



Konrad
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Stiftung

TRAVERSING THE CHALLENGES

**POLITICAL, ECONOMIC,
AND ENVIRONMENTAL
DIMENSIONS OF MARITIME
AND REGIONAL SECURITY**

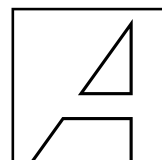
EDITED BY BENEDIKT SEEMANN
AND SEBASTIAN BERSICK



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- 5** | FOREWORD
Benedikt Seemann and Sebastian Bersick
- 6** | KEYNOTE SPEECH
Perfecto Yasay, Jr.
- 9** | THE SOUTH CHINA SEA:
THE WAY FORWARD POST-ARBITRATION
Aileen San Pablo-Baviera
- 16** | THE SOUTH CHINA SEA ARBITRATION:
AN UNCLOS DISPUTE RESOLUTION MECHANISM
Tetsuo Kotani
- 21** | INTERNATIONAL COOPERATION AND THE BLUE ECONOMY
Ronald Mendoza and Charles Siriban
- 27** | MILITARY-STRATEGIC ASPECTS OF THE
SOUTH CHINA SEA ISSUE
Sarah Kirchberger and Patrick O’Keeffe
- 41** | FROM PROSPECTS TO PRAXIS: MARITIME SECURITY AND
THE EU’S ROLE IN EAST ASIA
Sebastian Bersick
- 48** | CORAL REEFS AND MARITIME DISPUTES
Alexis Principe and Wilfredo Licuanan
- 55** | MARITIME CHALLENGES IN DISPUTED WATERS IN THE
ASIA PACIFIC: MALAYSIA’S INTEREST AND PRACTICAL
COOPERATION IN THE SOUTH CHINA SEA
William Stevenson
- 63** | IS THE REBALANCE TO ASIA STILL POSSIBLE
IN A TRUMP ERA?
Marie Antoinette de Jesus
- 71** | ABOUT THE AUTHORS

Foreword

Assessing potential for conflict and cooperation in the South China Sea and beyond we seem to stumble across more uncertainties and reasons to worry every year. Multilateralism has long been believed to be a guarantor for inclusive conflict prevention and even conflict resolution in international relations. As we celebrate the 50th anniversary of ASEAN and 40 years of EU-ASEAN relations, it might be worth mentioning that multilateralism has also been a key element of relations between regions of the world. But which roles does ASEAN as a regional organization play in the South China Sea disputes? How, if at all, can actors like the United States or the European Union contribute to the resolution of this conflict? It seems fair to state: Multiregionalism and interregionalism enjoy significantly lower popularity than they used to. The United States under president Trump cares about “America first”. The member states of ASEAN still struggle to speak with one voice. And China believes in assertiveness. The role of the European Union in Asia still remains largely undefined and the fact that the EU is losing the United Kingdom as a member does not boost its gravitas in international relations.

The disputes concerning the South China Sea are an arena for various ways of conflict to manifest. And it does not seem likely that those conflicts might be solved multilaterally anytime soon. China, as a matter of fact, works hard to bilateralize its foreign policy relations. Such an approach might help strengthen its bargaining position. The less ASEAN (and its members) speaks with one voice and the more the EU and USA hold back on regional issues the more China seems to dominate the agenda in its neighborhood and in the South China Sea. The Permanent Court of Arbitration in The Hague – called upon by the Government of the Philippines – found that China’s historic claims do not constitute actual territorial claims at all. And yet, no other claimant to those disputed waters has successfully challenged and defied China since then. Instead, China succeeds in charming its neighbors with economic initiatives and incentives.

This publication offers comprehensive analyses on the most important aspects regarding the South China Sea disputes and questions of maritime security as well as regional cooperation. It follows the conference titled “Maritime Challenges in the Asia Pacific Moving Towards Political, Environmental, and Functional Cooperation” held in November 2016 in Manila, jointly organized by the Konrad-Adenauer-Stiftung Philippines Office, the AIM Rizalino S. Navarro Policy Center for Competitiveness, the Foreign Service Institute of the Philippines and Ruhr-Universität Bochum. The participants from Europe and Asia hope to contribute to a fruitful and sustainable approach to intra- and interregional cooperation as well as conflict resolution in the South China Sea and East Asia. Last but not least, we want to thank you, Tonette de Jesus, from KAS Philippines, and Lena Hufnagel, from Ruhr-Universität Bochum, for their tireless support during the editing process.

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Maritime and Regional Security in the Asia Pacific: Moving Towards Political, Environmental and Functional Cooperation

Keynote Speech by Perfecto R. Yasay, Jr.
as delivered by Millicent Cruz-Paredes
18 November 2016
Discovery Primea, Makati City

The Oceans are a Common Heritage of Mankind

This adage emphasizes the fact that oceans serve as a bridge between our nations and as a shared resource for our peoples. Many states consider the sea as vital to their national growth and prosperity. The Philippines, for instance, is a maritime nation, and its economy and the livelihood of its people depend to a significant extent on fisheries, shipping, and the extraction of resources from the seas surrounding our islands. The oceans also have become a source of tension over the course of history in many regions across the world. In fact, many experts believe that while the latter half of the latter century was characterized by conflicts over oil, this century will be characterized by conflicts over water.

The South China Sea as the Foremost Regional Maritime Challenge

The disputes in the South China Sea are prominent among current maritime disputes largely because the impacts of the developments in the area extend beyond the region. Tension and instability in this strategic waterway may potentially disrupt commercial shipping activities carrying approximately USD 5.3 trillion-worth of trade. Unsustainable fishing practices and the continued degradation of the marine environment seriously threaten the livelihoods of citizens of coastal states. Experts in fact have said that the marine environment in the South China Sea is facing significant decline, not the least of which is due to recent unilateral activities in some of the features in the area.

A Rules-Based Regime on the Oceans

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) is the constitution of the oceans. It codifies the rights of states to enjoy the benefits of the seas. It also emphasizes states' obligation to protect, conserve, and manage the sea and its resources. Over the past years, violations of obligations under the convention through unilateral activities to assert claims in the South China Sea have caused massive damage to the marine environment, dislocation of fishermen, and threats of collision between vessels. In order to prevent these incidents from further eroding trust and confidence in the region, and to ensure regional peace, stability, and prosperity, it is the duty and in the interest of the parties to the convention to uphold this rules-based regime in all waters, particularly the South China Sea.

Maritime Confidence-Building

Many recent developments in the South China Sea have contributed positively to confidence-building among claimant-states. In the last ASEAN Ministerial Meeting in Laos, the Foreign Ministers underscored the importance of strengthening regional cooperation and promoting mutual trust and understanding in maritime security and maritime safety to ensure peace and stability, as well as in the safety of sea lanes, freedom of navigation and overflight, and unimpeded commerce.

ASEAN Member States and China also highlighted the urgency to intensify efforts to achieve further substantive progress in the effective implementation of the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC) as well as substantive negotiations for the early conclusion of a Code of Conduct (COC). They had in fact committed to finalize an outline of the COC by 2017.

Bilaterally, President Duterte's recent state visit to China also resulted in a joint statement in which the Philippines and China called for the creation of a bilateral consultative mechanism to discuss issues of concern in the South China Sea.

Managing Maritime Disputes through International Law and Regional Cooperation: The Philippine Approach

Protecting and preserving resources in the maritime domain is crucial to the continued development of humanity. Hence, there is a need to build a maritime governance architecture based on respect for international law and habits of cooperation.

The Philippines has always maintained that disputes in the South China Sea can best be resolved peacefully through full respect for legal and diplomatic processes in accordance with the UNCLOS and the UN Charter. In fact, through Philippine efforts, this principle is now enshrined as a fundamental ASEAN norm.

The Philippines continues to embrace the rules-based approach in the South China Sea. On the one hand, our approach to the issue will be guided by the arbitral tribunal's award as our framework. On the other hand, our strategy is to continue pursuing peaceful solutions with the other claimant states, including through ASEAN-led processes when appropriate.

The Philippines is committed to enhance cooperation with other countries in the region to address various security challenges in all aspects of the maritime domain. This includes the safety of lives and property at sea, the protection and preservation of the marine environment, and the sustainable use of the ocean's resources. These pressing concerns demand that nations set aside their differences and work closer together in solving common problems for mutual benefit.

As Chair of ASEAN in its golden year in 2017 the Philippines has adopted the theme "Partnering for Change, Engaging the World." As we celebrate this milestone and look to the future, it is important to remember that norms-building, dialogue, and cooperation are crucial in addressing disputes. Thus, the Philippines aims to strengthen ASEAN solidarity and centrality on issues such as the South China Sea. It will continue its best efforts and drive ASEAN towards the realization of its Vision 2025 to enhance maritime security and maritime cooperation for

peace and stability in the region and beyond through ASEAN and ASEAN-led mechanisms, and to adopt accepted maritime conventions and principles. Recalling General Jose Almonte, the former National Security Adviser, in a speech made more than a decade ago at the South China Sea Confidence-Building Measures Workshop, he emphasized that “on this issue, our countries should uphold the collective benefit against any individual interest.”

Addressing the entirety and complexity of maritime security challenges entails the involvement of both state and non-state actors. The Philippines is ready to engage all relevant stakeholders in this endeavor. The government, the international community, the academe, the business sector, the civil society, and the national security sector all have a role in helping to promote peace and stability in our region. Let us therefore continue to work together in promoting understanding and cooperation in addressing our common maritime security challenges for the benefit of our country and our region.

The South China Sea: The Way Forward Post-Arbitration

Aileen San Pablo-Baviera

Last July 12, 2017 marked the first year anniversary of the issuance by the Permanent Court of Arbitration (PCA) tribunal of its ruling on the Philippines vs. China case. The case, filed in January 2013, involved complaints by the Philippine government regarding the People's Republic of China's (henceforth China) violations of its maritime rights and entitlements in its Exclusive Economic Zone (EEZ) facing the South China Sea. These included China's seizing control of Scarborough Shoal (also called Panatag and Bajo de Masinloc) in 2012, its blocking of fishing and energy exploration activities by the Philippine side, and harmful and destructive practices by Chinese fishermen such as capture of protected species and harvesting of live corals, among others. The Philippines argued that it was forced to take legal measures following a sharp increase in China's unilateral actions in recent years and after efforts at bilateral resolution had failed (Permanent Court of Arbitration 2013).

The Philippine Case

Conflicts between the two countries regarding jurisdiction over maritime zones and resources are complicated by territorial sovereignty disputes that started in the late 1960s. Real tensions arose only in 1995, however, following Chinese occupation of the Philippine-claimed Mischief Reef, yet were managed in a way where there was no disruption of normal diplomatic linkages. Since 2012, against the backdrop of a rapid rise in China's regional power and influence and U.S. President Obama's "rebalance to Asia", policy, the disputes became part of a greater geopolitical game between the two powers.

The Philippines' concerns were much more short-term and limited – particularly access to fisheries and oil and gas resources, but it was also a close ally of the United States and undoubtedly shared with it some security concerns, including over China's military modernization. Inasmuch as the sovereignty question seemed intractable, given China's intransigence, the lack of clarity of most claims, distrust, and other geopolitical factors, the Philippines sought recourse under Annex VII provisions of the United Nations Convention on the Law of the Sea (UNCLOS) to bring China under compulsory arbitration, to at least resolve issues pertaining to maritime rights (United Nations 1982: 186ff.).

Despite China's official public rejection and non-participation in the arbitration process, the tribunal accepted jurisdiction over the Philippine complaints and, after more than three years of proceedings, issued a "final and binding" ruling that was overwhelmingly in favor of the Philippines. The Philippines felt vindicated in its decision to seek arbitration as a peaceful approach to conflict resolution, although it suffered high costs in its security, diplomatic, and to a lesser extent even economic relations with China.

More specifically, the PCA tribunal's ruling clarified the following:

- even if China claims historic rights to resources in the waters of the South China Sea, such rights are now incompatible with the Exclusive Economic Zones provided for in UNCLOS and were therefore extinguished when China became a party to UNCLOS;
- after studying the evidence, there was found to be no legal basis for China to claim historic rights to resources within the sea areas falling within the so-called 'nine-dash line';
- none of the Spratly Islands were deemed capable of generating extended maritime zones, nor can they collectively as a unit generate maritime zones. Thus, certain sea areas were clearly "within the exclusive economic zone of the Philippines, because those areas are not overlapped by any possible entitlement of China" (Permanent Court of Arbitration 2016: 2).
- China had violated the Philippines' sovereign rights in this EEZ by (a) interfering with Philippine fishing and petroleum exploration, (b) constructing artificial islands and (c) failing to prevent Chinese fishermen from fishing in the zone. China was also wrong to restrict access by Filipino fishermen to Scarborough Shoal.
- Through its reclamation and construction of artificial islands, "China had caused severe harm to the coral reef environment and violated its obligation to preserve and protect fragile ecosystems...." Chinese authorities moreover "had not fulfilled their obligations" (Ibid.) to stop similar harmful activities by their fishermen which they were aware of. That such activities were taking place while dispute resolution proceedings were ongoing was considered an "aggravation" of the disputes.

Although binding only on the Philippines and China, the political effect of the ruling on the region is potentially significant, given that the contested area was a bone of contention between China and several Southeast Asian states and the disputes had in fact graduated into a diplomatic issue between China and ASEAN, with the parties negotiating a "code of conduct" (ASEAN Secretariat 2017: 2). Moreover, as mentioned earlier, the South China Sea was fast becoming an arena for geopolitical competition between the world's two great powers – China and the United States.

Applying the PCA Ruling to Regional Conflict Management

A resolution of the maritime jurisdiction disputes is a more reasonable goal compared to any effort to address the sovereignty questions. In light of both China's growing power and increasing Sino-American rivalry, it has also acquired some urgency. But what could be the political-diplomatic significance of the ruling for the broader regional efforts to manage the maritime jurisdiction dimension of the South China Sea disputes?

Prior to the arbitration, countries relied on diplomacy, multilateral confidence-building measures, defense build-up and the support of military allies, but most importantly on the hope that others would exercise self-restraint in order to keep stability in the area. When China, as the biggest and most powerful claimant, became more assertive and less restrained, neither bilateral diplomacy with Beijing nor the ASEAN-centered dialogue mechanisms could guarantee peaceful behavior by all concerned. On the other hand, it was feared that defense build-up and

alliance action would tend to greatly aggravate security dilemmas. Thus, the Philippine decision to seek arbitration opened a new platform, a peaceful and legitimate approach based on UNCLOS rules and principles that coastal states were deemed to have agreed on when they ratified UNCLOS. Following this bold move, at least two countries – Vietnam and Japan – were reported to be considering taking legal action for their respective claims against China as well. While arbitration alone is unlikely to bring about a resolution of all issues, it underscores the importance and possibility of a rules-based approach that can complement regional efforts at bilateral and multilateral diplomacy.

With respect to the implications of the ruling on the future management of maritime disputes, by considering China's historic rights claim to resources within a so-called "9 dash-line" (South China Morning Post 2016) as without basis, the ruling dealt a blow to any expectation that China can treat the South China Sea as its internal lake or that neighboring states and other users of the ocean ought to defer to China's interests in the future management of the resources. The ruling tells us that the entitlements of coastal states are based on the law, rather than on how big a certain state is, or how old its claims are, or how powerful its military arsenal may be (United Nations 1982: 27). Big powers and small powers alike should be expected to uphold this principle, which is a core contribution of UNCLOS to inter-state relations.

Moreover, by limiting the presumed areas of state jurisdiction to small enclaves instead of large maritime spaces and at the same time affirming that UNCLOS itself rather than national laws are the operative laws for the South China Sea, the ruling can provide some basis for future conduct by navies, coast guards, fishermen, and other vessels in reference to specific zones. It may likely require bilateral and multilateral negotiations to reach agreement on such rules, but decisions laid out in the arbitration ruling may be the starting point of such processes.

Even if the tribunal did not rule on the issue of territorial sovereignty over land, its conclusion that China had not exercised exclusive use of the resources has already cast some doubt on its sovereignty claims as well, possibly creating cognitive dissonance for China's community of legal scholars and regional maritime experts, and hopefully stirring internal debate that may in fact be necessary to move the process forward.

In addition to these, from the time Deng Xiaoping in the 1970s exhorted claimant-states to set the sovereignty disputes aside and instead pursue joint development, no progress has been made in this direction. China's failure to present specific joint development proposals, perceptions by other claimant states of Chinese insincerity (due to its actions and continuing assertions of 'indisputable' sovereignty), distrust and nationalism all stood in the way of joint development. A short-lived trilateral joint seismic agreement involving the Philippines, China and Vietnam did not prosper. The ruling, however and in effect, shows the way forward as to how sovereignty disputes can be shelved, thus even paving the way for possible area-specific provisional cooperation initiatives.

Finally, by affirming traditional fishing rights and the obligation of states to protect the marine environment, the ruling should help address the fishing and environmental concerns which are among the most contentious and emotional issues that have triggered conflict among some claimant states.

Law vs. Realpolitik

China's basic position was that the essence of the Philippine complaint had to do with sovereignty, and that therefore UNCLOS and the tribunal did not have jurisdiction. Its Foreign Ministry argued: "With regard to the award rendered on 12 July 2016 by the Arbitral Tribunal in the South China Sea arbitration established at the unilateral request of the Republic of the Philippines ... the Ministry of Foreign Affairs of the People's Republic of China solemnly declares that the award is null and void and has no binding force. China neither accepts nor recognizes it" (Ministry of Foreign Affairs 2016).

Realpolitik threatened to render the ruling useless, both for the Philippines and for the broader region. Since 2014, China has been fortifying its presence in its seven occupied features as if to ensure that no challenge – whether legal, political or military – could succeed in ousting them from the area (e.g. Graham 2017). UNCLOS itself provides no mechanism for enforcing compliance and the Philippines is obviously not powerful enough to put pressure on China to abide by the ruling.

Legal experts in the Philippines may be expecting certain outcomes to flow from the logic of the victorious arbitration. One is that – to the extent that the features which are occupied by China in Philippine EEZ were declared legally not capable of appropriation – China should abandon these features, which, together with the waters around them, will now fall under the Philippines' rights under UNCLOS.

Another outcome is that since Filipino fishermen have as much right as the Chinese to fish in the traditional fishing grounds in or around Scarborough Shoal, China has no business retaining control of the feature through the presence of its Coast Guard and other vessels that currently watch over fishing activities by Filipinos.

Finally, on questions of access to oil and gas on the Reed Bank, the tribunal award found that there was no overlap between China's own entitlements and those of the Philippines, the implication being that the Philippines are under no obligation to enter into a joint development venture with China as China had long been advocating.

Had there been no change in the leadership of the Philippine government from Aquino to Duterte, the logical expectation was that these abovementioned points would form the agenda of further negotiations between the Philippines and China, assuming that China would now be willing to sit down with the Aquino government to negotiate its very own withdrawal from occupied features and surrounding seas.

Any realist might argue: no scenario of Chinese behavior could be less plausible.

As it turned out, the change in the leadership of the Philippines following the election of Rodrigo Duterte meant a shift from the "principled", legalistic approach that was very much focused on the arbitration, to one that privileges diplomatic negotiations with China and gives priority to seeking economic advantages in the country's relations with China (Baviera 2017).

Examining the political relations between the Philippines and China in the South China Sea in the last year, the rest of this paper cursorily explores the questions: (1) What benefits has the

arbitration brought to the Philippines and to the Southeast Asian region, if any? (2) Has the ruling had any effect at all on the behavior of China, whether positive or negative? (3) What options are available to the key players to improve management of the disputes based on or following the arbitration ruling?

Arbitration Effect or Other Explanations?

The arbitration ruling was announced on July 12, 2016, the twelfth day in office of the new Philippine President Duterte. It came against a backdrop of US growing support for the Philippine position – not with regards to Manila’s maritime claims but the support for how the Philippines chose to uphold a rules-based order rather than give in to Chinese “bullying”. Domestic political factors may also have been at play in China, where internally a campaign against corruption was leading to emphasis on rule of law, and where the government was actively promoting a major new diplomatic campaign – the 21st Century Maritime Silk Road Initiative as part of the Belt and Road Initiative (BRI).

This confluence of factors makes it impossible to isolate any single element as accounting for any major change that may have been observed in Chinese behavior following July 12, 2016. Prior to the announcement of the ruling, concerns were rife that China might take pre-emptive measures to fortify its presence on Scarborough Shoal – the way Beijing had done on Fiery Cross, Subi Reef and Mischief Reef (Watkins 2015). These led the US to warn China that such actions would be a red line that it would do best not to cross.

The fact that China’s reactions to the ruling were much more muted than expected thus lends itself to many possible explanations. Was China taken totally by surprise at the comprehensiveness of their legal upset that they needed to reassess their strategy? Were they being careful not to let the relationship with the new Philippine president get off to a bad start, because antagonizing Duterte (as they had the Aquino government) might hurt more strategic foreign policy objectives? Was US deterrence being more effective than it had before? Or were all three explanations in dynamic play?

On the positive side, after the ruling China appeared to refrain from the massive fishing, harvesting of corals and giant clams, the use of psychological and media warfare against the Philippines that had taken place between 2013 and 2016. The Philippines were able to resume fishing in the area surrounding Scarborough Shoal, make minor repairs on its grounded ship the BRP Sierra Madre on Second Thomas Shoal, as well as conduct normal repair and resupply missions on Pag-asa Island that were largely ignored by China. Whether this was an outcome of the arbitration itself, of China wishing to preserve a cooperative stance toward Duterte, an avoidance of conflict or other internal and external forces at work, simply cannot be determined.

Yet China was far from inactive, as its island construction and apparent military fortification activities continued unabated, despite an earlier announcement that they were about to cease. Vessels from its Coast Guard, maritime militia and PLA-Navy are constantly present in the waters near the Philippines’ occupied features. Incidents off Malaysian-claimed James Shoal, and close to Indonesia’s Natuna Island had also been reported, and both countries – much friendlier to China than either the Philippines or Vietnam when it came to the South China Sea – also began to show resistance to China’s moves. Harassment activities appeared to refocus on Vietnam once again, but China also showed extreme arbitration dissatisfaction towards Singapore, which had become

more outspoken about the need for rules-based conduct in the South China Sea following the arbitration ruling, and which was growing closer to the US security-wise.

Conclusion

While the arbitration was absolutely pivotal to the Philippine strategy in dealing with China in the South China Sea, it was always just one of several approaches that the Philippine government under Aquino employed. Even after the case had been filed, Manila continued its efforts to seek diplomatic resolution through the ASEAN-China dialogue on a Code of Conduct. It also sought stronger security ties with its traditional ally – the United States – as well as receiving the support of other friendly governments such as Japan, Australia and the Republic of Korea for capability-building for maritime security.

However, there were two other strategies that the Aquino government chose not to pursue. One was to engage China in direct dialogue. Refraining from dialogue seems logical if the Philippines feared that China would use this to pressure it into withdrawing from the arbitration case (as China tried to do up to the very last minute). On the other hand, the Aquino government could have used bilateral dialogue to press China to back down, leveraging support from its allies and its leading role on this issue within ASEAN, if it was interested in preserving its relationship with China. Without this bilateral platform, however, the arbitration could not be interpreted in any other way than as a hostile act. The other strategy that Manila avoided was direct military confrontation with China while the case was being heard, in order to maintain the moral high ground that underpinned its narrative of “Right is might”.

President Rodrigo Duterte, on the other hand, has thus far chosen to emphasize bilateral negotiations and consultations with China (which is Beijing’s preferred approach), and a pragmatic focus on economic relations. However, despite early pronouncements about “separating” from the U.S. and about moving instead into the ideological orbit of China and Russia, Duterte continues to accept US assistance and has taken a friendlier attitude towards Donald Trump than towards his predecessor. Duterte, at times through his Secretary of Foreign Affairs Alan Peter Cayetano, also extends assurances to Filipino stakeholders, that if bilateral talks with China are unproductive, he would not hesitate to bring the arbitration ruling back onto the table.

The problem with this logic and that of the Code of Conduct is that they assume that things stand still while diplomats talk until their patience wears thin or until they have a breakthrough. As was seen in recent years, this has not been the case. Between the signing of the Declaration of Conduct in 2002 and the agreement on its implementing guidelines more than eight years later, the U.S. pivot to Asia happened, altering China’s security environment and threat perceptions. Between the filing of the arbitration case in January 2013 and the release of the tribunal’s ruling in July 2016, while the Philippines were hoping to reap advantages from UNCLOS, including getting China to back down from its expansive claims and assertive actions, China managed to develop islands that it had previously occupied into facilities with potential military use, thus irreversibly changing the “facts on the ground”.

In other words, in terms of legal importance, the “final and binding” arbitration ruling may be the most significant decision to come out relating to the implementation of UNCLOS as the “constitution of the oceans”. However, in terms of political-diplomatic utility for a region learning to manage ties with a rising power, or its function of promoting Philippine interests including security and access to resources, it may have a relatively short shelf life.

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The South China Sea Arbitration: An UNCLOS Dispute Resolution Mechanism

Tetsuo Kotani

On July 12, 2016, an award in the arbitration case between the Philippines and China over the South China Sea was announced, which denied “historic rights” unilaterally claimed by the People’s Republic of China (China) in the South China Sea (Permanent Court of Arbitration 2016a). As the award was released by the Permanent Court of Arbitration (PCA) in The Hague, the media reported that the PCA “ruled” the case and described the award as a “PCA ruling.” However, this reading of the PCA’s work is incorrect. The award is not a PCA ruling. Though the award was released by the PCA it was made by an arbitral tribunal constituted under the United Nations Convention on the Law of the Sea (UNCLOS). The PCA served just as the registry or secretariat. The Arbitral Award is an UNCLOS ruling.

This misunderstanding – or error – is misleading and undermines the implications of the award. This is because the People’s Republic of China has no legal obligation to use the Permanent Court of Arbitration for dispute settlement purposes. Yet, as a party to UNCLOS, China has a legal obligation to accept the compulsory dispute settlement procedures entailing binding decisions at the unilateral request of any party to the dispute. To confuse the final and binding award under UNCLOS with a ruling by the PCA underestimates the challenges China poses to the entire UNCLOS regime.

The Permanent Court of Arbitration in The Hague

The PCA was established by the 1899 Hague Conventions for the Pacific Settlement of International Disputes. The PCA’s function was expanded by the 1907 Hague Conventions for the Pacific Settlement of International Disputes (Permanent Court of Arbitration 2017a). Those two Conventions themselves provide an arbitration procedure, and “a PCA ruling” literally means a ruling made by the PCA as a tribunal under the two Hague Conventions. However, states have rarely used the Conventions’ arbitration procedure and the PCA as a tribunal since the end of World War II. Instead, the International Court of Justice (ICJ) has worked as a primary tribunal for interstate cases. In essence, the PCA is not a “court” in the general sense but an administrative body with the object of having permanent and readily available means for arbitration. The PCA serves as the registry, rather than as a tribunal, and facilitates arbitration and other dispute resolution proceedings among states, intergovernmental organizations, and private parties (Permanent Court of Arbitration 2017b). The PCA’s International Bureau provides administrative services to arbitral tribunals held at the PCA as secretariat. Those services include assisting with the identification and appointment of experts, publishing information about the arbitration and issuing press releases, organizing the hearings at the Peace Palace in The Hague, and the financial management of the case (Permanent Court of Arbitration 2017c).

Unlike the International Court of Justice, the Permanent Court of Arbitration is not a UN organization although they are collocated in the Peace Palace in The Hague. The PCA obtained a

permanent observer status in the UN General Assembly in 1993, thereby strengthening communication with the UN (United Nations 1993). The PCA and the International Tribunal for Law of the Sea (ITLOS) in Hamburg, established by UNCLOS, have agreed to cooperate for relevant legal and administrative matters, particularly those connected with disputes under Annex VII of UNCLOS (Permanent Court of Arbitration 2017d). So far, the PCA has acted as registry in all the arbitration cases but one under Annex VII of UNCLOS.¹ The twelve cases arbitrated under the auspices of the PCA include the Arctic Sunrise case (the Netherlands v. the Russian Federation) and the maritime delimitation case (Guyana v. Suriname) (Permanent Court of Arbitration 2017d). The PCA has gained unique experience in dealing with UNCLOS arbitrations.

UNCLOS Compulsory Dispute Settlement Procedures

Part XV of UNCLOS sets forth rules for the resolution of disputes between State Parties arising out of the interpretation or application of the Convention (United Nations 1982a). States consent to these procedures when they become a party to UNCLOS.² Under Article 287 (1) of UNCLOS, a State may make a declaration choosing one or more of the following four means for settling such disputes: ITLOS, ICJ, an ad hoc arbitral tribunal in accordance with Annex VII of UNCLOS, or a "special arbitral tribunal" established under Annex VIII of UNCLOS. Under Article 287 (3), arbitration under Annex VII is the default means of dispute settlement if a State has not expressed any preference with respect to the means of dispute resolution available under Article 287 (1). Article 287 (5) provides that, if the parties have not accepted the same procedure for the settlement of the dispute, arbitration under Annex VII is the default means of dispute settlement. Pursuant to Article 298, States can declare that they do not accept the compulsory procedures for certain categories of disputes, including disputes concerning: disputes on historic bays or titles; disputes on the provisions in UNCLOS on delimitation of maritime boundaries; and disputes on military activities. If a dispute arises on whether the court or tribunal has no jurisdiction because the dispute falls within one of the exceptions, such dispute shall be resolved by the court or tribunal.

An arbitral tribunal under Annex XII of UNCLOS consists of five arbitrators (Article 3). The State Party instituting the case appoints one arbitrator when it commences proceedings. The other Party then has 30 days to appoint one arbitrator. The two Parties then attempt to agree on the remaining three arbitrators. If the two Parties fail to agree, the President of ITLOS appoints the remaining three. If one Party fails to appoint an arbitrator or cooperate in the appointment of the arbitrators, the other Party can request the President of ITLOS to appoint the other four arbitrators (United Nations 1982b). Even if one Party does not appear to defend the case, the other Party may still request tribunal to continue and make an award (Article 9). Absence of a Party or failure to defend the case is not a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

The award under Annex XII is final and without appeal (Article 11). There is no mechanism by which the court or tribunal can enforce the award. Yet, if a Party fails to implement the award, the other Party can submit the controversy to the court or arbitral tribunal to request a further decision (Article 12).

¹ ITLOS was chosen as the means of dispute settlement in the Bangladesh v. Myanmar Bay of Bengal Case.

² A special arbitral tribunal under Annex III deals with disputes involving scientific or technical matters.

The South China Sea Arbitration Proceedings

In January 2013, Manila initiated the arbitral procedures based on Part XV and Annex XII of UNCLOS as neither the Philippines nor China declared preferred dispute settlement measures. The Philippines emphasized that it did not see a determination of which Party enjoys sovereignty over the islands claimed by both of them because this is beyond the scope of UNCLOS. The Philippines did not seek a delimitation of any maritime boundaries because China declared it would not accept compulsory dispute settlement over those issues.³ The Philippines then appointed a member of the Tribunal. As China failed to appoint an arbitrator, the President of ITLOS appointed the remaining four arbitrators. The Arbitral Tribunal was constituted based on Annex XII of UNCLOS in June 2013 (Permanent Court of Arbitration 2016b: 12). In July 2013, the Tribunal appointed the Permanent Court of Arbitration as Registry for the arbitral proceedings. The Tribunal's Rules of Procedure provide that the PCA shall "maintain an archive of the arbitral proceedings and provide appropriate registry services as directed by the Arbitral Tribunal" (Permanent Court of Arbitration 2016a: 3).

China adhered to its position of neither accepting nor participating in these arbitral proceedings. It expressed its position in diplomatic notes, in the China's Position Paper of December 2014, and in many public statements. The Chinese Government has also made clear that these statements and documents "shall by no means be interpreted as China's participation in the arbitral proceeding in any form" (Ibid: 4). China's Position Paper explained the reasons for non-acceptance and non-participation as follows. First, the essence of the arbitration is the territorial sovereignty over maritime features in the South China Sea, which is beyond the scope of UNCLOS. Second, by unilaterally initiating the arbitration, the Philippines breaches its obligation under international law to settle their relevant disputes through negotiations. Third, the arbitration deals with maritime delimitation between the two countries, thus falling within the scope of the declaration filed by China in 2006, which excludes disputes concerning maritime delimitation from compulsory dispute settlement procedures. China then condemned the Philippines for "abusing the dispute settlement procedures" under UNCLSO (Ministry of Foreign Affairs 2014).

Despite China's non-participation, the proceedings went on. In October 2015, the Tribunal issued an Award on Jurisdiction and Admissibility, deciding some issues of jurisdiction and deferring others for further consideration. On July 12, 2016, the Tribunal made the final Award. It accepted most of jurisdiction and denied Chinese historic rights in the nine-dash line, clarified the legal status of some features in the South China Sea concluding there is no island in the Spratly Islands that can produce an Exclusive Economic Zone (EEZ) or continental shelf, found most of Chinese activities, including law enforcement and marine environmental destruction in the South China Sea unlawful under UNCLOS and other international law. However, the Tribunal concluded it did not have jurisdiction over the lawfulness of Chinese activity in the Second Thomas Shoal as they constitute military activities, over which China declared not to accept compulsory dispute settlement procedures (Permanent Court of Arbitration 2016a: 8).

Even though the arbitration proceedings were totally in accordance with UNCLOS. China

³ An Arbitral Tribunal constituted under Annex XII of 1982 United Nations Convention on the Law of the Sea an award in the matter of the South China Sea Arbitration between the Republic of the Philippines and the People's Republic of China (Permanent Court of Arbitration 2016b: 11).

nevertheless rejected the Award. Beijing announced a statement reiterating its historical rights in the “South China Sea Islands” and justified the position as “consistent with relevant international law and practice” (The State Council 2016). China’s Vice Foreign Minister Liu Zhenmin even described the Award as a “piece of paper” (Ministry of Foreign Affairs 2016). Liu even questioned the “procedural justice” of the appointment and the operation of the tribunal. Chinese media described Japanese judge Shunji Yanai, who appointed four arbitrators as the President of ITLOS, as “rightist and unfriendly to China” despite the fact that the appointment was done by him because of China’s non-participation (Liu 2016).

The Implications of the Award

The Arbitral Award is not a PCA ruling. It is an UNCLOS ruling. China has a right not to participate in the proceedings. Even without China’s participation, the Tribunal considered China’s position and claims and the Philippines claim is well founded in fact and law. On the other hand, China has an obligation to accept the final and binding ruling. Under UNCLOS, China’s non-participation is allowed, but non-acceptance is not.

China’s rejection of the Award poses a huge challenge to the UNCLOS regime. UNCLOS is a package deal among navigational rights, sovereign rights, and compulsory dispute settlement. As a Party to UNCLOS, China accepted the compulsory dispute settlement mechanism while enjoying navigational rights in the world waters and sovereign rights in its EEZs and continental shelf. If the international community accepts China’s position, that would lead to the collapse of the package deal and the entire UNCLOS regime.

Since the Award is not a PCA ruling but an UNCLOS ruling the urgent question is whether UNCLOS governs the South China Sea or historical claims and power rule the international waters. UNCLOS provides no enforcement measure even if China rejects the ruling. Yet the Award and its significance will never fade away. Under Article 12 of Annex XII, the Philippines can submit China’s non-acceptance to the Arbitral Tribunal to request a further decision. Also, because this is an UNCLOS ruling, the Philippines can raise China’s non-acceptance in the UN General Assembly. The Award and the entire arbitral proceedings provide a good example for other South China Sea claimants if they prefer to use the compulsory dispute settlement mechanism.

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International Cooperation and the Blue Economy

Ronald Mendoza and Charles Siriban

In order to sustainably manage natural resources in the marine economy, a growing number of experts have begun to call for a paradigm shift—from one that tolerates an aggressive and often unsustainable extraction of resources from the world’s oceans and seas, to one that recognizes the importance of the “blue economy”. The latter, put simply, is a version of the “green economy” made relevant to seas and oceans. In order to operationalize this concept, we draw on another concept—that of regional public goods—in order to highlight how exactly the blue economy can be sustained.

The textbook definition of a public good points to its non-rivalrous and non-excludable characteristics. This implies that within a given area, a public good can be consumed by (or it could provide benefits for) anyone in that area. Non-excludability implies that people in this area cannot be prevented from consuming or benefiting from this public good. Non-rivalry means that many people could consume or benefit from the public good without necessarily reducing said benefit. And because of these two characteristics, markets are unable to effectively price public goods, thus warranting collective action. International public goods are simply variants of these basic definitions, covering wider cross-border areas (as opposed to a national public good which is only relevant to people within a country’s borders) (Kaul; Mendoza 2003).

Perhaps more policy issues can now be characterized as international public goods—these are public goods that are either regional or global, depending on the scope of their impact on people.¹ This is thanks to such trends as international economic integration, advances in technology that connect more markets and people, and the broader types of externalities that are the outcome of human activities (such as climate change resulting from overproduction of greenhouse gases). In the following we will focus on a special type of public goods called regional public goods—these are public goods that affect people beyond a single nation but do not extend worldwide.

Regional public goods (RPGs), like most public goods, represent collective action challenges; but more focused on regions (or groups of countries). RPGs offer a useful lens to analyze regional issues relating to the maritime economy, particularly in areas with territorial disputes. This paper² uses a regional public goods framework in order to analyze international cooperation cases involving the blue economy. These cases offer useful lessons for international cooperation efforts in this area.

¹ For a discussion on the factor behind regional and global public goods, see among others Arce and Sandler 2002, Estevadeordal et al. 2002, Ferroni and Mody 2002, Kaul et al. 2003, and Sagasti and Bezanson 2001.

² This article draws on and further synthesizes an earlier published paper in the Journal of Asian Business titled “Regional Public Goods in the Blue Economy: Synthesis of Lessons from 14 Cases of International Cooperation” (Mendoza; Siriban 2014)

Lessons from Successful International Cooperation

Important insights can be gleaned from cases of international collective action toward sustainable use of marine resources and ecosystems. The cooperation initiatives featured here appear to have several common characteristics that might comprise the beginnings of an operational approach to regional public goods in the blue economy.

Cooperation Frameworks of the Concerned Countries

The first key ingredient for successful international cooperation in the maritime sector has to do with a clear cooperation agreement and framework. Typically, these agreements aim to address a variety of issues, such as equitable allocation and conservation of fish resources for cooperation initiatives that aim to manage shared and straddling fish stocks; proper allocation of water resource, pollution mitigation and ecosystem conservation for cooperation initiatives that aim to manage shared water basins (as in the case of the Danube River); mechanisms that can be utilized to tap the resources found in the disputed area, as well as benefit-sharing arrangements in the case of joint development agreements. These agreements help to articulate shared objectives and at the same time help to specify commitments of all countries involved. In some cases, the agreements help to clarify aspects related to disputed territories (as in the case of the joint development agreement between Thailand and Malaysia in which it was explicitly stated that the countries would continue to negotiate maritime delimitation in the Gulf of Thailand (see 1979 Memorandum of Understanding). Yet, the latter is not always necessary in order to facilitate cooperation. Indeed, in cases where marine resources such as fish stocks are moving through different countries' marine boundaries matter less (as in the case of cod stocks in Barents Sea) and coordinated quota management across borders becomes more useful.

Some of these agreements entail the creation of organizational entities tasked with facilitating cooperating countries' collaborative actions to carry out the agreements and treaties. Examples include the International Commission for the Protection of the Danube River (ICPDR), the Pacific Salmon Commission, the Western and Central Pacific Fisheries Commission (WCPFC), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) and the joint authorities established by countries with maritime disputes in charge of managing the joint development zones. These organizations play important roles, including coordinating collective action, spurring data collection and sharing as well as joint research, providing a forum for policy discussion and adjustments in the cooperation strategy, and embodying clear burden-sharing in coordinated activities and shared functions (e.g. research).

Cooperation in Research

In many cases, the generation of credible and unbiased data and evidence proves critical in spurring and sustaining collective action. Cooperation in research could enable countries to have a more complete account of events (such as changes in the migration pattern of fish stock) as compared to merely depending on national assessments (Gulland 1980). A more complete set of information could allow for more equitable quota management and benefit sharing arrangements (Caddy 1997). In the case of the Pelagos Marine Sanctuary, research initiatives have played an important role in increasing the awareness of the governments and citizens of the countries concerned (Italy, France and Monaco) on the threats to the cetacean population in the area.

This, in turn, motivated the three countries to establish a sanctuary zone for marine mammals, and collaborate in harmonizing their monitoring efforts and implementing policies that would minimize the adverse impact of human activities on the marine mammals (Notarbartolo die Sciara et al. 2008). On the other hand, in the cases of the Barents Sea Fisheries Management and the Conservation of Southern Blue Fin Tuna, research initiatives continue to play a key role in guiding the progress of these cooperation initiatives (Mendoza; Siriban (2013)). As marine ecosystems are ultimately interconnected across countries' territorial boundaries, collaborative research across countries is itself a type of Regional Public Good since the knowledge and information produced could be useful across countries and over generations.

Clarification of Burden-Sharing Arrangements

Just as benefit-sharing is often clarified (e.g. in fisheries, through clear catch allowances vis-à-vis over-all sustainable quotas established), so too are burden-sharing arrangements in the provision of the RPG. An example of a specially designed burden-sharing arrangement is the way countries finance the Commission for the Conservation of Southern Blue Fin Tuna (CCSBT). The member countries of the Commission share equally in their contribution to the 30% of the Commission's budget. Each member also contributes to the remaining 70% of the budget, based on the share of its nominal catch to the total nominal catch of southern blue fin tuna (See Text of the Convention for the Conservation of Southern Bluefin Tuna). This adjustment allows for countries with larger catches (and therefore larger economic benefits) to appropriately pay more for the cooperation initiative (since they are extracting more benefits from it).

A similar burden-sharing scheme is utilized in the case of the West and Central Pacific Fisheries Commission (WCPFC) but in addition to the base fee (10% of the total contribution which is shared equally by the member countries) and the fish production components (70% of the total contribution which is based on the total catch taken within the Convention area), the contribution of each member state also includes a national wealth component (20% of the total contribution which is based on the Gross National Income (GNI) per capita of the member countries) to account for the state of development of the member countries and their ability to pay.

The Use of Side Payments

Some cooperation initiatives have utilized side payment schemes in which transfers are made (either monetary or non-monetary) by one member country to another. Examples include Cooperation in the Management of Pacific Salmon (wherein the United States provided a significant proportion of the initial funding to the endowment funds established to support scientific research and conservation initiatives), Cooperation in Management of West and Central Pacific Tuna (wherein some Pacific Island Countries (such as Micronesia, Marshall Islands, Nauru and Papua New Guinea) allowed other countries' fishing fleets to operate within their territorial waters in exchange for the latter's commitment not to fish in the high seas in between the former's EEZs), and Barents Sea Fisheries Management (wherein Norway and Russia signed a mutual access agreement on the shared fish stock found on each other's exclusive economic zone, and a similar agreement between the two countries and third parties as in the case of Iceland). A side payment scheme provides flexibilities on the part of each country that shares a common marine resource (fish stock for instance), as it makes a country's harvest share only one of the sources of economic returns that the latter attains from the said resource. This, in

turn, enables all countries that are part of a cooperative resource arrangement to attain higher economic returns relative to the case where they merely depend on their respective harvest shares.

In the case of some Pacific Island Countries, a possible reason behind their decision to use side payments lies in their lack of jurisdiction over the high seas and given that tuna stocks migrate between their EEZs and the high seas, excessive fishing efforts in the latter by other countries' fishing fleets can also affect the tuna stock available in their respective EEZs. On the other hand, many of the cod stocks found on the Russian side of the Barents Sea are of young age and if there is no provision for side payments (i.e., Russia is not given access to the more mature cod stocks of Norway), Russia would have to depend merely on its cod stock to fulfil its quota and this can have serious implications on the cod stock that will be available to Norway eventually (Caddy 1997).

Further, as Munro et al. (2003) noted, it is possible that a cooperative outcome will not exist if the benefits that a country will receive from cooperation are less than the benefits that it will attain when it decides not to cooperate. Side payments, through the increased scope for bargaining that it induces among the countries concerned, could increase the likelihood that the countries will come up with a more stable cooperative arrangement.

Role of External Parties, Private Groups and the Public

External parties also played a major role in some agreements (e.g. Asian Development Bank and the Global Environmental Facility in the Coral Triangle initiative; and the European Union to some extent in the preservation of the Danube river basin). This type of involvement may be necessary in cases where there are challenges in the ability of the countries to adequately provide the Regional Public Goods. In the case of the Coral Triangle Initiative, the Global Environmental Facility (GEF) provided a significant proportion of the initial funding of the project (Simamora; Setiawati 2009). The Asian Development Bank, on the other hand, has been involved in capacity-building efforts of the relevant government agencies of some signatory countries in terms of knowledge management and information sharing, and of training with regards to utilizing an ecosystem-based approach in managing the shared resources (ADB 2009; ADB 2011). In this case, the said capacity-building efforts underscore the importance of building institutional capacities of government of each member country in the provision of RPGs, as states with weak capacities can contribute less and can even induce negative externalities with regards to the production of RPGs (Nogueira 2004).

Private groups have also played an important role in the provision of RPGs in some cases. In the case of Pelagos Marine Sanctuary, the lobbying efforts of private groups have led one of the leaders of the three countries (Prince Rainier of Monaco) to seek the cooperation of the other two countries in the conservation of marine mammals. Private groups have also taken the lead in ensuring the momentum of the conservation initiative (Notarbartolo die Sciara et al. 2008). Similarly, in the absence of a formal agreement among the governments of Greece, Macedonia and Albania, environmental NGOs have played an important role in coordinating efforts by various stakeholders to implement necessary measures for the conservation of the Prespa Lake (SPP 2013).

Finally, in the case of the conservation of Danube River, the cooperation initiative has a mechanism that aims to involve public participation in the drafting of the Strategic Action Plan in the 1990s and in the drafting and refining of the Danube River Basin Management Plan (2009-2015). Various avenues were used (such as forums, websites and questionnaires) to elicit response from the public with regards to the Danube River Basin Management Plan (Wolf; Newton 2008a). Such mechanism has the potential to provide the relevant policymakers (such as the International Commission for the Protection of the Danube River) a more comprehensive view of the issues, which in turn can guide them in crafting more appropriate policies with regards to the production of Regional Public Goods.

Conclusion

The blue economy is a term used recently to emphasize the sustainable utilization of marine resources, spanning fisheries, energy and international trade, among other aspects. As a contribution to the policy discussions, this paper turned to a regional public goods framework to examine different cases of international cooperation involving the blue economy. Key characteristics of the initiatives include, among other aspects, well-defined legal frameworks underpinning the international cooperation initiative, as well as financing mechanisms to support the contribution of different partners, including low income countries that are part of the cooperation agreement. The cases also help emphasize the importance of (sometimes joint) research and producing credible data and information for conducting collaborative policymaking and, if necessary, settling disputes.

These different features reflect different production technologies for Regional Public Goods, suggesting that the modalities for cooperation could be adapted to reflect key features that seem to work in other international cases. These offer useful lessons for regions that have yet to address or are currently addressing the challenge of managing natural resource wealth in areas with high externalities, typically characterizing marine ecosystems. Some international cases benefit from clear delineation of territories, but cooperation need not hinge on this element alone. The analysis herein offers possible avenues for exploring arrangements that promote a “blue economy” approach to the management of natural resource wealth, through win-win international cooperation strategies.

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Military-Strategic Aspects of the South China Sea Issue

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Land reclamation activities by the People’s Republic of China (hereafter China) in the South China Sea (SCS), the unprecedented militarization of some of these features within a very short time frame, and heightened activities by Chinese paramilitary maritime forces (the so-called “people’s militia”) in contested waters have reverberated throughout the entire Asia-Pacific region. In July 2016, China refused to accept a ruling by the Permanent Court of Arbitration at The Hague regarding its South China Sea (SCS) claims, thereby calling into question China’s intentions of “rising peacefully” and upholding the international legal order. What could be the main drivers behind China’s increasingly assertive behavior?

In the following we aim to specifically explore the military-strategic aspects of the SCS conflict and will present an alternative approach to explaining China’s recent maritime behavior beyond the usually considered factors – nationalist fervor, protection of hydrocarbon resources and fishery rights, and hegemonic expansionism – by discussing how new military installations in the SCS contribute to China’s deterrence strategy. We contend that this angle should be more systematically included in discussions of China’s increased assertiveness.¹

The Puzzle of China’s Uncompromising Stance

In July 2016, China refused to accept a ruling by the Permanent Court of Arbitration at The Hague that declared the Chinese historic claim on land features in the South China Sea to be not in accord with international law. An analysis of Chinese authoritative and non-authoritative commentaries on this verdict conducted by Swaine (2016) points out that “China rejects the arbitration and views its verdict as detrimental to vital Chinese interests, regional stability, and international legal order.” According to the same study, Chinese non-authoritative sources, “while reaffirming the authoritative viewpoint, believe that China enjoys some type of privileged right to exploit resources throughout the area contained within the ‘nine-dashed line’” (Swaine 2016: 1).

As a party to UNCLOS, China’s rejection of the ruling was a harsh stance to take, especially given the Chinese Communist Party’s (CCP) attempts to portray China as a responsible stakeholder of the international law-based order. As the above cited analysis concludes:

“China’s categorical rejection speaks to the fundamental Sino-Western division over the application of international agreements to sovereignty issues” which moreover “indicates that any effort by the US or other powers to pressure Beijing will prove futile and most likely exacerbate existing tensions in the South China Sea” (Swaine 2016: 1).

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Ever since China first attached a map of its extensive “nine-dash line” claim to a note verbale to the UN in 2009, China has, in the words of Yang and Li, “defended its claims by employing a combination of military, paramilitary, legal and diplomatic means” (Yang and Li 2016: 145).

In particular, the PRC has:

- increased the number of patrols by surveillance ships in the disputed waters;
- conducted harsher law enforcement activities against foreign fishing vessels;
- taken forceful preventive measures against Vietnam’s and the Philippines’ exploitation of energy resources in areas claimed by China;
- established a new administrative entity, “Sansha City”, to govern the claimed nine-dash line area;
- forcefully taken control of Scarborough Shoal following a two-month confrontation with the Philippines in 2012;
- deployed oil rig HYSY 981 in Vietnamese-claimed waters off the Paracel Islands in 2014;
- undertaken massive land reclamation work on its controlled islands and reefs in the SCS;
- installed numerous civilian and military facilities on those artificial islands.

(Yang and Li 2016: 145-146).

Possible Explanations for China’s Assertiveness

Most outside commentators have tried to explain China’s increasingly robust behavior variously as a function of economic or domestic pressures. Some point out the strategic importance of the transport routes that cross through the SCS. Another paradigm that has emerged more recently is the idea that the militarization of Chinese-held SCS features – hangars, airstrips, radars, and in the case of Woody Island, air-defense missiles – could serve as a potential military game changer in a conflict with the U.S. We will address these lines of explanation one by one before adding our own analytic angle.

(1) Pressures Arising from Nationalist Sentiment

The typical view expounded by proponents of the “nationalism angle” is that the CCP is bound by nationalist sentiment at home and cannot risk deviating from the established narrative without facing a possible loss of power (Yang and Li 2016: 152).

While it is undoubtedly true that nationalist sentiment generated by historical narratives is shaping the strategic outlook of the CCP’s leadership to some degree and effectively constrains its policy options, in our view this may be a hen vs. egg problem – after all, it is also undoubtedly the case that the CCP has both the power and proven capability to create, shape and change domestic historical narratives at will, a capacity employed with particular success when it comes to obliterating the CCP’s own dark secrets and historical failures from public discourse. It seems odd to consider the CCP ultimately powerless to influence public opinion in this particular field, especially given the fact that the SCS features are virtually uninhabited, and powerful counter-narratives by their non-existent inhabitants can therefore not arise. Rather than being held hostage by public opinion, the CCP in our view is more likely than not actively engaged in shaping and creating these same narratives for its own purposes.

(2) The “Resource Angle”

Supposedly vast hydrocarbon deposits (in addition to other maritime resources including seafood) are often considered to be a prime driver behind China’s assertiveness in the SCS. While these resources do no doubt influence China’s (and other claimants’) SCS policies to a marked degree, there are a few problems with this line of reasoning, at least when it comes to the hydrocarbons. As Kraska points out: “The irony is that there are few resources to be had in the South China Sea” (Kraska 2015). While there is some uncertainty over the true extent of hydrocarbons actually residing within the disputed SCS areas, according to the U.S. Energy Information Administration:

“although the South China Sea contains perhaps 11 billion barrels of oil and 190 trillion cubic feet of natural gas, those resources mostly reside in undisputed areas along the coastline outside of China’s nine-dashed line claim. Likewise, while the fisheries of the South China Sea once were rich, in recent years they have been grossly depleted” (Kraska 2015, emphasis added).

Furthermore, whatever energy resources do in fact reside within the 9-dash-line and in disputed waters would be relatively difficult to extract using the currently available technologies.

In sum, we think that the resource angle might serve especially well to explain the incentives for China’s smaller neighbors Vietnam, the Philippines, Malaysia and others to hold onto their claims versus China, given that their economies depend on access e.g. to the fishing resources to a disproportionately higher degree. Yet in itself, we do not see it as a sufficient reason to explain China’s rather confrontational and uncompromising stance towards these smaller neighbors. Given China’s overwhelming economic and military clout in the region, it would be possible for China to dominate the agenda of any possible joint exploitation of the SCS’s maritime resources in its bilateral relations with individual SCS claimants, even if China chose to peacefully cooperate with the neighboring states to extract resources, thereby creating goodwill and slowly bringing about a de facto sphere of influence. The more confrontational approach taken by China is therefore not without plausible alternatives.

(3) The “Malacca Dilemma” Narrative

China’s economic vulnerability through blockades of major maritime chokepoints, foremost the Strait of Malacca, has been widely discussed. It is also a constant in Chinese navalist writings such as those by e.g. Zhang Wenmu (cf. Zhang 2006 and 2014). While safety concerns regarding vital sea lines of communication (SLOCs) are entirely understandable, given the needs of China’s export-driven economy for raw materials imports and merchandise exports, the notion of a Chinese “Malacca dilemma” as such has been challenged (cf. Chen 2010). Moreover, it is unclear how Chinese control over the tiny land features within the SCS would contribute to alleviating China’s “Malacca dilemma,” since Chinese maritime transport also depends on several much farther removed maritime choke points that would not be affected by control over any of the SCS features.

Apart from that, a purposeful blockade of the Strait of Malacca would not only disrupt Chinese trade, but a large portion of world trade as well, and is therefore not exactly a useful weapon of containment. Many other Asian powers, among them U.S. bilateral allies Japan and the Republic of Korea, after all depend on access to the same SLOCs as China. Still, it must be

conceded that China has a natural interest in being able to guarantee access to and protection of its vital SLOCs.

(4) The “Military Game-Changer” Theory

Given the recent militarization of some SCS features, some analysts have put forward the view that radars, aircraft and missiles deployed to some of the Chinese-occupied SCS features could become a decisive factor in a hypothetical military conflict with the U.S.:

“the construction of a more extensive basing infrastructure in southern China, Hainan, and the Paracel Islands, together with more long-range aircraft, tankers, and a conventionally armed IRBM force might shift the balance at some point after 2017” (Heginbotham et al. 2015: 93).

While it is undoubtedly true that the deterrent effect exerted by Chinese military installations on the reefs and islets vis-à-vis weaker neighboring states Vietnam and the Philippines is likely very strong, and might in the long run lead to Chinese de facto control over the entire area, some analysts have called into question the idea that the Chinese SCS fortifications as such could offer much military benefit in the event of an actual military conflict with a peer competitor. Chang (2016) and Becker (2015), who are both military professionals, have independently pointed out the difficulty of conducting a meaningful defense of these features under heavy attack. This view has been disputed by other analysts though.

In our view, while all the above named factors are to some degree relevant, even in sum they fail to explain convincingly why China would risk upsetting the regional balance, openly disregard international law, aggravate its neighbors and ultimately fuel a local arms race (as an unintended outcome) rather than seeking stronger intra-regional co-operation for the joint development of the SCS’s resources, and for jointly securing the sea lines of communication on which the entire global trade system depends on. This leads us to contend that the challenges posed by China’s maritime geography, in particular the security needs of China’s new space launch pad on Hainan island – Wenchang Spacecraft Launch Site – in combination with the security challenges facing Hainan’s strategic submarine base to the North of the SCS, offer a more convincing explanation of China’s likely motivation for military domination of the Paracel and Spratly archipelagos (as well as the Natuna Islands in the long run).

(5) A Further Factor to Consider: China’s Space and Naval Installations on Hainan Island

In our view, China likely aims at establishing a layered defense perimeter for controlled space launches to all orbits that are necessary for achieving China’s ambitious space goals, both civilian and military; and simultaneously tries to create a bastion² for its nuclear submarines in deeper waters to the South of Hainan to fulfill the requirements of a credible seaborne second strike capability.

The interconnections between China’s deterrence posture, the PLA Navy’s (PLAN) global blue-water and carrier operation ambitions, and China’s emerging space strategy have so far

² The bastion concept for strategic submarines in the Arctic to the North of Siberia originated with the Soviet Navy and is today echoed in the military build-up of the Arctic rim by Russia. Cf. Polmar (1986: 26-27) and Dyndal (2017).

been overlooked factors in most, if not all analyses of the SCS problem as of September 2017.³ This is curious, given that China's newly established Wenchang spacecraft launch site and China's most important nuclear submarine base are both located on Hainan Island right on the Northern rim of the SCS. The Wenchang launch site is of crucial importance for China's manned space exploration goals, but has received little coverage so far in terms of its contribution to China's military strategy. Conversely, Hainan's naval bases, especially the strategic submarine base near Yulin, have attracted comparably greater attention.⁴ As Kristensen and Norris point out, all Chinese Type 094 nuclear-powered ballistic missile submarines are by now based at Hainan's Longposan naval base near Yulin (Kristensen and Norris 2016: 208).

The following section explores the question how the presence of not just one, but two high-profile Chinese military-technological installations on Hainan might influence China's strategic calculus on the Paracels, an area directly to Hainan's South; in the Spratlys; at Scarborough Shoal, and in the stretch to the Natuna Island archipelago to its far south.

China's Deterrence Strategy: Taiwan and Beyond

U.S. military analysts have long deemed it a necessary condition for the U.S. to maintain space superiority vis-à-vis China in order to deter a Chinese attack on Taiwan. Smith noted in 2006, when the U.S. still enjoyed uncontested space superiority, that a "former high-ranking Chinese official once said to be victorious in future combat, 'We will have to gain air and sea superiority, but win information superiority first.'" According to Smith, "gaining this information superiority, on the way to winning air and sea superiority, would be enabled by Chinese space systems" (Smith 2006: 23).

Apart from the Chinese goals of discouraging Taiwan from officially declaring independence, and deterring a U.S. intervention on Taiwan's behalf – Taiwan being an official "core interest" (hexin liyi)⁵ of China – we assume a more general driver behind China's SCS strategy: a pervasive Chinese threat perception of being encircled, fenced in or "contained in its expansion by a de facto coalition of bilateral U.S. allies in the Asia-Pacific. This concern is often voiced by Chinese geostrategists such as Dai Xu (2010), Ju Hailong (2015) or Zhang Wenmu (2006, 2014), and is not entirely unfounded.⁶ As Garver notes: "The United States has, to cite one element of continuing US preeminence, some 60 allies accounting for 80 per cent of global military spending. China has perhaps two allies: North Korea and Pakistan" (Garver 2016: 549).

China is not only short of powerful allies, but also hampered in its naval power projection by a peculiar maritime geography. American and allied military bases and listening stations on the First Island Chain, in South Korea and Taiwan hold Chinese naval assets at risk. China's uncontested territorial waters and Exclusive Economic Zone (EEZ) are for the most part continental shelf and fall into the category of "confined and shallow waters" that pose peculiar

³ For instance, an otherwise extremely comprehensive, multi-faceted and informative edited volume by Fels and Vu (2016) on the South China Sea disputes does not discuss these factors at all.

⁴ Cf. Babiarz (2017), who offers excellent analyses of satellite imagery and an in-depth discussion of China's nuclear submarine development. So does Kristensen (2014). Cook (2017) provides a detailed assessment of the Yulin submarine base's vulnerability to attacks.

⁵ See Swaine (2011) for a thorough discussion of this concept and its implications.

⁶ The well-known Chinese IR scholar Yan Xuetong has recently urged the PRC leadership to consider formal military alliances with arms trade partners as an antidote to strategic isolation (cf. Huang 2016). Cf. also the discussion in Kirchberger (2015: 42-52).

challenges for naval operations.⁷ Only the contested waters of the SCS south of Hainan offer China ready access to deeper Pacific waters, a crucial factor for China's nuclear submarine patrol missions. The latter point is important, because even from a protected haven or bastion within the South China Sea, China would not be able to credibly threaten the U.S. mainland. The maximum range of the JL-2 missile is ca. 7,400km, which means that even for targeting Seattle on the U.S. West Coast, Chinese submarines would need to sail far outside the First Island Chain; to achieve a credible second strike capability by targeting the U.S. East Coast, Chinese nuclear ballistic missile submarines (SSBNs) would need to travel at least a further 4,000km eastward into the open Pacific, without being tracked by enemy forces (Kristensen and Norris 2016: 209).

Operating ballistic missile submarines in extended global patrols is a challenge even for the most sophisticated naval forces. The extreme standards of readiness that were deemed necessary to achieve credible deterrence during the Cold War have been described by Loewenthal (2007). The Soviet Navy chose a different approach. By making an offensive weapon system – the submarine – itself the object of a dedicated defensive strategy, it implemented what has been called a “bastion concept”:

(...) the arrival of the Delta SSBN equipped with SS-N-8 missiles gave the Soviet Union the potential even to launch attacks on the United States from home waters in the Barents Sea. The Northern Fleet came to define the Barents Sea (and later the Sea of Okhotsk) as closed areas for these SSBNs. These ‘Bastions’ became heavily defended by attack submarines, surface vessels and air power. The strategic nuclear deterrent submarines and the Bastion Concept came to be recognised as the centrepiece of Russia's second strike capability (Dyndal 2017).

Given the difficulty of conducting SSBN patrols e.g. under the Arctic ice, and in light of the close kinship between present-day Chinese and Soviet military-organizational culture, it seems not far-fetched that China should opt for a variant of the old Soviet bastion concept for its own nuclear deterrence rather than aiming to copy the approach of the U.S. Avoiding early enemy detection by anti-submarine warfare assets deployed at the exit points of the First Island Chain and at the rim of the SCS is therefore an important challenge. As McDevitt (2016) points out, “Choke points can be exploited to maximize the ability to detect and track enemy SSBNs.” Already in 2008, Fisher had predicted that:

It is likely that the Paracel and Spratly bases will eventually serve as links in a chain of sensors to secure the South China Sea as a ‘bastion’ for PLAN SSBN patrols. When this happens, China's tolerance of U.S. and Japanese naval activities in this region may diminish (Fisher 2008: 60-61).

Recent events do indeed seem to validate this prediction. In any case, China's attempts to create an anti-submarine warfare “great wall” of its own to deter enemy subs from entering its security perimeter, and its increased assertiveness towards and lower tolerance for intrusions of foreign aircraft and surface vessels, is likely an indication of the goal to create a bastion (Wong 2016).

⁷ For a concise overview and discussion of the difficult conditions faced by naval forces operating in a CSW environment, see Karlatiras (2016).

The military significance of control over Taiwan also becomes apparent when seen through this lens:

Taiwan's East Coast offers one advantage not allowed by bases on the mainland: immediate access to deep-water patrol areas for nuclear ballistic missile submarines. The PLAN's new nuclear submarine base on Hainan Island is not optimal because it is in a confined sea. Without even turning Taiwan into a nuclear weapons base, China's mere control of Taiwan would serve to shift the geopolitical balance and would make military relationships that Beijing would oppose, such as with Washington, less desirable for its neighbors (Fisher 2008: 43).

The struggle over Taiwan's status is therefore likely far more than just a symbolic matter from the point of view of China's leadership.

China's Space Program

To address the strategic challenges arising from the U.S. bilateral alliance system in the West Pacific, the PLA aims to acquire the platforms and other technical infrastructures necessary for conducting "network-centric warfare." A variety of space systems, such as a sophisticated global network of telemetry, tracking and command support of own satellites, is a necessary precondition for achieving this goal.

Hainan Island plays a key role for China's strategic goals on several grounds. Not only is Hainan the site of China's primary strategic submarine base with underwater tunnels drilled directly into the rock, which allow nuclear submarines to leave the base submerged (Kristensen 2014); it is also the Chinese launch center closest to the equator, and is facing a large water mass to the east, as does e.g. Cape Canaveral or French Guiana. This makes the launch site on Hainan ideal for manned spaceflight as well as for heavier payloads that are required for some key military space systems. On June 25th, 2016, China conducted the first launch of its new-generation Long March 7 rocket. This marked the initial use of the Wenchang Spacecraft Launch Site. This success enables China to tackle the next steps in interplanetary space travel.

According to the latest white paper released by China's National Space Administration (CNSA), China's ambitious space program includes manned missions; scientific experiments in space; landing on the Moon and Mars; helping to monitor near-Earth objects; and setting up satellites for observing Earth and providing communication and navigation services (Irving 2016).

China's ambitious space goals have a strong impact on the official political goal of national "rejuvenation" (or rather, restoration of China's rightful place in the international order). As a recent analysis pointed out:

"With the attainment of global coverage for its Beidou constellation by 2020, and the establishment of its own space station in 2022, China seeks to take its symbolic, technological, strategic and commercial advances to new heights, aimed at recovering its long-lost centrality in the international system" ("China's silk road ambitions in outer space" 2016).

The Wenchang space port on Hainan island offers several distinct advantages that have strategic implications. While other Chinese launch sites such as Jiuquan in the Gobi desert (human space

missions, lunar spacecraft, mid-high inclination orbit satellites), Xichang in Sichuan province (primarily used for launching geostationary satellites), and Taiyuan just south of Beijing (polar-orbiting satellites) are difficult to supply, Hainan is easily accessible by maritime transport from the SCS. It combines and improves the operational and strategic opportunities for unmanned and manned spaceflight. The proximity to the equator at a latitude of 19 degrees north increases the operational payload tremendously and enables China to start the heaviest GEO satellites of the world (cf. Jones 2017; "Shijian-18 Satellite & DFH-5 Platform" 2017).

Furthermore, the coastal location of the space center allows launch vehicles or aborted missions to fall into the Sea rather than on land, allowing for their recovery and reuse (cf. "China completes construction of advanced space launch facility" 2014). The flight routes of various mission types during the first few minutes after launch, when a rocket is still in the atmosphere and most vulnerable to disruption, pass in close vicinity to the most heavily disputed maritime areas, namely the Paracels, East China Sea, Scarborough Shoal, Spratly Islands and Natuna Islands.

Its civilian and political functions notwithstanding, it should not be forgotten that China's space program is "essentially military in origin" and fully under the control of the PLA. As a recent report summarized:

(...) the sea denial capabilities of China, based on its anti-ship ballistic missile, the "carrier killer" DF-21D, is heavily supported from space. (...) Moreover, China's anti-satellite capability, which it has been demonstrating since 2007, ensures that an adversary's military satellites which support strategic forces on the ground are always at risk" ("China's silk road ambitions in outer space" 2016).

In order to secure the first and crucial phase of a launch vehicle while still in the atmosphere, China needs a naval force projection and cyber security capability in the SCS as well as sophisticated search and rescue capabilities. The Chinese land reclamation operations for military bases and its claims to sovereignty over virtually all the land features within the "9-Dash-Line" seem to address these needs. Establishing, maintaining and defending China's largest space launch capability for renewing and advancing its critical space technologies that form the necessary core systems for modern warfare operations (and are critical for a hypothetical prompt global strike capability that relies on exact navigational data) must be assumed to be a high strategic priority for the PLA. It is also, at least in the view of China's strategists, a necessary precondition for China's rise to global power status.

Regional and Global Navigation Satellite Systems

China's Beidou ("compass") satellite navigation system – to be completed by 2020 – features satellites in medium Earth and geosynchronous orbits that are providing regional coverage at accuracies of less than ten meters. A separate military signal likely provides higher accuracies. As a recent report by Wilson analyzes:

"Chinese officials state that when complete, Beidou will consist of 35 satellites and provide positioning accuracies of under ten meters worldwide, improved in China to one meter and even centimeters in some areas with the use of a forthcoming 'differential Beidou' system, which will use a network of thousands of ground stations to boost accuracy" (Wilson 2017: 5).

A navigation system that provides accurate positioning data for the military is key for defending national sovereignty on land, at sea, and in the air. It is also necessary for supporting an expeditionary navy and to meet potential threats coming from the U.S. or other nations (cf. Wortzel 2013: 40-42). Furthermore, within the framework of its Belt & Road Initiative (BRI), China is now also offering its satellite navigation service to its BRI trade partners:

“In 2015, the China Satellite Global Services Alliance made the emerging synergy between the three realms evident when it announced that the rejuvenated Silk Road on the ground will in fact be supported from space. China seeks to do this by establishing satellite data receiving stations in areas covered by the Silk Road project in the coming years” (“China’s silk road ambitions in outer space” 2016).

China is thereby enhancing connectivity and peaceful cooperation throughout Eurasia, which can help to counteract attempts to politically isolate China.

Earth Observation and Satellite Communication Systems

In addition to Beidou, China’s Gaofen program merits closer analysis. Gaofen (GF, “High Resolution”) satellites are launched as parts of the China High-definition Earth Observation System (CHEOS), a state-sponsored program aimed at developing a near-real time, all-weather, global surveillance network with high spatial, spectral and radiometric resolution, with the satellites placed in various orbits. CHEOS is overseen by the State Administration of Science, Technology and Industry for National Defence (SASTIND) as part of altogether 16 key science and technology programs that were initiated under the Chinese government’s Medium- to Long-term Development Plan for Science and Technology (2006—2020). The CHEOS program was approved in 2010 and is to be completed by 2020 (“China launches hi-res Gaofen-9 Earth observation satellite” 2015 and CNSA 2014).

The above named navigation and surveillance systems will provide China with strategic options that will affect the military balance vis-à-vis the U.S. Already in 2006, a study by Smith warned that:

(...) if China were to field an operational ELINT (electronic intelligence) satellite system, the space superiority equation could change dramatically. (...) Chinese satellite imaging systems’ capability to precisely locate U.S. Navy ships and the ability of their satellite communications systems to provide the data to shooters at sea would potentially provide a deadly targeting solution for China’s long-range anti-ship missile systems. Together, these space systems could provide China with space superiority sufficient to allow the PLA, PLAAF and PLAN to successfully engage and potentially sink U.S. Navy vessels, even a U.S. aircraft carrier (Smith 2006: 26-27).

Another area of military concern is satellite communications (SATCOM). Fundamental for network centric warfare capabilities that link formerly independently operating weapon systems into a coherent whole is a constant and highly flexible connection to all the nodes within a framework of modern military assets – aircraft, naval vessels, unmanned systems, as well as submarines. China’s High-Throughput Satellites (HTS), optical infrared laser communications terminals for down links with high data rates, and experimental quantum communication payloads, as well as China’s ground tracking and communication stations e.g.

in Patagonia in Argentina or Kiruna in Sweden,⁸ can serve to provide secure SATCOM and data links that form essential parts of a networked force engaged in a regional and global deterrence strategy.

The civilian, scientific, and national prestige-related aspects of China's space program notwithstanding, it would surely be a mistake to underestimate the military implications of almost any component of the Chinese space program, not least because all space activities in China are overseen by the PLA.

Conclusion

Satellite navigation joined with global surveillance and a high-throughput data network prepares China's military forces to deal with imminent threats in a regional or global theater. This is a cornerstone of true blue-water operations by China's Navy, and might eventually enable global deterrence capabilities through prompt global strike. The Wenchang Spacecraft Launch Site fulfills the high demand of launch capabilities to establish and maintain a satellite network consisting of all the systems mentioned in the sections above. It was under construction since August 2007 until October 2014, when it became the country's fourth space launch site and the first exposed (non-inland) site. The Wenchang project had been envisaged much earlier, but had been postponed several times, likely due to security concerns over possible threats coming from the Sea (cf. Cook 2017).

It does not seem coincidental that roughly since 2014, when Wenchang was completed, the Chinese fortification and militarization efforts of uninhabited features in the South China Sea reached unprecedented levels – reportedly on direct orders from state president Xi Jinping himself. During the same timeframe, the PLAN's naval shipbuilding schedule has been accelerated, and the production of larger, more seaworthy surface vessels has become a priority, not least in the context of supporting China's indigenous aircraft carrier program.

China's strategic submarine base on Hainan can be seen as connected to China's space program insofar that nuclear attack submarines can also serve as a strategic defense for the Yuanwang class satellite tracking vessels that are used by China's military for the tracking and support of its satellites and intercontinental ballistic missiles. They are deployed in far-flung overseas areas during every launch. Yet the main purpose of Hainan's strategic submarine base is almost certainly to ensure that China can in due time field a credible seaborne second-strike capability. To this end, analysts have plausibly hypothesized that China could be engaged in an attempt to create a SSBN bastion within the SCS. Taking the original bastion concept of the Soviet Navy as a blueprint, this would imply a strategy of layered defense around the bastion itself and before the base at Hainan. The militarization of SCS land features (especially the Paracels), attempts to inhibit foreign surveillance by creating incidents, and the mass deployment of paramilitary forces ("maritime militia") disguised as patriotic fishermen can all be seen as constituent parts of such a strategy (cf. Erickson and Wuthnow 2016: 3).

We therefore contend that by looking at both critical installations on Hainan discussed above – the launch site and the SSBN base – and by analyzing the security perimeter that would be deemed necessary to defend these installations, it becomes easier to understand the strategic

⁸ Cf. Chen (2016) for a description of China's satellite ground station project in Kiruna and Lee (2016) for an analysis of the Argentinian station in Patagonia.

calculus behind China's maritime behavior and military fortification activities. The deployment of HQ-9 air-defense missiles on Woody Island in the Paracels effectively offers China the power to deny access to Hainan from the South (AMTI 2017a and 2017b). The criticality of the naval and space installations on Hainan for China's combined military-strategic goals goes a long way to explain the Chinese insistence on securing a wide buffer zone around Hainan, extending all the way over the contested Parcel and Spratly Islands down to the Natuna Island archipelago to its far south, areas overflown by various spacecraft during the most vulnerable stage of their flight while they are still within the atmosphere, the exact path dependent on their respective intended orbit.

All in all, our findings lead us to the conclusion that given the overriding strategic priorities and high stakes involved, China will be unlikely to back down in the SCS sovereignty issue even in the face of severe pressure short of actual military conflict. At the same time, the changes in the military power balance that could result from a successful execution of China's naval and space programs would be momentous. The effective loss of U.S. space superiority and an emergence of space parity between the U.S. and China could affect the balance of power in the Taiwan Strait, while global Beidou coverage will enable true blue-water operations of China's Navy and could ultimately enable a prompt global strike capability. The developments on Hainan Island and to its South therefore directly affect the security of Taiwan and of the U.S.-led alliance in the Asia-Pacific, and should be subject to more candid discussions. On the Western side, more realism regarding China's legitimate security concerns and strategic intentions, as well as more honesty regarding Western security needs and military interest in balancing China's military power, should be injected into the discourse to avoid an accidental escalation. At the very least we think that the military-strategic factors should be taken more systematically into account than is currently the case in open sources, in order to provide a more realistic assessment of Chinese priorities and intentions, and to avoid strategic miscalculations.

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From Prospects to Praxis: Maritime Security and the EU's Role in East Asia

Sebastian Bersick

The issue of maritime security in the South China Sea is not only vital to the functioning of East Asia's economies, but also to the global political economy. Because of the South China Sea dispute, which has developed a dangerous tit-for-tat pattern, the East Asian security environment has deteriorated since 2009. As the EU is a major trading partner of the region, Europeans do have a major interest in the stability of East Asia. Considering that global commodity flows are a matter of fact, maritime security in Asia is highly relevant to all European trading nations. The EU would be gravely affected by e.g. a military conflict in the South China Sea, because EU trade highly depends on open Sea Lines of Communication (SLOC). During the 2015 Asia-Pacific Economic Cooperation (APEC) business leaders' meeting in Manila it was argued that the economic outfall of a military escalation in the South China Sea would be more serious than a sharp economic downturn in China or the breakdown of the Euro (FAZ 2015: 16). This underlines that the case of the South China Sea is an example of how security factors impact Asian and EU-Asian economic relations.

According to the EU, almost half of the total world shipping (by tonnage) travels the South China Sea. "The EU therefore has a strong interest in maintaining stability and security in the South China Sea, as well as respect for international law, including the UN Convention on the Law of the Seas (UNCLOS)" (European Commission 2015: 12). Yet, the EU's capacities for power projection are limited, especially when compared to other external actors like the USA. In Asia, the EU is for example involved as an important trade power, as a provider of foreign direct investments (FDI) and of development assistance. The EU's engagement in East Asia is thus mainly consisting of development policy and economic activities. It is of a rather economic nature, but not of a military one. In terms of security, the EU is free riding on US security guarantees.

While the EU's overall role in Asia can be depicted as "distant but involved" (Bersick 2014), recent political developments in the EU, the USA and East Asia ask for a re-assessment of the EU's role in changing Asia-Pacific and Eurasian strategic contexts. How is the EU's role in Asia affected by a looming Brexit, the new US administration and China's increasing assertiveness? What are the prospects for cooperation in the South China Sea and which multilateral institutions could be developed within the region to enhance maritime security and cooperation—and where would the EU fit in? As I am going to argue, because of the complexity of the South China Sea issue and especially due to the unwillingness of the People's Republic of China (henceforth China) to accept the award by the Permanent Court of Arbitration (PCA) from July 2016, conflict resolution efforts with regard to the South China Sea should focus on the protection of the regional maritime environment. Establishing Maritime Protected Areas (MPA) in the South China Sea could be a practical step in this direction. In a time when the USA is withdrawing from multilateral regional and global governance institutions it is in the EU's own

interest to play a more active role in developing regional maritime governance capacity in East Asia.

A New Role for the USA

The last 1,5 years brought several highly unexpected changes to the study and practice of global politics, of which the referendum in favor of the United Kingdom exiting the EU and the election of Donald Trump as President of the USA stand out. Especially from a European perspective, the role of the USA as a linchpin of the liberal international order is changing dramatically. The new US President in his inaugural address de facto promised to erode the foundations of the post-World War II global economic governance architecture by declaring “From this moment on, it’s going to be America first” and stating that “protection will lead to great prosperity and strength” (Donald Trump: 2017). The withdrawal of the USA from the Transpacific Partnership (TPP) has been the first example that Donald Trump is willing to and can deliver on this promise. At the same time, the new President’s often rather largely erratic performance leaves practitioners and observers wonder what will come next: a US withdrawal from the North American Free Trade Agreement (NAFTA), the “re-negotiation” of it, or none of both? And what can the EU and its member states expect from the USA when it comes to the Trans-Atlantic Partnership, especially with regard to the security and economic architectures? While the US President, contrary to an earlier statement, has re-decided that the North Atlantic Treaty Organization (NATO) is not “obsolete”, the fate of the further economic integration of the USA and the EU via the Transatlantic Trade and Investment Partnership (TTIP) is in limbo. The same applies to an effective international climate policy. Unlike his predecessor Barack Obama who unambiguously declared his support for international climate protection policies and in particular for the Paris Agreement, President Trump primarily rates climate protection as an obstacle to an economically strong USA. The withdrawal of the Trump administration from climate policy objectives threatens to weaken international efforts to combat global warming.

A New Role for China

In recent years, especially since 2009 a fast growing number of scholars and experts have stated that China’s foreign policy is becoming increasingly assertive, thus reflecting a fundamental shift in Chinese diplomacy. This development is mostly seen as a conscious decision by Beijing following the Global Financial Crisis (GFC) in 2008/2009. The notion of a more assertive Chinese foreign policy has been gathering even more momentum after Xi Jinping became President of the People’s Republic of China (Ng/Wall 2013). Most academic articles taking this view (see Swaine 2010; Thayer 2011) as well as a wide range of popular scientific texts (see Krugman 2010; Bisley 2011) particularly emphasize that aggressiveness is a fundamental trait of this new policy trend. The foci of the suspected aggressive assertiveness are described as mainly anti-Western or anti-US (Swaine 2010), as seeking more influence in Asia (Thayer 2011), challenging US influence in East Asia (Matsuda 2014; Swaine/Fravel 2011) or even challenging the US-dominated world order, implying a fundamental foreign policy change of China (Economy 2010; Rozman 2011). A considerably smaller number of authors argue that China’s policy is not as assertive as alleged (see Wills 2011; Pei 2010) and that Xi Jinping is pursuing diplomatic solutions based on soft power rather than turning to more assertive behaviour.

A New Role for the EU

Within the EU the political discourse on China's "new assertiveness" gained momentum in 2017 when Donald Tusk, President of the European Council, wrote a letter to the heads of state or government of the EU in which he referred to China as the first out of five countries and regions that pose an external threat to the EU: „[a]n increasingly, let us call it, assertive China, especially on the seas [...]“ (Tusk 2017). Yet, this rather frank assessment of China by a leading EU politician with regard to China's maritime behavior is not backed by any meaningful military capacities or a European presence in the East Asian region. Instead, the EU's involvement in East Asian maritime affairs is largely diplomatic. The EU deals with issues of maritime security in East Asia, inter alia within the ASEAN Regional Forum (ARF), the Asia-Europe Meeting (ASEM) and has initiated the EU-ASEAN High Level Dialogue on Maritime Security in 2013.

Four major inhibiting and triggering factors can be discerned that impact the EU's role in East Asia: (1) the EU's partial disintegration (Brexit); (2) US disengagement from multilateralism under the Trump administration, i.e. "America First", protectionism, and a unilateral or bilateral agenda at the expense of multilateral solutions; (3) China's economic rise and assertive outreach towards Europe and Africa in the context of the Belt and Road Initiative (BRI); (4) The impact that US and Chinese policies have on EU-Asia relations. All these developments impact political cooperation and economic integration between the EU and Asia and the evolving new role of the EU in East Asia. As a result, the EU will have to look increasingly towards Asia and less towards the USA. The EU will thus have to decide how to best, in its own interest, impact the stability and security of East Asia in the absence of any meaningful military capacities. As I am arguing, re-strengthened inter-regional relations with East Asia and especially with ASEAN can help the EU to play the new role of a multilateralizer of East Asian affairs. This is all the more in the EU's self-interest, since the USA under the current Trump administration is no more willing to provide rules-based normative-institutional leadership that results in regional governance mechanisms. Maritime Protection Areas can become a case in point for such a new role of the EU.

In order to assess the changing role of the EU in East Asia it is therefore necessary to focus on East Asia's evolving normative-institutional architecture and the question whether a bilateral or a multilateral approach will frame cooperation and economic integration amongst and between Asian and European actors. This normative-institutional dimension is also of decisive importance with regard to the South China Sea.

There are already several regional and inter-regional institutions that play a role, directly or indirectly, in the process of political cooperation and economic integration between the EU and East Asia – most importantly the ASEAN Economic Community, the Regional Comprehensive Economic Partnership (RCEP), the EU-ASEAN Dialogue, ASEAN Regional Forum, the East Asia Summit (EAS), the Asia-Europe Meeting, the Belt and Road Initiative, the Shanghai Cooperation Organization (SCO) and the Eurasian Economic Union (EEU). Apart from those multilateral institutions there are also many bilateral Free Trade Agreements (FTA), for instance those promoted by ASEAN or individual ASEAN countries, such as ASEAN-China, ASEAN-Japan, ASEAN-South Korea, ASEAN-India, ASEAN-EEU (planned) or Vietnam-EEU. In addition, there are quite a few FTA between Europe and Asia, e.g. EU-Republic of Korea, EU-Singapore, EU-Vietnam, Switzerland-Republic of Korea, Switzerland-China, Iceland-China. Apart from the aforementioned agreements, there are ongoing or planned bilateral FTA negotiations, for exam-

ple EU-Japan, EU-India, EU-Indonesia, EU-Malaysia, EU-Thailand (currently suspended) and EU-Philippines. Furthermore, ASEAN and EU have declared their willingness to re-start region-to-region FTA negotiations between the two organizations.

However, the EU's role in Asia is challenged by the EU's partial disintegration caused by Brexit and US disengagement from multilateralism and economic regionalism in the Asia-Pacific. Even though the United Kingdom of Great Britain and Northern Ireland has not yet left the EU and conditions of the 2019 Brexit have not been agreed on, Brexit is causing uncertainty with respect to the EU's role in Asia in political, economic and in security terms. Politically, the EU is an important facilitator of regional integration processes in Asia, especially in the case of Southeast Asia and ASEAN. With the European project facing a backlash, the EU's normative value as a point of reference for regional integration processes is put in question and could erode. In economic terms, much will depend on whether the UK is going to remain a member of the European Economic Community or a so-called hard exit or even "no-deal" solution will cut off the UK economy from the EU. Finally, the UK is not only a nuclear power and permanent member of United Nations Security Council but also the only European member of the Five Power Defense Arrangement (FPDA). So instead of a stronger European role in Asian security affairs (see European External Action Service 2016), at least in the short- to mid-term, a weaker role of the EU can be expected because of Brexit.

US President Trump causes uncertainty regarding the future multilateral dimension of the US involvement in Europe and Asia and there is the risk of a deepening crisis of multilateralism and regional as well as global governing structures. A case in point is Trump's announcement in early 2017 declaring that the USA will disengage from the Trans-Pacific Partnership. There is also increasing uncertainty in terms of US security guarantees with regard to NATO and a risk of deepening security dilemmas, further arms buildup as well as nuclear proliferation in Asia. "The West", as it was known, is dissolving as the USA's reliability is questioned by partners in Europe and Asia. The US disengagement from multilateralism causes an increase of Chinese influence on regional developments in Asia relative to the US' influence, especially if US disengagement from Asia continues. A growing influence of China in the future Regional Comprehensive Economic Partnership can be expected. Moreover, a growing importance of the Belt and Road Initiative, relative to the Asia-Pacific Economic Cooperation and the vision of an APEC-wide Free Trade Area of the Asia Pacific (FTAAP), is a plausible scenario.

A more isolationist, protectionist and inward-looking USA has influence on the EU, Asia and especially the EU's role in East Asia. Yet, the US disengagement from multilateralism in the Asia-Pacific and Europe does provide new opportunities for European and Asian actors: In the economic realm, a new rationale evolves to work towards an Asia-Europe Free Trade Agreement (AEFTA). In the security realm, a rationale evolves to work towards the establishment of marine parks that would not only help to protect marine ecosystems but could also result in the de-securitization of the South China Sea.

The EU and the South China Sea

A window of opportunity is currently opening up for European and Asian actors to engage more strategically. The EU has an interest in promoting a normative-institutional architecture in East Asia that allows for rule-based cooperation and regional integration. However, the EU will be increasingly absorbed by internal challenges that could even result in further disintegration

of the EU, e.g. the rise of populism and the migration crisis. Given the limitations of the EU's capacities, there is a risk that the EU's resources for engaging with Asia could rather decrease than increase. These inhibiting factors intensify the risk of the EU's role in Asia to be rather weakened than strengthened.

At the same time, the US disengagement from multilateralism and economic regionalism can act as an enabling trigger for more intense political cooperation between the EU and Asia. For the EU, such a vision would have to be built on a multilateral basis. Regional actors like ASEAN are therefore a "natural partner" of the EU and would need to play a more prominent role. A future EU-ASEAN FTA could then become a motor for economic integration and political cooperation. The stronger EU-ASEAN relations are, the more influence European and Southeast Asian actors will have on the evolving normative-institutional architecture between Asia and Europe and the evolution of for example the Belt and Road Initiative or ASEM. A test case for China's normative-institutional outreach will be the further development of BRI and the question whether Beijing will follow up on the EU's interest in a stronger role of Non-Chinese actors in the BRI – a development that can be called "Belt and Road Initiative Multilateralization" (BRIM): Will BRI take the form of a hub & spoke architecture or of a multilateral institution?

The quality of the normative-institutional approach taken is also central to any resolution related to the South China Sea. Ongoing negotiations with regard to a "Code of Conduct" (ASEAN Secretariat 2017) may induce a new multilateral quality to the issue of maritime security governance. Yet, it is highly likely that still even stronger regional security governance capacities would be needed in the foreseeable future concerning the South China Sea dispute.

This is of particular importance due to the specific security architecture in the region. In Asia, an institutional gap exists regarding maritime conflict and cooperation. No multilateral regional security organization has been established. There is e.g. no functional equivalent to NATO (see Hemmer/Katzenstein 2004). What is more, with regard to the South China Sea dispute, neither involved countries (mainly China, Indonesia, Japan, Malaysia, the Philippines, the USA and Vietnam) or regional institutions (mainly ASEAN and ARF), nor international law (UNCLOS) have provided a solution acceptable to all stakeholders. The Philippines' appeal to international law and the PCA in The Hague under UNCLOS have not even resulted in a joint ASEAN position in terms of the Philippines vs. China case. There is thus a risk that ASEAN becomes increasingly divided with regard to the South China Sea dispute and China's role. Even though international law has been invoked, it has not resulted in conflict resolution. On the contrary "the South China Sea appears to be a crucial platform for global struggles and the interpretation of international law" (Pogies 2017: 97).

Yet, Maritime Protection Areas could become part of a still missing "Masterplan on Sustainable Connectivity in Eurasia", which civil society actors called for during the Asia-Europe Peoples' Forum (AEPF) in July 2016 in Ulaanbaatar (AEPF 2016: 9). So far, all involved stakeholders are too often part of the problem, not part of a solution. There is thus a need to provide all involved stakeholders with a new perspective in order to frame the South China Sea dispute differently. Saving the South China Sea's ecosystem is an issue where interests and values can align. Protecting the marine ecosystem of the South China Sea could therefore become a new paradigm that frames future behavior. This means de-securitizing the dispute through multilateral regional environment governance by making the South China Sea a "Marine Park" that protects the marine environment, including its biodiversity. Multilateral regional

environment governance could take the form of a new institution allowing for marine environment protection and sustainable marine resource management. Within such an initiative the EU – as well as state and non-state actors (environmental NGOs, academic expertise, business sector) from Asia and Europe – could contribute to developing and implementing multilateral regional environment governance in East Asia.

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Coral Reefs and Maritime Disputes

Alexis Principe and Wilfredo Licuanan

The Nature of Coral Reefs

Coral reefs are large underwater structures built over time by colonies of tiny animals and plants. These reefs are composed mainly of skeletons of marine invertebrate animals called stony corals or hard corals. Reef-building coral species create these skeletons from calcium carbonate that they absorb from seawater.

An individual coral, called a polyp, consists of a simple structure that includes a stomach and a mouth surrounded by tentacles. These tentacles extend mostly at night to sting and capture tiny organisms such as plankton for food. Coral polyps also have a symbiotic relationship with tiny plants or algae, called zooxanthellae, which reside in their tissues and provide organic energy needs of the coral through photosynthesis. The coral polyp can use around 90% of the products of photosynthesis, which are mostly glucose, glycerol, and amino acids (Sumich 1996: 255-269). The photosynthesized food allows the coral host to grow or deposit skeleton faster, but it also limits the depth range of where corals can grow. Reef-building corals are usually more abundant in clear, shallow sunlit waters and but they can also be found down to depths of around 70 meters.

Identical polyps, sometimes numbering in the millions, form a coral colony that functions more like a single living organism. Depending on their physical morphology or species, coral colony growth rates vary from as slow as 0.3 centimeters per year for massive colonies, up to around 10 centimeters per year for branching forms (Barnes 1987). Optimal temperature for coral growth ranges from 23 to 28 oC.

Types of Coral Reefs and their Distribution

There are three major types of coral reefs, first described by Darwin in 1842; namely, fringing, atoll and barrier reefs. Fringing reefs are more common in Southeast Asia and extend directly from the shore towards the deeper part of the sea. Barrier reefs, like fringing reefs, also surround and develop parallel to land masses but the reef edge is separated from the shore by a moderately-deep lagoon. Atolls are mostly found in mid-ocean areas and are roughly circular or ring-shaped reefs that enclose a lagoon. This type of reef develops when a fringing reef forms and grows around an island that later erodes or sinks beneath the ocean surface due to tectonic activity or rising sea levels. Most of the reefs in the South China Sea are atolls.

Coral reefs are further characterized by their geomorphology and are distinguished into “true” or well developed reefs, incipient reefs, and coral communities. Well-developed reefs originate from accumulation of skeletons of many generations of coral, and have distinct reef flats and reef slopes (van Woelk 1997). When a reef grows vertically and reaches the surface of the sea, its growth is then directed laterally away from the shore creating a reef flat. The presence or

development of an extensive reef flat indicates long-term reef growth over thousands of years. Incipient reefs are mainly characterized by the absence of an extensive reef flat and with corals growing on rocky foundations and some skeleton of previous generations of corals (Hopley 1982). Coral communities, on the other hand, are an assemblage of coral colonies on a purely, non-reefal substrate (Buddemeier et al. 1988).

Most of the reef-building corals are spread throughout the tropical and sub-tropical Western Atlantic and Indo-Pacific Oceans, and are generally confined within the 30oN and 30oS latitudes. The highest concentration of coral reefs is in the Coral Triangle, a geographical area in the western Pacific Ocean that encompasses six countries, namely, Philippines, Indonesia, Malaysia, Papua New Guinea, the Solomon Islands, and Timor-Leste. Coral reefs in this region cover an area of about 73,000 square km, which is roughly a third of the world's total reef area. In terms of coral diversity, the Coral Triangle is home to about 76% of the world's coral species, including approximately 605 species of reef-building corals, 15 of which are endemic to the area (Veron 2009). Other areas in the world with significant reef concentrations are the Great Barrier Reef of Australia, the Red Sea, and the Caribbean.

Local Importance of Coral Reefs

Healthy reefs are significant sources of food, serve as nurseries for commercially-important fish, attract tourists such as snorkelers and divers, are sources of sand for the beaches, and protect the shorelines from wave action produced by severe weather.

- 1. Biodiversity value.** Although a coral reef is mainly referred to as a physical structure, it is also one of the most productive ecosystems in the world. This is mostly due to the abundant biological diversity of the coral reef ecosystem. The Coral Triangle also has the highest concentration of marine species across the Indo-Pacific (Sanciangco 2013: 1). A recent study (DeVantier and Turak 2017), showed that the Sulu Sea Eco Region, which stretches from Derawan in Indonesia up to the Calamian group of islands in the Philippines, has the highest coral species richness, with 505 recorded species.
- 2. Tourism value.** Tourism in the Philippines reached an estimated USD \$25 billion in 2016 (World Travel and Tourism Council: Economic Impact 2017-March 2017). Aside from the marine biodiversity, which attracts divers and snorkelers, most of the tourist spots in the Philippines are near the coastal areas. One of the main attractions are the white sand beaches scattered around the country. Healthy reefs can produce around 5 kilograms of sand per square meter in a year, with coral sediment munched by parrotfish contributing to around 85% of that total (Perry et al. 2015).
- 3. Fisheries support.** Fish account for 38% of the total protein consumption of the average individual in the Philippines (FAO 2017). Municipal marine fisheries, which is mostly concentrated around fringing coral reefs, contributed to around 26% of the total fishery production in the country (Philippine Statistics Authority 2016). This is expected to rise with the steady increase in population. More than half of the total municipalities in the Philippines are already situated in the coastal areas.
- 4. Potential source of new medicines, pharmaceuticals.** Along with the discovery of new species in coral reefs every year, medicines based on marine organisms are also being

developed for the treatment of cancer, arthritis, human bacterial infections, heart disease, viruses, and other diseases. For example, the studies of Filipino biochemist Dr. Lourdes Cruz on venomous *Conus* marine snails has led to the discovery of conotoxin which was used as a tool for the development of Prialt, a painkiller more powerful than morphine.

- 5. Maintain coastal integrity.** The physical structures of coral reefs are very efficient in reducing wave action, which minimizes coastal erosion and wave damage during severe storms. They protect shorelines that not only have human coastal settlements but valuable habitats such as seagrass beds and mangrove forests. A reef with live coral cover ranging from 50-80% was found to effectively dissipate wave energy (Villanoy et al. 2012). As a healthy reef is continuously growing or can rebuild itself after natural disturbances, it is more cost efficient to maintain a reef than a man-made structure built for coastal defense. The presence of a reef can also prolong the structural integrity of seawalls provided proper management is implemented to ensure the reef is protected (Ibid.).

Threats to Reefs

Coral reefs worldwide are presently being subjected to different threats, mainly due to human activities which are causing widespread damage. This trend in the degradation of reefs is shown in the Philippines by a recently completed nationwide assessment of the status of its coral reefs. During the first nationwide assessment in late 70s and early 80s, around 5.5% of the reefs surveyed still had "excellent" cover (more than 75% live coral covering the substrate; Gomez et al. 1981: 275-282). Results from the recent survey reveal that around 90% of all the reefs surveyed fall under the "poor" and "fair" conditions (Licuanan et al. 2017), categories wherein live coral cover is less than 50%.

Most of the immediate threats to coral reefs are local in origin, driven by human activities near reefs, such as overfishing and use of illegal fishing methods. Unmitigated coastal development also leads to sedimentation and pollution. Land reclamation, road works and construction activities, especially along coastal areas, impact coral reefs when they produce sediment run-off and generate sewage discharge. Sedimentation from run-off is one of the more prevalent threats to reefs. Organic-rich sedimentation from fertilizers, topsoil erosion and sewage discharge can result in the death of some coral colonies within 24 hours (Weber et al. 2012). Sewage discharge also increases the growth of algae which competes with corals for space. Throughout Southeast Asia, about 25% of the reefs were already threatened by coastal development, with an estimated 5% under high threat (Burke et al. 2002).

Overfishing and illegal methods of fishing such as blast fishing and use of cyanide are some of the most damaging to reefs all over Southeast Asia. Around 56% of the reefs here are under risk from destructive fishing practices, with 25% to 50% of reefs around the Philippines, Malaysia, Taiwan and Indonesia being highly susceptible to this threat (Burke et al. 2002). Overfishing of herbivorous fish such as parrotfish and surgeon fishes makes the reef prone to algae overgrowth, which these grazers effectively control. Blast fishing and use of cyanide physically destroy and kill corals and leave the reefs uninhabitable for other species. All these cause the reef to be less resilient to other stressors and slow their recovery from other disturbances.

Even more extensive and damaging are indirect human impacts that result globally in the rise in CO2 levels and other greenhouse gases, the main factor which drives climate change. Climate

change impacts on the ocean include elevated sea surface temperatures and ocean acidification. Mass coral bleaching is a stress response to elevated sea temperature levels as coral colonies turn completely white when zooxanthellae are expelled from their tissues. Although corals can recover from short periods of warm waters, the past few years have shown that these events of thermal stress are becoming more regular and frequent. This has been the case for the northern part of the Great Barrier reef which lost 29% of its live coral to mass coral bleaching and eventual coral death in 2016 (Hughes et al. 2017).

Climate change has also affected the ocean chemistry due to the high concentrations of CO₂ in the atmosphere. As most of the CO₂ in the atmosphere is absorbed in the ocean, high levels of dissolved carbon dioxide have caused ocean acidification or reduction in pH levels of seawater. This restricts corals in their absorption of calcium carbonate from the seawater thus decreasing their growth and skeletal density. Other effects of climate change are rising sea levels and increased frequency and intensity of severe weather, natural disturbances which, in the past, reefs were resilient to.

Why Nations Must Work Together to Manage Human Activities in the Sea

The seawater and ocean currents provide an ideal medium for long distance transport. Coral reefs and other marine organisms greatly depend on ocean currents to bring eggs and larvae to different areas. This is important to maintain diversity and to support ecological resilience. Some particular areas may even be responsible for sustaining a whole region. For example, a study of the pelagic larva and current patterns around the Spratly Islands, which is a group of islands and more than 100 reefs, suggests that this area supplies larvae and juvenile organisms throughout the South China Sea (McManus 1994). This interconnectivity is also one of the reasons that effects from human activities such as sedimentation can be spread to other areas. As such, ecosystems cannot be managed piecemeal and integrated approaches should be implemented.

Environmental Priorities and the Establishment of Marine Protected Areas

With a clearer understanding of the threats facing reefs, there is a need for all nation states involved to prioritize the management of specific immediate human impacts in marine areas affected by maritime conflict. Foremost of these is the overexploitation of the natural resources. Sustainable fisheries practices should be adopted along with efforts to prevent the use of illegal fishing methods and harvesting of endangered species listed in the Convention on Trade in Endangered Species of Wild Fauna and Flora (CITES). Furthermore, coastal development must be mitigated with emphasis on waste disposal management and strict avoidance of damage to critical habitats such as coral reefs, mangrove forests, and seagrass beds. These habitats should also be identified, mapped, and protected with comprehensive management efforts implemented thru area-based management tools such as marine protected areas (MPAs).

With increasing demand for resources to provide for their growing populations, many countries in the region are now competing for marine resources found beyond their respective national jurisdictions. Some of these resource-rich areas may be in relatively pristine condition, subjected to minimal human impacts, and are situated in infrequently-accessed parts of the ocean. Ensuring the management and protection of these areas is critical and entails the cooperation among different stakeholders, from national or federal line agencies to the various local government units, non-governmental organizations, business groups and ultimately, the

communities that are closest to these areas. Joint management and cooperation must be ensured to sustainably utilize the target resources. For example, the conduct of resource valuations to determine the potential benefits from reefs that can be derived and shared equitably is an important step towards sustainable utilization of the resources in the area. Agreements across the different stakeholders must also be in place to ensure that portions of the profits are contributed to sustainable management efforts and the sustainable development of the area. This shall result in the establishment of Marine Protected Areas.

One of the tested approaches to manage critical marine areas such as coral reefs, is the establishment of Marine Protected Areas or MPAs, where certain human activities and their impacts are regulated. Inter-governmental organizations have applied this tool on a more extensive basis to recognize the importance of certain ocean areas. The International Maritime Organization has declared Particularly Sensitive Sea Areas (PSSAs) where shipping activities are limited along with associated maritime pollution such as oil discharge and garbage disposal. The Food and Agriculture Organization has developed the instrument of Vulnerable Marine Ecosystems (VME) with the aim to implement fisheries management in the high seas. Also, the Convention on Biological Diversity has developed scientific criteria that are needed for the recognition of areas for protection, called Ecologically or Biologically Significant Areas (EBSAs). Most of these criteria are also being considered by other organizations in their selection of areas for management. The shared criteria being considered for an area to be protected are:

- Uniqueness or rarity
- Special Importance for life history stages of species
- Importance to threatened or endangered species
- Vulnerability, fragility, sensitivity or slow recovery
- Productivity
- Biodiversity
- Naturalness

There is still a lack of data on these criteria, hence the need for collaborative scientific research (Yamakita 2017). Joint scientific expeditions, e.g. Joint Oceanographic and Marine Scientific Research Expedition in the South China Sea (JOMSRE-SCS) between the Philippines and Vietnam, can generate data on the criteria, but also provide further vital information for more specific management decisions needed in the areas of common concern. After a given area is recognized for conservation and protection, there would be a need for a transboundary environmental conservation cooperation between the countries involved. The Turtle Islands Heritage Protected Area (TIHPA) is one of the first formal transboundary MPAs established, in this case, through an agreement between the Philippines and Malaysia. Even though the main goal was the protection of the nesting grounds of marine sea turtles, which is composed of nine islands (six in the Philippines and three from Malaysia), the management also covered coral reefs, seagrass beds, and other habitats of the islands using the ecosystem approach.

Coral reefs are unique ecosystems that provide economic and environmental benefits for coastal communities and nations throughout the world. Impacts from human activities, however, are increasing the severity and extent of threats, leading to the widespread degradation of reefs. This points to an urgent need for the collective action of neighboring countries to actively implement science-based management approaches to ensure the protection and conservation of recognized critical marine areas. International cooperation and collaboration to address these

threats are necessary in reversing the decline of coral reefs and to ensure they continue to benefit future generations.

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Maritime Challenges in Disputed Waters in the Asia Pacific: Malaysia's Interest and Practical Cooperation in The South China Sea

William Stevenson

The Asia Pacific region spans across the Pacific and Indian Oceans, and the East and South China Sea that borders it. Although these waters separate the land mass, the South China Sea also connects countries through a medium that host a variety of resources. The availability of resources and the utilization of sea routes invariably creates interests and claims from littoral states as well as interests among major powers that have influence on the strategic maritime security environment. The security environment in the Asia Pacific region, particularly the South China Sea region, has also been of concern especially with the overlapping maritime claims that have led to maritime tensions for decades (Bateman et al. 1996).

Disagreement over disputed territories and the long standing maritime issues of the South China Sea have been of continuous concern and remain as a threat to potential conflict that confronts the region. The South China Sea is thus the most important semi-enclosed sea in the entire Asia Pacific region, as it is the link to vital shipping routes and sea lines of communication connecting the Pacific and the Indian Ocean. Bordering on the South China Sea, there are the People's republic of China (hereafter China) and several littoral states of the Association of Southeast Asian Nations (ASEAN) which have strategic interest in the respective areas.



Figure 1:
Territorial Disputes in the South
China Sea (Wikipedia 2017)

ASEAN Cooperation and the Changing Strategic Environment

The Association of Southeast Asian Nations, since its formation in 1967, is the regional intergovernmental organization comprising ten Southeast Asian States and provides a platform for cooperation among states to resolve differences peacefully. The practice of the ASEAN norms and “the ASEAN way” of resolving disputes where all issues within ASEAN are generally solved via consultations and consensus has contributed to the sustained cooperation and conflict avoidance through decades. The ASEAN Plus includes another eight countries that act as observers to the ASEAN mechanism. This also encompasses major powers such as the United States of America (US) and China. Apart from the ASEAN nations – Brunei, Malaysia, Philippines and Vietnam – that have stated their claims in the South China Sea, major power rivalry in the region has also contributed to tensions and undermines the relationships that countries have with each other bilaterally or multilaterally. The South China Sea thus has an impact on the overall regional strategic environment (Kaplan 2014).

Despite the changing security environment, countries in the region have had multi-dimensional relationships and cooperate in sectors like trade, tourism, research, educational exchanges, military exercises and shared cultural activities which have further strengthened both bilateral and multilateral relations among respective countries. Such relations have endured through the ASEAN-led mechanism and the existing regional security architecture has contributed to the cordial relationships that have been maintained among ASEAN member states and also with the US and China. The regional security architecture provides respective platforms and mechanism for multilateral cooperation, confidence building and contributing to stability in the region. However, the complexity of issues and maritime challenges that exist in the Asia Pacific region, particularly in the South China Sea, requires more cooperation among the nation states in the region.

Notwithstanding that, China’s dominance and aggressive reclamation activities in the South China Sea had created much concern among ASEAN member states, particularly Vietnam and the Philippines, who had brought its case to The Hague-based Permanent Court of Arbitration (PCA). China’s military modernization, especially the growth of its navy, is another aspect that has raised skepticism on China’s strategic goals and future intentions. This development is also further underpinned with the sudden and rapid economic growth that provides China with the ability to assert itself and to pursue its foreign policy and strategic goals including the “One Belt, One Road” (OBOR) initiative.

The “One Belt, One Road” initiative, developed and pursued by China since 2013, proposes an economic link from China to Europe through countries across Eurasia and through the Indian Ocean back to China linking Africa and Oceania. OBOR has also to a certain extent created a new platform for cooperation. The initiative includes plans to build a “new land bridge”, develop “economic corridors” and a “maritime silk road” consisting of, inter alia, port facilities and economic hubs (Min 2014). Although there is much suspicion on China’s real intentions, OBOR brings a new dimension in the relationships among countries involved, especially in creating practical cooperation whether overland or in disputed waters. The practical cooperation created by the OBOR initiative includes cooperation in the economic realm, although some view it with concern, particularly with regard to China’s gains in terms of economic growth, the extension of Beijing’s strategic influence as well as China’s soft power. Even though there is skepticism on the initiative taken by China, its successful implementation will create a catalytic environment

and spur development across the continents and countries involved. Malaysia and several ASEAN countries such as Indonesia, Philippines and Myanmar had participated in the OBOR dialogue organized by China. Malaysia has also agreed on development projects like the Melaka Gateway port development and the Forest project in Johore, which is being undertaken through its cooperation with China.



Figure 2: Silk Road Routes (The Economist 2016)

China's Intentions and Maritime Challenges in the South China Sea

The ASEAN-China relationship has been ongoing for some time, particularly with the endeavor to resolve the South China Sea issues. China and the ASEAN countries had signed the Declaration on the Conduct of Parties (DOC) in the South China Sea in October 2012, on cooperation in the South China Sea and now there is much hope that the Code of Conduct (COC) will be inked by all parties in 2017. However, while waiting for the signing of the COC, the DOC states that: "Pending a comprehensive and durable settlement of the disputes, the Parties concerned may explore or undertake cooperative activities. These include the following: marine environmental protection, marine scientific research, safety of navigation and communication at sea, search and rescue operations, and combating transnational crime, including but not limited to trafficking in illicit drugs, piracy, armed robbery at sea and illegal trafficking in arms" (ASEAN 2012). Although the Declaration is not legally binding, it serves as a political commitment made by the countries and is supposed to be fulfilled in good faith in order to promote cooperation.

However, time does not seem to be of essence to China when it comes to finalizing the COC. China had also proposed the establishment of a regional security framework with Asian characteristics to promote peace and stability in the region at the last Conference on Interaction and Confidence Building Measures in Asia (CICA) held in Beijing on 28 June 2017 (Malik 2017). CICA members and observers attended the forum to discuss common, comprehensive, cooperative and sustainable security in Asia as well as the One Belt, One Road initiative. During the 2014 Shanghai CICA Summit, President Xi Jinping also proposed the setting up of a CICA Non-governmental forum to provide a platform for cooperation with think

tanks, social groups and media to participate in building a peaceful and prosperous Asian region.

Although China had stated that it hopes to achieve peace and develop friendly relations which mutuality benefit its neighboring countries and the OBOR initiative, these Chinese objectives are also impeded by maritime challenges, particularly in the disputed waters of the South China Sea. The challenges include territorial claims, access to natural resources as well as fishing and biodiversity especially in the South China Sea, where littoral states had taken respective measures to posture themselves and their maritime security in the interest of their own territorial integrity and protection (Forbes 2015).

Malaysia's National Interest and Commitment to Maritime Cooperation

Malaysia's maritime security is based on the consideration of the principles of international law, national interest, sovereignty and territorial integrity as well as other international conventions and regulation in protecting and enforcing Malaysia sovereignty over its territorial sea and the Exclusive Economic Zone.



Figure 2: Silk Road Routes (The Economist 2016)

Especially the areas where 50 percent of Malaysian offshore hydrocarbon are found off the East Coast and waters of Sabah and Sarawak are regarded as of vital interest to Malaysia. In addition, Malaysia is developing its fishing industry and needs to protect its fishing resources and fishermen at sea. The Sabah waters contain 75 percent of the nation's coral reefs and the islands of the coast of Sabah are popular spots for tourist and diving enthusiasts. Apart from the South China Sea and water around Sabah and Sarawak, the Straits of Malacca and waters adjoining to the Indian Ocean and South China Sea are strategic areas that are critical to the nation's security. It is therefore vital for Malaysia to maintain the security of the maritime zones. The cases of robbery and hijacking such as the MT Orkim Harmony and MT Zafirah hijacking

incidents, the kidnapping of tourists from the islands off the coast of Sabah and intrusions especially along the coast of Sabah provide ample example of the security needs.

Currently, Malaysia is involved in and is a member of the Malacca Straits Petrol (MSP) involving Malaysia, Indonesia, Singapore and Thailand. The MSP was implemented since 2006 and it displays the kind of functional and practical cooperation involving coordinated patrols by the four nation states, which has been effectively implemented in the Straits of Malacca. The success of its implementation is due to the commitment and cooperation of militaries of the four nations concerned. It has brought confidence and stability to the shipping industry especially the ships that daily ply the narrow Straits of Malacca. Malaysia is also a member of the recently implemented Sulu Sea Trilateral Patrols involving Malaysia, Indonesia and the Philippines that was launched on 19 June 2017 at the Tarakan Naval Base, North Kalimantan, Indonesia (Parameswaran 2016). This entails the coordinated patrolling of one million square kilometers of tri-border area in the Sulu-Sulawesi Sea between the Southern Philippines, Indonesia and Malaysia.

In crafting its strategy for maritime security, Malaysia has always maintained a posture of moderation and maintains a friendly and warm relationship with her neighbors and all members of ASEAN and major powers like the US and China (Balakrishnan 2009). Bilateral cooperation with China began in 1974 and since the establishment of diplomatic relations, China-Malaysia strategic relations have generally grown especially with its increase in trade and economic relationships.

Military Cooperation and Confidence Building among Nations

Joint maritime patrols require commitment and practical cooperation among the navies of the countries involved especially on the interoperability and the effective coordination at sea. Apart from the operations conducted, exercises, whether multi-lateral or bilateral, conducted are another important aspect of cooperation that has enhanced confidence building among countries in the region (Dzung 2017). The RIM of the Pacific Exercise or RIMPAC which is held biennially since 2014 is hosted and administered by the US is the largest maritime exercise that aims to enhance interoperability and a means of promoting cooperation and stability in the region. China also took part in the exercise. Another aspect of cooperation among the navies of the region is the signing of an agreement among the navies i.e. the signing of the Code of Unplanned Encounter in the Sea (CUES), which was agreed upon by China and all 21 Western Pacific Navies Symposium member states in Qingdao, China on 22 April 2014 (Ton 2017).

Cooperation among militaries of the region is also displayed with the establishment and operations of the Regional HADR Coordination Centre (RHCC) that was established in 2014 and based at the Changi command and control center in Singapore. The RHCC involves representatives of ASEAN member states jointly manning the operations room. The RHCC facilitates military-to-military coordination in Humanitarian Assistance and Disaster Relief (HADR) and acts as the ASEAN coordinating center for humanitarian assistance and disaster management for relief efforts in the region.

Agreements and Platforms for Practical Cooperation

Countries in the region signed various agreements which are results of negotiations and cooperation in various platforms and mechanism. For example, some agreements that

Malaysia has had with other countries include the 1979 Memorandum of Understanding (MoU) and subsequently, the 1990 Agreement signed between Malaysia and Thailand (Schofield 2014). It enabled both countries to jointly develop and conduct joint explorations in the disputed waters in the Gulf of Thailand. In addition, Malaysia and Vietnam in 1992 agreed to a joint mechanism for oil exploration conducted by both national oil companies i.e. Petronas and Petro Vietnam. The joint exploration takes place within a disputed area where petroleum resources were found in the sea bed of the continental shelf.

In 2009, Malaysia and China signed the Maritime Science and Technology Cooperation Agreement which covers a variety of issues such as the protection of the marine environment, marine scientific research and survey, marine disaster prevention as well as marine data exchanges. Apart from this, Malaysia has recently renewed its relationship and economic ties with China. Further to these agreements, Malaysia has also signed various economic deals and MoU with China. Other countries in ASEAN have bilaterally signed cooperation agreements with each other or with China especially on maritime issues.

Trade relations, MoU, and cooperation agreements that countries of ASEAN have with China present a platform for fostering better relationship and practical cooperation, especially when contributing to economic growth. It is important to note that, despite the disputes over the overlapping claims and maritime jurisdiction – and with the exception of the skirmishes that had occurred at sea – the South China Sea has remained peaceful for many years. The South China Sea is thus presenting an environment for shared prosperity and stability. Yet, maritime disputes have contributed to growing tensions in relations among countries concerned thus creating the fear that these disputes can lead to military hostilities if not resolved amicably.

With the increase in trade agreements and economic growth among countries in the region the enhancement of military capabilities especially in the last few years has created much concern. However, multilateral relationships, coordination and practical cooperation through the existing institutional architectures has managed to address the challenges to the regional security environment.

Conclusion

The current environment and political dynamics have created a calm and a better atmosphere for negotiation and mutual communication especially with the renewal of engagements through leaders' meetings and agreements on cooperation between respective countries. The high profile visit of Philippine's President, Mr. Duterte to China in 2016 has also had an immediate stabilizing effect on the South China Sea region, especially when there was growing tension between China and the Philippines. Such an environment can foster stability and encourage top-level mechanism for future dialogues and comprehensive practical cooperation among countries of ASEAN, China and the US especially in areas of mutual benefit and regional peace and stability.

Practical cooperation in the disputed waters can be achieved by taking advantage of the current regional atmosphere and through the regional multilateral institutions like the ARF, EAS, ASEAN +3, ADMM and track two platforms with consideration on the following:

- a) Cooperation in fishing, Article 61 and 123 of the United Nations Convention on the Law of the Sea (UNCLOS) provides for cooperation on fishing conservation within the

EEZ as well as other areas of the South China Sea, further dialogue and discussion to allow fishing vessels into contested areas and explore ways to joining develop aqua-culture around disputed waters.

- b) Oil and gas exploration and development, joint ventures to conduct oil and gas exploration and exploitation in the continental shelves is an aspect that should be considered as it will benefit economically all parties involved. Such ventures could be negotiated bilaterally or multilaterally, if the parties concerned are willing to share and jointly benefit from the exploration of such resources.
- c) Cooperation on Humanitarian Aid and Disaster Relief (HADR) as countries in the South East Asian region are prone to typhoons and hurricanes that cause havoc and cost many lives and loss of homes.
- d) Joint research and expert committees or technical working teams to study maritime biodiversity and environmental issues especially on marine environmental protection.
- e) Continued military to military training exercises and activities that can enhance Confidence Building Measures (CBMs) among, either bilaterally or multilaterally, ASEAN countries and major powers like China and the US.
- f) Cooperation among security agencies on information sharing and the fight against non-traditional security issues like privacy, terrorisms, armed robbery at sea and human trafficking. t many lives and loss of homes.
- g) Joint Search and Rescue (SAR) agreements and mechanism among countries of the region and the conduct of joint practical training and exercises.

For such cooperation to exist, relevant parties should have consensus with regard to the aspects of cooperation they wish to achieve. There should be engagement and enhanced mutual trust building as well as respect within a favorable political atmosphere for cooperation. It is in the interest of all countries involved in maritime disputes to cooperate and jointly reap the benefits of maritime resources. This can only be achieved unless there is mutual trust, a willingness to negotiate and engage whether through the existing security architectures and platforms or through the respective levels of leadership and joint technical working committees that discuss and formulate sustainable agreements for future benefits. Nevertheless, it is pertinent that such endeavors should consider future peace and stability of the region.

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Is the Rebalance to Asia Still Possible in a Trump Era?

Marie Antoinette P. de Jesus

In an effort to fine tune its international portfolio, the US, under the leadership of then President Barack Obama, highlighted the country's "pivot" or rebalance to Asia. Under this strategy, the US aimed to increase its presence in the Asia Pacific region through closer ties, militarily, economically, and diplomatically. The rebalance to Asia highlights the value that the Obama administration placed on its Asian allies like the Philippines, South Korea, Japan, and other countries in Southeast Asia. This even includes non-treaty security partners of the US (Latif 2016: 1), like Vietnam and India.

Militarily, under Obama, the US targeted to reposition its military from the Middle East and Europe towards Southeast Asia and East Asia. By the year 2020, it is estimated that the US will deploy 60-percent of its maritime and air forces to the Asia Pacific. Economically, Obama expressed US support for the Trans-Pacific Partnership or TPP, an agreement that targets to boost investment, trade, and labor. Diplomatically, Washington committed its support to the Association of Southeast Nations (ASEAN) (with its different "offshoots" such as the ASEAN Defence Ministers Meeting, ASEAN Regional Forum, and East Asia Summit (EAS)) and the Asia Pacific Economic Cooperation (Simon and Baker 2017: 37).

Since Donald Trump is the newly-elected President of the US, it is relevant to underline whether he would uphold his predecessor's rebalancing strategy. Currently the new President bringing much uncertainty to US policy on Asia (Xiao 2017). Would Trump's populist and isolationist views decrease its military and economic interests in Asia? Would diplomatic ties in Asia become hampered? This article attempts to determine whether Trump will potentially continue the rebalance to Asia, come up with a different approach, or abandon it altogether.

Moving from "The Art of the Deal"

When Trump was elected US President, it created much trepidation in the global arena, given Trump's isolationist policies, temperamental behavior, and fickle viewpoints. His speeches, both during the campaign trail and in his time thus far as US President, were perceived as sexist, racist, homophobic, and anti-environment (Ratuva 2017: 165). Moreover, Trump has shown that he prefers "bilateral bargaining and power relations" rather than "multilateralism and institutions" (Casarini 2017: 2).

At first blush, it seems that Trump may take a relatively far-off stance from the Obama administration's rebalance to Asia—and many would be inclined to agree. Trump's "America First" and "Make America Great Again" campaign slogans that transitioned into policy, potentially steers the US away from its typical role as a balancing power (Beeson 2016: 207).

Deciphering the Military Component

Militarily, the Obama administration's rebalance to Asia was evident when the US: (1) increased its military cooperation with the Philippines and Australia; (2) repeatedly brought its air force and navy to the South China Sea (SCS) as Washington's show of force against China's increasing assertiveness over the SCS and its neighboring territories; (3) announced that it will deploy the Terminal High Altitude Area Defense or THAAD anti-missile system to the Korean Peninsula, effectively strengthening the US's military ties with South Korea and Japan (Wenran 2016: 1); (4) proclaimed the complete removal of the arms embargo in Vietnam that was put in place ever since the war (Thu 2017: 1); and (5) enhanced its relationships with India and Vietnam (Wenran 2016: 1).

Trump would most likely decrease the US's military role and take the backseat to securing its allies in Asia--that is, if Trump's pronouncements during the campaign and as US President (thus far) were the bases. If Trump decided to decrease US involvement in helping the militaries of its allies and non-allies, US military presence in the region would still be considerable. This is because US presence was already substantial prior to Obama's rebalance to Asia.

Moreover, although Trump has declared that he no longer wants the US to be in the forefront of military action in foreign countries (e.g., Iraq War, War in Afghanistan), it is likely that he would either stick to the military status quo of the rebalance to Asia or even increase his country's involvement, especially given the always looming military threat by North Korea—not to mention the antagonistic and brash back-and-forth between Trump and the leader of North Korea, Kim Jong Un.

Another power (but a different kind) that the incumbent US President has been taking head on, at least rhetorically, is the People's Republic of China (henceforth China). If Trump is serious about countering the economic hold that China has on the US, then he may have to follow the footsteps of Obama and develop and increase the military component of the rebalance to Asia. This includes a show of force from the US against any Chinese assertiveness over the SCS and the East China Sea. Even though the main tagline of the US for the rebalance to Asia never succinctly included China in the equation, the common thread that Beijing sees in the rebalance to Asia was Washington's goals of containing a rising China (Sakaki and Wacker 2017: 24).

Moreover, a couple of the main policy advisors of Trump have noted that the rebalance to Asia under Obama lacked military weight, particularly with regard to the navy. They believe this was the reason why China was given the room to become more blatantly aggressive and bold in the maritime sea tensions (Storey and Cook 2016: 6). Take the case of the Philippines and China with respect to the SCS disputes. Although Obama underlined that deployments of air force and navy ships from the US to Southeast Asia to promote freedom of navigation is important to the US, he did not give the Philippines and Scarborough Shoal, one of the disputed islands, the similar guarantee he gave Japan concerning the Senkaku Islands. When he was in Japan, Obama stated that the US-Japan Security Alliance Article V would apply to the Senkaku Islands. Obama did not give the same assurance to the Philippines concerning the US-Philippine Mutual Defense Treaty of 1951 (Simon and Baker 2017: 38).

Trump has emphasized during his election campaign that he would counter the lack of the US navy by raising the number of ships from 275 to 350. Notably though, in the short run, this may

create little effect on the maritime security situation in Asia because implementing such a huge program would take about ten years and longer (Storey and Cook 2016: 6). There is also the question if these navy ships would ultimately benefit US allies in Asia. In addition, in the end Trump went back on this campaign pledge by actually being consistent with the shipbuilding plan of Obama for the 2018 US budget—only 8 navy ships, and not the additional 75 as originally promised (Freedberg 2017).

It remains to be seen if the Trump administration would truly help beef up the militaries of its allies as the rebalance to Asia did. It may appear as such, given that he would like to limit or even eliminate the nuclear power of North Korea and the military might of China over disputed waters. This is highly probable because Trump would only involve the US in conflicts in Asia if it impacts US interests directly, and it does so in both of these cases (Simon and Baker 2017: 38). Interestingly enough, Trump can probably only do one or the other. If Trump counters North Korea's nuclear ambitions, then he will need Chinese support. If he limits the reach of China towards the Exclusive Economic Zones of other nations, then he will lose Chinese support against North Korea. Recent rhetoric from Trump would suggest the former rather than the latter.

Unraveling the Economic Component

The economic component of the US rebalance towards Asia can be completely encapsulated by three letters: TPP. The Obama administration took the lead in the TPP negotiations. The TPP is a trading bloc of 12 countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the US, and Vietnam, without China (Wenran 2016: 1). The countries of Brunei, Chile, New Zealand, and Singapore initiated the partnership. During its first year in 2009, the US joined, and eventually, took the lead in the partnership. It was considered as a way for the US to reassure the region that it is one of the top priorities of US foreign policy (Schott 2017: 6) and an effective and advantageous way to further rebalance the US's portfolio in Asia (Xiao 2017).

As the US campaign and election season for 2016 was taking place, leaders from Asia and the Pacific have underlined how crucial the TPP was for their countries, as well as the perceived leadership of America in their areas (Schott 2017: 6). But even with the backing of the TPP from the leaders of this region, once Trump clinched the coveted US Presidency, it was immediately assumed that the US would pull out of multilateral free trade agreements, particularly the formerly US-led TPP. And they did.

This came as a surprise to no one, because Trump, even during his presidential run, called the TPP a "disaster" and a "rape" of the US. He stated that he would remove the US from the TPP, increase trade tariffs to 45% for China and 35% for Mexico and remove the US from the World Trade Organization (WTO). Although he stated that such moves would bring back jobs to the US, studies have proven that policies that are anti-trade creates huge job losses in different sectors, not to mention losses for trade partners and consumers. The effect would be the presupposed reaction from US trade partners, which could be brief trade conflicts or even trade wars that could ultimately hit US exports. Since supply chains are global in nature, import protection negatively impacts producers that are reliant on imported inputs (Melchior 2016: 25). It would be costlier for US exporters to manufacture their goods because the foreign inputs that they use have become costlier due to additional tariffs.

When Trump decided to abandon the TPP, it obviously affected the countries included in the TPP directly, such as the Southeast Asian countries of Malaysia and Vietnam (Simon 2017: 42). In a more specific example—Vietnam—which Trump bulked in the same group as China, wherein they are simply unjust traders who supply the American market with cheap and inferior products—was hit hard. Vietnam is the least developed country among the then 12 TPP members—hence, they would most likely receive the most benefits from it. It was also a way for Vietnam to limit or detach itself from Chinese ties by lowering their dependency on China, at least economically (Thu 2017: 1). The “America First” perspective of the Trump administration led to lost opportunities in Southeast Asia, particularly for economic policies (Simon 2017: 42).

While Trump perceives that backing out of the TPP is consistent with his nationalist policies, there is an inconsistency there when it comes to his anti-China rhetoric. Trump makes use of a stringent and combative rhetoric against China in terms of the way China adversely affects the US economy, according to Trump. With Trump as President, it was anticipated by international pundits that Sino-US relations would become more challenging going forward (nonetheless, it probably goes without saying that the high level of interdependence between the US and Chinese economies offers a high motivation for both countries to prevent potential conflicts, tensions, and disagreements on the economic front). In a paradoxical turn of events, when Trump decided to leave the TPP, which is important to Obama’s rebalance to Asia and also an important variable in “containing” China’s rising power, he has thus removed a crucial hurdle for China’s economic expansion to the Asia and the Pacific (Christiansen and Maher 2017: 127). If this was because Trump is oblivious to this fact or merely uninformed remains to be seen (Kerr 2016: 161).

It is evident that China can fill the economic vacuum left by the US in the region, at least based on the China-led Regional Comprehensive Economic Partnership or RCEP, a free trade pact between the ASEAN, including other Asia Pacific countries such as Australia, China, India, Japan, New Zealand, and South Korea. The RCEP is now ready to change the economic rules in the region. Before, it used to hold a far second place to the TPP, but now, it is the sole choice in the region (Standard Chartered 2017: 36). Case in point, the Philippines is now looking favorably towards this agreement, even though the agreement obviously did not include the US, one of the Philippines’ favored allies. If countries in the region choose the China-led RCEP, it could largely impact the US’s goals in greatly affecting the rules of trade in Asia and the Pacific (Galace 2016: 1).

Removing the US from the TPP created warranted concerns from US allies in the Asian region, as to whether US support is actually reliable, not just economically, but militarily as well. This calls back to the intrinsic linkage between economics and military in this region. Countries such as Japan and South Korea, who are facing the regular military and nuclear threat of North Korea, acknowledge, grasp, and appreciate the importance of the rebalance to Asia. The same goes for other countries in the Asia Pacific that are dependent on open, safe, and secure seas, vital for economic growth (Schott 2017: 6).

Breaking Down the Diplomatic Component

Trump is part of the rise of right wing populism occurring all over the world. In internalizing, embracing and also empowering this viewpoint, Trump is changing the world’s perspective of the US as typically an open and accepting ideal that all countries should aspire to.

Currently, policymakers from Southeast Asia perceive the US becoming more and more transactional, diplomatically, making deals that might be detrimental to their countries (Simon 2017: 42). The logic behind transactional diplomacy is the concept of “quid pro quo” or a trade-off. One country would only act if they receive something back. In this case, Trump would probably choose not to attend regional summit meetings if they did not result in solid outputs that further the interests of the US (Storey and Cook 2016: 5). A clear solid example of Trump’s transactional diplomacy is evident in his offer to China of better bilateral trade terms as long as they help counter North Korea’s nuclear threats (Panda 2017).

What is perhaps less palatable that transactional diplomacy is the lack of concern with the affairs of Asia. It is unsure whether Trump would even give Asia, particularly Southeast and East Asia any proper focus. As of this writing, although Trump has already chosen the Deputy Secretary for the US State Department, there is still no Permanent Assistant Secretary for East Asian and Pacific Affairs—only an acting one. From the perspective of the ASEAN, a good test for the commitment of the US to Southeast Asia is what the US’s approach would be during the ASEAN’s 50th anniversary and yearly EAS in November 2017 (Simon 2017: 42).

It is still unclear where the Trump administration stands in terms of diplomatic affairs and ties in Asia. Would it be similar to or completely different from the Obama administration’s rebalance to Asia? For instance, US treaty allies in Southeast Asia like the Philippines and Thailand are still unsure as to their diplomatic relationship with the US under Trump. However, the inadequate concern of Trump on upholding democracy and human rights would probably be a good thing for Thailand’s military junta and the Philippine government under Rodrigo Duterte (Simon 2017: 42). For non-treaty allies like Vietnam, for example, although its ties with the US has improved through the years because of the Obama administration’s rebalance to Asia, the election of Trump as the President of the US created some uneasiness within Vietnam because of the lost momentum in the improving ties (Thu 2017: 1).

If the lack of strong (or at least discernible) diplomatic ties persist, ASEAN members may look towards building better security alliances with crucial partners from the Asia and the Pacific, namely, Australia, India, Japan, and South Korea (Simon 2017: 42). The same is true for countries outside of the ASEAN such as those previously mentioned, like Japan and South Korea.

Trump’s kind of nationalist and populist policies would change the perspective of the world of the US as a peaceful power, willing to take up the cudgels for peace and security in the world. If the US chose to disengage itself from affairs outside of its borders, then there would be unintended and unsavory consequences (Funabashi 2016).

Revealing the Abounding Uncertainties

The rebalance to Asia led by the Obama administration created mixed results—perhaps partly because of its lack of longevity and the expansiveness of and constant changes in the region. The logic behind the rebalance to Asia indicates that although the US’s approach of military alternatives, promotion of trade, prominent political dialogue, and even human rights measures is important to Asia (and probably always will be), it is not enough. Continuity would have been the key to making the rebalance to Asia more sufficient, but the US has had a history of periods of extreme focus, only to be followed by disproportionate inattention.

But even with its shortcomings and challenges, in its 5 years, the rebalance to Asia at least tried to somehow face headfirst, the complicated nature of the Asian region in quite an ambitious manner (Dobell 2016). For example, the military presence of the US in Asia and the Pacific is a definite given because of the US's long military history in the region. However, even this obvious US presence was unable to stop China from flouting international law by aggressively claiming territories, against the protests of other country-claimants. Nevertheless, Obama's rebalance to Asia has forged better ties, perhaps not in the economic sense because of the fallen trade deal encapsulated by the TPP (Galace 2016: 1).

Susan Thornton, the Acting Assistant Secretary of State for East Asia and Pacific Affairs probably said it best when she stated that the rebalance to Asia is something that the previous administration used. It might be that the Trump administration would come up with its own blueprint (Simon 2017: 42). Even though there are no stringent sets of policies that can be pointed towards inconclusively to make sure of Trump's commitment or lack thereof to Asia, if the administration does come up with its own version of the rebalance to Asia, it may be a murky set of policies, if one were to draw from Trump's history thus far, fueled by an inflated sense of self and arrogance.

The murkiness of how Trump might approach a rebalance to Asia or a minimal-rebalance to Asia or a non-rebalance to Asia, militarily, economically, and diplomatically, also stems from Trump's isolationist yet militarization policies. Isolationism and militarization are the complete opposite of one another. While isolationism entails that the US remove or lessen its military, economic, and diplomatic presence in Asia and the Pacific (a complete about-face from the rebalance to Asia), militarization means that the US has to have more of a strategic reach physically and process-wise (Ratuva 2017: 165). So while Trump's potential stand may seem evident based on his rhetoric and temperament, these stances appear to be contradictory and unrealistic.

Moreover, although this article tries to pin down the actual stance of the Trump administration on the rebalance to Asia, it can get dicey because of Trump's decisional style. It is not because Trump is a complicated man, it hearkens more to the fact that the US President cannot seem to handle complexity. In other words, rather than being strategic, his approach is more "reactive, tactical, and transactional" (Stuart 2017: 29), instead of being based on values and historical policies. This can probably be connected to his background as a businessman and property developer, whose end goal is to simply make deals no matter what it takes.

Also, it seems that Trump's deliberations almost always center on how the USA can be put in a more advantageous position with any relationship with other countries, whether militarily, economically, or diplomatically. The general values of encouraging democracy, promoting human rights, and establishing a stable global order, seem to take the backseat to nationalist concerns. If the US were only to give its military and security aid if it gets something in return, then it would be a slippery slope, especially if the relationship is already uneven to begin with (the US almost always has more bargaining chips) (Simon and Baker 2017: 38). Nevertheless, if the foreign policy approach of the Trump administration continues to be focused on nationalism and isolationism, which would find US interests in Asia and the Pacific decrease substantially, either quickly or lengthened throughout Trump's term of 4 years (or more, if he gets reelected), then this can get problematic for his administration.

The vacuum left by the US in Asia and the Pacific can be easily and willingly filled by China, militarily, but particularly, economically. This would probably be an unintended consequence that

the Trump administration has to deal with, because it would make “China First” not “America First,” at least in this scenario. Although Russia can fill this void as well, Moscow currently sees this Trump administration as a partner rather than a competitor, given the news of Russian involvement in the last US Presidential elections. So it seems more likely that Trump would be more affected by China taking over the US’s role as preferred trading partner and security ally, rather than Russia (Ratuva 2017: 167). If the Asian region continues to be part of economic miracles, then the US will have less of a function in this impressive history (Dobell 2016).

If the Trump administration chooses to lessen its engagement in the Asia and Pacific, it not only impacts on the US power status quo with China, but also its power relations with other countries. It may impel Japan and South Korea to course their own path towards dealing with their nuclear-armed neighbor, North Korea. In a way, the position of the US as a dominant yet benevolent balancer of power would perhaps gradually minimize or eventually disappear. Since the balance of power in Northeast Asia also affects the balance in Southeast Asia, the US-allied and -non-allied countries may perceive and assume that the US is an unreliable partner that first brokered but then broke deals and pledges. Even beyond Southeast Asia, Australia, India, and New Zealand, countries that have helped shape the region, may also look towards other countries as security partners. If the US pivots away from Asia, Asia may, inevitably and in turn, pivot away from the US (Latif 2016: 2).

It might seem too simple that Trump would just say no to another seemingly similar rebalance to Asia. But given his volatility, this may not be the final word on this. It can just be as easily said that the rebalance would continue under his administration, but using a different name (Xiao 2017). If he does do so, it seems implausible that Trump will be able to commit to and balance the three important pillars of a potential rebalance to Asia, which includes curbing the nuclear might of North Korea, opening trade and investment further, and establishing unequivocal, effective, and concerted relationships in Asia and the Pacific, maybe including China (Jannuzi 2016: 33).

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This publication offers comprehensive analyses on the most important aspects regarding the South China Sea disputes and questions of maritime security as well as regional cooperation. It follows the conference titled "Maritime Challenges in the Asia Pacific Moving Towards Political, Environmental, and Functional Cooperation" held in November 2016 in Manila, jointly organized by the Konrad-Adenauer-Stiftung Philippines Office, the AIM Rizalino S. Navarro Policy Center for Competitiveness, the Foreign Service Institute of the Philippines and Ruhr-Universität Bochum. The participants from Europe and Asia hope to contribute to a fruitful and sustainable approach to intra- and interregional cooperation as well as conflict resolution in the South China Sea and East Asia.

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