

China's Maritime Trap

The July 12, 2016, arbitral tribunal ruling in Hague, which satisfied almost all of the Philippines demands in the South China Sea and invalidated China's nine-dash line and other maritime activities, dealt a heavy blow to China's maritime claims. This is the first ever international legal setback for China's efforts to protect its maritime rights and interests, and the implications for China's maritime aspirations could be great.

In recent years, China has paid increasing attention to the sea and to its maritime rights and interests. At the 18th National Congress of the Communist Party of China in 2012, China officially put forward the vision of building a maritime power to improve China's capacity to explore marine resources and develop the marine economy, protect marine ecosystems, and safeguard its maritime rights and interests.¹ In line with this vision, China has been developing marine technology to explore oil and gas, among other resources, in the deep sea, as well as modernizing and enhancing its navy to protect its maritime interests.

China has also become much more vocal in asserting its maritime claims and interests. After nearly two decades of prioritizing "maintaining stability" above "protecting interests," China has since 2012 reversed course and focused on the latter. China not only sent fishing and law enforcement vessels within twelve nautical miles of the disputed

Since 2012, China has reversed course and focused on protecting interests over maintaining stability.

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Diaoyu/Senkaku Islands on a routine basis after the Japanese government “nationalized” three of the Islands in September 2012, an act deemed by China a unilateral change of the status quo, but also established an Air Defense Identification Zone (ADIZ) in the East China Sea in November 2013, which covers the disputed Islands. In April 2012, China seized Scarborough Shoal after a standoff between Chinese and Filipino fishing boats in the disputed lagoon and waters. In May 2014, China’s state-owned oil corporation moved its billion-dollar deep-water oil drilling platform, Haiyang Shiyou 981, to waters near the disputed Paracel Islands in the South China Sea, which led to a months-long confrontation between Chinese and Vietnamese fishing and law enforcement boats, also triggering widespread protests and even riots against Chinese factories and businessmen in Vietnam. And in late 2013, China began large-scale land reclamation in several reefs and rocks in the South China Sea, which drew global attention and concerns specifically from the United States, Japan, Australia, and ASEAN countries.

For many Chinese, there seems nothing wrong with this policy of protecting maritime interests. After all, China has claimed those islands and reefs since at least the 1930s when the Kuomintang (KMT) was in power in mainland China, before it was defeated in the Chinese civil war and fled to Taiwan in 1949. Except for the two battles that China fought with Vietnam over the claims in Paracel and Spratly Islands in 1974 and 1988, respectively, China has largely refrained from using force to take back those islands and reefs that other claimants have occupied.

These acts, while innocuous in China’s eyes, may not seem as such from an outsider’s perspective. As one scholar, Aaron L. Friedberg, argued eloquently, “even if China was provoked in these or other instances, it did not necessarily have to respond as aggressively as it did. In recent years, Beijing has repeatedly chosen to escalate ongoing disputes rather than wind them down.”² As a result, China’s recent activities have not only alienated its relations with those with whom China directly has maritime disputes, but has also cast a shadow over its relations with the United States and Australia, who are not party to the disputes but have a stake in the stability and peace in the Asia-Pacific.

This begs the questions: What are the underlying causes leading to the change of thinking in China’s maritime policy since 2012, especially with regard to maritime disputes? Is there a danger that this new approach will lead China to a maritime trap, one that drives it into a collision course with its maritime neighbors, alienates its relations with the United States, and even deviates it from more pressing domestic economic development? If so, what measures can be taken to avoid the trap? How can the parties to the disputes work out an acceptable solution after the arbitral ruling in the Hague?

The Evolution of a Complex Continental Power

By most criteria, China is a typical land power. It has a total landmass of more than 9.3 million square kilometers, bordering fourteen land neighbors. China also has a large standing army totaling more than 2.3 million, which is among the world's largest, and sweepingly outnumbers its less-than-240,000-person navy in both quantity and quality. China also has a long tradition of prioritizing land over sea in its strategic thinking and cultural heritage. For more than a thousand years, the threat to its security almost unequivocally came from the north nomads, with only a brief period in the 19th century when it was attacked from the sea by Western and Japanese maritime powers.

Unlike the landlocked power of Germany or Russia, which have few warm ports, China distinguishes itself with a long coastal line of more than 18,000 kilometers, making China more like a land-plus-maritime complex than a pure land power. And in its long history, China was a formidable maritime power more than once, at least in East Asia, especially in the South Song Dynasty (1127–1279 AD), Yuan Dynasty (1271–1368 AD), and Ming Dynasty (1368–1644 AD).³ Additionally, China's maritime trade with Southeast Asia, South Asia, the Middle East, and even Europe rivaled its famous Silk Road across the Eurasian continent, connecting the country closely with the maritime world since ancient times.

Since embarking on economic reform and opening up to the outside world in 1978, China has rediscovered the value of the sea. All of its first fourteen pilot open cities, which China opened as market-oriented economic experiments, are located in coastal areas to take advantage of relatively cheap and convenient sea shipping and transportation, and China has paid special attention in cultivating friendly relations with such maritime powers as the United States, Japan, and its maritime neighbors. This "turning to the sea and West" policy proved to be a huge success. China not only gained the money, technology, and management skills necessary to navigate and develop its virginal market-oriented economy, but it also has access to huge overseas markets for its products.

As a result, China has enjoyed an economic development miracle at an average annual rate of growth of nearly 10 percent for the past thirty years, and in 2010 surpassed Japan to be the second-largest economy in the world. It has also successfully lifted more than 700 million people out of poverty and become the "factory of the world."⁴ Tellingly, the coastal provinces are among the most developed and dynamic areas in China, with the nine coastal provinces plus two municipalities producing more than half of China's total GDP in 2014,⁵ which are also the hubs of the export-oriented manufacturing industries and magnets for foreign direct investment.

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As the value and importance of the sea in China's economic development increases, more and more strategists and policymakers are talking of turning China into a maritime power instead of a pure land power.⁶ This led to the official endorsement of building China as a maritime power at the 18th National Congress in 2012.

Energy Hunger and Security

China's rapid development and phenomenal rise make it a voracious consumer of energy. From 2000–2014, China's total energy consumption leapt from 1161 Mtoe (Million Tonnes of Oil Equivalent) to 3034 Mtoe. In 2009, China surpassed the United States for the first time as the largest energy consumer in the world.⁷ And then in 2013, China overtook the United States to become the biggest oil importer in the world, its dependence on foreign oil reaching a landmark 60 percent in 2015.⁸ The Middle East and North Africa provide more than 60 percent of this,⁹ almost all of which is shipped via sea.

China's heavy dependence on Middle Eastern and North African oil led its leaders to take seriously its energy security and the security of sea lines of communications. As early as the beginning of this century, there has been constant talk of the Malacca Dilemma, which means China's energy security is especially vulnerable to potential maritime blockade or interruption in the Malacca Strait; more than 80 percent of China's oil imports transit this sea route.¹⁰

China's hunger for energy and worries of energy security has also made oil and gas exploration and drilling in the "near sea," especially in the South China Sea, more attractive. It has in the past been only lukewarm in such exploration, largely due to its backward drilling technology and maritime policy of restraint. With the mounting energy demand and technological breakthrough in deep-water drilling, however, China's oil companies and local governments are increasingly making a case for drilling in the South China Sea and better safeguarding its maritime interests.¹¹

The Failure of "Shelving the Disputes, and Developing Jointly"

In the 1980s, China's leader Deng Xiaoping had proposed the idea of "shelving the disputes, and developing jointly" in dealing with the thorny issues of maritime disputes in the East and South China Seas. The main rationale behind this policy was that, given the claimants' sharply conflicting views of the issue of maritime

sovereignty, it was not practical to solve them any time soon, and better to defer it to future generations. In the meantime, all the concerned parties could find a way to develop the resources in the disputed area jointly, in a cooperative spirit.¹² This practical wisdom helped smooth relations between China and its neighbors for about a generation and created a favorable environment for China's economic development.

At the turn of this century, however, feelings had grown among Chinese scholars and experts about the deficiency, or even failure, of this “shelving and deferring” policy, especially in the South China Sea.¹³ More than thirty years have passed, and few co-development agreements had come about in the South China Sea. Instead, other claimants have been busy exploring, drilling, and extracting the oil and gas resources for their own populations. Among the claimants, Malaysia and Vietnam have been most active in developing the oil and gas resources through establishing joint ventures with China, or renting to foreign oil companies other than China. Meanwhile, China, which claims all the islands in the South China Sea, has lagged far behind the other parties in developing the resources due to its “shelving and deferring” policy and backward deep-sea oil exploring and drilling technology.¹⁴

Many Chinese have also felt that this “shelving and deferring” policy in a way bought other claimants enough time to consolidate what they had occupied illegally. Since the 1970s, those other claimants have been constructing civil and military facilities to create facts on the ground. Though China claims all the islands and reefs in the South China Sea, in reality it controls only eight features (including one occupied by Taiwan) in the Spratly Islands, all the features in the Paracel Islands after the 1974 battle with Vietnam, and Scarborough Shoal after a standoff with the Philippines in 2012—while Vietnam occupies 29 features, the Philippines 8, and Malaysia 6 as of now.¹⁵ Since 2009 in particular, Vietnam has greatly accelerated its pace of land reclamation, reclaiming more than 60 acres of land between 2009 and 2014, according to the U.S. Department of Defense.¹⁶

To make matters worse, Vietnam, the Philippines, and Malaysia began to legally challenge China's claims in the South China Sea by submitting their claims to the United Nations Commission on the Limits of the Continental Shelf (CLCS) in 2009. China views this as a serious attempt to change the status quo; if the UN accepted their claims, it would actually nullify China's policy of “shelving the disputes, and developing jointly.” In 2010, Japan for the first time arrested and considered putting on trial a Chinese captain whose fishing vessel bumped with a Japanese coast guard ship in the disputed Diaoyu/Senkaku Islands. And then in 2012, the Japanese government “nationalized” the three Diaoyu/Senkaku Islands, a serious breach of the tacit agreement between China and Japan to defer the issue of sovereignty and not to change the status quo.

The increasingly tense maritime disputes and unilateral actions by other parties since 2009, some argue, spoke of the deficiency, if not total failure, of the existing maritime policy. Voices for a strong response and effective defense of China's maritime interests rose. Critics even referred to the deferment policy as a "stability first"-mindset that should be kicked away. China should, instead, show its teeth and put "protecting interests" before "maintaining stability," not vice versa.¹⁷ Feeling betrayed, China began to rethink its policy.

The National Rejuvenation Dream

Soon after Xi Jinping became president, he put forward in 2013 the idea of "China's Dream" of national rejuvenation.¹⁸ Among the elements of China's Dream, a prosperous society and a strong nation are the most important. A "prosperous society" means that the average Chinese citizen will be able to benefit from and enjoy the achievements of economic development and live an affluent life. "Strong nation" means that China will become great and powerful, able to safeguard its interests on the world stage and enjoy the respect and dignity befitting a great nation. In view of its expansive maritime trade and the importance of sea lines of communications to its economic health and well-being, the national rejuvenation dream and many of its advocates argued that China should also become a maritime power to safeguard its maritime interests.

Against this backdrop, "China's Dream" has an urgent element of safeguarding its maritime interests and building a strong navy to protect them. The underlying

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logic is quite simple: If China cannot protect its maritime interests, or its historical territory and rights, how can China envision becoming a strong nation and prosperous society? China proclaimed it would develop into a maritime power in its 18th National Congress. If China is serious about becoming a maritime power, the first logical step would be to safeguard its maritime interests and stop those encroachments by others.

In addition, safeguarding China's maritime interests and realizing China's Dream adds flavor of counter-hegemony against the United States in view of the latter's increasing involvement in the maritime disputes. The Obama administration's pivot to Asia and its subsequent strengthening and expansion of military relations with its Asian alliances and security partners; diplomatic support and security assistance to Vietnam, the Philippines, and other claimants; and the "Freedom of Navigation Operations" (FONOPS) by U.S. destroyers within twelve nautical miles of China's islands and reefs in the South

China Sea are all viewed by most Chinese as clear evidence of U.S. interference in, and bias against, China's maritime claims. Some even see it as a U.S. conspiracy to contain China's rise or attempt to humiliate China. They argue that China should stand up to U.S. provocation and pressure, and show to its allies and partners that China will not be stared down.¹⁹

A Maritime Trap?

China has enjoyed more than thirty years of peace, stability, and enormous economic growth, partly due to its reconciliation with the United States and Japan in the early 1970s, opening up to the outside in the late 1970s, and economic integration with the world since joining the World Trade Organization (WTO) in 2001. China has been not only one of the main shapers of this favorable environment, but also its biggest beneficiary. In just more than a generation, China has emerged from abysmal poverty and become the second-largest economy in the world. This generational period has also been when China embarked on a charm offensive with its neighbors, and as a result its relations with them are mostly warm and close. Even though China has had maritime disputes with some, those disputes were kept on the sidelines on the whole and never became a major issue.

Starting in 2010, partly due to the reasons mentioned above and partly due to increased national power and confidence, Beijing has begun to reconsider its long policy of “shelving and deferring” maritime disputes and defended those interests more assertively. Xi Jinping has accelerated this trend, streamlining the otherwise messy and cumbersome maritime law enforcement organs of China, and establishing the first-ever China Coast Guard to enforce law at sea and protect China's maritime interests more vigorously. And since late 2013, China has embarked on large-scale land reclamations in the South China Sea.

While this new “reactive assertive” policy²⁰ has won much applause and praise within China, especially among foreign policy hawks, it has earned little sympathy among its neighbors and around the world.²¹ Instead, it has alienated its relations with ASEAN countries and sabotaged what achievements it has gained from the charm offensive since the 1990s. Implicitly or explicitly, many ASEAN countries are expressing concerns that China is growing willing to use hard power instead of soft power to have its own way. And they are

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also worried that China is creating facts on the ground to assert its own claims while challenging those of others.

China's relations with Japan have reached an historic low since 2010. Though the two neighbors have never been warm and close politically, the tense and even confrontational relations between the two since 2010, especially since Japanese Prime Minister Abe Shinzo and Xi Jinping came into office in 2012 and 2013, respectively, have concerned many regional experts. The 2012 maritime confrontation in the disputed Diaoyu/Senkaku Islands between China and Japan's maritime law enforcement vessels has become a routine drama and stirred rising nationalism in both countries. Negative attitudes toward the other country have run high among ordinary people, with Japanese unfavorable views of China jumping from 71 percent to 86 percent and Chinese unfavorable views of Japan rising from 70 percent to 81 percent during the period 2006–2016.²² Xi Jinping has barely talked with Shinzo Abe, even though they met thrice briefly at multilateral platforms, and high-level visits between the two countries have been reduced to the minimum. The two countries even engaged in a kind of diplomatic bayonet-charging in East Asia and beyond—with Japan providing diplomatic support as well as security aid to the South China Sea claimants other than China, while China has proposed “One Belt and Road” (OBOR) Initiatives and established the Asian Infrastructure Investment Bank (AIIB) to compete with Japan's economic influence and Japan-dominated Asian Development Bank.

Australia, who enjoys close economic and good political relations with China, also frowns upon China's actions in the East and South China Seas. On several occasions, Australian Foreign Minister Julie Bishop has spoken explicitly of her opposition to China's establishing an ADIZ in the East China Sea and of her concerns about China's land reclamation in the South China Sea.²³ In its latest Defense White Paper in 2016, while not naming China specifically, Australia expressed concerns that “land reclamation and construction activity by claimants raises tensions in the region. Australia opposes the use of artificial structures in the South China Sea for military purposes. Australia also opposes the assertion of associated territorial claims and maritime rights which are not in accordance with international law, including the United Nations Convention on the Law of the Sea (UNCLOS).”²⁴

China also sees its relations with the United States deteriorating. The United States has growing concerns about China's assertive behaviors in the East and South China Seas, as well as its long-term intentions. An increasingly confident China could aim to dislodge U.S. influence and establish its own hegemony in the region. In a speech before the Economic Club of Washington, then-U.S. Defense Secretary Ashton Carter listed both China and Russia as two of the five major challenges the United States is facing in the rapidly changing post-Cold War landscape, and warned that “Russia and China have become

much more hostile of late,” and “[d]espite all their differences, Russia and China pose some very similar threats.”²⁵ Donald Trump’s Secretary of State, Rex W. Tillerson, even threatened during his January 2017 confirmation hearing that the United States would block China’s access to the islands it built in the South China Sea.²⁶

To balance China’s behaviors and influence and reassure its allies and partners in East Asia, the United States has involved itself more and more deeply in maritime disputes since its pivot/rebalancing to Asia in 2011. It has not only extended diplomatic support to the other claimants, but has also provided military assurance or aid to its allies and partners. For instance, after China established an ADIZ in the East China Sea in 2013, the United States immediately sent its B-52 bombers to fly over China’s ADIZ to challenge China’s efforts. Former U.S. President Obama and other senior officials reassured their Japanese counterparts time and again that the Diaoyu/Senkaku Islands are under the cover of the U.S.–Japan security treaty, which was reaffirmed in the February 2017 Joint Statement by President Trump and Prime Minister Abe of Japan.²⁷ In May 2015, at the annual Shangri-La Security Dialogue held in Singapore, then-Secretary Carter announced a \$425 million military assistance program for Southeast Asian countries over the next five years.²⁸ In the National Defense Authorization Act for Fiscal Year 2016, that pledge was put into law as a new “South China Sea Initiative” under Section 1263, authorizing \$50 million of military aid to provide assistance and training to Indonesia, Malaysia, the Philippines, Thailand, Vietnam, Brunei, Singapore, and Taiwan, “for the purpose of increasing maritime security and maritime domain awareness of foreign countries along the South China Sea.”²⁹

Starting in 2015, the United States also urged China to halt land reclamation, construction, and militarization of the islands and reefs it occupied, and conducted “Freedom of Navigation Operations” (FONOPS) to directly challenge China’s claims and positions on “innocent passage” and military activities in Exclusive Economic Zones (EEZs), which extend 200 nautical miles from a country’s coast. The United States also encouraged Japan, Australia, and others to conduct joint patrols and FONOPS with it in 2015.³⁰ The United States has also pursued what some might call a “name and shame” dimension in its strategy, constantly exposing China’s activities in the South China Sea, from the landing of civilian and military planes on the islands and reefs under construction to new civilian and possible military facilities deployment, which have imposed a very high reputational cost to China.³¹

Additionally, since 2013 when the Philippines resorted to arbitration, the United States has been lending diplomatic support to the Philippines’ approach on numerous bilateral occasions and multilateral forums. The United States and China even engaged in a kind of diplomatic offensive and counter-offensive in

the months and weeks before the July 2016 arbitral ruling in the Hague in the hope of winning more hearts and support around the world, with China claiming more than 70 countries support its positions, and the United States disputing that number and showcasing its own followers.³²

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In a word, China's defensive proactive policy in the East and South China Seas has estranged its relations with most of its neighbors, and planted seeds of suspicion and mistrust between a rising China and the established United States. If left unchecked, it is not unimaginable that China and the United States will slip into the kind of trap that has haunted the relationship between rising and established powers throughout history. As the Athenian historian Thucydides famously argued more than 2400 years ago: "It

was the rise of Athens, and the fear that this inspired in Sparta, that made war inevitable."³³

Even if China can avoid the "Thucydides Trap," the diplomatic, economic, and especially military resources already spent, and yet to be spent, on maritime aspirations do not bode well for a country that still faces daunting domestic development and social challenges. China is also doing its best to avoid the "middle-income trap"—the situation where a country's economic growth slows or stagnates after reaching middle-income levels. China is not institutionally, militarily, culturally, or even psychologically well-prepared enough to compete with the leading sea powers in the Asia-Pacific and the world, much less at the same time as it relies on those countries as export markets—at least until it can transform its own domestic economy to escape the middle-income trap.

Is There A Way Out?

In his 2012 book, *The Rise of China vs. the Logic of Strategy*, Edward N. Luttwak draws a sober lesson from Germany's behavior before World War I: "That only a militarily nonthreatening and diplomatically conciliatory grand strategy could have served Germany well—accelerating its peaceful rise to new heights of cultured prosperity—is perfectly obvious in retrospect. But by 1907, and indeed long before, that best strategy had become simply unthinkable for Germany's political elite."³⁴

The lesson Luttwak drew has significant implications for today's China. As a rising power of continental scale, China's behaviors and words will be closely

watched and examined, and sometimes their significance is greatly magnified. President Xi made this point clearly when he spoke at Australia's Federal Parliament in 2014: "China is a big country with a population of over 1.3 billion people, like a big man in the crowd. Other people will undoubtedly watch how the big man walks and moves, and be concerned about whether the big man will bump into them, block their way or seize their territory."³⁵ As China rises, its neighbors are among the first to feel the impacts and reverberation, good or bad. While all the neighbors welcome the economic benefits that they can reap from China's rapid development, they may also feel uncomfortable about their overdependence on China's market and the political and security implications of China's rise, especially when some have historical and territorial disputes with China. This is what China should bear in mind when dealing with its neighbors and pursuing its foreign policy goals.

In protecting its maritime interests, China should also bear in mind that it cannot hope to reoccupy the islands and reefs other claimants have already occupied and constructed, short of the use of force. For all its shortcomings, the post-WWII world is no longer a world where "the law of the jungle" prevails. The diplomatic, economic, and even military cost will be too much for China to afford if it chooses to resort to war to retake those features. China's recent land reclamations and perceived assertiveness in the South China Sea may speak of the dilemma that China faces: in light of the perceived encroachment of other parties upon its maritime interests and rising nationalism at home, China had to take some actions to prevent and deter further encroachment and pacify its domestic audience, yet not to cause a war and totally derail its relations with neighbors and the United States by attempting to evict these claimants' encroachments.

This is a very thin line to walk and very hard to balance, as China's deteriorating relations with neighboring countries and the United States, and the shouting nationalism at home in the aftermath of the arbitral ruling, attest. Many netizens expressed their outrage at the ruling and one even said China will fight to the end if anyone dares to invade even an inch of China's territory.³⁶ In dealing with the maritime disputes and protecting its maritime interests, China should have a bigger picture in mind and take a long-term view.

China should have a bigger picture in mind and take a long-term view.

First, while there is nothing wrong with protecting maritime interests, how the interests are pursued and protected matters greatly. Germany's lesson shows clearly that a bellicose foreign policy will earn the rising power few friends, accelerate its collision with established powers, and eventually seal its fate. The successful story of China's phenomenal rise in the past thirty years speaks volumes about the importance of a conciliatory foreign policy and enlightened self-interests. An

uncompromising and assertive approach to maritime disputes will not force other claimants to their knees or solve the problem, nor will it serve China's long-term goal of peaceful rise and national rejuvenation. A reconciliatory approach to maritime disputes will signal to the outside world that as China grows, it will not become a bully or threaten others—which can help to assuage the concerns and worries that neighbors may have toward China. This is not a sign of weakness or softness, as some hawks or zealous nationalists claim it is, but the expression of generosity, benign intention, and strength. It is a kind of reassurance and strategic signaling, which will serve China's interests in the long run. Needless to say, it will be extremely difficult for the Chinese leadership to show such generosity in the aftermath of the domestically widely condemned arbitral ruling and amid rising nationalism, yet it is time to show strategic vision and true leadership.

Second, China should conduct meaningful negotiations with the claimants and establish some kind of rules of the road as soon as possible to avoid or control potential maritime incidents or conflicts. For the past few years, China and other claimants have engaged in a kind of “tit for tat” struggle in their maritime disputes. It not only escalates the already-tense situation, but also has the high probability of accidental incidents or conflicts. As a claimant to almost all the disputes in the East and South China Seas and as a rising power of continental scale, China should take the initiative in de-escalating the situation. In the East China Sea, China and Japan launched a dialogue in early 2015 to establish a Maritime Liaison Mechanism for use in emergency situations, which is a positive step toward preventing accidental clashes and should be pursued further.

In the South China Sea, the good news is that despite the adverse arbitral ruling in the Hague and rising nationalism at home, China has shown restraints and flexibility in its dealing with the thorny issues. On August 15–16, 2016, China and ASEAN held the 13th Senior Officials' Meeting on the Implementation of the DOC (Declaration on the Conduct of Parties in the South China Sea) in a carefully-selected, remote, and cool inland city, Manzhouli, bordering China and Russia, where Liu Zhongmin, China's Vice Minister for Foreign Affairs, said implicitly that the parties may draw some inspiration from the successful border dialogues between China and Russia in the 1990s. The meeting ended with some tentative breakthroughs in the implementation of the DOC and consultation on a Code of Conduct (COC). The parties agreed on guidelines for a hotline during maritime emergencies, a joint declaration on the application of the Code for Unplanned Encounters at Sea to the South China Sea, and reiterated their hope and will to reach a draft framework for a code of conduct for the South China Sea by the middle of 2017.³⁷ China also invited Philippines President Rodrigo Roa Duterte to visit China in October 2016, during which the two countries agreed to exercise self-restraint in the conduct of activities in the

South China Sea that would complicate or escalate disputes and affect peace and stability.³⁸

Third, China should propose dialogues with other claimants on fishing and maritime environmental protection. Apart from sovereignty, conflicts arising from fishing as well as oil and gas exploration and development in the disputed East and South China Seas are the main driving forces behind the deteriorating relations between China and other claimants. This also contributes to rising tension in East Asia. If China and other claimants can reach a deal in fishing in the disputed areas or find a way for joint exploration and development of oil and gas, it will dramatically reduce one of the main sources of tension. Given the poor history of, and more sophisticated technical requirements in, joint oil and gas exploration and development in the South China Sea,³⁹ a much easier way to kick off the process would be to open dialogue on shared

fishing in the disputed areas or a pilot program on shared fishing grounds. A private meeting in Hong Kong in the summer of 2016 between former Philippine President Fidel Ramos and Chinese official Fu Ying, during which they talked of possible cooperation between China and the Philippines in fishing, is a welcome development.⁴⁰ In the meantime, claimants can explore ways to protect the maritime environment cooperatively and establish funds for maritime environmental protection. Those measures will help to deescalate the situation and contribute to confidence building. Built on those measures and achievements, the parties concerned can then move to the next stage of exploring ways to cooperate on oil and gas development.

Fourth, China should probe dialogue with the United States on military activities in its EEZ and innocent naval passage in its territorial sea. China and the United States have very different and even conflicting views on this. China, together with two dozen other countries, are against foreign military reconnaissance and other military activities in EEZs deemed harmful to the security of the coastal states, while the United States argues it has the right to regulate these activities. China requires prior permission or notification of transit within its territorial seas, while the United States insists on innocent passage without prior permission or notification. The different interpretations have led to numerous diplomatic spats and even sea and air collisions between China and the United States, and the recent "Freedom of Navigation Operation" and "Innocent Passage" by U.S. destroyers, and China's harsh rhetorical responses, further highlight the differences and the danger of incidents. If China and the United States can

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reach some implicit or explicit understandings or tradeoffs, especially concerning the military activities in EEZ, it will remove a thorn in China–U.S. relations.

Looking Forward

China has so far behaved very cautiously and restrained after the Hague ruling.

The July 2016 arbitral ruling in the Hague is no doubt a setback for China’s maritime claims, and has drawn nationwide condemnation and outcry. However, for all the rhetoric of defiance and grievance, China has so far behaved very cautiously and restrained. China has not declared an ADIZ in the South China Sea nor taken new reclamation efforts in the Scarborough Shoal, as some expected China may do; instead, China has called for maintaining peace and stability in the South China Sea and reached out to ASEAN and the Philippines to deescalate the situation, though China condemns the ruling and vows it will not recognize or implement it.

In this sense, the ruling may have provided a window of opportunity to de-escalate tension in the South China Sea and a possible way out of the messy maritime disputes, if all the parties can take advantage of the ruling wisely in the coming months. Given the sweeping victory the Philippines gained from the ruling and the embarrassing setback to China, it’s time to return to the negotiation table and give diplomacy a full chance.

In the coming months, if China and the Philippines can successfully work out a deal on fishing and other cooperation in the South China Sea, it will help smooth relations and could even set an example for how to deal with other maritime disputes. And if China and ASEAN can finalize their draft framework on the COC, preferably before the end of 2017, it will be a great breakthrough in the rule-making of the South China Sea disputes. Further, if China and Japan follow through on their dialogue on stabilizing the East China Sea situation, which started in early 2015, it will provide an opportunity for both countries to turn over a new leaf from the current dismal relations. Finally, if China and the United States can reach some kind of understanding concerning Freedom of Navigation in EEZs and territorial waters, and the United States shows some restraints and keeps in low profile its FONOPs in the South China Sea, it will help to arrest the growing mistrust between the two countries.

All these are big “ifs,” and definitely not easy tasks. They call for strategic vision, empathy, and concerted diplomatic efforts from all sides, especially from China, the United States, and other claimants.

Notes

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