

Security Cooperation in the South China Sea: An Assessment of Recent of Trends

Carlyle A. Thayer



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Introduction

This paper assesses recent developments affecting the security of the South China Sea in the first half of 2011.¹ The paper is divided into five main sections. In the first four sections the paper reviews bilateral interaction on South China Sea issues between China and four claimant states – Vietnam, the Philippines and Malaysia and Taiwan. In the fifth section the paper discusses the role of the Association of Southeast Asian Nations (ASEAN) in promoting multilateral engagement with China over the Declaration on Conduct of Parties in the South China Sea (DOC) and a Code of Conduct for the South China Sea.

Chinese assertiveness in advancing its territorial and sovereignty claims in the South China Sea dominated the political calendar throughout much of 2010. By October these tensions appeared to have abated. China resumed military-to-military contacts with the United States that it had suspended earlier in the year. China and ASEAN revived the moribund Joint Working Group to Implement the Declaration on Conduct of Parties in the South China Sea (DOC). These and other development led the author to conclude that there were grounds for cautious optimism that some progress could be made in managing South China Sea tensions.²

* Emeritus Professor, The University of New South Wales at the Australian Defence Force Academy, Canberra. E-mail: c.thayer@adfa.edu.au.

¹ The author has discussed earlier developments in several conference papers that cover events from 2007 until June 2011, see: Carlyle A. Thayer, "Recent Developments in the South China Sea: Implications for Regional Peace and Prosperity," Paper presented to the 2nd International Workshop on the South China Sea: Cooperation for Regional Security and Development, co-sponsored by the Diplomatic Academy of Vietnam and the Vietnam Lawyers' Association, New World Saigon Hotel, Ho Chi Minh City, Vietnam, November 12-13, 2010; Carlyle A. Thayer, "Recent Developments in the South China Sea – Implications for Peace, Stability and Cooperation in the Region," Paper presented to International Workshop on "The South China Sea: Cooperation for Regional Security and Development," co-organised by the Diplomatic Academy of Vietnam and the Vietnam Lawyers' Association, Hanoi, November 27-28, 2009; and Carlyle A. Thayer, "China's New Wave of Aggressive Assertiveness in the South China Sea," Paper presented to Conference on Maritime Security in the South China Sea, Center for Strategic and International Studies, Washington, D.C., June 20-21, 2011.

² Carlyle A Thayer, *Recent Developments in the South China Sea: Grounds for Cautious Optimism?*, RSIS Working Paper No. 220, Singapore: S. Rajaratnam School of International Studies, Nanyang Technological University, Singapore, December 14, 2010.

The first six months of this year have seen a revival of tensions and behaviour on the part of China that has not been witnessed before. China has begun to aggressively interfere in the commercial operations of oil exploration vessels in the Exclusive Economic Zones declared by the Philippines and Vietnam. Diplomatic protests by both states over Chinese behaviour have elicited condescension, stonewalling, and belligerency by Beijing.

Drivers of Chinese Behaviour. There are two major interrelated drivers that explain recent Chinese behaviour: sovereignty and hydrocarbon resources.

In May 2009 China protested submissions by Malaysia and Vietnam to the United Nations Commission on the Limits of the Continental Shelf by officially submitting a map of China's claims. This map contained nine dash lines in a u-shape covering an estimated eighty percent or more of the maritime area of the South China Sea. China is now backing up its claim by demonstrating that it has legal jurisdiction over the South China Sea.

This year both the Philippines and Vietnam have renewed oil exploration activities in the South China Sea. In February 2011, for example, Forum Energy, an Anglo-French consortium based in the United Kingdom, was awarded an exploration contract to explore for gas in the Reed Bank area.³ In April, a joint venture between PetroVietnam's Petroleum Technical Services Corporation and CGG Veritas of France began seismic surveys off Vietnam's coast.⁴

Oil exploration activities by the Philippines and Vietnam are viewed by Beijing as a plundering of resources that it claims and a challenge to its forbearance.⁵ According to Song Enlai, chairman of China National Offshore Oil Corporation's (CNOOC) board of supervisors, China loses about 20 million tons of oil annually or about 40 percent of its total offshore production due to the activities of countries in the South China Sea.

On March 7, Foreign Minister Yang Jiechi stated that China's foreign policy would serve the country's economic development. China then warned against any oil exploration in waters it claimed in the South China Sea.⁶ In early May China announced that it would step up maritime patrols by at least ten percent in the face of increasing incursions into its territorial waters. Chinese media reported that around one thousand recruits would be added to China's marine service to raise the total to 10,000.⁷ That same month China

³ "Aquino to raise joint South China Sea oil probe to ASEAN," *Zamboanga Today Online*, March 12, 2011 and Joseph Santolan, "Tensions escalate over the South China Sea," *World Socialist Web Site*, May 3, 2011.

⁴ Reuters, "Vietnam accuses China of harassing another boat," June 9 2011.

⁵ Kavi Chongkittavorn, "Difference perceptions of a rising China," *The Nation*, June 6, 2001.

⁶ Aurea Calica, "Palace in no hurry to file China protest," *The Philippine Star*, May 21, 2011.

⁷ United Press International, "Vietnam alleges high-seas interference," June 10, 2011.

launched a mega oil and gas-drilling platform to be used by the CNOOC in the South China Sea. The rig frees China of dependence on foreign-owned contractors for deep-sea drilling. The rig is capable of exploring waters up to 3,000 metres in depth, a capability that neither the Philippines nor Vietnam possesses.⁸ Chinese sources indicated that the rig would begin operations in the South China Sea in July and thereby enable China to establish a major presence in the area.⁹

This paper concludes by noting the cautious optimism that emerged in late 2010 about the prospects of China and ASEAN agreeing on confidence building measures has largely dissipated as a result of a new wave of Chinese aggressive assertion of sovereignty claims in incidents involving the Philippines and Vietnam. The next five months will be crucial as ASEAN's annual cycle of summit, ministerial and related-meetings take place. Although the resolution of overlapping territorial and sovereignty claims in the South China Sea will remain intractable it is possible that multilateral diplomacy can contribute to the lowering of current tensions and promote measures that advance security cooperation in the South China Sea.

1. China and Vietnam: Compartmentalizing South China Sea Tensions

In December 2008, China and Vietnam agreed to commence bilateral discussions on maritime issues with first priority given to developing a set of "fundamental guiding principles" as a framework for settling specific issues. These confidential discussions began in early 2010 and five sessions were held during the year. According to Vietnamese Foreign Ministry sources, Vietnam and China agreed to settle their differences "through peaceful negotiation" and "refrain from any action to complicate the situation, violence or threat of use of violence."¹⁰

Significantly, Vietnam and China agreed to bilateral discussions on matters that did not affect third parties, such as the waters at the mouth of the Gulf of Tonkin. Vietnam wanted to include the Paracel Islands in bilateral discussion but China refused. Vietnam and China also differed on the question of multilateral negotiations. According to Vietnam:

⁸ Michael Richardson, "China brings out the big rig in energy race," *The Australian Financial Review*, June 1, 2010 and Michael Richardson, "China steps up drilling, intimidation" *The Japan Times*, June 1, 2011.

⁹ On May 27, the Philippines' Department of Foreign Affairs summoned Chinese officials to convey its concern about the planned location of the new rig in the South China Sea. Philippines officials asked the Chinese diplomats the exact planned location of the new oilrig and stated that it should not be placed in Philippine territory or waters; Pia Lee-Brago, "China Building in PHL Waters; DFA Summoned Envoy," *The Philippine Star*, June 2, 2011.

¹⁰ "Answer from Vietnam Ministry of Foreign Affairs Spokesperson Nguyen Phuong Nga to Questions by Greg Torode – *South China Morning Post*," December 2010; see: Greg Torode and Minnie Chan, "China refuses to yield on Paracels," *Sunday Morning Post* [Hong Kong], December 12, 2010.

Issues that are related to other countries and parties like the Spratly Islands cannot be settled by Vietnam and China; they require the participation of other concerned parties. For issues that are not only related to countries that border the East Sea such as maritime safety and security, they must be negotiated and settled by all countries that share this common interest.¹¹

High Level Visits. In February 2011, immediately after 11th national congress of the Vietnam Communist Party, the new Secretary General, Nguyen Phu Trong, dispatched a special envoy, Hoang Binh Quan, to Beijing. Quan met with Hu Jintao, President and General Secretary of the Chinese Communist Party, and briefed him on the outcome of the party congress. Quan also extended an invitation to Hu and other Chinese party and state leaders to visit Vietnam. In return, Hu extended an invitation to Secretary General Trong to visit China.¹²

In April, Senior Lieutenant General Guo Boxiong, vice chairman of China's Central Military Commission, visited Hanoi at the invitation of General Phung Quang Thanh, Minister of National Defence. Lt. Gen. Guo was also received by Prime Minister Nguyen Tan Dung and party Secretary General Nguyen Phu Trong. Prime Minister Dung "proposed the two sides talk and seek fundamental and long-lasting measures that both sides are able to accept for the East Sea [South China Sea] issue..."¹³ The joint press communiqué issued after the conclusion of Guo's visit outlined a number of cooperative military activities, including increasing the scope of joint naval patrols in the Gulf of Tonkin, but no mention was made of the South China Sea.¹⁴

Immediately after General Guo's visit, Vietnam hosted a meeting of the heads of the government delegations on boundary negotiations between China and Vietnam (April 18-19). These discussions were held at deputy minister level. China's Foreign Ministry reported that the two vice ministers pledged, "to properly handle maritime disputes through friendly consultations and explore solutions with a positive and constructive attitude."¹⁵ A Vietnamese spokesperson revealed that "the two sides agreed they will

¹¹ Ibid.

¹² "Chinese president vows to further ties with Vietnam," Xinhua, February 18, 2011 and "China's Hu Jintao invites Nguyen Phu Trong," Voice of Vietnam News, February 19, 2011.

¹³ "Party Leader's Meeting with Chinese General," Vietnam News Agency, April 14, 2011.

¹⁴ Li Qiong, "China, Vietnam Issue Joint Press Communiqué on CMC Vice Chairman Guo Boxiong's Visit to Vietnam," Xinhua, April 17, 2011.

¹⁵ "Vietnamese Prime Minister Nguyen Tan Dung Meets with Chinese Vice Foreign Minister Zhang Zhijun," Ministry of Foreign Affairs of the People's Republic of China, April 20, 2011.

sign an agreement on the fundamental guidelines to settle the maritime issues” but no date was set to sign the agreement.¹⁶

China’s Unilateral Fishing Ban. On May 11, the Haikou Municipal Government, Hainan province, issued an announcement imposing China’s annual unilateral fishing ban in the South China Sea from May 16-August 1 ostensibly to protect dwindling fish stocks during the spawning season. Vietnam immediately issued a verbal protest: “China’s unilateral execution of a fishing ban in the East Sea is a violation of Vietnam’s sovereignty over the Hoang Sa [Paracel] archipelago, as well as the country’s sovereignty and jurisdiction over its exclusive economic zone and continental shelf...”¹⁷ Vietnam also protested the deployment of a Chinese Fishery Administration Vessel, *Leizhou 44261*, to patrol in the waters around the Paracel Islands from May 5-25. Vietnam accused the patrol boat of “causing difficulties for normal fishing activities conducted by Vietnamese fishermen in their traditional fishing ground and making the situation at sea more complicated.”¹⁸

Vietnamese local authorities reported the arrival of Chinese fishing boats in Vietnamese waters in greater numbers than in the past. The head of Phu Yen Province Border Guard Headquarters stated that, “every day between 120 and 150 fishing boats of China were operated within waters from Da Nang City to the Truong Sa [Spratly] Archipelago... Previously Chinese fishing boats have violated our waters, but this was the first time there were so many boats.”¹⁹ The numbers rose to 200 on some occasions. Vietnamese fishermen formed fishing teams of five to ten boats for protection because of intimidation from larger Chinese craft that sometimes used weapons to threaten them. The Vietnamese government is currently considering a proposal by the Ministry of Agriculture and Rural Development to build ten fishery patrol boats at a total cost of US \$102.14 million.

Although Vietnamese fishermen vowed to defy the ban²⁰ the Vietnamese press has not reported any major incidents of harassment or detention. On June 1, however, it was reported that Chinese military vessels threatened to use their guns against a Vietnamese fishing boat operating in waters near the Spratly archipelago.²¹

¹⁶ Quoted in Agence France Presse, “Vietnam, China vow to work on disputed sea pact,” April 21, 2011 and Deutsche Presse-Agentur, “Vietnam and China pledge to settle South China Sea disputes,” April 20 2011.

¹⁷ “Vietnam opposes China’s fishing ban in East Sea,” Voice of Vietnam News, May 14, 2011.

¹⁸ ‘Chinese Ship Violates Vietnam’s Sovereignty,” Vietnam News Agency, May 13, 2011.

¹⁹ “Chinese fishing boats violate Vietnam waters; gov’t mulls patrol boats,” *Thanh Nien News*, May 29, 2011.

²⁰ Deutsche Presse-Agentur, “Vietnam defiant on first day of Chinese fishing ban,” May 16, 2011.

²¹ An Dien and Minh Hung, “East Sea undercurrents,” *Thanh Nien News*, June 10, 2011.

The First Cable Cutting Incident. On May 26, three China Maritime Surveillance ships accosted the Binh Minh 02, a Vietnamese seismic survey ship operating in Block 148, in an incident that lasted three hours. China Maritime Surveillance ship No. 84 cut a cable towing seismic monitoring equipment.²² The next day Vietnam lodged a diplomatic protest with China's Ambassador claiming that the actions of the China Maritime Surveillance ships violated international law and Vietnam's sovereignty.²³ Vietnam also sought compensation for the damage caused. The Binh Minh 02 returned to port for repairs and resumed its oil exploration activities accompanied by an escort of eight ships.²⁴

Some news media erroneously reported that this was the first instance in which the Chinese had cut the cable of a Vietnamese exploration vessel. According to Do Van Hau, a senior PetroVietnam official, "When we conduct seismic survey and drilling operations, they [China] have aeroplanes flying over to survey our activities, they harass us with their vessels, and in extreme cases they cut our [exploration] cables."²⁵ The Vietnamese press reported that when Vietnamese conducted continental shelf surveys in 2010 "Chinese vessels also cut Vietnamese ships' survey cables... and further obstructed Viet Nam from conducting oil and gas exploration in the East Sea..."²⁶

China responded to Vietnam protest on May 28 with the following statement: "What relevant Chinese departments did was completely normal marine law-enforcement and surveillance activities in China's jurisdictional area."²⁷ Vietnam retorted on May 29, "the area where Vietnam conducted exploration activities situates entirely in the exclusive economic zone and the 200-nautical mile continental shelf of Vietnam in accordance with the 1982 United Nations Convention on Law of the Sea. It is neither a disputed area nor is it an area 'managed by China.' China has deliberately misled the public into thinking that it is a disputed area."²⁸ China responded in kind: "the law enforcement

²² "Bao Cao Su Co Tau Truong Quoc Cat Cap Thu Dia Chan Cua Tau Binh Minh 02 Vao Luc 5H58' Ngay 26/05/2011," and Reuters, "Vietnam says Chinese boats harassed oil exploration ship," May 27, 2011. The incident took place 116 nautical miles off the Dai Lan Cape on the coast of Phu Yen province at 12 degrees 48'25" north latitude and 111 degrees 26'48" east longitude.

²³ "VN condemns Chinese intrusion," Vietnam News Agency, May 28, 2011.

²⁴ Deutsche Presse-Agentur, "Vietnam stands ground in sea dispute, survey ship takes up work," June 6, 2011; Agence France Presse, "Vietnam complains to China as sea tensions rise," June 9, 2011 and Nicholas Heath and Daniel Ten Kate, "Vietnam Says Chinese Boat Harassed PetroVietnam Survey Ship," *Bloomberg Businessweek*, June 9, 2011.

²⁵ Ben Bland and Kathrin Hille, "Vietnam and China oil clashes intensify," *The Financial Times*, May 27, 2011.

²⁶ "National, world security closely linked: minister," *Viet Nam News*, June 7, 2011.

²⁷ Quoted in Reuters, "China reprimands Vietnam over offshore oil exploration," May 28, 2011.

²⁸ "Vietnam demands China stop sovereignty violations," *Thanh Nien News*, May 29, 2011.

activities by Chinese maritime surveillance ships against Vietnam's illegally operating ships are completely justified. We urge Vietnam to immediately stop infringement activities and refrain from creating new troubles."²⁹

Shangri-La Dialogue. In June Liang Guanglie and Phung Quang Thanh, the Chinese and Vietnamese defence ministers, met in Singapore on the sidelines of the Shangri-La Dialogue. This meeting took place under the shadow of the May 26th cable-cutting incident. Minister Thanh spoke in detail about the legal basis for activities at sea "to facilitate cooperation for development and deter actions that risk our common interests, regionally and nationally." Thanh specifically raised the Binh Minh 02 cable-cutting which he characterized as a "pressing incident" that had aroused "considerable concern on the maintenance of peace and stability in the East Sea" by Vietnam's party and state leaders. Thanh offered the conciliatory comment that "Sometime, regrettable cases happen which are beyond the expectation of both sides."³⁰ He ended his comments with these words: "We truly expect no repetition of similar incidents."³¹

Minister Liang replied that China did not want a similar incident to occur in the future. He noted in particular that the People's Liberation Army was not involved in the incident. Four days later there was a second cable-cutting incident. Commentators were quick to contrast General Liang's words with China's deeds.

The Second Cable Cutting Incident. On June 9, according to Vietnam's Ministry of Foreign Affairs, a second "premeditated and carefully calculated" incident occurred when Chinese fishing boat No. 62226 equipped with a "cable cutting device" snared the cable of the *Viking II* seismic survey ship operating in survey Block 136-03 in the vicinity of Vanguard Bank (Tu Chinh).³² *Viking II* is registered in Norway and was operating under charter with PetroVietnam.³³ Two China Maritime Surveillance ships and other Chinese fishing craft came to assist the distressed fishing boat. According to Nguyen Phuong Nga, the official Foreign Ministry spokesperson, "China's systematic acts were aimed at

²⁹ Quoted by Huy Duong, "The Philippines and Vietnam at the Crossroad," *Manila Times*, June 9, 2011.

³⁰ "East Sea incident a pressing issue: Vietnamese Defense Minister," *Thanh Nien News*, June 4, 2011. Chinese news media distorted Minister Thanh's remarks by reporting that he agreed to "resolve their differences over the South China Sea through bilateral efforts, and that no third party should be allowed to interfere in such efforts or use the issue to harm the bilateral relations," see: "Chinese DM Meets with Vietnamese Counterpart in Singapore," *Xinhua* June 4, 2011.

³¹ Phung Quang Thanh, "Responding to New Maritime Security Threats," The 10th IISS Asian Security Summit The Shangri-La Dialogue, June 5, 2011.

³² Ian Timberlake, "Sea spat raises China-Vietnam tensions," *Agence France Presse*, June 9, 2011. Talisman Energy Inc. a Canadian company based in Calgary announced in April 2011 that it would conduct a major seismic program in this area; Nicholas Heath and Daniel Ten Kate, "Vietnam Says Chinese Boat Harassed Petro-Vietnam Survey Ship," *Bloomberg Businessweek*, June 9, 2011.

³³ Reuters, "Vietnam accuses China of harassing another boat," June 9, 2011.

turning an undisputed region into one of dispute, to carry out its ambition to make China's nine-dash line claim a reality."³⁴

Earlier the *Viking II* had been involved in separate incidents on May 29 and May 31 in which Chinese boats – the *Fei Sheng* No. 16 and Vessel No. B12549 – attempted to approach its rear deck and interfere with its operations. Security escorts with the *Viking II* successfully blocked their approaches.³⁵

Chinese authorities claimed that the *Viking II* incident occurred when armed Vietnamese ships chased Chinese fishing boats from the Wan-an (Vanguard) Bank. One of the Chinese boats became entangled in the cable of the *Viking II* ship operating in the same area. The Chinese boat was dragged for more than an hour before the entangled net could be cut. According to the Chinese Foreign Ministry spokesperson, Hong Lei, "The Vietnamese ship put the lives and safety of the Chinese fishermen in serious danger." Vietnamese Foreign Ministry officials lodged a protest with the Chinese Embassy on the afternoon of the incident and announced that the Vietnam National Oil and Gas Group would be seeking compensation for damages.³⁶

Vietnam's Prime Minister on "Incontestable Sovereignty". On June 9, Prime Minister Nguyen Tan Dung responded to growing domestic pressure to demonstrate some backbone in dealing with China by making an unusually strong statement in defence of national sovereignty. Dung said: "We continue to affirm strongly and to manifest the strongest determination of all the Party, of all the people and of all the army in protecting Vietnamese sovereignty in maritime zones of the country." Dung also reaffirmed "the incontestable maritime sovereignty of Vietnam towards the two archipelagos, the Paracel and Spratlys."³⁷ On the same day, President Nguyen Minh Triet, visiting Co To island off Quang Ninh province near the China border, stated that Vietnam was "determined to protect" its islands and "we are ready to sacrifice everything to protect our homeland our sea and island sovereignty."³⁸

Live-Fire Exercises. On June 9 after the Chinese Ambassador to the Philippines called on Vietnam and the Philippines to cease oil exploration, and after China announced it

³⁴ Quoted by United Press International, "Vietnam alleges high-seas interference," June 10, 2011.

³⁵ An Dien and Minh Hung, "East Sea undercurrents," *Thanh Nien News*, June 10, 2011.

³⁶ Ian Timberlake, "Sea spat raises China-Vietnam tensions," Agence France Presse, June 9, 2011 and Reuters, "China accuses Vietnam in escalating sea tensions," June 10, 2011.

³⁷ Interview with *Thanh Nien* quoted by Agence France Presse, "Vietnam PM says sea sovereignty 'incontestable'," June 9, 2011 and Deutsche Presse-Agentur, "Vietnam's top leaders add fire to South China Sea disputes," June 9, 2011.

³⁸ Deutsche Presse-Agentur, "Vietnam's top leaders add fire to South China Sea dispute," June 9, 2011.

would be conducting routine naval exercises in the Western Pacific,³⁹ Vietnam raised the stakes by announcing a live-fire exercise. Vietnam's Northern Maritime Safety Corporation issued a notice that two live firing exercises would be held on June 13th in the waters near Hon Ong Island. The exercises would last for a total of nine hours and be conducted during the period 8am-noon and 7pm-midnight (0100-0500 GMT and 1200-1700 GMT). The notice further declared, "All vessels are to refrain from engaging in activities in the area during the live-fire period."⁴⁰ Hon Ong Island is located approximately forty kilometres off Quang Nam province in central Vietnam.

Vietnam's Foreign Ministry characterized the live-firing exercises as "a routine annual training activity of the Vietnam navy in the area where the Vietnam navy regularly conducts training [activities] that are programmed and planned annually for units of the Vietnam People's Navy."⁴¹ Vietnam did not specify how many ships would be involved but made clear no missiles would be fired. The first phase of the exercise involved coastal artillery while the second part of the exercise involved missile corvettes firing their deck gun.

On June 11, the *Global Times*, an English-language newspaper published by the Chinese Communist Party, editorialized that Vietnam's conduct of a live-firing exercises was the "lowest form of nationalism to create a new enmity between the people of the two countries. Hanoi seems to be looking to dissipate domestic pressure and buck up morale at home, while at the same time further drawing in the concern of international society over the South China Sea dispute." The editorial stated that China has "never sought to politically blackmail smaller countries. But when a small country turns that around and tries to blackmail China, the Chinese people will on the one hand feel rather angry, while on the other hand find it quite amusing." In conclusion, the editorial opined, "If Vietnam insists on making trouble, thinking that the more trouble it makes, the more benefits it gains, then we truly wish to remind those in Vietnam who determine policy to please read your history."⁴²

Anti-China Nationalism. China's new wave of aggressive assertiveness provoked a patriotic response among students and a wider section of the Vietnamese community.

³⁹ Ben Blanchard and Michael Martina, "China says to hold 'routine' navy drills in western Pacific," Reuters, June 9, 2011.

⁴⁰ Bao Dam An Toan Hang Hai Mien Bac (Northern Maritime Safety Corporation), "Ve viec ban dan that tren vung bien Quang Nam," So 107/TBHH-CT.BDATHHMB, June 9, 2011, <http://www.vms-north.vn>. A spokesman for the Vietnam naval command at Da Nang said the exercise would total six hours.

⁴¹ Quoted by John Ruwitch, "Vietnam welcomes international help as sea dispute escalates," Reuters, June 11, 2011. See also: Margie Mason, "Vietnam plans live-fire drill after China dispute," Associated Press, June 10, 2011; Agence France Presse, "Vietnam to hold live-fire drill as China rift grows," June 10, 2011 and Deutsche Presse-Agentur, "Navy official says live-fire drills well inside Vietnam's territory," June 11, 2011.

⁴² Quoted by Associated Press, "Chine Communist Party newspaper cautions Vietnam," June 11, 2011.

Using Facebook and other social networking sites they mounted anti-China demonstrations on four consecutive Sundays in both Hanoi and Ho Chi Minh City. On June 5, an estimated 300 Vietnamese gathered in Hanoi near the Chinese Embassy, while a crowd estimated “at nearly 1,000” to “several thousand” gathered in Ho Chi Minh City.⁴³ On the following weekend, June 12, two hundred demonstrators took to the streets of Hanoi while another three hundred marched in Ho Chi Minh City in a repeat of the previous weekend’s protests.⁴⁴ The protestors held placards reading “Down with China,” “The Spratlys and Paracels belong to Vietnam” and “Stop Violating Vietnam’s Territory.” These demonstrations were peaceful and dispersed on orders by the police.⁴⁵

On June 19, “hundreds” of Vietnamese conducted the third demonstration against China in Hanoi and Ho Chi Minh City.⁴⁶ Estimates of the number of protestors who gathered outside the Chinese Embassy in Hanoi varied from 100 to 300. They sang patriotic songs, chanted “Down with China” and held placards reading “China stop violating the territorial waters of Vietnam.”⁴⁷ Police used loud hailers to praise the crowd for its patriotism but tried to dissuade them by noting “Your gathering here may complicate the situation, influencing diplomatic relations between the two countries.”⁴⁸

On June 26, an estimated 100 protestors in Hanoi conducted the fourth successive demonstration against China. They marched through the city streets carrying signs that read, “China stop lying. China stop invading” and “Stop violating the territorial waters of Vietnam.”⁴⁹

⁴³ “Chinese aggression in the South China Sea persists, says Vietnam Foreign Minister,” *IB Times*, June 9, 2011; Reuters, “Vietnam accuses China of harassing another boat,” June 9, 2011 and Ian Timberlake, “‘Facebook effect’ stirs Vietnam-China tensions,” *Agence France Presse*, June 10, 2011

⁴⁴ Deutsche Presse-Agentur, “Vietnamese demonstrate against China as sea disputes heats up,” June 12, 2011; Reuters, “Vietnam allows second anti-China protest in Hanoi,” June 12, 2011 and AFP, “Protesters rally ahead of Vietnam fire drills,” *The Standard*, June 13, 2011.

⁴⁵ Some Vietnamese universities warned their students not to take part in anti-China demonstrations. A notice at the Industrial University in Ho Chi Minh City, for example, threatened to expel students who took part in anti-China demonstrations; see: John Ruwitch, “Vietnam allows second anti-China protest in Hanoi,” Reuters, June 12, 2011.

⁴⁶ Deutsche Presse Agentur, “Protestors in Vietnam march against China for third week,” June 19, 2011.

⁴⁷ Associated Press, “Vietnamese protest China amid rising tensions,” June 18, 2011’ and *Agence France Presse*, “Vietnamese hold anti-China rally amid sea spat,” June 20, 2011.

⁴⁸ *Agence France Presse*, “Vietnamese hold anti-China rally amid sea spat,” June 20, 2011.

⁴⁹ Associated Press, “Dozens of Vietnamese protest China amid tensions,” June 25, 2011. A day earlier about 200 Vietnamese staged a protest in Tokyo chanting, “Don’t kill fishermen in Vietnam!,” see: *Agence France Presse*, “Vietnamese in Tokyo stage first China protest,” *The China Post*, June 26, 2011. Viet Tan, an anti-communist overseas Vietnamese political party, tried to capitalize on the South China Sea territorial dispute by charging that the Vietnamese government was “unfit to lead the country,” see: Marianne

During early June, growing enmity between nationalists in China and Vietnam spilled over into cyberspace. According to Nguyen Minh Duc, director of the Bach Khoa Internetwork Security Centre, more than two hundred Vietnamese websites were subject to cyber attacks. Among the sites affected were those of the ministries of Agriculture and Rural Development and Foreign Affairs where hackers succeeded in posting Chinese flags and slogans.⁵⁰

Compartmentalizing South China Sea Tensions. In a clear sign that China and Vietnam had contained tensions arising from the cable-cutting incidents, the navies of both countries conducted their eleventh routine joint patrol in the Gulf of Tonkin on June 19-20.⁵¹ After the patrol was concluded, the Vietnamese ships paid a visit to Zhanjiang, Guangdong, Vietnam's second ever port call to China.⁵²

On June 25, Vietnam dispatched deputy foreign minister Ho Xuan Son as a special envoy to Beijing to hold talks on the South China Sea with his counterpart Zhang Zhijun. Significantly, Son was received by State Councilor Dai Bingguo.⁵³ According to a joint press release the two sides resolved to settle their disputes through "negotiation and friendly consultation," control public opinion, and step up negotiations on guidelines on the principles of settlement of maritime disputes and the DOC. The text of the joint press release released by Vietnam's Foreign Ministry stated:

The two sides emphasized the necessity to actively implement the common perceptions of the two countries' leaders, peacefully solving the two countries' disputes at sea through negotiation and friendly consultation; employing effective measures and working together to maintain peace and stability in the East Sea [sic].

They also laid stress on the need to steer public opinions along the correct direction, avoiding comments and deeds that harm the friendship and trust of the people of the two countries.

Brown, "Vietnam weighs patriotism against diplomacy in China spat," Deutsche Presse Agentur, June 27, 2011.

⁵⁰ Agence France Presse, "Vietnam complains to China as sea tensions rise," June 9, 2011 and Ian Timberlake, "Vietnam to hold live-fire drill as China rift grows," June 10, 2011.

⁵¹ Margie Mason, "Vietnam and China hold joint naval patrol amid spat," Associated Press, June 21, 2011 and Agence France Presse, "China, Vietnam hold joint sea patrols near disputed Spratlys," June 23, 2011.

⁵² "Vietnamese naval ships on friendly visit to China," *Quan Doi Nhan Dan Online*, June 22, 2011; "China, Vietnam engage in Joint naval patrols," *People's Daily Online*, June 22, 2011 and "Vietnamese naval ships wrap up visit to China," *Quan Doi Nhan Dan Online*, June 27, 2011.

⁵³ Edward Wong, "China and Vietnam Agree to Talks on South China Sea Dispute," *The New York Times*, June 26, 2011; Brian Spegele, "China Announces Pact with Vietnam on Disputes Sea," *The Wall Street Journal*, June 26, 2011; Dan Martin, "China, Vietnam vow to cool S. China Sea tensions," Agence France Presse, June 27, 2011; and Qin Zhongwei, "China, Vietnam agree on talks to solve sea dispute," *China Daily*, June 27, 2011 and Reuters, "China, Vietnam agree to resolve maritime dispute," June 28, 2011.

The two sides agreed to speed up the tempo of negotiations so as to early sign an “Agreement on basic principles guiding the settlement of sea issues between Vietnam and China”, and boost the implementation of the Declaration on Conduct of Parties in the East Sea [sic] (DOC) and follow-up activities so that substantial progress will soon be achieved.⁵⁴

The reference to public opinion and “avoiding comments” referred to anti-China demonstrations in Vietnam, hacking attacks, unseemingly exchanges over the internet and media reporting. China’s *Global Times* (an organ owned by the *People’s Daily*) has been particularly vitriolic in its editorials and commentary. An editorial published on June 23, for example, accused Vietnam of “setting a bad example by holding defence and security discussion with the United States and by “consenting to a growing nationalistic sentiment among its people.” The editorial further commented:

Vietnam has been trapped in an unrealistic belief that as long as the US balances out the South China Sea issue, it can openly challenge China’s sovereignty and walk away with huge gains. If Vietnam continue to provoke China in this region, China will first deal with it with maritime police forces and if necessary strike back with naval forces.⁵⁵

The Vietnamese media has been more circumspect due to government and party policy direction. However, on June 24, three major dailies, *Lao Dong*, *Thanh Nien* and *Tuoi Tre*, were permitted to respond to the *Global Times’* editorial. They charged it with distorting information, trying to intimidate Vietnam and being “increasing aggressive” thus exacerbating bilateral relations.⁵⁶

⁵⁴ Socialist Republic of Vietnam, Ministry of Foreign Affairs, “Viet Nam-China joint press release,” June 26, 2011. <http://www.mofa.vn/en>. China media put a spin on the press release by reporting that “Both countries are opposed to external forces getting involved in the dispute between China and Vietnam...”, see Xinhua, “China urges consensus with Vietnam on South China Sea issue,” June 28, 2011.

⁵⁵ Quoted in Deutsche Presse Agentur, “Chinese, Vietnamese media go head-to-head in war of words,” June 24, 2011.

⁵⁶ Deutsche Presse Agentur, “Chinese, Vietnamese media go head-to-head in war of words,” June 24, 2011.

2. The Philippines: Diplomacy and Territorial Defence

According to the Philippines Department of Foreign Affairs, Chinese activities in the Spratly Islands stepped up in the fourth quarter of 2010.⁵⁷ This increased presence led to six or seven major incursions into waters claimed by the Philippines in the first five months of 2011.⁵⁸ The Philippines has not yet officially released the list but from statements by government officials the following list appears indicative:

Incident 1. On February 25, three Philippines fishing vessels, F/V *Jaime DLS*, F/V *Mama Lydia DLS* and F/V *Maricris 12*, were operating in the waters off Jackson (Quirino) Atoll 140 nautical miles west of Palawan. According to a report prepared by the Armed Forces of the Philippines (AFP), the fishing vessels were approached by a Jianghu-V Class missile frigate, *Dongguan 560*, which broadcast over its marine band radio, “This is Chinese Warship 560. You are in the Chinese territory. Leave the area immediately.” Then the frigate repeatedly broadcast, “I will shoot you.”⁵⁹ As the fishing vessels began to withdraw, the Chinese frigate fired three shots that landed 0.3 nautical miles (556 meters) from F/V *Maricris 12*. The F/V *Maricris 12* left the area and then returned on February 28 to recover its anchor that it cut in its hasty departure. The F/V *Maricris 12* spotted three Chinese fishing vessels exploiting marine resources in the area. The Philippine government reportedly did not file a protest with the Chinese Embassy over this incident.⁶⁰ The Chinese Ambassador to the Philippines, Liu Jianchao later denied that any Chinese vessel had fired on Filipino fishermen.⁶¹

Incident 2. On March 2nd two Chinese white-painted patrol boats, No. 71 and No. 75, ordered MV *Veritas Voyager*, a Forum Energy Plc survey vessel operating in the Reed Bank area off Palawan Island, to leave and twice manoeuvred close in what appeared a threat to ram the MV *Veritas Voyager*.⁶² The survey ship was French-owned and registered in Singapore.

⁵⁷ Max De Leon ad Estrella Torres, “Business steps in to end Spratlys row,” *Business Mirror*, ABS-CBN News, June 3, 2011.

⁵⁸ Jerry E. Esplanada and Tara Quismundo, “Abide by UN pact, China told,” *Philippine Daily Inquirer*, June 3, 2011.

⁵⁹ Tessa Jamandre, “China fired at Filipino fishermen in Jackson atoll,” ABS-CBN News, June 3, 2011.

⁶⁰ Aurea Calica, “PHL to take Chinese incursions to the United Nations,” *The Philippine Star*, June 4, 2011.

⁶¹ Jim Gomez, “China warns neighbors: Stop oil search in Spratlys,” Associated Press, June 9, 2011.

⁶² BBC News, Asia-Pacific, “Philippines halts tests after China patrol challenge,” March 8, 2011; Nicholas Heath and Daniel Ten Kate, “Vietnam Says Chinese Boat Harassed PetroVietnam Survey Ship,” *Bloomberg Businessweek*, June 9, 2011; Aurea Calica, “Palace in no hurry to file China protest,” *The Philippine Star*, May 21, 2011 and Tessa Jamandre, “China fired at Filipino fishermen in Jackson atoll,” ABS-CBN News, June 3, 2011. The Sampaguaita gasfield in the Reed Bank is estimated to contain between 3.4 trillion to 20 trillion cubic feet of natural gas, “Carps among the Spratlys,” *The Economist*, March 10 2011, online edition.

The Philippines responded by dispatching two OV-10 aircraft to investigate. The Chinese boats departed without further incident. Foreign Affairs Undersecretary Erlinda Basilio lodged a protest with Chinese Charge d’Affairs, Bai Tian, on March 4th. According to one report the note “raised four points to prove that Reed Bank is not part of the disputed area by projecting 85 nautical miles from the base point in the northern part of Palawan and not from the KIG. China questioned this during a meeting with the Philippines, but did not reply in a diplomatic note.”⁶³

After the incident, the Philippines announced a temporary halt to seismic testing and ordered the Philippine Navy and Philippines Coast Guard to escort the survey ship when testing resumed.⁶⁴ Later, President Aquino instructed the Philippine Coast Guard to provide security for oil and gas exploration activities in the Kalayaan Island Group.⁶⁵

On April 5, the Philippine Mission to the United Nations submitted a letter in response to China’s Notes Verbales of May 7, 2009 (CML/17/2009 and CML/18/2009) stating the Philippines’ claim to sovereignty over the Kalayaan Island Group, adjacent waters and geological features (relevant waters, seabed and subsoil).⁶⁶ China responded on April 14 with a note verbale to the United Nations that accused the Philippines of invading and occupying “some islands and reefs of China’s Nansha Islands... The Republic of the Philippines’ occupation of some islands and reefs of China’s Nansha islands as well as other related acts constitutes an infringement upon China’s territorial sovereignty.”⁶⁷ The Chinese note verbale also argued that on the basis of domestic legislation “China’s Nansha Islands is fully entitled to Territorial Sea, EEZ and Continental Shelf.”⁶⁸

⁶³ Tessa Jamandre, “China fired at Filipino fishermen in Jackson atoll,” ABS-CBN News, June 3, 2011

⁶⁴ AFP, “China stakes claim on disputed islands after spats,” March 9, 2011 and Aurea Calica, “Palace in no hurry to file China protest,” The Philippine Star, May 21, 2011.

⁶⁵ “Coast Guard to secure oil exploration in Kalayaan island group,” GMA News TV, April 19, 2011. The KIG contains nine geological features: Balagtas (Irving Reef), Kota (Loaita), Lawak (Nanshan), Likas (West York), Pag-asa (Thitu), Panata (Lankiam), Parola (Northeast Cay), Patag Island (Flat Island is also considered a part of the Spratlys) and Rizal (Commodore Reef).

⁶⁶ Philippine Mission to the United Nations, letter to the Secretary General of the United Nations, 11-00494, No. 000228, New York, April 5, 2011. See also: AFP, “Philippines protests China’s Spratlys claim at UN,” April 13, 2011; Tessa Jamandre, “PHL protests Chinese map claiming Spratly Islands,” GMA News TV, April 13, 2011 and Jerry E. Esplanada, “PH runs to UN to protest China’s ‘9-dash line’ Spratlys claims,” *Philippine Daily Inquirer*, April 15, 2011.

⁶⁷ Quoted by Tessa Jamandre, “China accuses PH of ‘invasion’,” ABC-CBN News, April 19, 2011 and Teresa Cerojano, “Beijing counters Manila’s UN protest, says Philippines ‘started to invade’ Spratlys in 1970s,” Associated Press, April 19, 2011.

⁶⁸ The Chinese note verbale specifically mentioned the Law of the People’s Republic of China on Territorial Sea and Contiguous Zone (1992), the Law on the Exclusive Economic Zone and the Continental Shelf of the People’s Republic of China (1998) as well as the 1982 UN Convention on Law of the Sea.

Incident 3. On May 6, a Chinese marine vessel with a flat bed was sighted in Abad Santos (Bombay) Shoal.⁶⁹

Incident 4. On May 19 the Armed Forces of the Philippines claimed that two Chinese jet fighters allegedly flew into Philippines' air space near Palawan on May 11. This initial report was never confirmed and appears the least substantiated of the six or seven incidents of reported Chinese incursions.⁷⁰

Incident 5. On May 21, Chinese Marine Surveillance ship No. 75 and Salvage/Research Ship No. 707 were observed heading toward Southern Bank.⁷¹

Incident 6. On May 24, Filipino fishermen reportedly witnessed a China Maritime Surveillance vessel and PLAN ships unloading steel posts, building materials and a buoy near Likas and Patag in the Iroquois Reef-Amy Douglas Bank, 100 nautical miles off Palawan.⁷² The fishermen reported their sighting to the AFP the next day. Navy Headquarters in Manila ordered a ship to verify the sighting but bad weather delayed its arrival until May 29 by which time the Chinese ships had departed (presumably with the buoy). Local fishermen removed the steel polls and handed them over to authorities.

The AFP reported this incident on May 27 and the Department of Foreign Affairs summoned the Chinese Charge d' Affaires on May 31 to seek clarification. The following day the Philippines conveyed "serious concerns" in a note verbale to the Chinese Embassy; the note stated, "These ships reportedly unloaded building materials, erected an undetermined number of posts, and placed a buoy near the breaker of the Iroquois Bank."⁷³ The Chinese Embassy responded, "The reported 'incursion of Chinese ships' is

⁶⁹ Tessa Jamandre, "China fired at Filipino fishermen in Jackson atoll," ABS-CBN News, June 3, 2011.

⁷⁰ "Chinese jets intruded into PH space – AFP," *Philippine Daily Inquirer*, May 20, 2011; "Two unidentified aircraft seen over Spratlys – AFP," GMA News TV, May 21, 2011; "AFP validates Kalayaan islands aircraft sighting incident," Philippine Information Agency Press Release, May 23, 2011 and Jim Gomez, "China, Philippines warn rivals on Spratlys," *The China Post*, May 24, 2011.

⁷¹ Tessa Jamandre, "China fired at Filipino fishermen in Jackson atoll," ABS-CBN News, June 3, 2011.

⁷² Various dates between May 22-24 are reported in the Filipino press. Jun Pasaylo, "China surveillance ships roam Phl waters," *The Philippine Star*, June 1, 2011; Simone Orendain, "Philippines Seeks Answers About Latest South China Sea Incident," Voice of America News, June 1, 2011; Katherine Evangelista, "Philippines military to act with diplomacy over Spratlys dispute – defense chief," *Philippine Daily Inquirer*, June 1, 2011; Johana Paola d. Poblete, "Philippines preparing issues for UN about China 'intrusions'," *Business World*, June 2, 2011; "China denies 'invasion' of South China Sea," ABS-CN News, June 2, 2011; AFP, "Philippines gov't protests to China over oil plans in South China Sea," *The China Post*, June 2, 2011 and Jerry E. Esplanada and Tarra Quismundo, "Abide by UN pact, China told," *Philippine Daily Inquirer*, June 3, 2011.

⁷³ Quoted by GMA News, "DFA conveys protest to Beijing over Chinese vessels," GMA News TV, June 4, 2011. See also: Pia Lee-Brago, "China Building in PHL Waters; DFA Summoned Envoy," *The Philippine Star*, June 2, 2011. Tessa Jamandre, "China fired at Filipino fishermen in Jackson atoll," ABS-CBN News, June 3, 2011 reported no note verbale was given to the Chinese Charge d'Affaires at the May 31 meeting.

not true...It's only China's marine research ship conducting normal maritime research activities in the South China Sea."⁷⁴ Speaking on a TV forum that same day, Defense Secretary Voltaire Gazmin observed, "It's alarming in the sense that the intrusions are increasing. They are staking claim on the areas where we do not have a presence. They want to hoist their flag so they can claim the area."⁷⁵ Foreign Affairs Secretary Albert del Rosario charged that "any new construction by China in the vicinity of the uninhabited Iroquois Bank is a clear violation of the 2002 Association of Southeast Asian Nations (ASEAN)-China Declaration on the Conduct of Parties (DOC) in the South China Sea."⁷⁶

Subsequently it was revealed that Philippine Navy and Coast Guard personnel removed "foreign markers" and plastic buoys installed on three reefs and banks in waters claimed by the Philippines. Markers were removed from Amy Douglas Bank and Reed Bank in late May and from Boxall Reef on June 6.⁷⁷

President Aquino Lobbies Indonesia and Brunei. During 2011 President Aquino lobbied his ASEAN colleagues to unify as a bloc on a detailed code of conduct and proposed that a central position on the South China Sea dispute among the ASEAN claimant states was the best way to approach China.

On March 8 President Aquino paid an official visit to Indonesia where he met with President Bambang Susilo Yudhoyono. At a joint press conference after their talks, President Aquino expressed his full support for Indonesia's leadership role as ASEAN Chair. President Yudhoyono said Indonesia as ASEAN Chair would bring the Spratly Islands issue to the forthcoming ASEAN Summit and East Asia Summit. President Yudhoyono expressed his hope that the South China Sea could become a "zone of possible economic cooperation." President Aquino replied, "With regard to joint exploration [in the area], that is an idea that has been proposed a few decades past but perhaps we should continue the talks with other claimant countries. There is no room for unilateral action in that particular region."⁷⁸

⁷⁴ GMA News, "DFA: Stronger sea code to prevent 'repeat of Mischief Reef'," GMA News TV, June 2, 2011 and "China denies incursion into West Philippine Sea," *The Philippine Star*, June 3, 2011.

⁷⁵ Dona Z. Pazzibugan, "Chinese intrusions in PH-claimed parts of Spratlys 'alarming,' says Gazmin," *The Philippines Daily Inquirer*, June 2, 2011

⁷⁶ Pia Lee-Brago, "China Building in PHL Waters; DFA Summoned Envoy," *The Philippine Star*, June 2, 2011.

⁷⁷ Simone Orendain, "Philippines Removes Foreign Markers from Disputed South China Sea Reefs," Voice of Vietnam News, June 15, 2011; Bloomberg News, "Navy removes Chinese markers in Reed Bank," *Manila Standard Today*, June 16, 2011; Agence France Presse, "Philippines pulls markers from disputed waters," June 15, 2011; Barbara Mae Dacanay, "Navy and Coast Guard remove Chinese markers," *Gulf News*, June 16, 2011 and Michael Sainsbury, "Chinese markers incite sea enmity." *The Australian*, June 17, 2011.

⁷⁸ Quoted by Adiando P. Simamora, "SBY, Aquino agree on talks over Spratlys," *The Jakarta Post*, March 9, 2011.

On June 1, President Aquino paid an official visit to Brunei Darussalam for discussions with Sultan Hassanal Bolkiah. According to Presidential Communications Operations Secretary Herminio Coloma Jr., the two leaders expressed their desire to maintain peace and stability in the South China Sea through a multilateral dialogue among the ASEAN countries, claimant countries and China. Cloma quoted the Sultan as stating “it’s best to have good relations with China.”⁷⁹

President Aquino told the reporters covering his visit: “We govern ourselves there [Spratly Islands/KIG]. Instead of one country has a bilateral agreement with China and the other has a different bilateral agreement with China. Let’s come together as a body. Why do we have to fight or increase all of these tensions when it profits nobody?”⁸⁰ Aquino also renewed his call for the immediate adoption of the implementing guidelines on the DOC.⁸¹ The following day, June 12, Eduardo Malaya, a spokesperson for the Department of Foreign Affairs, called for a “more binding Code of Conduct or Parties in the South China Sea” in response to Chinese intrusions into Philippine waters.

During his state visit to Brunei President Aquino revealed that the Philippines was preparing to file a complaint to the United Nations in response to Chinese intrusions into its territory. According to Aquino, “We are completing the data on about six to seven instances since February. We will present it to [China] and then bring these to the appropriate body, which normally is the United Nations.”⁸² The Aquino Administration is supporting two legislative measures in response to China’s assertiveness in the Spratly Islands. The House of Representative is drawing up the Philippine Maritime Zones bill to delineate the Philippines’ maritime zones, while the Senate is considering the Archipelagic Sea Lanes bill.⁸³

The AFP and Territorial Defence. On March 28, General Eduardo Oban, chief of the Armed Forces of the Philippines, announced that the Philippines had increased air and naval patrols in the South China Sea and had plans to upgrade Rancudo Air Field on Pag-Asa (Thitu) island and repair barracks.⁸⁴ The AFP was allocated US \$183 million in funds

⁷⁹ Regina Bengco, “Peace in Spratlys is all they want,” *Malaya.Com*, June 2, 2011; Shirley Escalante, “Philippines, Brunei push for dialogue to settle Spratley Islands dispute,” *Australia Network News*, June 3, 2011 and “China denies incursion into West Philippine Sea,” *The Philippine Star*, June 3, 2011.

⁸⁰ Johanna Paola d. Poblete, “Philippines preparing issues for UN about China ‘intrusions’,” *Business World*, June 2, 2011.

⁸¹ “Adoption of territorial guidelines urged,” *Manila Bulletin*, June 2, 2011.

⁸² Johana Paola d. Poblete, “Philippines preparing issues for UN about China ‘intrusions’,” *Business World*, June 2, 2011; Amita O. Legaspi, “Palace prepares Spratlys incursions report,” *GMA News TV*, June 3, 2011 and Jim Gomez, “Philippines plans new UN protest as China denies aggressive acts in Spratly Islands,” *Associated Press*, June 3, 2011.

⁸³ *GMA News*, “DFA: Stronger sea code to prevent ‘repeat of Mischief Reef’,” *GMA News TV*, June 2, 2011.

⁸⁴ Jaime Laude, “AFP to maintain presence in Spratlys,” *The Philippine Star*, March 29, 2011.

from the Capability Upgrade Program to purchase two offshore fast patrol boats, long-range maritime aircraft, surveillance and communication equipment including air defence radar to better protect its territory.⁸⁵ President Aquino had earlier released US \$255 million to the armed forces.

The Philippines recently acquired the U.S. Coast Guard Cutter USCGC *Hamilton*, which is expected to enter service in August and then commence patrolling disputed waters in the South China Sea.⁸⁶ The Philippines also expects to take delivery of three new Taiwan-manufactured Multi-Purpose Attack Craft early in 2012.⁸⁷ In May, a Philippine navy study recommended the acquisition of submarines as a “deterrent against future potential conflicts.”⁸⁸

The Philippines defence and military agencies are drawing up a new strategy in response to development in the South China Sea. The new strategy would focus on both internal security operations and external territorial defence. AFP chief General Oban said the military was planning to set up a cost watch system on the western seaboard in the next two to three years to monitor and secure maritime borders and natural resources.⁸⁹ In June it was reported that the Philippines Embassy in Washington was in the market for excess defence equipment from the U.S. under its Foreign Military Sales (FMS) program including one or more patrol ships.⁹⁰

The Philippines also announced a new U.S. training program for its naval forces to enable them to better carry out their mission of providing security for oil exploration activities in the South China Sea.⁹¹

On May 14, President Aquino and several members of his Cabinet flew out to the USS *Carl Vinson* aircraft carrier in the South China Sea as it headed towards the Philippines.

⁸⁵ Jon Grevatt, “Philippines to invest USD183 million in defence of Spratly Islands,” *Jane’s Defence Weekly*, March 30, 2011; Reuters, “Philippines steps up presence in South China Sea,” March 28, 2011 and Associated Press, “Philippines to bolster watch in disputed Spratlys,” *Bloomberg Businessweek*, March 28, 2011.

⁸⁶ “Philippines set to deploy new patrol ship to Kalayaan Islands,” *Manila Bulletin*, April 14, 2011 and AFP, “Philippines to boost Spratly patrols,” *Channel News Asia*, April 15, 2011. The USCGC *Hamilton*, a Weather High Endurance Cutter, was renamed the BRP *Gregorio del Pilar* and will be the largest ship in the Philippine navy; Marichu A. Villanueva, “Keeping Phl Navy afloat,” *The Philippine Star*, May 16, 2011.

⁸⁷ Reuters, “Philippines says will spend \$255 min on military helicopters, boats,” April 13, 2011.

⁸⁸ Katherine Evangelista, “Philippines eye submarines to boost navy,” *Philippine Daily Inquirer*, May 17, 2011.

⁸⁹ China denies incursion into West Philippine Sea,” *The Philippines Star*, June 3, 2011.

⁹⁰ Michael Lim Ubac, “Philippines shops for US military gear,” *Philippine Daily Inquirer*, June 5, 2011.

⁹¹ Shirley Escalante, “Philippines increase security for oil exploration,” *Australia Network News*, April 28, 2011.

The aircraft carrier made a “routine port call and goodwill visit” accompanied by the USS *Bunker Hill*, USS *Shiloh* and USS *Gridley*.⁹² In fact the visit by the carrier was a reaffirmation of the alliance relationship with China left to read into it what it would.

Visit by Chinese Defence Minister. China’s Defence Minister, General Liang Guanglie, paid an official visit to the Philippines from May 21-25 for discussions with his counterpart Defense Secretary Voltaire Gazmin. A joint statement issued after the meeting declared, “unilateral actions which could cause alarm should be avoided.”⁹³ The two ministers also agreed to hold regular discussions to promote trust and confidence and find common ground on territorial disputes in the Spratly Islands. A statement issued the Department of National Defence stated, “both ministers expressed hope that the implementing guidelines of the 2002 Declaration of Conduct would soon be finalized and agreed upon, that responsible behavior of all parties in the South China Sea issue would help keep the area stable while all parties work for the peaceful resolution... Both ministers recognized that unilateral actions which could cause alarm should be avoided.”⁹⁴

When Defence Minister Liang met with President Aquino South China Sea issues were discussed in general, but the latter refrained from directly mentioning the Reed Bank incident of March 2 and the reported intrusion of Chinese aircraft into Philippine air space.⁹⁵ President Aquino also told General Liang that more maritime incidents in disputed areas of the South China Sea could spark a regional arms race.⁹⁶ Immediately after the defence ministers met, Sun Yi, Deputy Chief of Political Section at the Chinese Embassy in Manila, announced that China looked forward to an “accelerated dialogue” with the Philippines to resolve the dispute in the South China Sea. “It’s a bilateral issue. We repeatedly said that and we believe it’s a bilateral issue,” Sun Yi stated.⁹⁷

Shangri-La Dialogue. All of the six-seven incidents of Chinese incursions into Philippine territory, and the first cable cutting incident involving Vietnam, occurred prior to the

⁹² Christine O. Avendano, Dona Pazzibugan and Jerome Aning, “Palace sees no terror backlash against Aquino visit to ship,” *Philippine Daily Inquirer*, May 16, 2011.

⁹³ Jim Gomez, “China, Philippines defense chiefs discuss Spratlys,” Associated Press, June 4, 2011.

⁹⁴ Quoted by “China, PH agree to hold regular talks on Spratlys,” ABS-CBN News, May 23, 2011; Christine O. Avendano and Dona Z. Pazzibugan, “Peaceful Spratlys resolution reaffirmed,” *Philippines Daily Inquirer*, May 24, 2011; Simone Orendain, “Philippines, China Support Discussion on South China Sea,” *Voice of America News*, May 24, 2011 and Jim Gomez, “China, Philippines warn rivals on Spratlys,” *The China Post*, May 24, 2011.

⁹⁵ Willard Cheng, “Philippines, China OK South China Sea dialogue,” ABS-CBN News, May 23, 2011.

⁹⁶ Agence France-Presse, “Philippines warns of arms race in South China Sea,” May 24, 2011 and William B. Depasupil, “Philippines Warns of Arms Race in South China Sea,” *Manila Times*, May 25, 2011.

⁹⁷ Pia Lee-Brago, “China welcomes dialogue to end ‘Nansha’ dispute,” *The Philippine Star*, May 25, 2011.

tenth annual meeting of the Shangri-La Dialogue held in Singapore from June 3-5. It was not surprising that territorial disputes in the South China Sea were raised in all plenary sessions by defence ministers attending the Shangri-la Dialogue. The Philippine Secretary of National Defence, Voltaire Gazmin, reportedly watered down the draft text of his remarks on the South China Sea before delivery.⁹⁸ His address began by noting that, “maritime security is one of our foremost concerns.” In an obvious reference to the March 2nd incident, Gazmin stated that the actions by other states “make... the Philippines worry and concerned. These actions necessarily create insecurity not only to the government but more disturbingly to ordinary citizens who depend on the maritime environment for their livelihood.” He then gave details of recent incidents involving Chinese vessels without mentioning China by name.⁹⁹

Exchange of Diplomatic Protests. On June 4, the Department of Foreign Affairs issued a statement revealing it had lodged a protest with the Chinese Embassy on June 2 over the “increasing presence and activities of Chinese vessels including naval assets in the West Philippines Sea (South China Sea).” The note stated, “These actions of Chinese vessels hamper the normal and legitimate fishing activities of the Filipino fishermen in the area and undermines the peace and stability of the region.”¹⁰⁰

China responded on June 7 with a statement by Foreign Ministry spokesperson, Hong Lei: “Chinese vessels were cruising and carrying out scientific studies in waters under China’s jurisdiction and their activities were in line with the law... China asks the Philippine side to stop harming China’s sovereignty and maritime rights and interests, which leads to unilateral actions that expand and complicate South China Sea disputes. The Philippines should stop publishing irresponsible statements that do not match the facts.”¹⁰¹

Liu Jianchao, Chinese Ambassador to the Philippines, followed up these comments on June 9. Ambassador Liang responded to complaints by the Philippines government for the first time when he met with reporters in Manila. The ambassador stated that China had not yet started to drill for oil in Spratly Islands. “We’re calling on other parties to stop searching for the possibility of exploiting resources in these areas where China has its claims.”¹⁰² In response to a question how China would react if countries went ahead

⁹⁸ Confidential source who spoke with Secretary Gazmin at the Shangri-La Dialogue.

⁹⁹ Voltaire Guzman, “Responding to New Maritime Security Threats,” The 10th IISS Asian Security Summit The Shangri-La Dialogue, June 5, 2011.

¹⁰⁰ “Statement of the Department of Foreign Affairs On the Presence of Chinese Vessels In the West Philippine Sea (South China Sea),” June 4, 2011.

¹⁰¹ Quoted by Xinhua, “China rejects Philippine’s accusation on South China Sa issue,” June 7, 2011; Agence France-Presse, “China says Philippines harming its maritime rights,” ABS-CBN News, June 7, 2011; Reuters, “China scolds Philippines over disputed waters,” June 8, 2011.

¹⁰² Jim Gomez, “China warns neighbors: Stop oil search in Spratlys,” Associated Press, June 9, 2011.

and continued to explore without Beijing's permission, the ambassador said China would use diplomatic means to assert its rights. "We will never use force unless we are attacked," he said. Liang also confirmed to reporter that Chinese forces took action to keep the exploration vessel from Reed Bank. "That's part of our exercise of jurisdiction. It's not harassment," he said.¹⁰³

Zone of Peace, Freedom, Friendship and Cooperation. In launching a new initiative, the Zone of Peace, Freedom, Friendship and Cooperation (ZOPFF/C), President Aquino explained "what is ours is ours, and with what is disputed, we can work towards joint cooperation."¹⁰⁴ He directed the Department of Foreign Affairs to promote the ZOPFF/C concept through sustained consultations and dialogue.

According to the Department of Foreign Affairs, the ZOPFF/C provides a framework for separating the disputed territorial features that may be considered for collaborative activities from non-disputed waters in the West Philippines Sea (South China Sea) in accordance with international law in general and UNCLOS in particular.¹⁰⁵ A disputed area could be turned into a Joint Cooperation Area for joint development and the establishment of marine protected area for biodiversity conservation. Areas not in dispute, such as Reed Bank that lies on the Philippines' continental shelf, can be developed exclusively by the Philippines or with the assistance of foreign investors invited to participate in its development.

3. China-Malaysia: Betwixt Bilateralism and Multilateralism

Chinese Premier Visits Malaysia. In June 2009, Malaysia's Prime Minister Dato' Sri Najib Tun Razak paid a state visit to China. In April 2011, Deputy Prime Minister Tan Sri Muhyiddin Yassin went to China to prepare for the return visit of Premier Wen Jiabao. Deputy Prime Minister Muhyiddin met with Vice Premier Li Keqiang on April 18. Li pressed China's policy of resolving territorial disputes in the South China Sea on a bilateral basis in his discussions with Muhyiddin. Muhyiddin agreed and offered to relay China's request for bilateral talks to other ASEAN members particularly claimant states.¹⁰⁶

Prior to Premier Wen's visit China played down the importance of the Spratly Islands dispute and highlighted that agreements would be signed relating to telecommunications and infrastructure construction. China's Assistant Foreign Minister Hu Zhengyou stated, for example, "The South China Sea problem is an old one. I think

¹⁰³ Jim Gomez, "China warns neighbors: Stop oil search in Spratlys," Associated Press, June 9, 2011.

¹⁰⁴ Quoted in "A Rules-Based Regime in The South China Sea By: Albert F. Del Rosario, Secretary of Foreign Affairs," Public Information Service Unit, June 7, 2011.

¹⁰⁵ Amita O. Legaspi, "Palace prepares Spratlys incursions report," GMA News TV, June 3, 2011.

¹⁰⁶ Bernama, "Talks to revolve claims over Spratlys," *New Straits Times*, April 19, 2011.

that when the leaders of both nations meet they won't deliberately try to avoid it, but as we both understand each other's stance, this won't be a major issue."¹⁰⁷

On return to Malaysia Muhyiddin announced that overlapping claims to the South China Sea would be discussed between Prime Minister Datuk Seri Najib Tun Razak and Premier Wen. According to Muhyiddin, "Malaysia is of the opinion that discussions with China on the issue of overlapping claims should be carried out after officials have come up with a basic framework on the claims based on facts, law and history." He further stated, "We believe negotiations among the ASEAN claimants are important. But there will be a case where the overlapping claims involve three countries, so discussions will have to be more that bilateral."¹⁰⁸

Before setting out on his trip (which also included Indonesia), Premier Wen gave an interview to Malaysian and Indonesian journalists. He was asked, "whether China would hold talks on joint development in these contested islands and reefs with Malaysia and other relevant countries that have cross claims with China?" Premier Wen replied:

China remains committed to the Declaration on Conduct of the Parties in the South China Sea. We take the position that territorial disputes over maritime rights and interests should be peacefully addressed and resolved by the countries concerned through bilateral channels.

We disapprove of referring bilateral disputes to multi-lateral forums because that will only complicate the issue. You have rightly mentioned that although China and Malaysia have some disputes over the mentioned island and reefs in the South China Sea, these disputes have not impeded our efforts to have peaceful co-existence between the two countries.

Secondly, I totally agree that the countries concerned can and should have joint development of resources in the South China Sea because this is in the interest of regional peace in the area and it also serves the interests of all claimant countries.¹⁰⁹

Premier Wen visited Malaysia from April 27-28 and discussions with Prime Minister Dato' Sri Najib Tun Razak mainly focused on economic and educational issues.

Shangri-La Dialogue. Malaysia's Prime Minister Najib and Defence Minister Datuk Seri Dr. Ahmad Zahid Hamidi both spoke at the Shangri-La Dialogue. Prime Minister Najib gave the opening keynote address and offered the upbeat assessment that "ASEAN and China will soon be able to agree on a more binding code of conduct to replace the 2002 Declaration on Conduct in the South China Sea" and that "overlapping claims in the South China Sea... have generally been managed with remarkable restraint." He then

¹⁰⁷ Reuters, "China eyes energy, bank deals with Malaysia, Indonesia," April 21, 2011.

¹⁰⁸ "Najib and Chinese Premier to discuss territorial claims," *The Star Online*, April 26, 2011.

¹⁰⁹ "Premier Wen shows great interest in China-Malaysia ties," *The Star Online*, April 27, 2011.

concluded, “I remain fully committed to the common ASEAN position in terms of our engagement with China on the South China Sea, I am equally determined to ensure our bilateral relationship remains unaffected and, in fact, continues to go from strength to strength.”¹¹⁰

Defence Minister Hamidi drew attention to the factors influencing disputes in the South China Sea – geopolitics, Sea Lines of Communication (SLOC) security and competition over petroleum resources. He argued that the 2002 DOC needed to be “supported by actual activities that can promote confidence building among the claimants” and suggested that “claimant countries in the South China Sea work towards identifying and realizing actual confidence-building (CBM) activities that would help alleviate some of the tension in the area.”¹¹¹

4. Taiwan: Joint Development through a Multilateral Mechanism

Over the last three years China has approached Taiwan with a view towards adopting a common position on sovereignty claims in the South China Sea. Taiwan has so far declined out of concerns that this may affect its international status and relations with ASEAN, Japan and the United States.¹¹² In response to rising tensions in the South China Sea Taiwan has continually restated its sovereignty claims to the South China Sea. Taiwan has also taken steps to strengthen its capacity to defend Itu Aba (Taiping) Island and is considering further enhancements of its military capacity.

Between July 2010 and June 10, 2011, Taiwan issued five major statements reiterating its claims to sovereignty and calling for joint efforts to develop natural resources in the South China Sea.¹¹³ In response to the Philippines’ note verbale of April 5 to the United Nations, on April 17 Taiwan’s Ministry of Foreign Affairs issued a statement declaring the Spratly, Paracel, Macclesfield and Pratas islands “as well as their surrounding waters, sea beds and subsoil, are all an inherent part of the territory of the Republic of China (Taiwan).”¹¹⁴ The statement concluded:

¹¹⁰ Dato’ Sri Najib Tun Razak, Keynote Address, The 10th IISS Asian Security Summit The Shangri-La Dialogue, June 3, 2011.

¹¹¹ Bernama, “Comprehensive efforts needed to ensure regional maritime security,” *The Star Online*, June 5, 2011.

¹¹² Chen I-hsin, “Protecting the Pratas and Spratly islands is in Taiwan’s best interests,” *Taiwan Today*, May 6, 2011 and Lydia Lin, “DPP would welcome sit-down discussions with mainland: Tsai,” *The China Post*, June 21, 2011.

¹¹³ Emmannuelle Tseng, Chen Yi-wen and S. C. Chang, “Lawmaker calls for marines to be stationed on South China Sea islet,” Focus Taiwan News Channel, June 12, 2011.

¹¹⁴ Ministry of Foreign Affairs News Release quoted in “Taiwan, PHL officials discuss Spratly issue,” GMA News TV, April 19, 2011.

Taiwan call on countries bordering the South China Sea to respect the principles and spirit of the Charter of the United Nations and the United Nations Convention on the Law of the Sea, and to refrain from adopting unilateral measures that might threaten the peace and stability of the region.

Taiwan reiterates that it upholds the basic principles of “safeguarding sovereignty, shelving disputes, peace and reciprocity, and joint exploration” and remains willing to work with other countries on exploring resources in the South China Sea.

Taiwan also urges the countries concerned to exercise self-restraint so that peaceful resolutions to the disputes can be reached through consultation and dialogue. Taiwan remains willing to participate in such dialogue that seeks to find resolutions to disputes and promote regional peace, stability and development.¹¹⁵

On April 18, the Deputy Minister of Foreign Affairs also summoned officials from the Manila Economic and Cultural Office to state Taiwan’s formal position.¹¹⁶ At the same time, the Director General of the Foreign Ministry’s Department of East Asian and Pacific Affairs reiterated Taiwan’s to set disputes aside and jointly explore natural resources in the South China Sea. He proposed bilateral talks with the Philippines and Vietnam to be followed by discussions on joint development through a “multilateral mechanism.”¹¹⁷

On May 9, Taiwan’s Ministry of Foreign Affairs responded to Vietnam’s submission of a diplomatic note dated May 3 to the UN Secretary General claiming sovereignty over the Parcel and Spratly islands, by issuing a statement reaffirming sovereignty along the same lines as the April 17 statement.¹¹⁸

In 1999 Taiwan withdrew its marines from Itu Aba and replaced them with Coast Guard personnel. On April 19, in response to rising tensions, the Ministry of Defence assigned the elite amphibious warfare Marine Corps to replace the army in training Coast Guard personnel assigned to Itu Aba.¹¹⁹ The Marine Corps will provide a five-week combat

¹¹⁵ Ministry of Foreign Affairs News Release quoted in “Taiwan, PHL officials discuss Spratly issue,” GMA News TV, April 19, 2011.

¹¹⁶ “Taiwan, PHL officials discuss Spratlys issue,” GMA News TV, April 19, 2011; Chris Wang, “Taiwan wants peaceful resolution to South China Sea dispute: MOFA,” Focus Taiwan News Channel, April 21, 2011 and Shih Hsiu-chuan, “Taiwan calls for mechanism to discuss disputed areas,” *Taipei Times*, April 22, 2011.

¹¹⁷ Shih Hsiu-chuan, “Taiwan calls for mechanism to discuss disputed areas,” *Taipei Times*, April 22, 2011.

¹¹⁸ Grace Kuo, “MOFA remains firm on sovereignty over South China Sea islands,” *Taiwan Today*, May 10, 2011 and China News Agency, “Spratly Islands belong to Taiwan: MOFA official,” *The China Post*, May 11, 2011.

¹¹⁹ Joel Atkinson, “Taiwan on Tightrope as South China Sea Tensions Mount,” *Jakarta Globe*, May 26, 2011.

training course in maritime combat and prevention of amphibious attack and landing.¹²⁰ The Coast Guard Administration turned down the Defence Ministry's offer to provide missiles, tanks, mortars and 40mm automatic guns.¹²¹ Taiwan has also deferred a proposal to replace the Coast Guard with marines but is currently considering deploying tanks to Itu Aba and Seagull-class boats to the area.¹²²

Taiwan's navy normally conducts three annual visits to Itu Aba – usually in March, June and September - in order to provide supplies and to “show the flag.” On April 27 a naval “friendship fleet” visited Itu Aba while embarked on its annual deployment to the South China Sea.¹²³

5. ASEAN's Role

Joint Working Group to Implement the DOC. In 2004, two years after negotiating the Declaration on Conduct of Parties in the South China Sea, the ASEAN-China Senior Officials' Meeting decided to establish the ASEAN-China the Joint Working Group (JWC) to Implement the DOC. The Joint Working Group held its first meeting in Manila from August 4-5, 2005. The Terms of Reference for the Joint Working Group specified that the JWG was to meet twice a year to formulate recommendations in four areas:

- Guidelines and the action plan for the implementation of the DOC
- Specific cooperative activities in the South China Sea...
- A register of experts and eminent persons who may provide technical inputs, non-binding and professional views or policy recommendations to the ASEAN-China JWG
- The convening of workshops, as the need arises¹²⁴

ASEAN tabled draft guidelines for discussion. It immediately became apparent that point two was a major sticking point. Point two stated, “ASEAN will continue its current

¹²⁰ Elaine Hou, “CGA bolsters combat readiness of South China Sea personnel,” *Taiwan Today*, April 19, 2011 and Cindy Sui, “Taiwan to boost forces in disputed Spratly Islands,” *BBC News Asia-Pacific*, April 19, 2011.

¹²¹ Rich Chang, “CGA rejects Taiping plan: report,” *Taipei Times*, May 2, 2011.

¹²² Agence France Presse, “Taiwan plans missile boats in Spratlys,” June 12, 2011 and Agence France Presse, “Taiwan navy prepares missions to contested waters,” *The Straits Times*, June 14, 2011. The Seagull boats are armed with two Hsiungfeng 1 ship-to-ship missiles with a range of forty kilometres.

¹²³ Rich Chang, “CGA rejects Taiping plan: report,” *Taipei Times*, May 2, 2011.

¹²⁴ “Terms of Reference of the ASEAN-China Joint Working Group on the Implementation of the Declaration on Conduct of Parties in the South China Sea,” available at: <http://www.asean.org/16886htm>. Accessed May 20, 2011.

practice of consulting among themselves before meeting with China.” China objected and insisted that outstanding disputes should be resolved by consultations “among relevant parties” and not with ASEAN. The Joint Working Group did not make much progress subsequently and, in the words of one keen observer, was on “life support”.¹²⁵

Three months later, the JWC was revived and held its fifth meeting in Kunming, China from December 21-23, 2010. The media reported that paragraph (or point) two still remained the main sticking point.¹²⁶ The ASEAN Working Group on the South China Sea reported on the outcome of Kunming meeting to ASEAN Senior Officials at a three-day retreat by ASEAN Foreign Ministers in Lombok from January 15-17, 2011. On the eve of the meeting Djauhari Oratmangun, Director General for ASEAN Affairs in Indonesia’s Foreign Minister, revealed, “We haven’t agreed on the guidelines as there are still differences between China and ASEAN on the perceptions of the goals of the meeting. Actually, we are still trying to close that gap and creating guidelines, which can evolve into codes of conduct that can be used to keep the area peaceful.”¹²⁷

The 6th ASEAN-China Joint Working Group met in Medan, Indonesia from April 18-20. This meeting failed to make appreciable progress. According to a veteran observer representatives of ASEAN claimant states fought with China over the wording of the DOPC implementing guidelines and given current tension and growing mutual suspicion “it is doubtful if they could finalise the guidelines in time for next year’s tenth commemoration in Phnom Penh.”¹²⁸ An ASEAN insider has revealed subsequently that the JWC meeting considered the twenty-first draft of the DOC guidelines. Agreement on paragraph two still remained the main obstacle.¹²⁹ It has been suggested that one compromise would be to remove point two from the text of the written guidelines but adopt its content in a verbal agreement.¹³⁰

In April, Indonesian Foreign Minister Marty Natalegawa went to Beijing to prepare for the forthcoming visit by Premier Wen Jiabao. In a press interview Marty revealed that in

¹²⁵ Barry Wain, “Asean caught in a tight spot,” *The Straits Times*, September 16, 2010.

¹²⁶ Kyodo, “Indonesia frets about U.S., Japanese interference in S. China Sea,” *Mainichi Shimbun*, January 22, 2011.

¹²⁷ Quoted by Abdul Khalik and Andi Haswidi, “FMS address South China Sea, Myanmar issues,” *Jakarta Post*, January 15, 2011.

¹²⁸ Kavi Chongkittavorn, “South China Sea disputes a threat to Asean-China relations,” *The Nation*, May 30, 2011. Kavi concluded, “Beijing views the Asean positions over the guidelines as problematic as undermining its sovereignty claims... Asean-China relations will be under severe tests from now on.”

¹²⁹ Comments by Termsak Chalermpananupap, Director of the Political and Security Directorate, ASEAN Secretariat, to the Conference on Maritime Security in the South China Sea, sponsored by the Center for International and Strategic Studies, Washington, D.C., June 20, 2011.

¹³⁰ There is also the suggestion that the claimant states should meet first and form a common position, meet with ASEAN for endorsement and then convene a meeting between ASEAN and China.

discussions with his counterpart Yang Jiechi, he stressed the importance of using the momentum of twenty years of ASEAN-China relations to made progress in adopting guidelines for the DOC as a basis for a Code of Conduct. He noted that several sticking points remained “including whether the guidelines are to be used as a point of settlement for any conflict, or only a mere declaration without legally binding implications.”¹³¹

Indonesia as ASEAN Chair. Indonesia, as ASEAN Chair for 2011, made it clear that it wished to take a leadership role in addressing territorial disputes in the South China Sea. In January, for example, President Susilo Bambang Yudhoyono indicated the he would try to persuade China to join multilateral talks to revolve disputes in the South China Sea. President Yudhoyono stated, “The problems of Asia should be discussed by all players in the region. We will convince China that this dialogue will bring benefits to all.”¹³²

When asked by a journalist if it was possible to advance a settlement of the South China Sea disputes under Indonesian chairmanship, President Yudhoyono replied:

Although Indonesia is not a country of claimancy, Indonesia has an interest in seeing a peaceful, stable, security South China Sea. That is why under Indonesia’ chairmanship, we want to discuss several situations in Asia, including the South China Sea, with the aim of ensuring that everybody must be a part of this big test of maintaining peace and security in the South China Sea...

So, yes, the South China Sea is becoming an important issue of the day, but I believe there is a way to deal with the problem in the South China Sea diplomatically, politically, and peacefully. We should find a way to discuss the necessity of working together in maintaining peace and security in the South China Sea. Because it will take place in our own territory, I will ask all participants of the EAS [East Asia Summit] in Bali in October this year to have a political security dialogue, including regional cooperation over the South China Sea.¹³³

In March, after the Reed Bank incident (discussed above), President Yudhoyono met with President Aquino in Jakarta. At a joint press conference President Yudhoyono suggested that the Reed Bank incident could be discussed at the forthcoming East Asia Summit in Jakarta. President Yudhoyono also advanced proposition that the South China Sea could become a “zone of potential economic cooperation.”¹³⁴

¹³¹ Abdul Khalik, “RI, China set trade target of \$80b by 2015,” *Jakarta Post*, April 20, 2011. The COC could incorporate sanctions to restrain countries from carrying out activities that would affect the interests of other countries; see Yang Fang, “China’s Position on the South China Sea: Problems and Progress,” RSIS Commentaries No. 162/2010, December 2, 2010.

¹³² Takeshi Fujitani, “Yudhoyono to urge China to join talks,” *Asahi Shimbun*, February 18, 2011.

¹³³ Takeshi Fujitani, “Yudhoyono to urge China to join talks,” *Asahi Shimbun*, February 18, 2011.

¹³⁴ Philip Tubza, “Let Asean tackle sea incident’,” *Philippine Daily Inquirer*, March 9, 2011.

ASEAN and Related Meetings. ASEAN held its 8th Summit in Indonesia from May 7-8. Territorial disputes in the South China Sea were addressed in the Chairman's Statement at the conclusion of proceedings. According to the chairman:

126. We reaffirmed the importance of the Declaration on the Conduct of the Parties in the South China Sea (DOC) as a milestone document signed between ASEAN and China embodying the collective commitment to promoting peace, stability, and mutual trust in the South China Sea and to ensuring the peaceful resolution of disputes in this area in accordance with universally recognized principles of international law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

127. We stressed that continuing the positive engagement of ASEAN-China is essential in moving forward the DOC issue. We stressed the need to further intensify the efforts of both ASEAN and China to ensure the effective and full implementation of the DOC and move forward the eventual conclusion of a Regional Code of Conduct (COC).

128. We welcomed the convening of the 6th ASEAN-China Joint Working Group on the DOC on 18-20 April 2011 in Medan, Indonesia. In this connection, we encouraged the continued constructive consultations between ASEAN and China, including the early convening of the ASEAN-China SOM on the DOC. We therefore reaffirm the principle of ASEAN, on the basis of unity and solidarity, to coordinate and to endeavour to develop common positions in its dialogues with its Dialogue Partners.

129. We resolved to take advantage of the momentum of the anniversary of the 20 years of ASEAN-China relations in 2011 and 10 years of the adoption of the DOC in 2012 to finalize the Guidelines on the implementation of the DOC and initiate discussions on a regional COC.¹³⁵

ASEAN Defence Ministers held their fifth Meeting on May 19.¹³⁶ They too discussed the South China Sea. Indonesia's Defence Minister Purnomo Yusgiantoro met with his Chinese counterpart General Liang Guanglie. When asked by reporters how the meeting went, Purnomo replied, "fine" and that General Liang did not react negatively to the Joint Declaration issue by the ASEAN Defence Ministers. With respect to the South China Sea this declaration:

8. Reaffirm ASEAN Member States' commitment to fully and effectively implement the Declaration on the Conduct of the Parties in the South China Sea, and to work towards the adoption of a regional Code of Conduct in the South China Sea that would further promote peace and stability in the region;

9. Reaffirm also the importance of regional peace and stability, and freedom of navigation in and overflight above the South China Sea as provided for by universally recognized

¹³⁵ "Chair's Statement of the 18th ASEAN Summit Jakarta, 7 - 8 May 2011, "ASEAN Community in a Global Community of Nations".

¹³⁶ Ridwan Max Sijabat and Novan Imam Santosa, "Overcoming conflicts, ASEAN defense chiefs are moving in the 'right direction'," *Jakarta Post*, May 20, 2011.

principles of international law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS).¹³⁷

From June 7-10, ASEAN senior officials as a group (ASEAN Senior Officials ' Meeting or SOM) and ASEAN senior officials and their dialogue partners held a series of meetings in Surabaya to prepare for the ASEAN and Related Meetings scheduled for July 16-23. During this period the following meetings were held: ASEAN SOM, ASEAN Plus Three SOM, Ad Hoc East Asia Summit Senior Officials' Consultation, ARF SOM, ARF Defence Officials' Dialogue and the ARF Security Policy Conference. Approximately 400 officials from all ASEAN, East Asia Summit members, and the 27 ARF countries plus the ASEAN Secretariat attended. These meeting were held to prepare the agenda for the 44th ASEAN Ministerial Meeting, the 18th ARF ministerial meeting, the ASEAN Plus Three summit and the East Asia Summit.

The South China Sea featured prominently in discussions at the ASEAN Senior Officials and Dialogue Partners meeting.¹³⁸ At the ASEAN Regional Forum Senior Officials' Meeting, China and four ASEAN claimant states reiterated their commitment to a peaceful resolution of disputes over the Paracel and Spratly islands. According to the Secretary General of Indonesia's Defence Ministry, Eris Herryanto, "China has conveyed its own commitment to peace, so have the other four countries. Other countries also urged the immediate implementation of the Declaration on Conduct of Parties [DOC] on the South China Sea. Djauhari Oramangun, Director General for ASEAN, noted that the majority of the ARF's twenty-six members urged an immediate settlement of the disputes."¹³⁹

The 8th ARF Security Policy Conference was held in Indonesia on June 8. Indonesia's Defence Minister Purmono Yusgiantoro revealed that new progress would be made on the Code of Conduct by the end of the year and that it might be adopted at the ASEAN Summit in Cambodia on its tenth anniversary. Vietnamese sources were less upbeat, they noted that the no agreement had been reached on the COC and that UNCLOS had not been fully implemented.¹⁴⁰

The ASEAN Senior Officials preparatory meeting for the 18th ARF ministerial meeting was held on June 11. According to Djauhari Oramangun, "In today's agenda, all the delegates agreed on a maritime security work plan and agreed to push for upgrading of

¹³⁷ "Joint Declaration of the ASEAN Defence Ministers on Strengthening Defence Cooperation of ASEAN in the Global Community to Face New Challenges, Jakarta, 19 May 2011."

¹³⁸ Republic of Indonesia, Ministry of Foreign Affairs, "ASEAN to Discuss South China Sea and Nuclear Weapon Free Zone in the Region," June 8, 2011.

¹³⁹ Indra Harsaputra, "China 'agrees' to immediate peace in S. China Sea," *Jakarta Post*, June 9, 2011.

¹⁴⁰ Vietnam News Agency, "Vietnam attends eighth ASEAN security conference," *Voice of Vietnam News*, June 10, 2011 and "Multilateral negotiations needed to settle regional East Sea issues," *Viet Nam News*, June 10, 2011.

the DOC [Declaration on Conduct (of Parties) in the South China Sea] to the COC [Code of Conduct].”¹⁴¹

Conclusion

China’s recent aggressive assertion of sovereignty over the South China Sea has raised the security stakes for Southeast Asian states and all maritime powers that sail through these waters. Ensuring the security of the South China Sea is now an international issue that must be addressed multilaterally by all concerned states.

Three major incidents mark the new wave of Chinese aggressive assertiveness. On March 2nd Chinese patrol boats operating within the Philippine’s Kalayaan Island Group approached a Philippine seismic survey ship in waters off Reed Bank and ordered it to leave the area. On May 26th three China Maritime Surveillance ships accosted a Vietnamese state-owned oil exploration vessel deep within Vietnam’s declared EEZ. The vessel was ordered to leave the area after a Chinese ship deliberately cut its submerged survey cable. And on June 9th, a second Vietnamese exploration vessel was accosted by Chinese boats leading to a second cable-cutting incident.

In May 2009, when Malaysia and Vietnam filed a joint submission to the United Nations Commission on the Limits of the Continental Shelf, China lodged a protest accompanied by a map. The Chinese map contained nine dash marks in a rough u-shape covering virtually all of the South China Sea. China claims “indisputable sovereignty” over the South China Sea. Yet it has never made clear the basis of this claim despite two decades of entreaties by regional states. It is unclear what it is that China is claiming. Does China claim sovereignty over all the rocks and features within these dash marks? Or is China claiming the South China Sea as its territorial waters?

Some maritime specialists speculate that China’s claim is based on the nine rocks it occupies in the Spratly archipelago. In other words, China claims that the rocks are in fact islands in international law and thus attract a 200 nautical mile (370 kilometer) EEZ. This is a legal fiction. Islands must be able to sustain human habitation on their own and have an economic function. Rocks, which do not meet these criteria, cannot claim an EEZ or continental shelf.

China’s dash marks cut into the EEZs that have been declared by Vietnam and the Philippines. These EEZs are based firmly in international law. Both states have drawn straight base lines around their coasts and then extended their claim from these baselines seaward out to 200 nautical miles (370 kilometres). Under the United Nations Convention on Law of the Sea littoral states have sovereignty over these waters in terms of exploitation of natural resources such as fisheries or oil and gas deposits on the ocean floor.

¹⁴¹ Indra Harsaputra, “N. Korea again denies sinking ship, commits to security,” *Jakarta Post*, June 12, 2011.

In November 2002, China and ASEAN reached agreement on a Declaration on Conduct of Parties in the South China Sea. This was a non-binding document in which the signatories pledged not to use force to settle their sovereignty disputes. The DOC, which contains numerous proposed confidence-building measures, has never been implemented.

Chinese assertiveness in pushing its sovereignty claims in the South China Sea in 2009 and 2010 provoked an international backlash. The issue featured prominently at the ASEAN Regional Forum and at the inaugural ASEAN Defense Ministers Meeting Plus last year. China was out maneuvered diplomatically and sought to limit further damage by agreeing to revive the heretofore-moribund ASEAN-China Joint Working Group to Implement the Declaration on Conduct of Parties. This working group has stalled over China's insistence that territorial and sovereignty claims can only be settled bilaterally by the states concerned. ASEAN members insist on the right to meet together to work out a common position before engaging China.

ASEAN, under the chairmanship of Indonesia, has been pushing China to upgrade the DOC into a more binding Code of Conduct. Some regional diplomats are hopeful that an agreement can be reached by the tenth anniversary of the DOC in November 2012. This is unlikely to be achieved unless ASEAN maintains its unity and cohesion and adopts a common stance. It is clear there are "nervous Nellie's" among its members.

In the early to mid-1990s, when China began to occupy rocks in the Spratlys including the celebrated Mischief Reef, security analysts described Chinese strategy as "creeping assertiveness" and "talk and take". The events of this year are best described as aggressive assertiveness. China is now paying back Vietnam for its role in internationalizing the South China Sea last year when it was Chair of ASEAN. Chinese actions in the Reed Bank area are designed to expose ambiguities in the U.S.-Philippines Mutual Security Treaty over whether or not the Kalayaan Island Group is covered by this treaty.

ASEAN and the international community, both of which rely on transit through the South China Sea, must diplomatically confront China over its aggressive assertiveness. They should bring collective diplomatic pressure to bear on China at the forthcoming annual meeting of the ASEAN Regional Forum and East Asia Summit to be held later this year to honor its commitments under the DOC.

Meanwhile both the Philippines and Vietnam should take steps to enhance their capacity to exert national sovereignty over their EEZs. Their weakness only invites China to act more assertively. On June 11, Nguyen Phuong Nga, spokesperson for the Ministry of Foreign Affairs, when asked a question about a possible role for the United States and other countries in resolving South China Sea disputes, responded, "Maintaining maritime peace, stability security and safety in the Eastern Sea is in the common interests of all nations within and outside the region. Every effort by the international

community toward peace and stability in the Eastern Sea is welcome.”¹⁴² It is in the interest of the United States and its allies as well as India to assist both nations in capacity building in the area of maritime security. At the same time this “coalition of like-minded states” should back ASEAN in its efforts to secure agreement on a code of conduct for the South China Sea. ASEAN members themselves could draw up a Treaty on Conduct in the South China Sea, and after ratification, open it to accession by non-member states.

¹⁴² Quoted by John Ruwitch, “Vietnam welcomes international help as sea dispute escalates,” Reuters, June 11, 2011.