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South China Sea and the New Great Game

by Marius Grinius
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POLICY PAPER

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► Executive Summary

Arguably, the South China Sea drama is an important piece in the new “Great Game” that is being played out between the world’s current superpower (US), perceived by some to be in decline, and the new challenger (China) that wants to take its rightful place as an equal and perhaps even more. The US is faced with the strategic challenge of how to manage China’s global ascendancy peacefully. China’s unilateral actions in the South China Sea, which include claims of sovereignty of the islands reaching back to ancient times, the construction of artificial islands in the Spratlys and Paracels, airfield extensions, and deployments of surface-to-air and anti-ship missiles, do not bode well for any future peaceful settlement of South China Sea disputes in which Taiwan, Brunei, Vietnam, Malaysia and the Philippines are also claimants. While the US has not taken sides in these territorial disputes, its strenuous insistence on its right of freedom of navigation through disputed waters has brought the US into confrontation with China, at a time when the latter is modernizing and restructuring its military forces. Ironically, all sides claim that their actions are aimed at maintaining peace and stability in the region. Some observers fear, however, that the situation will ultimately lead to a military clash between China and the US.

It is in Canada’s highest interest to ensure that the South China Sea indeed remains a zone of peace, stability, prosperity and open international passage. Canada can contribute to these goals by showing the flag through participation in various multinational maritime exercises in the region in support of UNCLOS, by demonstrating through diplomatic means that it is closely following the situation and actually has a national position on the issue, and by contributing to its resolution through renewed involvement in Track Two dialogue by Canadian Law of the Sea experts. In the bigger context of the new Great Game, however, the question remains whether China, for all its growing economic and military clout, can act as a responsible global leader that supports and defends the rule of international law.





THE CHINESE DREAM: A RESURGENT CHINA

Everyone has an ideal, ambition and dream. We are now all talking about the Chinese Dream. In my opinion, achieving the rejuvenation of the Chinese nation has been the greatest dream of the Chinese people since the advent of modern times.”¹ To realize the dream, President Xi Jinping set two ambitious goals for China during his speech: to achieve a moderately prosperous society in all respects by the centenary of the Communist Party of China (CPC) in 2021, and to build China into a modern socialist country by the centenary of the People’s Republic of China in 2049.

Some China watchers have described Xi’s “Chinese Dream” as simply a political slogan, a political gimmick. This may well be; but, the Chinese military have enthusiastically taken it on board. The latest Chinese military strategy white paper, released on May 26, 2015, refers to the Chinese Dream in its first paragraph and repeats it another four times in the text.² The white paper outlines an updated, more robust, strategic concept of “active defense”. Under it, the People’s Liberation Army Navy (PLAN) will gradually shift its focus from “offshore waters defense”, i.e. a coastal navy, to the combination of “offshore waters defense” with “open seas protection”, i.e. a blue water navy. Bolstering naval resources will provide the needed impetus to PLAN’s 1985 operational concept of “the first island chain”, which seeks to control the Yellow Sea, the East China Sea and the South China Sea.³

The white paper also reconfirmed that “China’s armed forces will unswervingly adhere to the principle of the Communist Party of China’s absolute leadership....” Equally important, the white paper reconfirmed the ongoing fundamental restructuring of the PLA away from its traditional low-technology army towards a high-technology, joint operations approach that emphasizes new naval and air power capabilities, a sophisticated command structure and upgraded nuclear forces, as well as greater military capacity in outer space and cyberspace.⁴ This restructuring has included an even more dominant role for the Central Military Commission chaired by Xi Jinping who “...urged military leaders to unswervingly follow the Communist Party of China (CPC)’s absolute leadership over the armed forces while meeting with the [15] new heads of reorganized military organs....”⁵

From 2005 through 2014, China’s official military budget increased at an average rate of 9.5% per year in real terms.⁶ This growth rate is commensurate with China’s GDP growth since 1978 that has averaged nearly 10% a year, “the fastest sustained expansion by a major economy in history” as China became the second largest economy in the world according to the World Bank.⁷ China’s considerable economic clout manifested itself in the initiative to build the Silk Road Economic Belt and the 21st Century Maritime Silk Road, known as the One Belt One Road initiative. China also established the Asian Infrastructure Investment Bank (AIIB) where the \$40B US Silk Road Fund has started implementing specific infrastructure projects. The combination of economic incentives, reinforced by increasing military clout, is making China a formidable geopolitical player in the Asia Pacific region and beyond as it pursues its Chinese Dream.



THE NINE DASH LINE

“I know that people have been closely following China’s policy on the South China Sea. Let me make this clear: The South China Sea islands have been China’s territory since ancient times. It is the bounden duty of the Chinese government to uphold China’s territorial sovereignty and legitimate maritime rights and interests. The starting point and ultimate purpose of China’s policy towards the South China Sea is to maintain peace and stability there.”⁸ On China’s terms, one might add. Xi only reconfirmed what had already been official Chinese policy. The Permanent Mission of the People’s Republic of China to the United Nations stated in 2009 that “China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over relevant waters as well as the seabed and subsoil thereof (see attached map)”.⁹ The diplomatic note contained a map showing a “Nine Dash Line” which encompasses most of the South China Sea, including islands and shoals currently also claimed by Taiwan, Brunei, Malaysia, Vietnam and the Philippines.¹⁰ What is less clear is how much maritime area that is encompassed by the Nine Dash Line China actually claims.

The Nine Dash Line map ironically appears to be based on a 1947 map with 11 dashes that had been produced by the previous Kuomintang nationalist government of China. Taiwan, like mainland China, maintains that its claims to the various island and reef archipelagos are equally “undisputable”. Indeed, last January former President Ma Ying-jeon briefly visited the island of Itu Aba (aka Taiping Island) in the Spratlys, the only island in the South China Sea that is occupied by Taiwan, with some 200 coast guard personnel. He reconfirmed that “whether from the perspective of history, geography, or international law, the Nansha (Spratly) Islands, Shisha (Paracel) Islands, Changsha (Macclesfield Bank) Islands and Tungsha (Pratas) Islands, as well as their surrounding waters, are an inherent part of ROC territory and waters...This is undisputable.”¹¹ President Ma also outlined his own South China Sea Initiative Roadmap which seemed to be promptly ignored by the other claimants. While Taiwan and mainland China relations are often prickly, they seem to coincide with respect to their South China Sea claims.

Xi has given the PLA its marching orders to robustly defend those sovereign rights against all comers, including the United States. China continues its ambitious dredging program to make artificial islands out of the reefs and shoals that it occupies within the Paracel and Spratly archipelagos, which are contested by other claimants. Chinese dredging operations, a total of some 3000 acres so far, have allowed the construction of substantive airstrips that now host Chinese military aircraft.¹² The artificial islands have also facilitated the deployment of surveillance and early warning radars, anti-ship missiles and surface-to-air missiles.¹³ Separately, in 2014 China moved an oil rig into waters contested by Vietnam near the Paracels. To the protests of Vietnam, another Chinese oil rig is back in the same area which a Chinese Ministry of Foreign Affairs says is “...in waters under undisputed jurisdiction of China.”¹⁴ What Xi says on the South China Sea, goes. Chinese actions, however, have raised concerns among its neighbors, and not only the other claimants.



LAW OF THE SEA/LAW OF THE JUNGLE

Maritime behavior and maritime territorial sovereignty are generally guided by the UN Convention on the Law of the Sea (UNCLOS), which entered into force in 1994 and has 167 signatories, including China. The US signed the UNCLOS Agreement on Implementation but has not ratified the Convention itself.¹⁵ The Convention defines a state's territorial waters as 12 nautical miles, with foreign vessels allowed transit rights or "innocent passage", a further 12 nautical mile contiguous zone where a state has jurisdiction for customs, taxation, immigration and pollution and a 200 nautical mile Economic Exclusion Zone (EEZ) where a state has sole exploitation rights over natural resources, including fishing.¹⁶ With an estimated 11 billion barrels of oil, 190 trillion cubic feet of natural gas, and \$5.3 trillion annual trade passing through the South China Sea,¹⁷ all claimants in the ongoing drama have, to varying degrees, invoked UNCLOS to "prove" that their national positions are indeed right.

In March 2014, the Philippines submitted its case to the Permanent Court of Arbitration for UNCLOS-related matters. The Philippines argued that under UNCLOS China is not entitled to exercise what it refers to as "historic rights"; the nine-dash line has no basis whatsoever under international law; that various maritime features relied by China as a basis to assert its claims are not islands that generate EEZ entitlement;¹⁸ that China breached the Convention by interfering with the Philippines' exercise of its sovereign rights and jurisdiction; and, that China has irreversibly damaged the regional marine environment. China's response was to boycott the proceedings, arguing that the Permanent Court had no jurisdiction in the matter.¹⁹ More recently, China's Ministry of Foreign Affairs stated that "the crux of the China-Philippine disputes in the South China Sea is the territorial dispute caused by the Philippines' invasion and illegal occupation of some islands and reefs of China's Nansha Islands, as well as the disputes on maritime delimitation between China and the Philippines. The compulsory settlement procedure provided for in UNCLOS does not apply to these disputes."²⁰ The Permanent Court, however, ruled that it does indeed have jurisdiction to rule on the case and that it will provide its various determinations in mid-2016.

Ironically, in March China's Chief Justice Zhou Qiang stated in the Supreme Peoples' Court that China intends to create an international maritime judicial centre that would better protect its national sovereignty, maritime rights and core interests.²¹

In the meantime at their 14th annual meeting in April, the foreign ministers of China, Russia and India made a reference to their commitment to maintain a legal order for the seas and oceans based on UNCLOS. They pointedly stated that "all related disputes should be addressed through negotiations and agreements between the parties concerned."²² There is no need for third party arbitration or meddling by outsiders.



THE CANADIAN OUTSIDERS

In the late 1980s, throughout the 1990s and up to about 2006, Canadian Asia experts from academia were closely involved in all relevant security Asian fora. The Canadian Consortium on Asia Pacific Security (CANCAPS), a group of some 100 researchers in institutions across Canada was highly active in Track Two diplomacy (informal, non-governmental and unofficial) on Asian security issues. This included Canadian experts in the Law of the Sea who addressed challenges in the South China Sea through a ten-year series “Managing Potential Conflicts in the South China Sea” which was co-hosted and funded by Indonesia and Canada’s CIDA. Canadian researchers were regularly producing papers on Asian security issues.²³

ASEAN IN DISARRAY

The ten-member Association of South East Nations (ASEAN) prides itself on its emphasis on consensus-building, as well as on non-interference in the internal affairs of its members, given the disparate nature of their political regimes which range from democracies to an absolute monarchy to military and communist dictatorships. The South China Sea issue, however, has broken ASEAN’s consensus approach, at least on regional security issues. At their meeting on March 16, 2015, ASEAN defence ministers made a mild reference to the South China Sea by underscoring the importance of freedom of navigation and overflight. Their November 2015 meeting with defence counterparts from the eight East Asia Summit countries, which include China and the US, produced no consensus joint document. The ASEAN Summit later that month simply noted that defence ministers had had “fruitful discussions”. In April 2016, Chinese Foreign Minister Wang Yi informed journalists in Vientiane that China had reached “an important consensus” with Brunei, Cambodia and current ASEAN Chair Laos and that the South China Sea territorial dispute should not affect relations between China and ASEAN.²⁴ In other words, the three countries agreed with China “that ASEAN claimant states should negotiate disputes with Beijing directly, not through the group.”²⁵ Ironically ASEAN Foreign Ministers first adopted a statement on the South China Sea back in 1992.²⁶ On November 4, 2002, ASEAN and China adopted the Declaration on the Conduct of Parties in the South China Sea. This was then followed by what was to be the implementing agreement at the ASEAN-China Summit on October 8, 2003.²⁷ Discussions on implementation continue with no outcome expected anytime soon, as China prefers to deal bilaterally with each ASEAN claimant, perhaps following Sun Tzu’s advice to “cause division among them”.²⁸ The Chinese defence white paper notes that “...some of its offshore neighbors take provocative actions and reinforce their military presence on China’s reefs and islands that they have illegally occupied.” When the Philippines had proposed a meeting of ASEAN claimant states in 2014, Brunei demurred stating that it was not in its national interest to attend.

Over the past twelve months, there have been a number of security-related developments among individual ASEAN states. Singapore granted the US permission to fly sophisticated surveillance aircraft out of its territory to monitor China’s island-building. The Philippines re-opened Subic



Bay military base and signed the Enhanced Defense Cooperation Agreement which allows the rotation of US forces in five military airfields, two naval bases and a jungle training camp. The Philippines and the US recently completed their annual war games. The Philippines also officially requested from Japan a donation of used large coastguard vessels for surveillance. Vietnam received its fifth of six Russian *Kilo* class submarines and is negotiating with the US and European manufacturers to purchase new fighters, maritime patrol aircraft and drones. Japan gave Vietnam six used ships to bolster the Vietnamese navy's surveillance capacity. Vietnam recently opened its new deep-water port facility in Cam Ranh Bay, with a French amphibious assault ship among its first visitors. Japanese warships plan to visit later this year and Vietnam is negotiating with the US about the possible use of the port.²⁹ During his official visit to Vietnam, President Obama announced that the US "is fully lifting the ban on the sale of military equipment to Vietnam that has been in place for some 50 years." He stated that "the US and Vietnam are united in our support for a regional order, including in the South China Sea," and repeated that the US "will continue to fly, sail and operate wherever international law allows...."³⁰ There have also been media reports that the Philippines and Vietnam are exploring the possibility of joint exercises and naval patrols in the South China Sea.³¹ Malaysia decided to buy six US attack helicopters. Indonesia, which is having challenges with Chinese illegal fishing in its territorial waters (China's Nine Dash Line overlaps Indonesia's exclusive economic zone around the Natuna Islands), is looking to build a military base in the Natunas.

In the meantime, a PLAN task force of three ships was making goodwill stops in Thailand and Cambodia. China has not only succeeded in dividing ASEAN over the South China Sea issue, it has energetically tried to keep outsiders from interfering. The Chinese white paper notes that "some external countries are also busy meddling in South China Sea affairs." When Australian Foreign Minister Julie Bishop said that she intended to raise the issue of Chinese reclamation projects during her official visit to Beijing last February, the Chinese MFA promptly stated, even before she arrived in Beijing, that "Australia should adopt an objective and impartial position and avoid doing anything to harm regional peace and stability."³² A week later, when it released its latest defence white paper Australia noted that "this combination of competing territorial claims and growth in military capability has the potential to destabilise the region and threaten Australia's interests.... Australia is particularly concerned by the unprecedented pace and scale of China's land reclamation activities."³³ The same day the Chinese MFA spokesperson stated that "we are seriously concerned about and dissatisfied with the [Australian] white paper's negative statement on issues concerning the South China Sea".³⁴ When G7 Foreign Ministers issued a statement on maritime security that referred to the situation in the South China Sea,³⁵ the Chinese MFA called in G7 diplomats to solemnly clarify China's position. It noted that the "G7 should have focused on global economic governance and cooperation instead of hyping up maritime issues and fueling tensions in the region. China is strongly dissatisfied with relevant moves taken by G7."³⁶

More recently Xinhua News Agency, China's official press agency, referred to the April trilateral (China, Russia, India) foreign ministers' meeting and noted that "the international community opposes internationalization of South China Sea disputes." It counted the three, plus Brunei, Cambodia and Laos, as well as Fiji, Sudan and Gambia as supporting China's position on the



ongoing dispute with the Philippines.³⁷ Another, possibly more credible, interpretation could be that there is little support for China's position in the dispute and growing concern about China's ambitions in the South China Sea.

THE US PIVOT

Arguably, the South China Sea drama is an important piece in the new "Great Game" that is being played out between the world's current superpower (US), perceived by some to be in decline, and the new challenger (China) that wants to take its rightful place as an equal and perhaps even more. The US is faced with the strategic challenge of how to manage China's global ascendancy peacefully. Unfortunately, the US is also distracted by other geopolitical crises including an increasingly belligerent Russia as well as the mess in Syria/Iraq.

China, as it continues to gain global stature, is deeply suspicious of the ongoing US rebalancing of military forces, including naval assets, towards Asia. China may view this rebalancing as an effort to contain them, much like the US policy of containment against the Soviet Union during the Cold War.³⁸ Five of the United States' seven collective defence arrangements are with countries in the Asia-Pacific region.³⁹ Xi's vision, however, does not include a security role for the US in Asia. In 2014 he stated, "In the final analysis, it is for the people of Asia to run the affairs of Asia, solve the problems of Asia and uphold the security of Asia."⁴⁰ Xi reinforced this message on April 28, 2016, when he stated: "...that we may explore the building of a new architecture of regional security cooperation that reflects Asian needs." He went on, however, to say in a more conciliatory tone that "we welcome countries outside the region making positive contribution to peace and stability here and working with Asian countries to promote security, stability, development and prosperity of Asia."⁴¹

The Center for Strategic & International Studies (CSIS) recently concluded that "whether they have seized territory or negotiated a resource-sharing scheme with some or all claimants, the South China Sea will be virtually a Chinese lake, as the Caribbean or the Gulf of Mexico is for the United States today. China's military capability and capacity will shape how the region behaves towards them without a need for menacing Chinese behavior."⁴² A Chinese lake anywhere is anathema to the United States. While the US has defence arrangements with the Philippines and Thailand, it has not taken a position on territorial claims, nor does it recognize any claimant's right to alleged territorial waters. Indeed, the primary US goal is to preserve its right to freedom of navigation at sea, including innocent passage through territorial waters, a goal that brings it into conflict with China's island-building and military activities in the South China Sea. The US Department of Defense "Freedom of Navigation Program" fact sheet dated March 2015 states that "Since the founding of the nation, the United States has asserted a vital national interest in preserving the freedom of the seas and necessarily called upon its military forces to preserve that interest". The paper refers to the 1983 US Oceans Policy which states that "the United States will exercise and assert its navigation and overflight rights and freedoms on a worldwide basis in a manner that is consistent with the balance of interests reflected in the [UNCLOS] convention. *The United States will not, however, acquiesce in unilateral acts of other states designed to restrict the rights and freedoms of the international community in navigation and*



*overflight and other related high sea uses.*⁴³ To that end, from October 1, 2014 through September 30, 2015, the US carried out freedom of navigation (FON) challenges to 13 states which the US believed had “excessive maritime claims”. These states included China, Indonesia, Malaysia, Philippines, Taiwan and Vietnam.⁴⁴

The Chinese-US military minuet, supported by verbal salvos and diplomatic agreements to disagree, has been ongoing for some time. The US Navy has carried out a number of freedom of navigation operations (FONOPS), with warships and aircraft, near artificial islands occupied by China. China has described these actions as dangerous, irresponsible and contrary to Chinese law. China carried out its own FONOP last September when five Chinese warships sailed inside 12 nautical miles of the US Aleutian island chain without seeking prior US approval and without any US protest. Critics of the Obama administration, including US Senators, have called for a more assertive response to Chinese moves. Other critics have stated that the US is already too aggressive. Admiral Harris, Commander of Pacific Command (PACOM), testified that “China’s base-building and militarization of the South China Sea, its lack of transparency regarding military modernization efforts and continued malicious cyber activity raise regional tension and greatly hinder US-China cooperation.” On the other hand, he noted that “USPACOM executed over 50 bilateral and numerous multilateral engagements last year [2015] with China.”⁴⁵ The US has expressed “serious concern” over the deployment of surface-to-air missiles which it views as further militarization of the region. China has shot back (verbally only), saying that US naval deployments in the South China Sea are provocative and the real cause of escalating tension. China recently denied a USN carrier strike group to visit Hong Kong but allowed the USS Blue Ridge, flagship of the US 7th Pacific Fleet, to visit Shanghai. In the same vein, the US has not revoked its invitation for China to participate in this year’s biennial maritime exercise entitled Rim of the Pacific (RIMPAC) in which navies from some 22 countries, including Canada, exercise together.

CHINA’S NOISY NEIGHBOURHOOD

While this paper focuses on the South China Sea, other territorial squabbles around China’s periphery make the wider geopolitical situation more linked, complex and frustrating. These disputes include China and Japan over the sovereignty of the Diaoyu/Senkaku Islands which lie atop rich petroleum reserves. Japan claimed that in 2015, Japanese fighter jets intercepted Chinese aircraft approaching or intruding Japanese airspace 571 times.⁴⁶ President Obama has reaffirmed that under its defence treaty with Japan, “our commitment to Japan’s security is absolute and article five [of the security treaty] covers all territories under Japan’s administration, including the Senkaku islands.”⁴⁷ Japan hosts US troops in 23 bases including ones on Okinawa. China and Japan’s 2014 agreement to improve bilateral ties, including on security, seem to have come to naught as Japan recently established a new radar and listening installation near the Senkaku Islands, while China has warned Japan not to get involved in the South China Sea disputes. Under a new defence accord, Japan will provide military equipment to the Philippines. Japan and Russia have yet to sign a peace treaty from World War II because of their dispute over four islands in the Kurils. Japan and South Korea continue their low-key



dispute over sovereignty of Dokdo/Takeshima Islands. The peaceful settlement under UNCLOS arbitration of this particular dispute would be a good model for others.

Under the rules of the new Great Game, if there are any, it is in both China's and Russia's mutual interest to challenge and to counter-balance the United States wherever and whenever they can. China and Russia have agreed to increase joint military exercises in 2016. As Russian Defence Minister, Sergey Shoigu stated to his Chinese counterpart, "The aim is to strengthen mutually beneficial relations of partnership."⁴⁸ This partnership has included Russian arms and technology transfers that have vastly improved the air defence and precision strike capabilities of China's maritime forces.⁴⁹ Having signed a \$400 billion gas deal with China in 2014 when it had few alternatives, Russia has strictly followed China's position on territorial disputes in the South China Sea, calling for their settlement through bilateral negotiations.⁵⁰ As a result, Russia appears to be China's junior partner in Asia. Following the examples of the US and China, Russia hosted a summit with ASEAN leaders on May 19-20 as part of Russia's strategy of "U-turn to the east" albeit mostly towards China. The Sochi Declaration referred to traditional and non-tradition security challenges gave anodyne support to "the early conclusion of an effective Code of Conduct (COC) on the basis of consensus."⁵¹ Obviously, greater consensus was missing.

India and China fought a short and sharp war in 1962 over a boundary dispute which is still not settled and which still generates occasional skirmishes along the ill-defined 3,488 km Line of Actual Control (LAC).⁵² Media reports indicate that at their 19th senior representatives' meeting on border issues, the Chinese representative indicated China's willingness to resolve its border dispute with India as early as possible, "the way it claimed to have done with 12 of its neighbours".⁵³ India, however, seems to be hedging its bets. While the Indian foreign minister had agreed with his Chinese and Russian counterparts about disputes being resolved bilaterally, there is an Indian-US military mating dance going on whereby the two countries have discussed anti-submarine warfare; India agreed to a modest US logistic access and the US agreed to expand collaboration under the Defense Technology and Trade Initiative, all motivated by mutual concerns over China's increased naval activity in the Indian Ocean.⁵⁴ This May, India sent an amphibious warfare ship to participate in the Brunei-Singapore hosted ASEAN Maritime Security and Counterterrorism Field Training Exercise (May 2-12, 2016) in which all eight East Asia Summit countries participated.⁵⁵ India also completed its biannual naval exercise with Indonesia, perhaps in order not to be outdone by the first ever Pakistan Navy – PLAN exercise in the East China Sea carried out late last December, early January. Recently India announced a two and a half month Indian Navy Eastern Fleet deployment into the South China Sea and North West Pacific. Ports of call include Cam Ranh Bay (Vietnam), Subic Bay (Philippines) and Port Klang (Malaysia). The four Indian ships will also join the US Navy and the Japanese Maritime Self-Defence Forces in the trilateral maritime exercise MALABAR-16 which began in 1992 and has occurred annually since 2002. There is no mention of visits to Chinese ports.⁵⁶



NEXT: MUDDLED STEPS IN MUDDIED WATERS

The new Great Game continues in the South China Sea. Given its ongoing unilateral actions and divisive behavior in the region, China is perceived as the neighborhood bully. This does not bode well for any future peaceful settlement of South China Sea disputes. In the short term, China will continue to vigorously proclaim its alleged indisputable territorial sovereignty, maritime rights, and interests and will back them up with additional military installations and deployments. It will also simply continue to ignore any further determinations emanating from UNCLOS Permanent Court of Arbitration arguing that, since the territory is indisputably Chinese, there is no need for any arbitration. In the meantime, Xinhua News Agency had written off the Aquino presidency as having “fallen under the influence of warmongers in Washington and Tokyo”. In wooing new Filipino President Duterte, it referred to the AIIB and the Silk Road program that promise new opportunities for regional countries including the Philippines: “China is a sincere partner of dialogue and cooperation in the region. Meanwhile, the meddlers will be delighted to see grudges and confrontations, even though they are at the cost of the Filipinos.”⁵⁷

The military minuet between the US and China will also continue with additional supporting actors in the region. Ironically, all sides will continue to state that their actions are aimed at maintaining peace and stability in the region. Some observers fear, however, that the situation will ultimately lead to a military clash between China and the US, one far more serious than the 2001 Hainan Incident where a US EP-3 reconnaissance plane collided with a Chinese F-8 fighter aircraft in the South China Sea off Hainan Island.⁵⁸ The US will need to be careful and resolute in how it manages its FONOPS exercises knowing that China will not and cannot back down. The same will apply for China as it continues to react to US operations. China described the latest US FONOPS by the USS William P. Lawrence as an “unauthorized illegal entry into Chinese waters...which further proved that China’s construction of defense facilities on related islands and reefs in the Nansha Islands is absolutely justified and necessary.”⁵⁹

China has done a poor job of communicating its legal position, if there is a credible one. More seriously, China’s aggressive military expansion in the South China Sea, its bombast and its clumsy, albeit partially successful, attempts to sow disunity within ASEAN have achieved the opposite of its strategic goal to exclude the US from the region. It would be a brave Chinese foreign policy adviser, however, to tell Xi Jinping that he should retract his statements about China’s ancient claims of sovereignty.

In the near term several potential developments could be credible indicators whether tensions in the South China Sea will remain under control or not. They include:

- China’s reaction, both verbal and physical, to the imminent Court of Arbitration decision which is expected to rule against China;
- Chinese and US military reactions to further, inevitably provocative, moves by either side, including through future FONOPS deployments;



- a possible decision by China later this year to occupy the Scarborough Reef which lies some 140 miles west of the Philippine coast and well within the Philippines' 200 nm EEZ; and,
- China's deliberate testing of a lame-duck US President or his successor.

In the longer term, two possible, if unlikely, developments would be positive contributions to lowering tensions:

- South Korea and Japan should submit their dispute over Dokdo/Takeshima to the UNCLOS Court of Arbitration as a model for the peaceful settlement of other territorial disputes in the region; and,
- The US finally ratifies UNCLOS, thereby attenuating any international criticism of hypocrisy while maintaining the US Navy's beloved right to freedom of navigation.

With China now Canada's #2 trading partner and Japan #3, with some \$5.3 trillion of trade passing through the South China Sea annually, with a bilateral Free Trade Agreement (FTA) in place with South Korea and the possibility of a 12-country Trans-Pacific Partnership agreement and eventual FTAs with China, Japan and India, it is in Canada's highest interest to ensure that the South China Sea indeed remains a zone of peace, stability, prosperity and open international passage. Canada can contribute to those goals by showing the flag with the Royal Canadian Navy and Royal Canadian Air Force through participation in various multinational maritime exercises in the region in support of UNCLOS, by demonstrating through diplomatic means that it is closely following the situation and actually has a national position on the issue, and by contributing to its resolution through renewed involvement in Track Two dialogue by Canadian Law of the Sea experts.

In the bigger context of the new Great Game, however, the question remains whether China, for all its growing economic and military clout, can act as a responsible global leader that supports and defends the rule of international law. If China does demonstrate responsible global leadership it will ultimately fulfill its Chinese Dream.



- ¹ Xi Jinping, "The Governance of China", Foreign Languages Press, Beijing, 2014. The quotation is from a chapter entitled "Achieving Rejuvenation Is the Dream of the Chinese People", a speech that Xi gave on November 29, 2012, soon after he had become Secretary General of the Communist Party of China.
- ² Chinese Ministry of National Defense, "China's Military Strategy", Beijing, May 2015.
- ³ The chain includes the Kuril Islands, the Japanese Archipelago, Ryukyu Islands, Taiwan, the Northern Philippines and Borneo. Global Security, "People's Liberation Navy – Offshore defense", <http://www.globalsecurity.org/military/world/china/plan-doctrine-offshore.htm>
- ⁴ Congressional Research Service "The Chinese Military: Overview and Issues for Congress" Ian E. Rinehart, March 24, 2016. Another good overview is the NIDS (National Institute for Defense Studies) China Security Report 2016 published in Tokyo in March 2016.
- ⁵ Reported in Xinhua News on January 12, 2016. Bo Zhiyue, "Is China's PLA Now Xi's Army?", The Diplomat, January 12, 2016 provides a good analysis of the changes.
- ⁶ CRS Report on the Chinese Military, March 24, 2016.
- ⁷ www.worldbank.org/en/country/china/overview. The World Bank defines the doubling of China's GDP by 2020 to be Xi's first centenary goal.
- ⁸ Xi Jinping, "Forging a Strong Partnership to Enhance Prosperity of Asia", The Singapore Lecture at the National University of Singapore, November 7, 2015.
- ⁹ PRC Permanent Mission to the UN, CML/17/2009, New York, May 7, 2009.
- ¹⁰ The US State Department paper "Limits in the Seas, No 143, China: Maritime Claims in the South China Sea", December 5, 2014, provides useful background information.
- ¹¹ Office of the President, Republic of China (Taiwan), Remarks by President Ma on Taiping Island, January 28, 2016.
- ¹² Statement of Admiral Harry B. Harris Jr., US Navy Commander, US Pacific Command before the Senate Armed Forces Committee on US Pacific Command Posture, February 23, 2016. Other claimants have built up a total of about 115 acres over 45 years, according to Harris.
- ¹³ It should be noted that Taiwan and ASEAN members Vietnam, the Philippines and Malaysia have also undertaken reclamation projects and military construction on islands that they claim in the Spratlys. None, however, are as large, or as ambitious, as the current Chinese projects.
- ¹⁴ Shannon Tiezzi, The Diplomat, "Vietnam to China: Move Your Oil Rig out of the South China Sea", April 9, 2016.
- ¹⁵ The US objection is related to modalities around seabed mining. US military testimony before the Senate Foreign Affairs Committee has generally not been in favour of ratifying UNCLOS emphasizing the US Navy's freedom of navigation. Treaty ratification in the Senate requires a two-thirds positive vote, something that remains unlikely in the foreseeable future. Taiwan, not a UN-recognized state, is also not a signatory of UNCLOS.
- ¹⁶ Environment and Climate Change Canada provides a short background. See ec.gc.ca/international
- ¹⁷ Global Conflict Tracker, "Territorial Disputes in the South China Sea", updated April 28, 2016. (<http://www.cfr.org/global-conflict-tracker/P32137#!>). This document also shows impact on US interests as "critical" and conflict status as "worsening".
- ¹⁸ UNCLOS recognizes territorial and EEZ sovereignty extended from islands but not from reefs, shoals or artificial islands like those being built by China or occupied by other claimants. Matters become more difficult when weapon systems are deployed on such artificial islands.
- ¹⁹ Permanent Court of Arbitration Press Release "Arbitration between the Republic of the Philippines and the Peoples' Republic of China" dated November 30, 2015 in The Hague provides an excellent layman's overview of the case. An international lawyer should read the more legalistic "PCA Case No 2013-19" dated October 29, 2015.
- ²⁰ PRC Foreign Ministry regular Press Conference, May 5, 2016.
- ²¹ Kor Kian Beng, The Straits Times, "China wants to be global maritime judicial center", March 14, 2016. A more detailed analysis is provided by Susan Finder, The Diplomat, "China's Maritime Courts: Defenders of 'Judicial Sovereignty'", April 5, 2016.
- ²² Joint Communique of the 14th Meeting of the Foreign Ministers of the Russian Federation, the Republic of India and the People's Republic of China, Moscow, April 19, 2016.
- ²³ The Canada-Indonesia workshop initiative "Managing potential Conflicts in the South China Sea" ran from 1989 to 2000. For an overview of Canadian Track 2 diplomacy please read Paul Evans, "Canada and Asia Pacific's Track-two Diplomacy", International Journal, Autumn 2009 and Paul Evans, "Canadian and Asia Pacific Experiences" in "Scholars, Policymakers and International Affairs", Abraham F. Lowenthal and Mariano E. Bertucci, editors, Johns Hopkins University Press, 2014.
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- ²⁷ <http://www.aseansec.org/15265.htm>
- ²⁸ Sun Tzu "The Art of War", Chapter One "Strategic Assessments, Master Sun, page 54. Shambhala Dragon Editions, Translated by Thomas Cleary, Boston and Shaftesbury, 1988.
- ²⁹ Cam Ranh Bay had been a major US Navy facility during the Vietnam War.
- ³⁰ The White House, Office of the Press Secretary, "Remarks by Presidents Obama and Quang of Vietnam, Joint Press Conference, Hanoi, May 23, 2016.
- ³¹ Prashanth Parameswaran, The Diplomat, "Vietnam, Philippines Still Mulling South China Sea Joint Patrols", April 14, 2016.
- ³² Wu Gang, Global Times [of China], "Australia warned over South China Sea remarks", February 17, 2016.
- ³³ Australian Government, Department of Defence, 2016 Defence White Paper, 25 February 2016.



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- ³⁴ Regular Chinese MFA Press Conference, 25 February 2016.
- ³⁵ G7 Foreign Ministers' Statement on Maritime Security, April 11, 2016, Hiroshima, Japan.
- ³⁶ Chinese MFA spokesperson Lu Kang, April 12, 2016.
- ³⁷ Xinhua, "International community opposes internationalization of S. China Sea disputes", May 10, 2016. Amusingly, the Government of Fiji had stated on April 14, 2016 that it did not support China's position according to the Fiji Broadcasting Corporation on April 15, 2016. (No luck in finding original Fiji Government statement.)
- ³⁸ George F. Keenan, "The Long Telegram", US Embassy, Moscow, February 22, 1946.
- ³⁹ The five include defence arrangements with Australia and New Zealand, the Philippines, SE Asia (parties: US, Australia, France, New Zealand, Philippines, Thailand, UK), Japan, Republic of Korea. The other two are NATO and NORAD (Canada).
- ⁴⁰ Xi Jinping speech at the Fourth Summit of the Conference on Interaction and Confidence Building Measures in Asia (CICA), Shanghai, May 21, 2014.
- ⁴¹ Xi Jinping speech at the opening ceremony of the 5th meeting of the CICA Ministers of Foreign Affairs, Beijing, April 28, 2016. Note that CICA membership is geographically generous and includes Egypt, Jordan and Palestine. The US is an observer, as are Indonesia, Japan, Malaysia and the Philippines.
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- ⁴³ US Government, Administration of Ronald Reagan 1983, United States Oceans Policy, Statement by the President, March 10, 1983. My italics for emphasis.
- ⁴⁴ US Department of Defense Freedom of Navigation Report for Fiscal Year 2015 dated April 19, 2016. Of the 13 countries challenged by US FONOPS, China received the most criticisms.
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► **About the Author**

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