

Policy Forum 11-23: The South China Sea 'Crisis': Bringing Out the Best

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The South China Sea 'Crisis': Bringing Out the Best

By Mark J. Valencia

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Opening Ceremony of the 44th ASEAN Foreign Ministers Meeting

I. Introduction

Mark J. Valencia, Nautilus Institute Associate and Senior Research Associate at the National Bureau of Asian Research, writes that given the rise in political tension, the positive outcome of the recent ASEAN meeting in Bali is uplifting. Even if forward movement on implementing the 2002 Declaration on Conduct of Parties in the South China Sea (DOC) is small and fragile, it is in the right direction. Of course, it is only one step of many necessary to truly put the ongoing disputes in the South China Sea to rest.

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II. Article by Mark J. Valencia

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Last week, with the world watching, a collective sigh of relief wafted out of the Bali ASEAN meetings. [1] ASEAN and China had agreed on "guidelines" for implementing the previously agreed upon 2002 Declaration on Conduct of Parties in the South China Sea (DOC). But reaction to this 'milestone' achievement has included disappointment, second-guessing and criticism regarding the substance of the product. Perhaps expectations were unrealistically high. It is true that the guidelines reveal more by what they do not say than by what they do. Indeed, they lack specifics, timelines and enforceability. Their practical focus is on nontraditional security issues like environmental protection, marine science and transnational crime. Obviously agreement was difficult to achieve; hence the generalities and ambiguities.

But the process leading up to the unfairly maligned outcome revealed ASEAN and the claimants' behavior at their best. There was a lot at stake: ASEAN—and China—needed to show that they could manage regional disputes more or less by themselves. And they also needed to demonstrate that the South China Sea is safe for commerce. In short, the capability, credibility and relevance of ASEAN security forums were at risk. Also at risk was the long-term hope of a Pax Asia-Pacific replacing the present Pax Americana.

Behind the scenes negotiations led by the current ASEAN Chair Indonesia made considerable progress—a credit to the skills of the diplomats involved. Indeed, Indonesia demonstrated that it can lead, not only to resolve regional disputes, but also Southeast Asia as a whole. ASEAN made a major compromise by agreeing to drop a clause that would mandate that it form an ASEAN position before dealing with China on South China Sea issues. Of course there is nothing to prevent the claimants from informally consulting among themselves before approaching China, but the gesture was important to convince China that they are not using ASEAN to “gang up” on it. Only four members of ASEAN are claimants: Brunei, Malaysia, the Philippines and Vietnam.

China also deserves considerable credit. It had long resisted the draft guidelines and made a major compromise by agreeing to them. Perhaps it saw the writing on the wall and feared that the disputes were pushing ASEAN toward the U.S. But a probable more powerful influence was the pressure of world opinion including that of the U.S. and Japan, and China's desire to appear reasonable in its light. Whatever the impetus, China succeeded by its rhetoric and behavior to reduce tension, at least for the time being.

Vietnam's political courage and assertiveness was on full display as it challenged China at every turn, tit for tat. The Philippines also demonstrated political courage, but more importantly it demonstrated that international law can help make relations more equal and give pause to even powerful nations. Together—with the involvement of the U.S.—China was put on the political defensive.

Over the last year, a series of aggressive incidents involving Chinese patrol boats followed by soothing official statements had left many analysts trying to figure out what is really going on. Indeed, in nearly one fell swoop, actions by Chinese entities embarrassed China's leaders, undermined its carefully nurtured and reasonably successful 'charm offensive' towards ASEAN, and played right into the U.S. strategy of convincing ASEAN nations that they need its protection from a bullying China.

We are talking here not just about blatant violations of the solemnly agreed but heavily leaking DOC (all parties are guilty of that), but of contradicting, by poorly—or perhaps well timed-actions—the words of its leaders. When Chinese Defense Minister General Liang Guanglie was telling the Shangri-la Dialogue on 3 June in Singapore that “China is committed to maintaining peace and stability in the South China Sea” and that “China stood by” the DOC, news media were reporting that on 26 May a Vietnamese survey ship operating on its claimed continental shelf had its seismic cables cut by a Chinese patrol boat. Shortly after that event China sent two vice chairmen of the Central Military Commission to Southeast Asia to try to reassure ASEAN claimants. But a second such incident occurred on 9 June, only two weeks later. Earlier on 4 March, the Philippines protested an incident on the Reed Bank in which two Chinese patrol boats allegedly threatened to ram a Philippine survey ship. Then on the eve of General Liang's visit to Manila, Chinese fighter jets allegedly harassed members of the Armed Forces of the Philippines near disputed islands in the South China Sea. Worse, China responded to frenetic protests from Vietnam and the Philippines by warning that any exploration in the Spratly area without its consent is a violation of its jurisdiction

and sovereignty. This real time link between its stark and sweeping position and its enforcement sent a chill down the spines of ASEAN claimants and drew US attention.

Vietnam responded with vitriolic rhetoric and military exercises matching those of China. The Philippines also broke all of China's "rules". It internationalized the issue by appealing to both the UN and the U.S. for help. It publicized the issue revealing details of the negotiations. And it challenged China's nine-dashed line claim by suggesting the jurisdictional issue be decided by the arbitration process provided by the 1982 Convention on the Law of the Sea, which they have both ratified. Maintaining the pressure, US Secretary of State Hillary Clinton demanded that the claimants—including China—clarify their claims. She also maintained that the unresolved issues threaten peace and stability in Southeast Asia.

This past year was supposed to be a period of negotiations to transform the DOC into an official, legally binding, enforceable code. Despite China's positive rhetoric, ASEAN nations were genuinely alarmed by its contradictory behavior and were looking to the U.S. for succor and support. The U.S., having confronted China and injected itself into the issue via Secretary Clinton's speech at the ARF Foreign Minister's meeting in Hanoi in July 2010, was only too happy to help—at least verbally and with signals that militaries understand. Leading up to the summits, the situation looked likely to get worse before it got better. Indeed more Vietnamese and Philippine-sanctioned surveys and even exploratory drilling are planned in areas claimed by China.

Given the rise in political tension, the positive outcome is uplifting. Even if the forward movement is small and fragile, it is in the right direction. Of course it is only one step of many necessary to truly put these Phoenix-like disputes to rest. But the alternative is too messy and miserable to contemplate. Indeed, this crisis brought out the best in many of the countries involved and that bodes well for Asia's future.

III. References

[1] They included principally the ASEAN Foreign Ministers meeting, ASEAN plus China, ASEAN plus China, Japan and South Korea, the East Asian Summit and the ASEAN Regional Forum.

IV. Nautilus invites your responses

The Northeast Asia Peace and Security Network invites your responses to this essay. Please send responses to: bscott@nautilus.org. Responses will be considered for redistribution to the network only if they include the author's name, affiliation, and explicit consent.

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