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## China's Maritime Embroilments

CHINA'S MARITIME PERIPHERY OR "NEAR SEAS—the Yellow Sea, the East China Sea, and the South China Sea—are waters through which a great deal of vital commerce flows, as China, Japan, Korea, and numerous Southeast Asian countries are all major trading nations that import the energy and raw materials that sustain their thriving economies. Since 2009 the East and South China Seas have become increasingly fraught with tension. This has generally been attributed to rising Chinese assertiveness, but not because China has started making a lot of assertions it never made before. As the authors assembled here point out in replete detail, China's explicit claims to the Diaoyu/Senkaku islets in the East China Sea date back at least to 1971, while it can trace its claim in the South China Sea back to the publication of the famous "nine-dashed line" map by the Nationalists in 1947 (at the time it contained eleven segmented lines; the victorious Communists subsequently dropped two). What has changed since 2009 is China's more rigorous enforcement of existing claims. This too is brought out in the articles collected below: its actors have seized islands well within the exclusive economic zones (EEZs) of neighboring Southeast Asian nations, detained fishing boats and confiscated their catch, cut the cables of ships engaged in oil exploration, harassed American surveillance vessels, and most recently undertaken "reclamation" of subsurface islets in order to construct airstrips and harbors.

What accounts for the sea change (and just how far will it go)? Partly, a change in the legal climate brought about by ratification of the UN Commission on the Law of the Sea (UNCLOS) in 1994, inspiring many states to claim legal sovereignty, and no doubt partly because of the discovery of subsurface hydrocarbon deposits in a part of the world that is highly

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industrialized and short of energy. Finally, China has indeed risen, and at a faster pace, to a more dominant size than its neighbors, and this has altered the regional power balance. These are some of the factors explored in this special issue.

Stein Tønnesson, a distinguished Norwegian peace researcher, leads us through the dialectical interplay of law and power in the evolution of China's conception of its own "maritime territory," under the hopeful presumption that "law trumps power." Yet law does not trump politics; it provides a set of rules around which politics can be played when the rules are unclear in their application. Two types of disputes over application have arisen. One is whether China's claim to the South China Sea based on the nine-dashed line map of 1947 can compete legally with the more recent claims of the Southeast Asian maritime states based on UNCLOS (12-nautical-mile territorial waters, 200-nautical-mile EEZ), an issue that may be resolved (or at least clarified) in the arbitral case brought by Manila to the International Court of Justice in January 2013. A second dispute has arisen over what kind of behavior is permitted within the zones outlined by UNCLOS, which is the basis for a disagreement between China and the United States over the intrusion of American surveillance vehicles into the Chinese EEZ to observe traffic around the new submarine base in Hainan. Politics thus arises around gaps or ambiguities in the law. But politics should not escalate to the use of coercion, which current law prohibits, else politics would trump law. In addition, Tønnesson introduces the interesting geopolitical notion that maritime territorial disputes are intrinsically less likely to lead to war than disputes over land borders; why that should be so calls for further research.

Chong-Pin Lin, a professor at Taiwan's National Defense University, outlines in his chapter what he conceives to be China's strategy in its East and South China Seas. The strategy is to "struggle without breaking," that is, to push, push, and push, up to the point when the adversary becomes dangerously annoyed—and then not to "break" the relationship but to subside and wait until another opportunity presents itself—over time, an oscillating strategy of pushing up to the limit and then easing the tension. This strategy he traces back to Deng Xiaoping. The end goal remains unclear in Lin's analysis. Whether it is to win control of China's peripheral waters and break through the "first island chain," as defined by China's foremost naval strategist, Liu Huaqing; or to simply push until it's impossible to push any further; or it remains undefined, we do not know. But the driving force

behind this push is essentially nationalism: thus, “external toughness yields internal returns” (i.e., domestic applause), while perceived external weakness risks the loss of internal support. Nationalism was exacerbated after 2008 by the Beijing Olympics, by China’s triumphant survival of the global financial crisis, and other factors. As others have also observed, although China’s elections are all carefully arranged in advance and media content and dissident troublemakers are tightly leashed, the leadership remains extremely sensitive about unanticipated audience response. In any case China’s post-2008 push is inherently limited by resistance in Southeast Asia (now one of China’s leading trade partners), by US “interference,” and by China’s own precautionary strategy, in Lin’s view. Which is not to say that China will necessarily fail in its geopolitical ambitions—in view of what Lin sees as America’s relative economic and political decline, the outcome is quite open-ended.

Zheng Wang, a professor at Seton Hall University, provides us with one of the very few accounts in print of China’s views of the South China Sea territorial issue. Wang begins with a careful history of the famous nine-dashed line map (including a facsimile of the original), then delves into the scholarly discourse on its meaning. According to students of public opinion, all societies have opinion leaders, intellectuals, publicists, and demagogues who mediate between elites and masses, and so has China. According to Wang there has been a “great leap forward” in Chinese scholarship on the South China Sea since 2010. But according to his analysis, which draws on a wide range of documents, scholarly writings, and elite interviews (civilian and military), the input by the scholarly community and other opinion leaders on South China Sea claims has not altered nationalist assumptions and may indeed have heightened them. A few years ago the most widespread interpretation by Chinese scholars of the content of the map was that it applied only to the land features, basically rocky islets, contained within the nine-dashed line, while excluding most of the sea itself. This interpretation is now deemed unsatisfactory because it does not take into account the interests of the fishing community. So the currently prevailing interpretation among China’s opinion leaders is that the map applies to “territorial waters” as well.

What difference does this make? If a map makes a claim to territorial features, only the territorial waters surrounding the small islands can legally be included (presuming they are able to sustain life). But in terms of UNCLOS, claiming the entire South China Sea as “maritime territory”

would be possible only if it were entirely surrounded by Chinese territory, like Lake Qinghai. Still, whatever UNCLOS may say, the Chinese Communist Party has always been highly proficient at generating political consensus for its initiatives. In this case it seems to have generated a seamless domestic consensus, based on both authoritative elite statements and expert commentary, that China's sovereign right to the near seas is "undisputed" and that any disagreement with this obvious truth is outrageous and ill-intentioned. Which is not necessarily to say that China is ready to fight for those claims, only that it seems willing to take higher risks for them.

Japan's role in the South China Sea has understandably generated far less attention than its high-profile dispute over the Diaoyu/Senkaku islets in the East China Sea, but the latter has stimulated growing interest in the former, as Paul Midford demonstrates. Lacking any domestic hydrocarbon deposits, Japan is more dependent on imports through the South China Sea for its energy supply than China is; since the Fukushima Daiichi nuclear disaster in March 2011 the Japanese are even more dependent, as none of the country's nuclear reactors has been restored to use. If China can unilaterally impose fishing bans and interdict oil exploration in the South China Sea, then from Japan's perspective commercial passage is also potentially at risk. Moreover, Tokyo has become convinced that the outcome of China's pressure tactics in the South China Sea would directly affect Japan's security in the East China Sea. Thus, Japan under Abe has become increasingly engaged in consulting with the leaders of various Southeast Asian states and in offering various forms of assistance, including nontraditional security support. Yet Midford finds no empirical basis for the apprehensions of a rising, revanchist Japan currently prevalent on the Chinese mainland. Certainly Abe is one of postwar Japan's more nationalistic prime ministers, and he has tried persistently, with the help of Chinese incursions into the Senkaku/Diaoyu and other territorial waters, to push Japan to revise or reinterpret the Japanese Constitution's article 9 and become a "normal" country able to engage in power politics. But while China has tended to make quite sweeping changes in its foreign policy every decade or so, Japanese foreign policy has been essentially path-dependent since the war. The politics of memory is real, not only for former Korean or Chinese "comfort women" but for the Japanese people. And that means that the peace Constitution, the Yoshida Doctrine abjuring involvement in military-strategic issues and relying on the Japan-US Security Alliance, and the policy of keeping a very tight leash on the military all remain very difficult to revise.

Paul O'Shea, an assistant professor at Aarhus University, Denmark, in his article does indeed analyze the Sino–Japanese conflict over the East China Sea, including both the maritime and territorial disputes. His findings go against the frequent talk predicting imminent conflict, sometimes even war. He argues that at least in the short and medium term, armed conflict is far from inevitable, although the longer-term outlook is more pessimistic, with the East China Sea being very apt to become the site of Great Power competition. His article provides a detailed review of competing maritime claims going back to the 1968 geophysical survey that found great prospects for oil in the area; it then outlines developments up to the present as well as in the associated territorial dispute over the Senkaku/Diaoyu islets. O'Shea weighs the economic salience (value) of the disputed territory and economic interdependence—two factors generally perceived as playing an important role in the risk of conflict. He finds that the former is in fact less germane than generally perceived, the East China Sea being “not the Persian Gulf . . . not even the North Sea,” and moreover of asymmetrical value. In the East China Sea, O'Shea finds that deepening interdependence between China and Japan has shaped patterns of conflict and cooperation, but not necessarily in ways that might have been expected. O'Shea's analysis captures neither the shifting nature of the interdependence nor the fact that since 1990 the steady increase in interdependence has been followed by an increase in frequency and intensity of flare-ups, rather than the expected opposite.

In his analysis of the strategic value of the disputed islands and the surrounding seas, he argues that the importance of the islands is limited because they are small and surrounded by the East China Sea, thereby giving no access to the Pacific, while the importance of the sea itself is vital. Thereafter, O'Shea outlines and analyzes the domestic factors behind the disputes. He finds that the primary proxy trigger for the increasing diplomatic conflict in recent years, despite being traceable to a number of sub-causes ranging from the Democratic Party of Japan government's diplomatic inexperience to China's increasingly assertive stance since the early 1990s, has been “the increasing role of nationalism in the dispute, and specifically how non- and sub-state actors have exploited this nationalism.” Domestic factors are also the reasons why overt cooperation will remain a distant prospect. The author also outlines the crucial role played by the US and the US–Japan Alliance. The alliance means that with the United States being China's largest export market, a conflict between them could have devastating effects on China's

economy, which would in turn undermine one of the key legitimacy pillars for the Chinese Communist Party.

Sheldon W. Simon, a professor in the School of Politics and Global Studies at Arizona State University in Tempe, focuses on the role of the United States. He outlines the US rebalance, assessing the reactions of the Southeast Asian nations to US military deployments, military assistance to partners, and support for Southeast Asian diplomacy on the South China Sea conflicts. Simon finds that Southeast Asian states in general have endorsed all facets of the US rebalance, in particular its military deployments. He also argues that even if this “pivot” was not ostensibly designed to contain China, it provides Southeast Asia with hedging options against China in the South China Sea. Taking note of the shift of focus from Northeast Asia to Southeast Asia after 9/11, Simon offers a concise overview of the Obama administration’s rebalancing strategy toward Southeast Asia, arguing that despite the architect’s insistence that it is a whole-of-government enterprise aimed at signaling US commitment to prosperity and security, it is US military capabilities that are seen in the region as the initiative’s centerpiece. That said, it is emphasized that the Obama administration has supported security multilateralism, having declared such ASEAN-centered political-security institutions as ARF, the ADMM+ and the EAS key components of its strategy, in particular with regard to so-called nontraditional security concerns.

Thereafter, the article outlines the US engagement in the South China Sea conflict, where despite insisting on not supporting any territorial claims, Washington has become more involved and proactive. American actions include endorsing ASEAN’s efforts to create a binding Code of Conduct and in 2012 declaring that the United States had a “national interest” in freedom of navigation in the South China Sea and would work to protect it. The US State Department, moreover, published a rebuttal of the Chinese nine-dashed-line claims in December 2014. Here the author’s focus is on the rebalance with particular regard to the Philippines and Vietnam, providing superb overviews of recent developments. US relations with the former are viewed as a possible litmus test for the effectiveness of American military assistance and diplomatic support.

Ramses Amer’s article analyzes progress made and persisting challenges to dispute management in the South China Sea and adjacent areas. Amer, an associated fellow at Sweden’s Institute for Security and Development Policy, outlines the progress made by looking at the 10 disputes settled since 1969 via

formally negotiated agreements or international jurisprudence. From this baseline he identifies, analyzes, and assesses the remaining (unsettled) disputes and provides an overview of the different bilateral, trilateral, and regional initiatives made to manage them. He finds that considerable progress has been made in terms of formal settlements as well as in conflict management in the South China Sea area, in particular in the Gulf of Tonkin and the Gulf of Thailand. It is clear that there has been a general preference for bilateral approaches when handling disputes between two parties, which has also been the traditional preference among Southeast Asian states. Thus, bilateral approaches, Amer infers, are the preferred model not only in China but also among the Southeast Asian states when handling territorial sovereignty issues. There has also been a general reluctance to bring in international courts and tribunals, direct negotiation being preferred. In this context, he notes that the role ASEAN may play is complex, as four of its members claim all or parts of the Spratly Archipelago, making it impossible for ASEAN to work as a third-party mediator between China and other claimants. Also, the fact that four ASEAN members have distinct claims creates diverging interests, which need to be reconciled with all 10 members' interests to form a consensus vis-à-vis China. Thus, what one member perceives as positive may be seen as negative by another.

Finally, Mikael Weissmann, a research fellow of the Swedish Institute of International Affairs and a senior lecturer at the Swedish Defence University, takes his starting point in conflict management theory, using a conflict transformation framework to analyze the South China Sea conflict in the 1991–2014 period. Arguing that the conflict is best understood as a manifestation of Sino–ASEAN relations, he asks whether conflict transformation has happened and if so, to what extent it is still relevant considering the negative developments in the South China Sea since 2007. Weissmann reviews the South China Sea conflict with regard to relative conflict intensity, with an emphasis on the post-2007 period. His analysis is made with regard to four dimensions of conflict transformation: context, structure, actor, and issue transformation. Weissmann finds that the regional context in which the conflict is embedded has articulated new norms for behavior, including a shift to the nonuse of military means in pursuing claims and acceptance of the 2002 Declaration on the Conduct of Parties in the South China Sea as a guiding principle. These norms are still relevant, though weaker and without the same underlying trust between parties. Multilateralism continues to

be the norm, despite Chinese resistance, and overall economic relations between China and ASEAN continue to be positive, though political relations between China and Japan and some ASEAN members have worsened due to conflicting claims in the East and the South China Seas, respectively.

ASEAN has emerged as a new actor, with the organization being recognized as a major player in the mid-1990s. No issue transformation has happened, as there has been neither a reformulation of the parties' positions on core issues, nor any substantial reframing of the normative issues to reach compromise or resolution. Weissmann concludes that although these transformations have been weakened in recent years, a major armed conflict is still unlikely. Some aspects of the positive changes between 1991 and 2007 are extant, and there would be much to lose from precipitating armed conflict for all parties, not least for China. As Weissmann puts it, "The concern is the negative developments with regard to actor transformation, the big question being where Xi Jinping is going." It is also clear that the role of the US as a principal actor has increased; whether this is positive for peaceful development is unclear, but it does give ASEAN and its relatively weak members leverage against China.