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2011

Pablo-Baviera, A. S. (2011). China and the South China Sea : time for code of conduct? (RSIS Commentaries, No. 091). RSIS Commentaries. Singapore: Nanyang Technological University.

<https://hdl.handle.net/10356/94127>



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No. 91/2011 dated 14 June 2011

China and the South China Sea: Time for Code of Conduct?

By Aileen S.P. Baviera

Synopsis

Recent incidents in the South China Sea point to China's growing assertiveness and seeming readiness to pressure other countries to recognise its claims. The region urgently needs a Code of Conduct that is specifically designed for the prevention of armed conflict in the disputed areas.

Commentary

IN THE last several months, a number of incidents occurred that highlight what appears to be growing willingness by China to use its armed strength to pressure and influence rival claimants, particularly the Philippines and Vietnam, in the disputed South China Sea. In February, there were reported incidents of Filipino fishermen being threatened and fired on from Chinese vessels. On 2 March 2011, two Chinese patrol boats confronted a Philippine oil exploration vessel MV Veritas Voyager and ordered it to cease activities in the Reed Bank area, which they said was under Chinese jurisdiction.

Subsequently, China announced plans to anchor an oil rig in the Spratlys. In late May, the Philippines discovered posts and a buoy on Amy Douglas Bank thought to have been unloaded by Chinese vessels, indicating possible new construction plans. Meanwhile, a Chinese marine surveillance vessel approached a Petrovietnam ship and cut an undersea cable that it was laying within Hanoi's claimed Exclusive Economic Zone (EEZ), provoking public demonstrations in Hanoi.

China's Worrisome Posture

The assertions of sovereignty themselves are not new, as this is a long-standing dispute where actions by one claimant or another would invariably draw sharp reactions from others. But it is China's actions, now backed by more modern maritime enforcement capabilities and demonstrating a more assertive and decidedly nationalistic streak, that are proving to be most worrisome.

The perennial guessing game remains whether the recent acts of asserting sovereignty are being undertaken with the full knowledge and support of central authorities in Beijing, or whether – as argued by Stein Tonneson and others – these represented not a new Chinese strategy but rather “a number of ill-advised, uncoordinated, sometimes arrogant moves” by various institutions pursuing their respective mandates. Ultimately, neither explanation brings comfort to China's neighbours.

Chinese government spokespersons have in fact described supposed intrusions into the Philippines as “normal marine research activities”, and the incident with Vietnam as “normal marine law enforcement and surveillance

activities” in “China’s territorial waters”. Indeed, China Daily reported late last year that its China Marine Surveillance (CMS) authority was adding over 1,000 new personnel, 36 ships and new equipment to strengthen their “enforcement capacity”. Established in 1998, the CMS claimed to have 91 patrol boats at the end of 2005, which had increased to 300 boats and 10 aircraft by the end of 2010.

Such a prospect of a large Chinese presence – navy, paramilitary, or civilian – behaving in disputed waters as though they were universally recognised authorities “normally” enforcing Chinese law in its “indisputable” territory, is not something the neighbours are likely to warm up to. And if ships, persons and properties of neighbouring states and foreign companies engaged in resource exploration can be targets of intimidation, why not some commercial ship navigating the sealanes in the future? If present trends were to continue, China’s oft-stated pledge to uphold freedom of sealanes will begin to ring hollow.

Need for Code of Conduct

For now, China appears to be taking the strongest action against unilateral oil exploration activities. Prior to the latest incidents, it had prevented international oil companies BP and Exxonmobil from exploring in Vietnam-claimed areas, reportedly warning them that doing so would affect their own projects in China. Chinese officials and scholars have also recently been mouthing the mantra of joint development, perhaps indicating that the reason behind the strong pressure is to nudge Vietnam and the Philippines back onto this track and away from unilateral exploration, following their initial trilateral cooperation for joint seismic research in the Philippine EEZ. (The trilateral research lapsed inconclusively in 2008 after getting entangled in Philippine domestic politics.)

If so, it would be a strange form of persuasion, but one that both Vietnam and the Philippines should study carefully in terms of balancing their respective security and economic goals, while simultaneously promoting national interests and regional stability. Even so, public opposition in the Philippines will likely impede any new agreement that involves joint resource exploitation in the areas closest only to the Philippines.

Given the brewing tensions, there is a need for the various parties to seriously pursue discussions not just on the implementing guidelines of the 2002 Declaration on the Conduct of Parties, as the DOC has likely been overtaken by events. What is needed is a Code of Conduct that is specifically dedicated to the prevention of armed conflict in the disputed areas. China’s legitimate interests in the South China Sea, as well as everyone else’s, will need to be addressed through dialogue and negotiation. However, China must step back from its posture of intimidation, if not the actual use of force, to pressure others into recognition of its claims.

China must bear much of the burden for lowering military tensions and restoring an atmosphere conducive to dialogue. On the other hand, Vietnam, the Philippines and ASEAN as a whole will do well to build their own consensus on the issue and clarify to China the parameters of their proposed multilateral approach for addressing the disputes, as well as their expectations for the Code of Conduct.

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