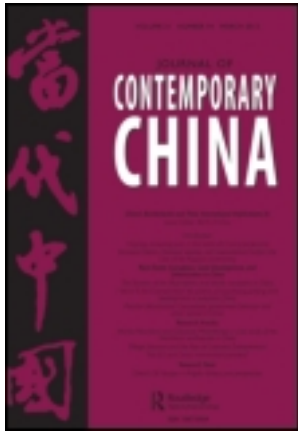


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# China's New Assertiveness in the South China Sea

MICHAEL YAHUDA\*

*China's new assertiveness in the South China Sea has arisen from the growth of its military power, its 'triumphalism' in the wake of the Western financial crisis and its heightened nationalism. The other littoral states of the South China Sea have been troubled by the opacity of Chinese politics and of the process of military decision-making amid a proliferation of apparently separately controlled maritime forces. The more active role being played by the United States in the region, in part as a response to Chinese activism, has troubled Beijing. While most of the ASEAN states have welcomed America as a hedge against growing Chinese power, their economies have become increasingly dependent upon China and they don't want to be a party to any potential conflict between these two giants. The problem is that there is no apparent resolution to what the Chinese call, in effect, these 'indisputable disputes'.*

China's new assertiveness has arisen primarily from four related developments: its sense of a change of the balance of power in its favor; the expansion of its national interests to include the maritime domain in its nearby seas (*jin hai*) and its trade routes; the growth of its military power to pursue its maritime claims more effectively; and the heightening of nationalist sentiments among officials as well as among the population in general. The reaction of maritime neighbors coupled with a more public display of the American commitment to the region has caused the Chinese to soften aspects of their policy. Nevertheless the growth of China's naval power and its continued insistence that its claims in the South China Sea are indisputable suggest that there is no prospect for a reconciliation with neighbors in the immediate future and that the most that can be attained are measures for conflict avoidance.

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## Change in balance of power

China's leaders have long argued that the world was becoming multipolar, meaning that American hegemony (or unipolarity) was destined to decline in the longer term. But beginning in 2008 they began to think that the United States was declining more rapidly than they had thought and that their star was rising. The apparent shift in the direction of the balance of power in China's favor was noted at the Party's Central Work Conference on Foreign Affairs, which was held in July 2009. The Conference called for renewed emphasis on China's soft power, but it also adjusted Deng Xiaoping's famous dictum for keeping a low profile (*Taoguang Yanghui*) by putting more emphasis on his injunction to 'get something accomplished'. In other words, the Conference called for a more active foreign policy, not to say a more assertive one.<sup>1</sup>

In 2003, when the US invaded Iraq, the American GDP was eight times greater than China's, but less than ten years later it is less than three times greater. China handled the American-started international financial crisis well, while the US economy fell into disorder and its politics into gridlock. China's leaders felt that the balance of world power was shifting decisively in their favor. The Western world of the US, the EU and Japan was mired in economic troubles while the newly emerging economies of the BASIC countries (Brazil, South Africa, India and China) were growing strongly. Thus the G-20 has begun to replace the G-7/8 as the decisive forum for tackling the problems of the global economy. China has developed a blue water navy that was beginning to be able to defend China's maritime interests in its near seas. In the words of one of the key advisers to China's leaders, 'many Chinese officials believe that their nation has ascended to be a first-class power in the world and should be treated as such'.<sup>2</sup>

Obama's visit to China in November 2009, when he asked for China's assistance in addressing many global problems, was seen as evidence of American weakness in conceding that it needed Chinese support. At the same time China's leaders suspected that the US was intent on obstructing China's rise. Hence the Chinese resisted American proposals during the UN Conference on Climate Change of December that year, seeing them as designed to shift onto the newly emerging countries the burden of reducing greenhouse gas emissions so as to slow the rate of their economic growth. Similarly, they opposed more strongly American proposals to sell arms to Taiwan than they had done previously.

The Chinese have also begun to challenge more openly conventional interpretations of maritime international law in order to suit their own immediate strategic and national interests. Thus in 2009 Chinese vessels carried out dangerous maneuvers to harass American surveillance ships operating within China's EEZ, but outside its territorial waters, on the grounds that the ships infringed Chinese sovereignty. The Chinese position was not supported by the UN Convention on the Law of the Sea (UNCLOS) as signed by the Chinese without reserving their position on this point, nor was it supported by customary international law.<sup>3</sup> The following year, claiming that its national security was under threat, China strenuously objected

1. Bonnie S. Glaser and Benjamin Dooley, 'China's 11th Ambassadorial Conference signals continuity and change in foreign policy', *China Brief* 9(22), (4 November 2009).

2. Kenneth Lieberthal and Wang Jisi, *Addressing US-China Strategic Distrust* (Washington, DC: Brookings Institution, 2012), p. 8.

3. Jerome A. Cohen and Jon M. Van Dyke, 'Limits of tolerance', *South China Morning Post*, (7 December 2010).

to a joint South Korean and American naval exercise in the Yellow Sea that was designed as a response to North Korean aggressive acts against the South.<sup>4</sup> Yet the exercise took place in international waters. Chinese objections to the American naval activism near their coastal waters arose from concern that the United States was seeking to curtail China's rise. China's leaders saw the American actions as characteristic of a declining dominant power seeking to thwart its rising challenger. Another example of Chinese parochial self-regard towards maritime law is its denial of the Japanese claim for an EEZ with respect to Okitonori in the Pacific, despite Chinese assertions of such claims to similar islets, reefs or cays in the South China Sea (SCS).<sup>5</sup> Seemingly China denies legal rights to others which it claims for itself.

Chinese assertions of entitlements arising from its newfound position due to the claimed shift in the balance of power were evident in particular from its treatment of neighboring countries who sought to challenge China's maritime claims in the SCS. An exasperated Chinese Foreign Minister at one point declared to Southeast Asian countries, 'China is a big country and you are small and that's a fact'. It was reminiscent of the observation by Thucydides more than two millennia earlier, 'the strong do what they can and the weak suffer what they must'. His ancient study could be read as having ominous implications for the future of Sino-American relations: in explaining the origins of the Peloponnesian War, Thucydides famously wrote: 'What made war inevitable was the growth of Athenian power and the fear which this caused in Sparta'. What is notable about this explanation is not the material change in the distribution of power between the two rival centers, but the emphasis on the psychological factor or the importance of human agency. The cause of the war stemmed less from the rise of Athenian power *per se*, but rather from the *fear* this engendered in Sparta. Beijing, as the latter day Athens, worries that Washington, Sparta's supposed equivalent, will seek to obstruct its rise.<sup>6</sup>

Concern about American reaction to China's rise is perhaps why the Chinese government has sought to exclude or to limit American participation in regional groupings and activities in East Asia. China initially sought to limit the East Asian Summit to the ASEAN Plus Three (APT—the ten ASEAN members and the three Northeast Asian countries, China, Japan and South Korea) but when the Summit first convened in 2005 China, under pressure from Singapore and Japan (both of course close strategic allies of the US), had to accept a wider membership. Nevertheless the most active sub-regional groupings in East Asia are the APT and even more so the Northeast Asian trio.<sup>7</sup> From the outset of course the United States has not been a member of the Central Asian, Shanghai Cooperation Organization. Broadly speaking, the Chinese attempt to limit American participation in East Asian groupings has been evident for some time, but it has been boosted by the sense that the balance of power has shifted in China's favor—hence the dismay at the attempt by the US

4. 'Why China opposes US-South Korea military exercise in the Yellow Sea', *People's Daily*, (16 July 2010).

5. Peter J. Brown, 'China all at sea over Japan island row', *Asia Times Online*, (4 March 2010).

6. This is the central message of Wang Jisi in Lieberthal and Jisi, *Addressing US-China Strategic Distrust*. For the quote from Thucydides see, M. I. Finley, 'Introduction', in Thucydides, *History of the Peloponnesian War* (New York: Penguin Books, 1972), p. 23.

7. Kent Calder and Min Ye, *The Making of Northeast Asia* (Stanford, CA: Stanford University Press, 2010).

government's offer to facilitate a multilateral agreement on a framework for settling the disputes in the SCS.<sup>8</sup>

The Chinese had long sought to limit American participation in addressing South China Sea issues. From their perspective, one of the attractions of joining up with ASEAN to deal with the SCS, even though at least five of its ten members were not in dispute with China over its claims, was that it tacitly excluded the US. Ten years earlier, in 2002, China signed a Declaration on a Code of Conduct in the South China Sea, by which, together with the ten ASEAN countries, they agreed voluntarily to accept the maritime status quo and to avoid the use of force. Arguably, the Chinese have shown regional good will in reaching agreements in order to address collectively non-sovereignty related issues such as conducting search and rescue exercises, joint scientific efforts and combating non-traditional security threats, etc. However, with regard to sovereignty issues the Chinese all along have insisted that these can be addressed on a bilateral basis only, when conditions were ripe, but meanwhile they offered to enter into joint development arrangements to explore maritime and energy resources. But China became more assertive in advancing its claims as its maritime power increased and as it sensed that the balance of power was beginning to tilt in its favor. At the same time, China's maritime interests grew in response to its emergence as a global economic power.

### The expansion of China's national interest

China's emergence as a global and regional player of increasing significance has also had the effect of expanding its interests beyond the narrow confines of the immediate defense of its land mass. For example, the stunning rapidity of the growth of China's trade, which saw it surpass Germany in 2009 as the world's leading exporter, has also brought home to China's leaders the vulnerability of its economy to interruption of its trade routes. Consequently, China's maritime interests are no longer confined to concerns with Taiwan and deterring possible American military intervention, but they have recently been extended to an interest in controlling adjacent seas and to preventing the interdiction at sea of China's supply lines for the energy and raw-material needs of its domestic economy.

These developments need not necessarily lead to conflict with neighbors. In fact, China has become more active in cooperating with neighbors to tackle non-traditional security threats such as piracy, natural disasters, trafficking in peoples and narcotics etc.<sup>9</sup> Since 2008 China has regularly sent naval patrols to participate in the international piracy patrol off Somalia and in the Gulf of Aden. These have been seen as examples of China's readiness to behave in accordance with multilateral conventions and to conform to international norms.<sup>10</sup>

8. Hilary Clinton, 'Remarks at press availability', *US Department of State, Diplomacy in Action*, (23 July 2010), available at: <http://www.state.gov/secretary/2010/07/14505.htm>.

9. David Arase, 'Non-traditional security in China-ASEAN cooperation: the institutionalization of regional security cooperation and the evolution of East Asian regionalism', *Asian Survey* 50(4), (July-August 2010), pp. 805-833.

10. Gaye Christofferson, 'China and maritime cooperation: piracy in the Gulf of Aden', Lecture delivered at the Institut für Strategic-Politik-Sicherheits- und Wirtschaftsberatung, Berlin, 1 December 2009, available at: [www.humansecuritygateway.com](http://www.humansecuritygateway.com).

However, it also possible to see these as exercises which facilitate China's capacity to uphold its expanding national interests. As a great power with a rapidly growing economy, China claims an entitlement to develop naval forces capable of going beyond its immediate coastal confines to patrol the western Pacific, the South China Sea and beyond that to the Indian Ocean and approaches to the Persian Gulf. In the last three years China has conducted combined naval, air and high-tech communication exercises in the Pacific and in the East and SCS. As new developments, they are viewed with varying degrees of alarm and concern by neighboring countries. Some of these exercises have entailed crossing narrow international straits between Japanese islands, which, combined with the growth of Chinese naval power, have triggered concern in Japan that has resulted in an adjustment of its strategy towards 'dynamic defense' and a focus on its southerly islands. Chinese naval exercises in the SCS, through which much of China's trade is conducted, can be seen as a form of deterrence, but they can also be seen as displays of force to underline China's heightened disputes with neighboring countries over maritime claims.<sup>11</sup>

It is important to recognize that the expansion of Chinese interests does not necessarily entail the expansion of China's claims to sovereignty over new territories and maritime areas. China's claims in principle were made more than 60 years ago. The PRC issued its first formal claim to sovereignty over islands in the SCS in 1951 in response to the peace treaty negotiations with Japan in San Francisco, from which the PRC was excluded. Chinese maritime rights were claimed in 1958 and again in a more detailed way following the signing and then ratification of UNCLOS (UN Convention of the Law of the Sea) in 1982 and 1994, respectively. In 1992 a domestic law was issued reaffirming its claims and in 1998 another law was promulgated claiming a 200-mile EEZ and rights to continental shelves. These laws were issued in response to extraneous developments and may be seen as adaptations and refinements of China's long-standing claims rather than new ones in themselves.

What is troubling, however, is that with its greater military power China is more actively asserting its claims against weaker neighbors. In the past, China had actually resorted to force in order to occupy some of these islands. In 1974 China ejected the forces of the soon to be defunct South Vietnam from the Paracel Islands group; in 1988 it forcibly occupied some seven rocky islands and reefs in the Spratly group after a naval engagement with Vietnam; and in 1994 it was found to have built military installations on Mischief Reef, part of the Spratlys adjacent to and claimed by the Philippines. Since then, however, China has placed much emphasis on cultivating ASEAN and its members and it has refrained from the use of force to advance its claims. It even went so far as to reach agreement with ASEAN on a voluntary Code of Conduct in the SCS in 2002, despite the fact that at least half of the ASEAN members have no claims there.

The PRC has resisted attempts to upgrade the Code of Conduct into a more binding arrangement and it has opposed attempts to develop a regional mechanism for addressing competing claims and suggestions that these claims be made subject to

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11. M. Taylor Fravel argues the former. See his 'Prepared Statement' to the Hearing on 'Investigating the China Threat, Part One: Military and Economic Aggression', House Committee on Foreign Affairs, 28 March 2012.

international arbitration or to adjudication by the International Court of Justice in the Hague.<sup>12</sup> Instead China has insisted that competing claims should be settled on a bilateral basis and meanwhile the respective sides should seek to explore and develop jointly such resources as may exist in the disputed areas. The trouble is that Beijing cannot point to any example of this having been done successfully. An agreement in principle was reached with Japan in 2008, but it has yet to be agreed in practice; meanwhile China has continued its production of gas in the relevant field in East China and has piped the gas to China. A potential deal with the Philippines, which Vietnam joined, came to an end in 2008 as the legislature in Manila objected on the grounds that the deal was based on corruption and it included areas that were not even claimed by China.<sup>13</sup>

Another problem is that Chinese claims in the SCS lack specificity. The Chinese assert that the nine dashes on their maps that cover 80–90% of the expanse of the SCS in the shape of a cow tongue refer to sovereign claims to the islands within the dashes and not to the sea as a whole.<sup>14</sup> But the Chinese regularly add to their claims to the islands a claim to 'adjacent seas' and they have yet to clarify the basis for that, which could be construed as asserting to a claim for an EEZ. Thus it is not known from which base lines such an EEZ would be drawn. Nearly all the rocks, reefs and cays which make up the Spratlys cannot sustain human life and would not qualify for jurisdictional claims to EEZ beyond the sovereign territorial water of 12 nm. Nevertheless the Chinese have tried to stop the exploration for oil in areas claimed by Vietnam and the Philippines that are within 200 miles of their coasts and far from any inhabitable islands claimed by China.<sup>15</sup> Another example of the extension of China's maritime claims to waters normally considered to be under Vietnamese jurisdiction was the demand by a Chinese vessel that an Indian ship located 45 miles off the Vietnamese coast should identify itself and explain its presence.<sup>16</sup> Moreover while arrogating itself the right to conduct oil exploration and drilling within its own EEZ in the SCS, China has demanded that other claimants must first seek Chinese permission before doing so within their own EEZs.<sup>17</sup>

### The impact of China's growing military power

There is no clear evidence that China's leaders have issued specific instructions to China's coast guards and naval forces to pursue the country's maritime claims more

12. It is worth noting that in 2008 Singapore and Malaysia settled their dispute over islands in the Strait between them by recourse to the International Court of Justice. See, Yoshifumi Tanaka, 'Passing of sovereignty: the Malaysia Singapore dispute before the ICJ', *The Hague Justice Portal*, (25 August 2008), available at: [www.haguejusticeportal.net/index.php?id=9665](http://www.haguejusticeportal.net/index.php?id=9665).

13. Barry Wain, 'Manila bungle in the South China Sea', *Far Eastern Economic Review* 171(1), (January–February 2008), pp. 45–48.

14. This was made clear by the Spokesman of the Ministry of Foreign Affairs, Hong Lei, at his Regular Press Conference on 29 February 2012 (see the MOFA website).

15. See for example, 'Manila rejects new Chinese claim just 50 nm from the Philippine's province of Palwan', *AP*, (14 November 2011); and 'China scolds the Philippines over the South China Sea', *Reuters*, (9 June 2011), which notes that 'Vietnam complained of Chinese patrol boats harassing an oil exploration ship 80 miles off the Vietnamese coast'.

16. Ben Bland and Girija Shivakumar, 'China confronts Indian naval vessel', *Financial Times*, (1 September 2011).

17. Mark J. Valencia, 'Realpolitik drama unfolds in South China Sea', *Japan Times Online*, (30 November 2011).

vigorously, but Hu Jintao, in his role as Chairman of the Central Military Commission (the top command of the Chinese military), has presided over the rapid modernization of especially the navy air force and what the Chinese call the ‘informationization’ of the armed forces. Yet, it is difficult to point to precise instructions from him to the military to be more assertive. As Susan Lawrence notes, ‘senior leaders often seek to set out the tone for and outline the broad contours of . . . policy, but leave lower levels to work out the detail’.<sup>18</sup> Nevertheless the general trend of his ‘instructions’ appears to encourage the military to be more active. Beginning in December 2004 Hu introduced a set of ‘New Historic Missions’ for the armed forces (the PLA—People’s Liberation Army) and these over time have expanded the scope for PLA activities including joint operations to be ready for combat in carrying out ‘diverse military tasks’.<sup>19</sup> According to China’s Defense White Paper of 2010, ‘the PLA ensures that it is well prepared for military struggle, with winning local wars under conditions of informationization and enhancing national sovereignty’.

China’s defense budget is at least three times as high as that of all ten ASEAN countries put together. Chinese maritime power has grown rapidly in the twenty-first century. Currently China can deploy 71 submarines, 78 combat ships, 211 patrol and coastal combatants, 87 amphibious and landing ships, 205 logistics and support vessels, and advanced naval aviation arms. Most of these are considered to be high-tech vehicles, capable of firing various kinds of missiles and advanced ordinance.<sup>20</sup> According to the *Economist*, ‘the navy’s growing fleet of powerful destroyers, stealthy frigates and guided-missile carrying catamarans enables it to carry out “green water” operations (i.e., regional not just coast tasks)’.<sup>21</sup> Beginning in 2010, and in subsequent years, China has conducted naval exercises in the SCS involving submarines, destroyers, aircraft with advanced communications and surveillance that were far superior to the maritime forces available to the other littoral states of the SCS.<sup>22</sup> Whether or not such exercises were designed to intimidate other claimants, they were displays of superior power.

Arguably, the greater Chinese activism in the SCS in 2009/2010 may be seen as a response to what was perceived as the provocation of others, such as Vietnam and the Philippines, who also detained Chinese fishermen said to be illegally fishing in their EEZs,<sup>23</sup> but these lacked the underlying threat posed by China as the superior power. Thus two editorials in China’s state run media in June and July 2011 warned, ‘if Vietnam wants to start a war, China has the confidence to destroy invading Vietnamese battleships . . . no one should underestimate China’s resolve to protect every inch of its territory’. The nationalistic *Global Times* in both its Chinese and English language publications (i.e. addressing both domestic and international audiences) warned both

18. Susan V. Lawrence, ‘Perspectives on Chinese foreign policy’, testimony before the US–China Economic and Security Review Commission Hearing on ‘China’s Foreign Policy: Challenges and Players’, 13 April 2011 (Congressional Research Service).

19. For details and analysis see, James Mulvenon, ‘Chairman Hu and the PLA’s “New Historic Missions”’, *China Leadership Monitor* no. 27, (Winter 2009).

20. For details see, International Institute of Strategic Studies (IISS), *The Military Balance 2011* (London: Routledge, 2011).

21. ‘Briefing, China’s military rise’, *The Economist*, (7 April 2012), p. 32.

22. IISS, ‘Behind recent gunboat diplomacy in the South China Sea’, *Strategic Comments* 17, Comment 28, (10 August 2011).

23. Mark J. Valencia, ‘Making sense of nonsense’, *Japan Times*, (29 June 2011).



Vietnam and the Philippines on 25 October 2011, that if they did not change their ways 'they will need to prepare mentally for the sounds of cannons'.

The timing of the increase in maritime incidents in the SCS was also occasioned by the deadline of May 2009 set by the UN Commission on the Limits of the Continental Shelf for submission of claims for extended continental shelves beyond the general 200-mile limit for EEZs. Malaysia and Vietnam duly submitted a joint claim, which was then disputed by China, which then added a map of the SCS including the nine dashes to its formal rebuttal. However, no explanation was provided as to the meaning of the dashes or to whatever claims emanated from them. A later explanation by the Chinese Ministry of Foreign Affairs stated that the sovereignty claims within the dashes were limited to the islands only. Although that was welcomed by some observers, that still left open the question regarding whether China claimed jurisdictional rights beyond the 12 mile limit of territorial waters that applied to uninhabitable islands.<sup>24</sup>

But the Chinese response to perceived provocations may also be seen as excessive and as reflective of its greater maritime power in the shape of the numbers and varieties of advanced warships available to its coast guards as well as to its navy. China quite properly looks to its coast guards to carry out surveillance, to protect its fishing fleets and to patrol its coastal waters and the waters in the SCS and other seas, where it has claims to sovereignty and jurisdiction and where it is also concerned about smuggling and other illegal activities. Such roles may be seen as akin to a kind of constabulary and they are of a kind carried out by coast guards in many other maritime states. In the Chinese case there is a problem arising from the number of separate coast guard forces, each controlled by a different ministry.

There are at least five different agencies involved in coast guard duties and there appears to be little or poor coordination between them. They vary in the naval vessels available to them, but these have all increased in number and quality in recent years. They operate variously under the Ministries of Public Security, Land and Resources (State Oceanic Administration), Transport (Maritime Safety Administration) and Agriculture (fisheries). Some of these have been involved in the highly publicized incidents with the vessels from other countries. There have been examples of some of these working together with the navy, but there appear to be problems of coordination between these different agencies. It should also be noted that some coastal provincial and municipal authorities have their own fishery protection vessels. Little is known about the command and control arrangements for this variety of agencies and the extent to which some might take a more vigorous approach in dealing with what are perceived as foreign encroachments upon Chinese maritime territory, perhaps in the hope of encouraging other agencies of the Chinese government to follow suit. In any event it appears that the Ministry of Foreign Affairs is but one of the different government organizations that seeks to exercise a degree of control of their interactions with foreign forces and that it is not among the most powerful of them.<sup>25</sup>

24. See, Carlyle A. Thayer, 'China cuts deep into the EEZs of others', *Yale Global*, (7 July 2011).

25. This paragraph has drawn from Lyle J. Goldstein, *Five Dragons Stirring Up the Sea: Challenge and Opportunity in China's Improving Maritime Capabilities* (Newport, RI: US Naval War College, 20 April 2010); and Linda Jacobson, 'China's maritime security actors: foreign and security policy implications', paper presented at conference, *China's Evolving Strategic Intentions and East Asian Security*, Lingnan University, Hong Kong, 24 February 2012.

It is these agencies who are charged with carrying out China's various maritime policies. As is the case with many other countries, the coast guard is charged with what might be called maritime policing tasks, leaving the navy for actual military conflict. As a result most of the incidents involving clashes with others in the maritime domains of the SCS have occurred with vessels under civilian command. Given the lack of coordination between them, and the uncertainty about the character of the instructions under which they operate, Beijing may well have increased rather than decreased the risk of accidents and incidents.<sup>26</sup>

### Heightening nationalism

China's greater assertiveness in promoting its claims in the South China Sea may also be seen as a product of the growing nationalism encouraged and promoted by national leaders. 2008 was not only the year in which China's leaders first claimed that the balance of power was shifting in their country's favor, it was also the year of the Beijing Olympic Games. The holding of the Olympics was presented as a grand patriotic occasion in which the rest of the world joined the patriotic Chinese people in celebrating their country's rise. However, 2008 was also the year of Tibetan riots in March and of protests against the carrying of the Olympic flag through many Western cities. The response of China's leader in Tibet was to condemn the Dalai Lama for the riots as a 'wolf with a human face and the heart of a beast'. The Chinese press, which is subject to guidance by the Party's Propaganda Department, complained about the 'bias' of the Western media and China's leaders directed their ire at France in particular because the French President received the Dalai Lama. The Chinese media then attacked a Chinese woman as a traitor (Hanjian) who had tried to mediate between pro-Chinese and pro-Tibetan groups.<sup>27</sup> William Callaghan's close study of Chinese portrayals of both the positive aspects of China's rise and the negative dimensions as conveyed by the repeated emphasis on the humiliations by foreigners that together make up China's identity, concluded that 'China is best understood as a right-wing authoritarian party-state that gains its legitimacy from a harsh form of capitalism and a primordial style of patriarchal nationalism'.<sup>28</sup>

That judgment may seem excessive, but it is supported by Christopher Hughes's study of China's National Defense Education. Citing Chinese laws, official sources and textbooks, he shows that from primary school onwards Chinese students are taught how to handle weapons, engage in urban warfare and are instructed in China's history of warfare including that under Mao Zedong. There is constant repetition of the themes of the need for national unification (i.e. Taiwan) and of China's righteous claims to sovereignty in disputes both on land and at sea. One officially approved textbook cited concludes,

the occupation and development of the beautiful and abundant maritime territory by other people is something that definitely cannot be tolerated by the Chinese nation. In order to protect our country's legal maritime rights, protect our country's maritime territory, we must not only increase our strength for maritime national defense, it is even more

26. *Ibid.*

27. William A. Callaghan, *China the Pessimist Nation* (Oxford: Oxford University Press, 2010), pp. 9–14.

28. *Ibid.*, p. 204.

important and pressing that we strengthen the consciousness of maritime territory and maritime development of the whole people, strengthen our country's comprehensive power for maritime exploration and development to build the large and powerful maritime economy of the Chinese nation.

Hughes further shows that the analysis of the international situation presented to older students is suffused with distrust of the West and criticisms of the US that 'could be taken straight from the pages of ultra nationalist works like *Unhappy China* (1999)'.<sup>29</sup>

It is often suggested that China's leaders are moderate in their views, but they have to take into account the emotional nationalism of young Chinese, especially as expressed on the Internet.<sup>30</sup> It follows from this argument that it is up to foreigners to be circumspect in their dealings with China lest they inflame Chinese netizens and cause China's leaders to take their views into account in order to maintain social stability. Whatever may have been the case before, that has been less true as the twenty-first century has unfolded. Take for example, Hu Jintao's new-year address of 2012. According to *Qiushi* (the 'Organ of the Central Committee of the Communist Party of China'), Hu *claimed* that 'international forces are trying to westernize and divide us by using ideology and culture' and he called on his countrymen to 'uphold China's culture of socialism with Chinese characteristics'. Given that nearly all the top leaders have sent their children to be educated in the United States, such a view must be seen as a calculated effort to sustain the continuing nationalistic propaganda to inculcate distrust of the West. A Chinese netizen wryly noted in response, 'Chinese people can't watch American TV, nor view American websites' and noted 'America doesn't have a firewall'.<sup>31</sup>

Reference has already been made to military threats to neighbors emanating from *The Global Times* and retired generals, but such language is not confined to them. Consider, for example, the statement by Vice Foreign Minister Cui Tiankai who warned in June 2011 that 'individual countries [in Southeast Asia] are playing with fire' and added that he hoped the 'fire doesn't reach the US'. Lest it be thought that this was a slip of the tongue by the normally diplomatic Ministry of Foreign Affairs, Cui was quoted again word for word by a senior commentator, Li Hongmei, in the *People's Daily Online* (the Party's most authoritative publication) a month later on 22 July 2011. Perhaps the most revealing comment of all was made by Foreign Minister Yang Jiechi when he was unexpectedly confronted by some 12 Southeast Asian States at the meeting in July 2010 of the ASEAN Regional Forum. Yang said, 'China is a big country and you are small countries and that's a fact'.

### Conflict avoidance rather than reconciliation

In conclusion it will be suggested that the prospects for reconciliation, let alone for resolution of the sovereignty and maritime dispute in the South China Sea, are limited

29. Christopher R. Hughes, 'Nationalism and foreign policy: the problem of Chinese militarism', paper presented at the conference *China's Evolving Strategic Intentions and East Asian Security*, Lingnan University, Hong Kong, 24 February 2012.

30. Wang Jisi, 'China's search for a grand strategy: a great power finds its way', *Foreign Affairs* 90(2), (March/April 2011), pp. 68–79; and Thomas J. Christensen, 'The advantages of an assertive China: responding to Beijing's abrasive diplomacy', *Foreign Affairs* 90(2), (March/April 2011), pp. 54–67.

31. See <http://news.linktv.org/videos/hu-jintao-speech-stokes-culture-wars>.

for the foreseeable future. But the main current issue is to find ways of managing the conflict so as to prevent open military hostilities. China's leaders appear to recognize the need to retreat from the high profile maritime assertiveness they had displayed.

Chinese diplomacy towards its maritime neighbors softened following the diplomatic confrontation with the ASEAN countries and the US at the July 2010 ARF meeting. Senior leaders have visited ASEAN countries and reaffirmed that they regard all countries, big and small, as equals and they have agreed to new guidelines for the Code of Conduct. They have also offered extensive loans and re-emphasized the importance of economic relations.<sup>32</sup> However, it is doubtful whether China can restore the goodwill it had gained from its previous policies of cultivating ASEAN and its members that was begun in earnest in 1995. For one thing, it is clear that China seeks to exclude the SCS sovereignty disputes from the agendas of regional gatherings and that it is determined to prevent any question of collective decisions about how the disputes should be managed, let alone settled. Even when it was announced that agreement had been reached in July 2011 about a set of guidelines for the non-binding Code of Conduct signed nine years earlier, China insisted that it should not be put in writing that ASEAN countries may meet in advance of talks with China. Yet it is central to ASEAN's founding documents that members should meet prior to meetings with outside parties.<sup>33</sup> Also, it was only after the open expression of American interest in the SCS at the 2010 ARF meeting that the Chinese began to tone down their approach, but they did so reluctantly, angered by what they regarded as American unwarranted intervention. China has yet to explain how it can resolve the contradiction between working with ASEAN on reaching a *modus vivendi* regarding behavior in the SCS, while insisting that negotiations on sovereignty and related matters can only be negotiated on a bilateral basis. For example, the question of how China defines its claims to jurisdiction to maritime areas affects all the littoral states. That would still leave open for negotiation how overlapping claims to EEZs could be settled through bilateral negotiations.

Another huge problem is the lack of Chinese opacity or transparency, not only about military matters, but also about China's decision-making processes. The Americans and the Japanese, as leaders of great powers, openly complain year after year about the absence of Chinese reports about the character and purposes of military acquisitions, about the absence of explanations concerning current and future military deployments and strategy and about the chain of command. These absences matter still more to China's smaller neighbors, as they are the first to feel the brunt of China's growing military power.

The smaller neighbors are also greatly troubled by the opacity of the Chinese political system. Very little is known about Chinese decision-making processes or even what are the political preferences of different Chinese leaders and who may be their allies and followers. By comparison, the political systems of their Southeast Asian neighbors are like an open book. It is not difficult for China's leaders to observe the behavior and affiliations of neighboring politicians and to gauge the relative importance of the different interests and groups in the Southeast Asian

32. For details see, Fravel's 'Prepared Statement'.

33. Barry Wain, 'A South China Sea charade', *Wall Street Journal*, (22 August 2011).

countries. Consequently, the very secrecy of Chinese politics is an obstacle to the development of deep trust between China and its neighbors.

As pointed out earlier, Chinese opacity also extends to the nature and extent of China's claims. The Chinese government claims to adhere to UNCLOS, which it signed, but there is no basis in current international law for any claims based on the infamous nine dashes on China's maps. A copy was submitted to the UN to accompany China's written objections to the extended continental shelves submitted by Vietnam and Malaysia. Typically no explanation of the map was provided. The Chinese government and its scholars have provided loose historical descriptions of activities by Chinese fishermen and naval craft in the SCS covering a period of more than 2,000 years,<sup>34</sup> but these are waters which were crossed and criss-crossed by many peoples down the ages and it is not at all clear why Chinese historical claims should have preference, especially as there is no evidence of Chinese having occupied any of the islands they claim.<sup>35</sup> Indeed one Chinese scholar who has written extensively about Chinese claims has recently recommended that China seek to amend the relevant international law on the grounds that it was written by Westerners without Chinese consent (even though China signed and ratified UNCLOS).<sup>36</sup> That has not stopped the Chinese from claiming for more than 50 years that their claims are 'indisputable'.

The Chinese have not explained the grounds on which they appear to claim jurisdictional rights over large tracts of the maritime area as their EEZ. They have not stated whether the isles, reefs, cays and other uninhabitable features of the Spratlys are considered by them to qualify as entitled to EEZs and, if so, from where baselines would be drawn. Unofficially, the Chinese have promised to provide a detailed account of their claims in the near future. The claims of the PRC seem to be inherited from the Republic of China, before the PRC was established in 1949. The famous map with the dotted lines was first published under ROC auspices in 1947. Apparently in the previous year (1946) the ROC had its flag planted in all of the four groups of islands in the South China Sea and the ROC claim is limited to those islands and not to the Sea as a whole.<sup>37</sup> It is not known whether the PRC also restricts its claims in this way.

The Chinese long-standing proposal that sovereignty disputes can only be settled bilaterally between itself and each of its neighbors has not found favor with any of the other claimants. In the absence of an agreement about the UNCLOS framework under

34. See the lengthy account by Jianming Shen, 'China's sovereignty over the South China Sea islands: a historical perspective', *Chinese Journal of International Law* 1(1), (2002), pp. 94–157, available at: <http://chinesejil.oxfordjournals.org>.

35. See Pierre-Yves Manguin, 'Trading ships of the South China Sea shipbuilding techniques and their role in the history of the development of Asian trade networks', *Journal of the Economic and Social History of the Orient* 36(3), (1993), pp. 253–280. Although the article is focused on shipbuilding, it incidentally describes the variety of peoples and pre-modern states that were fully engaged in traversing the SCS with reference to its many rocks and islets. For a direct and pithy critique of the historical claims of the Chinese see, Philip Bowring, 'Chinese history and reality', *Asia Sentinel*, (6 June 2011).

36. Ding Gang, 'China needs a stronger case in the South China Sea issue', *People's Daily Online*, (26 September 2011), (edited and translated from the *Global Times* of that day).

37. As explained by Ambassador Stephen S.F. Chen (of the ROC on Taiwan) in reply to a question at a conference on Taiwan and the disputed Senkaku/Diaoyu Islands held at the Center for Strategic and International Studies, Washington, DC, 17 October 2012.

which sovereignty disputes should be settled, the smaller countries understandably fear being overwhelmed by their giant neighbor. The Chinese suggestion that, in the interim, the relevant parties undertake joint development of resources in disputed areas has also not found much favor. As already noted, the only attempt to do so with the Philippines broke down amid accusations of bribery and bad faith. At issue with its maritime neighbors is the absence of trust and the sense that China would leverage its superior size and power to its advantage.

There are, however, diplomatic precedents for cooperation between ASEAN and China on South China Sea issues. As already noted, these include cooperation on non-traditional security issues. They have also included joint work to preserve fishing stock and biodiversity, but so far there is little evidence of a Chinese willingness to extend these to areas of dispute. These need not touch on sovereignty issues *per se*. They could include, for example, agreements on the modalities of the conduct of vessels in close vicinity to each other and the avoidance of accidents, etc.

However, it seems that it was the sense of China's growing military power that led to the recent assertiveness, as it was only the advent of American diplomacy and power into the SCS in 2010 that boosted the confidence of ASEAN members to confront China about its behavior which caused the Chinese side to moderate its position. Although the Americans offered their good offices to help the different claimants address the disputes, it is unlikely that their offer will be accepted. The Chinese regard the Americans as unwanted outsiders and as their great power rival. The smaller littoral states may welcome the United States as a hedge or as a counter-balance to Chinese power, but they have reservations about the role that the US might play. All their economies are tied to China and they do not wish to antagonize their giant neighbor unduly by openly siding with the US. Apart from their doubts about the American ability and willingness to be committed to the long term, they do not want to be drawn into a struggle between China and the United States. As the two great powers on the global as well as on the regional stages they have other commitments and interests on which they may converge or diverge with unknown consequences for Southeast Asia. The interests of the Southeast Asians would be best served by the maintenance of a balance of power between China and the US in the region. Indeed they would welcome the presence of other great powers including India, Japan, South Korea and Russia. They would then be less dependent for their security on the state of relations between China and America.

It has been suggested that the Southeast Asian claimants in the SCS, unlike China, would not benefit from the dispute being drawn out over a long period. The Chinese economic and military power can be expected to grow at a fast rate, increasing the disparity between China and its neighbors. As President Benigno of the Philippines put it recently, unlike his country China can afford to wait. 'The need for us to develop [our hydrocarbon assets] is greater than China's. China can afford to wait forever. They have the patience of Job. We don't have that luxury. We've got to move ahead'.<sup>38</sup>

38. 'Philippines to test South China Sea agreement with push for oil & gas exploration', *Global News Online*, (12 April 2012), available at: <http://globalnewsonline.blogspot.com/2011/07/philippines-to-test-south-china-sea.html#.T4nWWY7Ydlo>.

The recent stand-off between Chinese and Filipino coast guard vessels, when neither side was prepared to back down after the Filipino side sought to arrest Chinese fisherman for what was claimed to be illegal fishing, may be a portend for the future. The fishermen were allowed to leave as both the Chinese and the Filipino coast guard vessels withdrew. Although the Filipino authorities were dissatisfied with aspects of the outcome, at least military conflict was avoided.<sup>39</sup>

However, as against the argument of the Filipino president, it can be argued that it is not in the interests of the ASEAN claimants to press for an early resolution of the dispute with China over claims in the South China Sea. The United States' renewed commitment to the region may give time to clarify some of the outstanding problems. For example, over time the Chinese may be expected to clarify more precisely the details of their geographical and maritime claims. Additional time will also allow the Chinese side to explain more clearly how the UNCLOS, which they signed and ratified and which is therefore binding upon them, can be reconciled with their claims based on their particular reading of history. In other words, time may provide the required opportunities to explore the feasibilities upon which arrangements can be made to address some if not all of these disputes. The accepted diplomatic styles of discussion and negotiation in Southeast Asia allow for different tracks of non-official, semi-official and official varieties, which could explore possible arrangements. Such processes require time and it would seem that the American intervention coupled with the Chinese sense that they may have gone too far in their assertiveness in 2009–2010 may indeed provide the necessary time. Beijing may also have calculated that it is not in its interests to press its claims in the South China Sea at a time in which it is actively engaged with Japan in a contest over the Senkaku/Diaoyu Islands in the East China Sea. Meanwhile all the parties need to enhance the means for avoiding accidental conflict at sea.

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39. James Hookaway, 'Chinese fishing boats leave standoff scene', *Wall Street Journal*, (15 April 2012).