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STANDING UP TO THE CHALLENGE: CHINA'S APPROACH TO ITS MARITIME DISPUTES

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In dealing with its maritime disputes, China has lately followed an intransigent approach to strengthen its sovereignty claims in the China seas (The East China Sea and South China Sea) Beijing asserts not only its sovereign right but also its actual control of those disputed islands. By regularly dispatching maritime patrol vessels and surveillance aircrafts to the surrounding waters and skies, China has brought the Huangyan islands from the Philippines back under its control and made what is referred to as 'dual control' of the Diaoyu/Senkaku islands a new reality. China rejects US involvement in the disputes and is prepared to go a long way to defuse anti-China encirclement in the region..

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Introduction

No one would dispute the fact that almost all major powers engage in regional politics and pay special attention to their respective neighbourhoods. China too has in this author's view been seeking to promote a stable, peaceful and prosperous neighbourhood with its 'good-neighbour policy'. To achieve this goal, China has invested resources and political capital to resolve border disputes with its neighbours from a Chinese perspective, on generous terms. As one expert put it, in settling 17 of its 23 territorial disputes China usually agreed to take less than half of the contested land¹. That said, however, little progress has been made on the settlement of the maritime disputes in the East China Sea and South China Sea. Instead, China has been adopting a "shelving" policy, i.e. a policy to "shelve the disputes and work for joint development", in the hope that acceptable solutions to conflicting sovereignty claims could be found in the future.

However, as Japan, the Philippines, Vietnam, among others, have become more assertive as regards territorial claims in the East China Sea and the South China Sea, Beijing has found that the policy of 'shelving' territorial disputes is no longer working. To Beijing's disappointment, China's peripheral environment is deteriorating because of those troubling maritime disputes while Chinese economic power and international influence is growing. And Beijing suspects that the re-emergence of tensions over disputed territories in Asia, to some extent, results from the so-called US 'pivot', i.e. the 'rebalancing' of US security policies towards Asia Pacific². Counterbalancing China through interfering in China's maritime disputes seems to be a strong element of the Obama administration's 'pivot' strategy. In its most recent responses, China has followed an intransigent approach to strengthen its sovereignty claims in both the East China Sea and South China Sea. However, this does not necessarily mean China will from now on be conducting a fundamentally different neighbourhood policy.

Asserting control over disputed islands

For some time China has been reiterating its sovereignty claims over such islands as Diaoyu Islands (which Tokyo calls Senkaku Islands) and Huangyan (which is known as Scarborough Shoal outside of China) when

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¹ T. FRAVEL, *Regime Insecurity and International Cooperation: Explaining China's Compromises in Territorial Disputes*, «International Security», vol. 30, no. 2, Fall 2005, pp. 46-83.

² M.E. MANYIN *et al.*, "Pivot to the Pacific? The Obama Administration's 'Rebalancing' Toward Asia", Congressional Research Service, R42448, 28 March 2012, <http://www.fas.org/sgp/crs/natsec/R42448.pdf>.

those claims are challenged in one way or another by contesting claimants in the region. However, China has recently gone further to assert not only its sovereign right but also adopted policies to establish actual control over disputed islands.

Tokyo's 'nationalization' of three of the disputed islands in the East China Sea in September 2012 has been a turning point for the Sino-Japanese dispute over the Diaoyu/Senkaku Islands. Notwithstanding China's strong opposing position and repeated warnings, the Japanese government then led by Prime Minister Yoshihiko Noda in September 2012 decided to 'buy' three of eight islands belonging to the Diaoyu/Senkaku archipelago from the private owner. The 'nationalization' of the three islands has infuriated Beijing, leading to more assertive Chinese policies towards the disputed islands in the East China Sea. Beijing feared that the status quo in the East China Sea is changing to its disadvantage jeopardizing China's long-term strategy to again control and possess the islands in the not so distant future. Tokyo buying some of the islands, it was feared, could strengthen Japan's de jure sovereign control of the islands. Beijing never felt so strongly about the territorial dispute with Japan fearing that it might rather sooner than later lose the islands for good, unless it reacted instantly and forcefully to the change of the previous status quo.

As a consequence, the Chinese people launched large-scale anti-Japanese protests with occasional violence against Japanese diplomatic and commercial targets all over China. The Chinese government issued formal protests to the Japanese government, cut trade linkages with Japan, and issued a new version of Chinese passport showing the Diaoyu islands, as well as the disputed islands in the South China Sea, in a watermark map of China. More importantly, China has begun to seek to establish control over the Diaoyu islands by regularly dispatching its maritime patrol vessels and surveillance aircrafts to the surrounding waters and skies.

From a Chinese perspective, China has successfully transformed the 'nationalization' crisis into an opportunity to gain actual control over the Diaoyu islands, making 'dual control' of the islands a new reality. Even though China has not gained a sole control in the disputed territory, the Japanese control has been considerably challenged and weakened. Since 1972 when the Diaoyu/Senkaku islands, along with Ryukyu and Daito islands, were 'returned' from America's trusteeship to Japan's jurisdiction³, the disputed territories had been actually under Japanese administration. It is ironic however, that Japan's attempt to 'nationalize' the disputed

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³ See, ZHONGQI PAN, *Sino-Japanese Dispute over the Diaoyu/Senkaku Islands: The Pending Controversy from the Chinese Perspective*, «Journal of Chinese Political Science», vol. 12, no. 1, Spring 2007, pp. 71-92.

islands attempt has led to a loss of control, at least partially, to its contender China. If we take Japanese actual administration as the status quo of the Diaoyu dispute since 1972, this status quo was redefined 40 years later. ‘Dual control’ exercised by both China and Japan has become a new reality, no matter how risky and volatile it becomes⁴.

China’s maritime disputes with the Philippines and Vietnam too deteriorated over the last two to three years. In contrast to Japan, the Philippines and Vietnam have tried to strengthen their sovereignty claims in the South China Sea mainly through domestic legislations. In 2009, the Philippines passed an archipelagic baseline law to delineate several contested islands including the Huangyan as parts of its maritime territory. In June 2011, it even renamed the part of the South China Sea to its west as the West Philippine Sea. In June 2012, Vietnam passed a maritime law – the Law on the Sea, which claims sovereignty and jurisdiction over the Xisha (or Paracel) and Nansha (or Spratly) islands which have been claimed by China what Beijing typically refers to as Chinese ‘indisputable territory’. Those domestic legislations, as well as their other sovereignty claiming activities, triggered China’s strong responses.

When Chinese fishing boats were harassed by the Philippine navy vessels around the Huangyan islands in April 2012, China launched a series of ‘punches’ including diplomatic, economic, and military measures in response to the actions of the Philippine navy vessels. As a result, China brought the Huangyan islands back under its control. China not only dispatched maritime patrol vessels to the area, but also left a rope as a symbol of permanent presence after the withdrawal of the Philippine ships.

In its response to the Vietnamese new maritime law, China quickly announced the establishment of a new prefectural-level administration, Sansha, that includes three island groups in the South China Sea, i.e. the Nansha, Xisha and Zhongsha (or Macclesfield Bank) islands. By raising the level of governance from county to prefecture, China hopes to strengthen its administration over those island groups and their surrounding waters. In addition, Beijing has made patrolling around the South China Sea with its surveillance ships an increasingly regular routine.

As far as the disputed islands in the South China Sea are concerned, China has sought to tighten its actual control over those under its administration, which in turn further fortifies its sovereignty claims.

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⁴ K. RUDD, *A Maritime Balkans of the 21st Century?*, «Foreign Policy», 30 January 2013, http://www.foreignpolicy.com/articles/2013/01/30/a_maritime_balkans_of_the_21st_century_east_asia?print=yes&hidecomments=yes&page=ful.

However, it seems that China is prepared to go further. Showing the image of the ‘nine-dashed-line’⁵ on its new passport map, for example, indicates that China will not give up its maritime claims based on this U-shaped line, despite its reluctance to provide an official interpretation and clarification of this demarcation. In recent years more regular and intensified law enforcement activities in the South China Sea have signalled China’s attempt to further consolidate its claims and control based on the “nine-dashed-line”.

Dealing with the US

Viewed from Beijing, dealing with US involvement in China’s maritime disputes adds to the difficulties the country already has dealing with individual claimant countries. Even though the US is not a party to any maritime disputes in the East China and South China Seas, its policies may easily change the equilibrium in a substantial way. For China, Washington’s ‘pivot’ to Asia strategy constitutes a very important backdrop that other contending claimants, in particular Japan, the Philippines and Vietnam, use to strengthen their territorial claims vis-à-vis China in the East and South China Seas. China firmly believes that without implicit and explicit US encouragement those countries will not change their assertive policies related to territorial disputes in the East and South China Seas.

When the US initially announced its intention to shift its strategic centre of gravity towards Asia, China was not alarmed. Instead, China saw it as an opportunity to develop “a positive, co-operative and comprehensive relationship” with the US in the aftermath of the global financial crisis. To China’s disappointment, however, the Obama administration’s ‘pivot to Asia’ policy is putting less and from a Chinese perspective not enough emphasis on economic engagement. In fact, it turns out to be a strategy increasingly centred on security and military issues. When President Obama delivered a speech at the Australian parliament in November 2011, followed by the build-up of a US naval base in Darwin⁶, and US Pentagon announcements that the US would deploy 60 per cent of US naval forces to Asia in June 2012, Beijing was convinced that the US ‘pivot’ strategy’s objective is to contain China.⁷

⁵ See, HONG NONG, *Interpreting the U-shape Line in the South China Sea*, China US Focus, 15 May 2012, <http://www.chinausfocus.com/peace-security/interpreting-the-u-shape-line-in-the-south-china-sea/>.

⁶ Office of the White House Press Secretary, “Remarks by President Obama to the Australian Parliament”, speech delivered at the Parliament House, Canberra, Australia, 17 November 2011, <http://www.whitehouse.gov/the-press-office/2011/11/17/remarks-president-obama-australian-parliament>.

⁷ R.S. ROSS, *The Problem With the Pivot*, «Foreign Affairs», vol. 91, no. 6,

As a reaction to Washington's changing naval strategy in Asia, China does not simply opt for a countering strategy vis-à-vis the US pivot. It continues to reassure the US, as well as other countries in and beyond the region, that it will stick to its path of peaceful development, reiterating that it will strive to build "a new type of great-power relationship" with major powers, in particular the US, in order to avoid repeating the historic tragedy of great power politics. At the same time, China has voiced its concerns about potential negative consequences that the US pivot may have on Asia's geopolitical and security environment. China tries to persuade the US that it should adopt a new thinking in line with a changed international environment of the new century. So far, China has taken a generally 'wait and see' approach⁸ towards the US pivot in general, and the Trans-Pacific Partnership (TPP) initiative in particular.

With the US rebalancing strategy unfolding, the US has changed its long-time hands-off position towards the maritime disputes in East Asia. Despite the fact that the US continues to point out that it will not take side in the China-Japan dispute over the Diaoyu/Senkaku islands, the Obama administration has repeatedly stated that it opposes any unilateral change of the status quo and that the Article V of US-Japan Security Treaty is applicable to the disputed islands. The latest Senate bill for 2013 military authorization act leaves no doubt that the disputed islands are covered by the US Japan Security Treaty, i.e. in the case of a Japanese-Chinese military conflict over the islands Washington would be legally obliged to fight alongside Japan against China. The US seems to be what I refer to as 'fence-sitter' and Washington's policies towards the China-Japan maritime dispute are characterized by ambiguities. While the US grants Japan security guarantees, Japanese Prime Minister Shinzo Abe was warned of not firing the first shot in a possible conflict in the East China Sea during his first visit to the US⁹. When China asked for further explanations of the US policy, it was told that "taking no stand" does not mean being 'neutral' and it was warned that the US is Japan's military ally and therefore will not sit by in the case of China-Japan military confrontation over the disputed islands. From a Chinese perspective, the US policy is misleading and jeopardizing the management of maritime disputes in East Asia. Consequently, China has strived to reject US involvement in the disputes, although it knows that is a rather wishful thinking as opposed to a realistic policy option.

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November/December 2012, pp. 70-82.

⁸ See M.D. SWAINE, *Chinese Leadership and Elite Responses to the U.S. Pacific Pivot*, «China Leadership Monitor», no. 38, summer 2012.

⁹ See M. AUSLIN, *An Open Letter to Shinzo Abe*, «Wall Street Journal», 20 February 2013, <http://online.wsj.com/article/SB10001424127887323495104578311651565558658.html>.

While citing its security treaty with Japan to entangle itself in the East China Sea disputes, the US mainly focuses on its interests on free navigation when formulating its policies towards the South China Sea. In July 2010 in Hanoi, then US Secretary of State Hillary Clinton defined “freedom of navigation” as central to US interests in the disputed waters. Through that declaration, the US declared its support for the negotiating positions of the Philippines and Vietnam. However, the Obama administration does not give the Philippines and Vietnam the security guarantee it gives to Japan. For China, the US calling for guarantees of free navigation is irrelevant. Instead, Beijing emphasizes that ‘freedom of navigation’ has never been a problem in the South China Sea and tried to convince the US that China has no intention hindering ‘freedom of navigation’ in disputed waters. The Chinese leadership and public alike believe that the US is just taking ‘freedom of navigation’ as a pretext to disguise its real intention of containing a rising China. Consequently, when China attempts to gain control over disputed islands in the China seas, it does not only target at those claimants, but also sends a signal of disapproval to the US, as well as other non-claimants.

Countering anti-China encirclement

For China challenges from Japan, the Philippines and Vietnam are turning the China seas into troubled waters, which in turn have made China’s ‘shelving’ policy more difficult to sustain. The contending claimants, emboldened by the US support, take advantage of the above-mentioned US rebalancing towards Asia in defiance of Chinese interests and policies. In addition, the claimant countries also strengthen relations between each other. The Philippines and Vietnam e.g. now grant each other mutual support for their respective sovereignty claims in the South China Sea. Furthermore, they worked together trying to turn the ASEAN into a multilateral forum handling their maritime disputes with China. Japan has joined them and signed strategic partnerships with the Philippines and Vietnam and expanded their defence cooperation and military exchanges. Earlier this year, Shinzo Abe visited various countries in Southeast Asia. During his trip Abe emphasized its common interests with the Philippines, Vietnam, among others, in handling their respective maritime disputes with China. Later, Japan granted Taiwan a long-awaited fishing right agreement, which was aimed at excluding Taiwan from the Diaoyu/Senkaku islands. While China does not embark on a tit-for-tat approach towards the US anti-China strategy, it does not hesitate to react to anti-China encirclement in the region.

While China has kept up economic, political, and sometimes military pressure on individual rival claimants, Beijing has at the same time attempted to prevent other claimants from forming a united front against

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China. When the Philippines and Vietnam tried to mobilize other ASEAN countries' support for their maritime claims in the South China Sea, China has used its influence to urge ASEAN not to turn a bilateral maritime dispute between China and some individual ASEAN members into a dispute with ASEAN as a whole. Therefore, China has rebuffed the proposal that the South China Sea maritime disputes should be settled altogether in a multilateral regime, arguing that the various disputes differ from each other which from a Chinese perspective stands in the way of adopting a multilateral solution. From a Chinese perspective, a multilateral framework would only complicate the problems further. China might not be able to enjoy an advantageous position in a framework of multilateral negotiations. Hence, negotiating bilaterally with claimant countries will continue to be the only acceptable formula for China when addressing maritime disputes.

Despite being confronted with a potential anti-China alignment along its maritime borders, Beijing is not planning to react by developing a counterbalancing arrangement. Not least as Beijing is aware that such a reaction would play into the hands of anti-China hardliners in neighbouring countries. However, Beijing does need to rally international support for its territorial claims. China has convinced some ASEAN countries, such as Cambodia, Laos, Myanmar and Thailand, to prevent the Philippines and Vietnam from putting territorial conflicts in the South China Sea onto ASEAN's summit agenda. Partially because of their disagreement on inclusion of the South China Sea issue in the final text, the ASEAN foreign ministers annual meeting for the first time did not produce a joint statement in July 2012. China has also gained tacit support from such countries as Russia and South Korea, which have maritime territorial disputes with Japan. It is not likely, however, that China will align with them on the maritime issue to form a joint arrangement against Japan, even though many Chinese support Russia's and South Korea's claims vis-à-vis Japan's in the Kuril and the Dokdo islands respectively.

Despite strong criticism against other claimants, even preparation for the worst-case scenario¹⁰, China has kept the door to negotiations open. Through bilateral diplomatic channels, China has sent representatives to Japan, the Philippines and Vietnam, and has in turn received counterparts from those countries in order to work out mutually acceptable solutions. China has also turned to ASEAN for a full implementation of the Declaration on the Conduct of Parties in the South China Sea that was signed in 2002. In April 2013, after high-level consultations, China and the ASEAN agreed to make joint efforts toward

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¹⁰ *China ready for worst-case Diaoyu scenario*, «Global Times», 11 January 2013.

“a code of conduct in the South China Sea”. With regard to Japan, China has urged the Japanese government to accept the fact that a dispute does exist between the two countries over the Diaoyu/Senkaku islands as a precondition for bilateral negotiations.

Moving towards a resolution or returning to business as usual?

China’s maritime territorial claims are not an automatic consequence of its rising power and improved position in the international system. Weak or strong, China has always sought to retake its lost territories. It is fair to conclude that China has become more assertive than before to deal with its maritime disputes. However, China is not eager to get the disputed islands back if a peaceful solution is unavailable. Instead, it would rather return to its previous “shelving” policy, allowing more time for diplomatic solutions.

However, China realizes the impatience of other claimants, who may feel less confident when China is getting stronger and see the above mentioned US “pivot” as an opportunity to confront China in the maritime disputes. And China, deeming that the US is using those disputes to conduct its rebalancing strategy, comes to a conclusion that something must be changed. Neither China nor the other claimants and non-parties to the disputes, including the US, are prepared to go to war over disputed maritime disputes. For China, the best strategy to get claimant countries to a negotiation table is to show them the real danger of conflict.

Rising to the challenge, China is regaining or reinforcing its actual controls over some disputed islands, making dual Chinese-Japanese control of the Diaoyu islands a new reality. The maritime disputes in the China seas thus will not return to business as usual even if a non-military solution is still void. While we cannot rule out a conflict scenario, China’s preferred policy option is still the above mentioned “shelving” of territorial disputes and the maintenance of the new status quo. China will have to devote more attention to its maritime neighbourhood in years to come and Chinese strategies and policies will have to take account of positions in Japan, the Philippines, Vietnam and last but not least in the US.

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