Policy Forum 11-15: The South China Sea: Trying to Make Sense of Non-Sense

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The South China Sea: Trying to Make Sense of Non-Sense

By Mark Valencia

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Nautilus invites your contributions to this forum, including any responses to this report.

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I. Introduction



Chinese Naval Submarine Conducting Training in the South China Sea. Courtesy of www.armybase.us

Mark Valencia, Senior Research Associate at the National Bureau of Asian Research and Nautilus Institute Associate, writes "These disputes and incidents are certainly not new—but why are they occurring now, and why is China sending very mixed signals? This was supposed to be a period of negotiations to transform the [Declaration on Conduct of Parties in the South China Sea] into an official enforceable code. Needless to say, this effort may now be moribund. Despite China's rhetoric, ASEAN nations are genuinely alarmed and are looking to the U.S. for succor and support."

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II. Article by Mark Valencia

- The South China Sea: Trying to Make Sense of Non-Sense
By Mark Valencia
After a series of aggressive incidents involving Chinese patrol boats and subsequent soothing official statements, many analysts are trying to figure out what is really going on. More specifically, why are different sections of China's government giving mixed signals, and choosing, in nearly one fell swoop, to embarrass their own leaders, undermine China's carefully nurtured and reasonably successful 'charm offensive' towards ASEAN, and play right into the U.S. strategy of convincing ASEAN nations that they need its protection from a bullying China? In China, has the political train left the station and are ASEAN nations thus just changing seats or cars on the train?
We are talking here not just about blatant violations of the solemnly agreed Declaration on Conduct of Parties in the South China Sea (DOC)—all parties are guilty of that—but of contradicting the words of leaders by poorly timed actions. When Chinese Defense Minister General Liang Guanglie was telling the Shangri-la Dialogue on the 5th of 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 other ASEAN

claimants. But a second such incident occurred on the 9th of June - only two weeks later. Earlier on March 4th, 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. China responded to frenetic protests from Vietnam and the Philippines 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 has sent a chill down the spines of other ASEAN claimants and drawn US attention. These disputes and incidents are certainly not new—but why are they occurring now, and why is China sending very mixed signals? This was supposed to be a period of negotiations to transform the DOC into an official enforceable code. Needless to say, this effort may now be moribund. Despite China's rhetoric, ASEAN nations are genuinely alarmed and are 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—is only too happy to help—at least verbally and with signals that militaries understand.

The great irony is that none of this was necessary for China. Its problem with the U.S. concerns the intelligence gathering activities of US military vessels and aircraft—the EP-3, the *Impeccable*, the *Victorious*, the *Bowditch*—in what it claims are its waters—not conflicting claims to islands or ocean space. These can only be linked in one worst scenario—that China has decided that it disagrees with portions of the UN Law of the Sea Treaty that it ratified and with international law that Western powers developed and have imposed on China while it was weak. In other words, China is indeed serious about its nine-dashed line claim to all features, waters and resources of the South China Sea and it alone will decide the passage regime to be imposed therein. This is radical and could lead to war.

Otherwise, China could claim most of what it wants by using existing international law and the Law of the Sea Treaty. It could claim the features and, for legal islands, a continental shelf and 200 nm Exclusive Economic Zone for each. Of course it would have to negotiate boundaries with the other claimants. But that is the present situation anyway and China's legal position is very weak. The area claimed would be almost the same as that within the nine-dashed line and the argument would be legitimate, i.e., supported by the Convention. Regarding the navigational issues with the U.S., the U.S. has not ratified the Convention and has little legitimacy in arguing it or its interpretation thereof. The U.S. would be widely seen as a "bully" if it tried to force its interpretation on the world. The puzzle is that China has excellent experts on Law of the Sea who are aware of this opportunity and yet China seems to be eschewing this option.

Perhaps U.S. strategy and tactics have pushed a portion of China's military leadership "over the edge." Maybe they have concluded from what they perceive as the US "containment" policy and the constant and active probing by high tech spy vessels and planes that war is inevitable. In this scenario China feels it must defend its exposed underbelly and push its defense "zone" as far south and seaward as possible. Of course this is anathema to the U.S.—particularly its Navy. In this case, the DOC or even a COC will be of little utility.

Let us hope that the real explanation is more benign. One possibility is confusion and lack of co-ordination between high policy officials in foreign affairs and the military, particularly the PLAN. But this could also mean that China's foreign policy is in flux or disarray on this issue and that the PLAN has emerged as a trend setter and spokesperson thereon. Remember that just as US Secretary of Defense Robert Gates arrived in January 2011 on his historic visit to China, its military tested a stealth fighter and the civilian leadership appeared to have been caught unawares. If the military is on occasion acting independently of the civilian leadership, this could explain the seeming dichotomy between Chinese officials' words and PLAN actions. But this would indeed be worrying. In any event, the situation looks likely to get worse before it gets better. More surveys and exploratory drilling are planned in areas claimed by China. And Vietnam has conducted an offshore

live-fire drill and has called for international—including U.S.—help to resolve the issues. Rare anti-China protests have broken out in Hanoi and Manila. At this point all one can say is hold on to your hat.

III. 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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Nautilus Institute
608 San Miguel Ave., Berkeley, CA 94707-1535 | Phone: (510) 423-0372 | Email: nautilus@nautilus.org