,' 'diplomatically pro-active,' 'economically confident,' 'future oriented,' 'strategically assertive,' 'politically tenacious,' but 'legally ambivalent.' There is no doubt in Xi's mind that China will realize its dream of economic renaissance as the world's largest economic power in the 21<sup>st</sup> century. Xi's dream also includes to revive China as a great maritime power as in the 15<sup>th</sup> century during the era of Zheng He's Seven Voyages (1405-1433).

The realization of these inspirations invariably mean that China has to come to terms with contending with US presence and involvement in the region and the subsequent bearings these contentions will have in influencing China's South China Sea policies and strategies.

From Xi's perspective, the US' 'strategic' involvement in the South China Sea since 2010 heightened tension in the disputed areas not only between the US and China but also rekindled 'strategic distrust' between China and Japan in the East China Sea. The US' involvement in the South China Sea has also emboldened the Philippines' and Vietnam's position respectively vis-à-vis China in the disputed areas and complicated the prospects of finding a viable solution for the maritime disputes. Thus from China's perspective, US involvement in the South China Sea undermines China's position, and alters the status quo, further disturbing the peaceful environment of the South China Sea.

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<sup>31</sup> See 'President Hu meets foreign navy delegations, says China no threat to other nations,' *People's Daily Online*, April 23, 2009, at <http://english.people.com.cn/90001/90776/90883/6643284.html#>; see also Zhang Qian, 'Harmony is the theme of China's Ocean strategy,' *People's Daily Online*, July 17, 2013, at <http://english.peopledaily.com.cn/90883/8330630.html>.

The US' and other external powers' involvements in these maritime disputes also complicates ASEAN's leadership centrality role in finding a solution for the sovereignty dispute in the South China Sea. The question arises to what extent the US' roles can be accepted by ASEAN which tries to avoid taking side in the Sino-US leadership competition and strategic rivalries in the South China Sea. Within ASEAN, there are some states such as the Philippines and Vietnam who prefer stronger US responses to China's growing assertive claims in the South China Sea, while Malaysia and Indonesia favor the US using restraint in the sovereignty disputes. Laos, Cambodia, Myanmar and Thailand in turn see themselves as part of the China-centered economic network in the context of the Greater Sub-regional Mekong Development Program, while Singapore is strategically closer to the US rather than to China. Finally, Brunei has always adopted a low-profile posture in the maritime disputes in the South China Sea.

The US' stronger engagement in the South China Sea maritime disputes hardened China's position in finding a tenable solution to end the impasse. In order to meet the strategic challenge from the US naval power, China has strengthened her naval capability by launching the Liaoning Aircraft Carrier in 2012 to reflect her growing maritime power. To maintain peace in the South China Sea is an important goal for China. In dealing with the US, China will not fight with the former over the South China Sea. Beijing's diplomacy is to avoid direct military confrontation let alone a military showdown with the US in the disputed area. China's overall strategy is to make it unequivocally clear to the US that the South China Sea comes under China's version of the 'Monroe Doctrine',<sup>32</sup> i.e. its sphere of influence is comparable to the US, when then President Monroe declared in 1823 that Latin America was America's backyard. In the Sino-US bilateral Strategic and Economic Dialogue held in Washington DC in July 2013, China had asked the US 'to live up to its promise to

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<sup>32</sup> For discussions on this topic see Vincent Wei-cheng Wang, 'China ASEAN Free Trade Area: A Chinese "Monroe Doctrine" or "Peaceful Rise"?' in *China Brief*, Vol. IX, Issue 17, August 20, 2009, p11; see also Captain Sukjoon Yoon, 'The Chinese Version of the Monroe Doctrine and Its Implications for Regional Maritime Security,' Draft for OPRF- RSIS Conference on "Security Environment of the Seas in East Asia," Singapore, February 28 - 29, 2012, at <http://www.navy.mi.th/navedu/stg/databasestory/data/Situation-sea/sea-china-south/Dr%20Yoon%20presentation%20paper.pdf>; James Holmes, 'China's Monroe Doctrine,' *The Diplomat*, June 22, 2012, at <http://thediplomat.com/2012/06/22/chinas-monroe-doctrine/>; Amitav Acharya, 'Beyond the Chinese Monroe Doctrine,' July 11, 2011, *East Asia Forum*, at <http://www.eastasiaforum.org/2011/07/11/beyond-the-chinese-monroe-doctrine/>; Joshua Kurlantzick 'Avoiding a Tempest in the South China Sea,' Expert Brief, Council on Foreign Relations, September 2, 2010, at <http://www.cfr.org/china/avoiding-tempest-south-china-sea/p22858>; Stephen M. Walt, 'Dealing With a Chinese Monroe Doctrine,' *New York Times*, August 26, 2013, at <http://www.nytimes.com/roomfordebate/2012/05/02/are-we-headed-for-a-cold-war-with-china/dealing-with-a-chinese-monroe-doctrine>.

refrain from siding with any particular side involved in the sovereignty disputes in the South China Sea.<sup>33</sup> Chinese Foreign Ministry Spokeswoman Hua Chunying later disclosed that “The US pledged not to side with any parties involved in the disputes during the dialogue.”<sup>34</sup>

To further bolster its claims to what China deems its own backyard in the form of the South China Sea, Beijing has enhanced its administrative and legal measures to consolidate its control in the South China Sea under the direct jurisdiction of Hainan Province. China has also strengthened its PLANavy presence in the Woody Islands (Paracels)<sup>35</sup> as well as infrastructure developments in the Spratlys to boost China’s legal claim that Beijing has effective and administrative control in the South China Sea.<sup>36</sup> Since 2000, China has also expanded its coast guards and maritime police personnel to engage more frequently in patrolling and policing the disputes areas in the Spratlys. China has also expanded its maritime presence, including naval exercises not only in the South China Sea but also a five-day exercise on the high seas between Indonesia and Australia from January 29 till February 2<sup>nd</sup> 2014.<sup>37</sup>

In regard to China’s diplomatic strategy, Beijing continues to follow Deng Xiaoping’s strategy of putting sovereignty disputes aside and instead advocates joint development with other claimant states bi- laterally or multilaterally. The joint development idea is based on the premise that sovereignty still belongs to China. In other words, China is amenable to negotiate the issue of maritime rights in the context of UNCLOS (1982) to share resources with other claimants in the disputed area in the Spratlys. The 2005 to 2008 joint seismic survey with the Philippines and Vietnam for instance, was a tri-party joint cooperation project.<sup>38</sup> Similarly, China signed a maritime boundary agreement with Vietnam over the Tonkin gulf in 2010. Based on China’s past actions, it is possible that China may sign a joint development agreement with Japan over the disputed area near the Sengaku/Diaoyu Islands.

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<sup>33</sup> ‘U.S. should keep promise on South China Sea disputes: FM spokeswoman,’ *Xinhua*, July 12, 2013, at <http://english.peopledaily.com.cn/90883/8324529.html>.

<sup>34</sup> ‘U.S should keep promise on South China sea disputes: FM spokeswoman,’ *Xinhua*, July 12, 2013, *ibid*.

<sup>35</sup> R.S. Kalha, ‘China’s Forward Policy in The South China Sea, Institute for Defence Studies and Analyses, July 30, 2013, at [http://www.idsa.in/idsacomments/ChinasForwardPolicyintheSouthChinaSea\\_RSKalha\\_300712](http://www.idsa.in/idsacomments/ChinasForwardPolicyintheSouthChinaSea_RSKalha_300712).

<sup>36</sup> Richard Javad Heydarian, ‘Construction Tensions in the South China Sea,’ *Asia Times*, October 26, 2012, at <http://www.atimes.com/atimes/China/NJ26Ad02.html>.

<sup>37</sup> Kor Kian Beng, ‘China naval drills ‘show of force’, *The Straits Times*, February 14, 2014, and Zakir Hussain, ‘China’s naval drills ‘signal desire to play bigger role’ on high seas,’ *The Straits Times*, February 14, 2014.

<sup>38</sup> This project lapsed in 2008 due to domestic politics in the Philippines during Arroyo’s administration.



In the same token, Beijing continues to harp on the theme of its peaceful rise mantra and peaceful intention of its South China Sea policy. China has also been participating in multi-lateral forums such as in ASEAN's initiated Regional Forum to promote China's peaceful image. Despite these actions, the other claimant states are not yet convinced of China's peaceful intentions in the South China Sea maritime disputes. The fact is that China still suffers from 'Trust Deficit' from the Philippines and Vietnam. China's growing assertive behavior in the South China Sea since 2010 resulted in growing anxieties and weariness by Vietnam and the Philippines over China's peaceful rise in the long term. The psyche of feeling threatened from China runs deep in the Vietnamese consciousness, born out of the not too distant memory of three armed clashes with China, notably, in 1974 over the Paracels, the brief war of 1979 along the border with China, and the 1988 naval clashes in the Spratlys. Part of the explanation why sovereignty disputes cannot be resolved easily hinges on Vietnam's vehement desire not to compromise its sovereignty in the Spratlys in view that the Paracels have already been completely controlled by China since 1974. If control of the Spratlys is ceded to China, Hanoi faces almost entirely being surrounded by China from the South China Sea.<sup>39</sup>

Comparatively, the US security threat to Vietnam lasted less than two decades during the Vietnam armed conflicts (1955 to 1975). China's threat to Vietnam is conversely likely to last a lot longer. Geography dictates that Vietnam being 'David' and China as 'Goliath', shape the inevitable asymmetrical power relationship between a rising superpower and a smaller resilient power. Inevitably, Vietnam has to grow accustomed to living under the shadow of a growing gigantic Banyan tree with entrenched roots spreading near Vietnamese soil.

### **Counter China Claimant Strategies**

Given the geographic inequality between the sizes of claimant states, what are the best strategies for the furtherance of the claims of the smaller claimant states?

First: strengthen their military capabilities. Particularly during the last three years, (2010 to 2013) the navies of the smaller claimant states saw an increase in their defense budget to strengthen the defense capability against the challenges from China's rising naval power. In 2012, Aquino allocated Pesos 75 billion (US\$1.8 billion) for upgrading the Philippines' poor defense capabilities, and in March 2014,

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<sup>39</sup> See Rod Severino, 'Towards a Code of Conduct for the South China Sea,' ISEAS Perspective, July 27, 2012, p.4, at [http://asc.iseas.edu.sg/images/Towards\\_a\\_Code\\_of\\_Conduct\\_for\\_the\\_South\\_China\\_Sea.pdf](http://asc.iseas.edu.sg/images/Towards_a_Code_of_Conduct_for_the_South_China_Sea.pdf).

the Aquino administration announced the construction of a military port for 500 million Pesos at the Ulugan Bay which is nearest to the Spratly Islands.<sup>40</sup> Vietnam too has upgraded its naval fighting fire power by acquiring submarines from Russia. Taiwan is no exception with President Ma buying US\$6.4 billion of arms from the US in 2010 which triggered off Sino-US tensions in 2010.<sup>41</sup>

Second: internationalizing the South China Sea maritime disputes. Aquino's decision to internationalize the disputes involving third parties, posed a dilemma for China, i.e. a choice between a political or legal solution. By rejecting Aquino's legal initiative, China would be perceived by the international community as not being a responsible 'stake-holder' for not accepting legal governance as a mechanism for the solution of the sovereignty impasse in the South China Sea. However, by accepting Aquino's proposal and submitting the disputes to the ITLOS for legal settlement, China worries that it may lose the case in the legal battle. In March 2013, China was in the process of transition from Hu Jintao's 'Fourth Generation' to Xi Jinping's Fifth Generation' new leadership, thus the timing was not ripe for China to seek a legal solution. China therefore applied the 'reject tactic' in dealing with the sovereignty disputes.<sup>42</sup>

In any case, China rebuked Aquino's decision as a diplomatic ploy complicating the already difficult sovereignty disputes by internationalization of the issue.<sup>43</sup> China's rejection is understandable as it is in the nature of power dynamics that a big country does not want its great power to be conscripted and its options and influence limited particularly when the initiative emanates from a small power.<sup>44</sup>

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<sup>40</sup> 'Acquino details S\$2.3b military upgrade,' *The Straits Times*, May 22, 2013; see also 'US troops 'helping' Philippine military,' *The Straits Times*, August 13, 2013 and 'Philippines to upgrade navy base facing disputed waters,' Channel News Asia, March 6, 2014 at <http://www.channelnewsasia.com/news/asiapacific/philippines-to-upgrade/1023172.html#>.

<sup>41</sup> See Liu Fu-Kuo, 'The US-China Competition in The South China Sea: Strategic Implication For Regional Security,' July 15, 2011, p.7, East Sea (South China Sea Studies) at <http://southchinaseastudies.org/en/conferences-and-seminars-/second-international-workshop/589-the-u-s-china-competition-in-the-south-china-sea-strategic-implication-for-regional-security-by-fu-kuo-liu>.

<sup>42</sup> See Fravel Taylor, 'China's Strategy in the South China Sea,' *Contemporary Southeast Asia: A Journal of International and Strategic Affairs*, Volume 33, Number 3, December 2011, pp. 292-319. See also Fravel Taylor, 'Maritime Security in the South China Sea and the Competition Over Maritime Rights,' in Patrick, M. Cronin, (ed) *Cooperation from Strength: The United States, China and the South China Sea*, January 2012, Center for a New American Security, chapter 2, p. 33-50, at [http://www.cnas.org/files/documents/publications/CNAS\\_CooperationFromStrength\\_Cronin\\_1.pdf](http://www.cnas.org/files/documents/publications/CNAS_CooperationFromStrength_Cronin_1.pdf).

<sup>43</sup> 'Beijing slams Manila's bid to seek UN ruling,' *The Straits Times*, April 27, 2013, February 20, 2013, April 8, 13, 26 and 27, 2013. See also 'China refutes Philippines' South China Sea accusation,' Xinhua, July 17, 2013, at [http://news.xinhuanet.com/english/china/2013-07/17/c\\_125018933.htm](http://news.xinhuanet.com/english/china/2013-07/17/c_125018933.htm).

<sup>44</sup> 'ASEAN's role in calming storms over S. China Sea,' *The Straits Times* September 8, 2012; 'ASEAN's role in disputes an issue for China,' *The Straits Times*, September 13, 2012; see also Muthia Alagappa, 'Rethinking Territorial Disputes in the South China Sea: Transforming Problem into Opportunity,' No.166/2012 September 2012, RSIS Commentaries, at <http://www.rsis.edu.sg/publications/Perspective/RSIS1662012.pdf>.

Third: seeking both diplomatic and military alignment with other great powers to counter the challenges from China. Accordingly, the Philippines is keen to strengthen strategic and security links not only with the other ASEAN claimant states, particularly Vietnam, but also with Japan and India along with the US in order to form a strategic and security net against China. The Philippines is, for example, interested to cultivate closer security ties with Japan under Abe's new 'Security Diamond' strategy, primarily aimed at containing the rising threat from China.<sup>45</sup>

Fourth: using the 'ASEAN card' to play against China. ASEAN has been concerned with the escalation of the maritime conflicts since the beginning of the 1990s. In 1992, ASEAN has adopted the Declaration of the South China Sea as a common platform to deal with the South China Sea maritime disputes. In 2002, ASEAN adopted the Document of Conduct of Parties (DOC) in the South China Sea with China as a signatory partner. These two declarations were political documents without legal binding power which were mainly aimed at confidence-building and preventive diplomacy. Beijing however, has not manifested a strong desire to use the DOC as a mechanism for resolution of the sovereignty disputes with other claimant states as China does not believe sovereignty disputes can be resolved via multi-lateral forums, particularly with the involvement of external great powers in the ASEAN Regional Forum (ARF) mechanism.

Fifth: employing the use of favorable media to promote and sway international opinion to support its cause. The Philippines is adept at using the media to project itself as a 'victim' in the sovereignty disputes with China. By submitting the disputes to the UN for international arbitration, President Aquino III presents the Philippines in the eyes of the international community as a 'good guy' as his administration is willing to settle the disputes in accordance with the rules and norms of international law. The Philippines thus can gain the upper hand in the form of being able to stand on a higher moral ground to negotiate and bargain with China in future negotiations.

### **III. Peace Scenario**

If the aforementioned prognosis that the South China Sea maritime disputes remain at being an unresolved impasse is correct, what then are the prospects of peace in the South China Sea? Can the complex maritime disputes be untangled?

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<sup>45</sup> Richard J. Heydarian, 'A Diamond in the South China Sea's Rough,' *Asia Times*, June 4, 2013, p.2, at [http://www.atimes.com/atimes/Southeast\\_Asia/SEA-01-040613.html](http://www.atimes.com/atimes/Southeast_Asia/SEA-01-040613.html); see also Richard J. Heydarian, 'Philippines, Vietnam take China Hedges,' *Asia Times*, August 2, 2013, at [http://www.atimes.com/atimes/Southeast\\_Asia/SEA-01-020813.html](http://www.atimes.com/atimes/Southeast_Asia/SEA-01-020813.html).

Categorically, the immediate challenges for the claimant states are not to solve the South China Sea sovereignty disputes but to manage the tensions and conflicts in a measured manner. New ideas, thinking and new approaches are needed in time of major crisis. The South China Sea conflicts cannot be resolved as long as the claimant states stick to the thinking of exclusiveness of sovereignty. As long as China perceives the South China Sea as 'China Sea', the Philippines regards it as the 'West Philippine Sea', Vietnam, the 'Vietnam Sea',<sup>46</sup> and if Malaysia regards the Swallow Reef as the 'Malay Sea' and Indonesia perceives the Natuna Islands as the 'Greater Indonesia Sea', then the outcome for the South China Sea will be a 'Divided Sea'. The fact is that the South China Sea has been a 'Common Sea,' belonging to mankind since the advance of western imperialism in the 16<sup>th</sup> century until today. Thus the notion of 'sovereignty exclusiveness' needs to be changed to the new idea of 'sovereignty inclusiveness' or 'shared sovereignty.' The resources under the disputed seabed are not exclusively owned by any state and should be shared by the respective claimant states.

All the six claimants want to avoid the South China Sea disputes evolving into a sea of major armed clashes. War will undermine ASEAN's credibility as a leading regional grouping promoting peace and stability in the South China Sea. So far, ASEAN has not shown to be an effective regional institution to resolve the South China Sea conflicts because the claimant states put national interests first before regional interests. Put simply, ASEAN has no muscles to solve the disputes because no state is willing to cede sovereignty to ASEAN. The regional grouping however, remains important, as a regional institution trying to resolve the South China Sea maritime disputes through a legally binding Code of Conduct. China has pledged to work together with ASEAN to find a common solution to end the conflicts in the South China Sea.

With that in mind, what then are the best strategies in minimizing the tensions and conflicts?

First: imposing a moratorium (ban) on the expansion of both civilian and military facilities on the occupied features in the Spratlys by all the claimants. No further annexation of new features in the Spratly's chain is allowed.<sup>47</sup>

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<sup>46</sup> For a Vietnamese perspective see Huy Duong, 'The South China Sea is not China's Sea,' *Asia Times*, October 5, 2011, at [http://www.atimes.com/atimes/Southeast\\_Asia/MJ05Ae03.html](http://www.atimes.com/atimes/Southeast_Asia/MJ05Ae03.html).

<sup>47</sup> In July 2014, the Obama administration put forward a voluntary freeze proposal on activities in the disputed areas in the South China Sea that would escalate tensions. In response, China rejected the

Second: China and the other claimants can conclude a ‘South China Sea Peace Treaty’ with the inclusion of ‘No First use of Force’ to preclude violence and make the South China Sea a maritime region of peace, freedom and cooperation.

Third: setting up a regional network and strengthening channels of communication (including military hotlines) among the disputing claimants to prevent any unilateral provocative behavior or measures, while continuing with the ‘ASEAN Way’ of confidence building such as promoting dialogues and consultation among the claimants. Peace can only be achieved by collective efforts among the disputing parties and cannot be taken for granted. Permanent peace has to be earned via hard work from all the claimants and has to be enduring and not be temporary.

Fourth: China needs a certain degree of policy flexibility and adjustment to resolve the dilemma between bilateralism versus multi-lateralism. In the case of maritime sovereign rights disputes between China and Vietnam over the Gulf of Tonkin or the Beibu Bay, both Vietnam and China have succeeded in using a bilateral approach in resolving the boundary disputes. Conversely, in the case of the Spratlys which involve multiple states with complex overlapping claims, the maritime disputes cannot be resolved only by a bilateral approach.

Fifth: Creation of a new institution to strengthen the South China Sea governance. All the claimants, for example, can consider creating a ‘Spratly Resource Management Council’ to manage ocean resources. This thinking is based on the shared interests over allocation of resources in the South China Sea and the principle of preserving mutual interests. This approach ought to be based on pragmatic functional cooperation, starting from relatively easy cooperation such as maritime ecological management, joint seismic research etc, to ultimately more sensitive sovereign rights disputes.

Sixth: all the claimants should focus on the priority of geo-economic rather than

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freeze proposal as ‘impractical’ and insisted as usual on China’s right to continue its activities in the disputed areas including building artificial islands which Beijing occupied. See Teddy Ng, ‘Beijing rejects US, Philippines suggestion it freezes South China Sea projects’, *South China Morning Post*, August 5, 2014, at <http://www.scmp.com/news/china/article/1566540/freeze-south-china-sea-projects-rejected>, and Trefor Moss, ‘China Rejects Philippines’ Call for Construction Freeze,’ *Wall Street Journal online*, June 16, 2014, at <http://online.wsj.com/articles/philippines-seeks-construction-halt-in-disputed-south-china-sea-140291282.3>. See also Billy Tea, ‘China's grand plan for the South China Sea’, *Asia Times*, August 8, 2014, at <http://www.atimes.com/atimes/China/CHIN-02-080814.html>.

geo-military cum strategic issues. In other words, priority should be given to the market relationship between China and other claimant states. China needs to assure the Philippines and Vietnam over its modernization of the PLANavy and make its military spending transparent. The annual allocation of more than double digits of the budget to the PLA navy have increased the anxiety and wariness of the ‘China threat’ and the fear that China may again use its naval force to settle sovereign disputes with its challengers in the Spratlys.

## **Conclusion**

In summation, China will be the main lead actor who will to a large extent determine the future direction and development of the South China Sea maritime disputes. China’s claim to sovereignty, sovereign rights and resources in the South China Sea is based on past historical notions of prior ownership but undermined by weak legal ground. In essence, China’s South China Sea policy has been a captive of its own self-made history.

Such interpretations explain why China will not resolve the maritime disputes with other disputant states through the World Court or on a legal basis. Instead, China will likely employ a bilateral rather than a multi-lateral approach to resolve the maritime disputes peacefully through political dialogues, consultation and negotiations with the other disputant claimants. These approaches are the expected conduct of a superpower in an international arena to dispute resolution, and, to her credit, China has shown considerable restraint in using military force to achieve its objectives in the South China Sea.

It is often argued that the best predictor of future behavior is past behavior. Certainly, history definitely plays an important factor in understanding China’s policy and strategies towards the South China Sea. President Xi Jinping’s dream is to create a new maritime silk road in the 21<sup>st</sup> century. Beijing’s current maritime strategy is to regain what it perceives to be historically its maritime backyard. Unfortunately for Beijing, sovereignty claims based on historical ground are legally problematic and therein lays the crux of the maritime disputes. No negotiation will succeed without either party giving some ground, though the balance is not always equal. Maritime sovereignty and sovereign rights disputes cannot be resolved unless the claimant states change the notion of sovereignty from exclusiveness to inclusiveness. The South China Sea maritime imbroglio over sovereignty, sovereign rights claims and control of the seabed resources will likely remain at an impasse in the foreseeable future with no solution in sight among the claimant states if there is no change on

positions or ground given by the various actors. Notwithstanding, there is a perennial fear among the smaller claimant states that China is likely to change the status quo to its advantage. Since the 2012 standoff between China and the Philippines near the Scarborough Shoal, Beijing has effectively controlled the area without firing a bullet.

Adding another layer of complexity and source of contention is Obama's 'strategic pivot' in the Asia-Pacific region. From a strategic dimension, China perceives the US development of inroads into the South China Sea as one that could be compared to that of a trespasser on 'China's lake.' These perceived trespassing while viewed as an irritation from China's eyes will not progress to any major armed conflict. The probability of Sino-US all-out war in the South China Sea in the foreseeable future will be almost zero.<sup>48</sup> The US and China share more convergence of common rather than divergence of interests. However, low level armed skirmishes among the disputing states remains possible.

Ultimately, the way forward towards a viable solution to resolving the South China Sea maritime disputes depends on the political wisdom, will and determination of the disputing states. Lofty nationalistic aspirations have to be tempered with a degree of flexibility and enlightening pragmatic realism to ensure every actor in the dispute receives access to a viable stake in the region to ensure lasting peace in the South China Sea.

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<sup>48</sup> See Carlyle Thayer, 'Why China and the US won't go to war over the South China Sea,' May 13, 2013, East Asia Forum, at [www.eastasiaforum.org/2013/05/13/why-china-and-the-us-wont-go-to-war-over-the-south-china-sea/](http://www.eastasiaforum.org/2013/05/13/why-china-and-the-us-wont-go-to-war-over-the-south-china-sea/).