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Introduction

China, since 1949, has never treated its territorial disputes with neighboring countries as an isolated issue in its foreign and security policy. Rather, Beijing has always handled those territorial issues in the larger context of its strategic interests at the specific historical times. Chinese decision makers made concessions on territorial contentions when they believed that those compromises served China's broader and longer term strategic benefits. And conversely, China appeared to be quite stubborn or non-compromising when heavy-handedness and assertiveness served its other purposes, either domestic or international.

The South China Sea issue is no exception in China's foreign and security calculations. Over the decades, China's handling of the dispute has been affected by a wide range of factors, not simply territorial or sovereignty claims. There are many good examples to illuminate this point. For instance, it has been argued that the 1974 conflict between China and South Vietnam, which ended in China taking control of the whole Paracels, was partly motivated by the Chinese anxiety of Soviet security threat from the sea.¹ The 1988 Sino-Vietnamese conflict in the Spratlys had to do with the PLA Navy's interest in pushing for greater budget when Beijing was shrinking expenditure on military in the 1980s.² The 1995 Mischief conflict was partly a result of internal elite political power struggles in China.³ And the "calculated moderation" in China's approach to the South China Sea dispute in the past decade reflected China's attempt to balance its interests in domestic economic development, sovereignty claims, and regional strategic interests.⁴ These cases sufficiently demonstrate that it is useful and highly necessary to take into consideration many other factors to better understand China's policy on the South China Sea dispute.

This paper attempts to analyze some of the major factors that have helped shape China's policy on the South China Sea issue in the past decade or so. I will then discuss whether the context of China's policy making, both internal and external, has significantly changed and what impacts this changed context would have on China's future policy on the dispute.

The South China Sea and China's Concerns

* Part of the paper is adapted from the author's article, "Reconciling Assertiveness and Cooperation? China's Changing Approach to the South China Sea Dispute," *Security Challenges*, vol 6, no.2, (Winter 2010), pp.49-68.

¹ Manvyn S. Samuels, *Contest for the South China Sea* (New York and London: Methuen, 1982). Chi-kin Lo, *China's Policy Towards Territorial Disputes: The Case of the South China Sea Islands* (New York & London: Routledge, 1989).

² See John W. Garver, "China's Push through the South China Sea: The Interaction of Bureaucratic and National Interests", *The China Quarterly*, No. 132, pp. 999-1028, December 1992.

³ Ian James Storey, "Creeping Assertiveness: China, the Philippines and the South China Sea Dispute", *Contemporary Southeast Asia*, 21 (1), April 1999.

⁴ Li Mingjiang, "Security in the South China Sea: China's Balancing Act and New Regional Dynamics," *RSIS Working Paper*, No. 149 (Feb. 2008)

As is true to other parties, energy resources in the South China Sea are perhaps the most important attraction for China. Different from other claimant states, perhaps, is the strategic importance of oil and gas in the area that Chinese analysts attach to the future of China's national economy. Ever since becoming a net importer of oil in 1993, China's demand of energy has always been on the rise. At a central government meeting on economic issues on November 29, 2003, Chinese President Hu Jintao emphasized China's oil security. He urged his colleagues to view the energy issue from a new strategic height, adopt a new oil development strategy, and take effective measures to ensure China's energy security.⁵ The South China Sea, often dubbed as the "second Persian Gulf" in Chinese reports, has been regarded as one of the ten most important strategic oil and gas sources for China.

In light of this, it is no surprise that China has been quite upset of the exploitation of energy resources in the South China Sea by other claimant countries. China believes that starting from 1980s other claimant countries have taken advantage of Chinese weakness in technology and shortage of funding and stepped up their efforts in drilling energy resources in the area. Chinese observers constantly complain that other competing states have set up more than one thousand oil wells in the South China Sea and the amount of oil and gas they have produced from those projects has been several times of the Chinese production in the offshore areas.⁶ Chinese analysts lament the fact that Beijing has not been able to erect even one oil platform and produce one barrel of oil in the Spratlys area. They think that it is ironic that China actually imports a lot of oil from those countries who have been pumping oil in the South China Sea.⁷

Another important consideration for China is strategic. The South China Sea, which connects the Malacca Strait to the Southwest and Balintang Channel, Bashi Channel, and Taiwan Strait to the Northeast, is perceived as the "throat" of the Pacific Ocean and Indian Ocean. Chinese analysts believe that the South China Sea is uniquely important to China. First of all, the South China Sea is regarded as a natural shield of China's security in the South. China's southern regions are densely populated and relatively developed. Stability and security in this region is critical for China's national security. Second, having a strong foothold in the South China Sea would give China a strategic defense hinterland of over one thousand kilometers, the security implication of which is "incalculable".⁸ Some sort of Chinese security leverage in the South China Sea would serve as a restraining factor for the U.S. seventh fleet that has been actively transiting the Pacific Ocean and the Indian Ocean. Third, geographically, China is surrounded by a chain of islands in the East. Given the fact that the United States has always intended to preserve a strong military presence in West Pacific, Beijing feels that a strong foothold in the South China Sea would give China at least some more strategic manoeuvring space. Fourth, Chinese strategists believe that geopolitically, China is vulnerable both on land and from the sea. This double vulnerability has been ameliorated to some extent after China solved land border disputes with all its neighbours except India. They believe that in the future challenges to China's territorial integrity and sovereignty will mostly come from the ocean, including the South China Sea.⁹

⁵ Shi Hongtao, "Zhongguo de maliujia kunju" [China's Malacca Dilemma], *China Youth Daily*, June 15, 2004.

⁶ Dong Shaopeng, "Zhongguo wei hu haiyang zhiyu de xin nuli" [China's new efforts in maintaining the maritime order], *Guoji jinrong bao* [international financial news], Dec. 2, 2005.

⁷ Nu Anping, "Nanhai ziyuan zao zhoubian guojia fengkuang kaicai" [Spratlys resources relentlessly exploited by neighboring states], *Zhongguo canjing xinwen bao* [China industrial and economic news], March 2, 2004.

⁸ Hou Songling, "Zhongguo yu dongmeng guanxi zhong de bu wending yinsu-nansha wenti" [A destabilizing factor in China-ASEAN relations: Spratlys], *Southeast Asia Studies*, issue 5/6, 2000.

⁹ Liu Zhongmin, "Zhongguo haiquan fazhan zhanlue wenti de ruogan sikao" [some thoughts on the development of China's maritime power], *Journal of Foreign Affairs University*, February, 2005, vol. 80.

Marine economy is also an important factor in Beijing's considerations. Fishing industry has been an important part of the economic life of residents in several Chinese coastal provinces adjacent to the South China Sea, for instance, Guangdong, Hainan, and Guangxi. Beijing has begun to pay more attention to marine economic growth. A senior researcher at the State Ocean Administration points out that the ocean has become an important area of contention for comprehensive national power and long-term strategic advantage.¹⁰ China has realized that its marine economy accounts for a very small proportion of China's total economy. According to a Chinese source, China's marine economy accounts for only 3.4 percent of China's GDP in 2002, falling far behind those Western maritime powers.¹¹

Similar to all other competing states and external powers, the South China Sea is also important to China because it contains very important flight routes and sea lanes of communication. Its importance as a transportation outlet is related to the Malacca Strait, which is a crucial channel for China's energy security. Chinese analysts frequently mention the fact that about four-fifths of China's oil import has to pass the Malacca Strait and then to South China Sea.

China's Historical Claims in the South China Sea

As is well known to the scholarly community, the Chinese claim in the South China Sea is mostly based on historical ground. Chinese analysts typically argue that China was the first country to discover and use the islands and resources in the South China Sea. It is argued that the Chinese ancestors discovered and got to know the islands in the South China Sea during China's Han Dynasty in the 2nd century BC. During the Three Kingdoms era in the 3rd century, an official mission to Cambodia (called Fu Nan at that time in Chinese) resulted in some brief account of the Paracels and the Spratlys in a Chinese book. During the Song and Yuan dynasties (10th-14th century), many official and unofficial Chinese accounts seemed to indicate that the South China Sea area was included in the Chinese national boundary. During the Ming and Qing era, various official Chinese maps had included the Spratlys into Chinese territory. The Qing government took actions to exercise jurisdiction over the Paracels in the early 20th century.

The Chinese also frequently claim that Chinese fishermen have been exploiting the fishing resources in the South China Sea for centuries and have kept detailed records of the navigation routes and names of islands and islets and shoals in the South China Sea. Many Chinese fishermen had lived and been buried on some of the islands in the Spratlys. When the Japanese adventurists in the late 1910s and the French in the early 1930s began to arrive in the Spratlys, they encountered Chinese fishermen on a few islands in the Spratlys and saw abundant evidence that the Chinese fishermen had been using those islands as permanent residence. Chinese scholars claim that the Chinese fishermen resisted the French efforts to occupy the Spratlys islands in the 1930s. The French actions in the South China Sea prompted a strong nationalistic movement in China. The Chinese government lodged protests against the French in the 1930s. And in the early 1930s, in response to French actions in the South China Sea, the Chinese government began to step up efforts to officially regulate the publication of Chinese maps with regard to the South China Sea, which eventually led to the publication of an official map of the islands and islets in the South China Sea in April, 1935. The Japanese controlled the Spratlys during WWII, but China was able to recover the Spratlys islands in late 1946.¹²

¹⁰ Liu Zhongmin, [some thoughts on the development of China's maritime power].

¹¹ Liu Zhongmin, [some thoughts on the development of China's maritime power].

¹² For more details about China's historical claim, see Li Jinming, *nanhai zhengduan yu guoji haiyang fa* [South China Sea disputes and international law of the sea], (Beijing: Ocean Press, 2003), pp.1-6; Wu Shicun, *zong lun nansha zhengduan* [a study on the South China Sea dispute], (Haikou: Hainan Press, 2005), pp. 22-53.

In December 1947, the Republic of China government published a map which not only located the main archipelagos, the islands and other features in the South China Sea, but also contained the eleven dots (also called the U-shaped line) encompassing much of the South China Sea. This was the first time the eleven dotted lines appeared in an official Chinese map. In February 1948, the Chinese government published an administrative map with the South China Sea map attached to it.¹³ Chinese scholars claim that when the dotted lines were first publicized, no other state lodged any diplomatic protest. They further claim that since then many countries have published maps that actually recognize the Chinese eleven dotted lines.¹⁴ The People's Republic of China (PRC) inherited the dotted lines after 1949. In 1953, the late Premier Zhou Enlai decided to drop the two lines in the Tonkin Gulf and Chinese maps published ever since show only nine dotted lines in the South China Sea area.¹⁵

The Chinese government has never officially explained the legal implications of the U-shape line. It has not clarified the scope of its claim in the South China Sea either. But one thing is clear: Beijing regards the U-shaped line as one of the most important pieces of evidence for China's historical claim. In fact, Chinese scholars argue quite strongly for China's sovereign rights over the islands and other features in the South China Sea by referring to the U-shaped line. On the issue of possible conflict between the U-shaped line and the United Nations Convention on the Law of the Sea (UNCLOS), Chinese analysts maintain that the Chinese U-shaped line had been publicized long before the emergence of contemporary international law of the sea including the UNCLOS and that the new international maritime legal regime should not negate China's prior rights in the South China Sea. China should enjoy both the EEZ and continental shelf rights stipulated in the UNCLOS for the islands and at the same time historical rights within the U-shaped line.¹⁶ They argue that other claimant states are wrong to claim EEZ and continental shelf into China's U-shape line, let along the islands and islets within the line. They argue that the UNCLOS deals with the demarcation of maritime zones only. It does not provide any legal basis for the claims on islands and other land features in the sea. They argue that the historical and legal implications of the U-shaped line indicate that the islands in the South China Sea were already Chinese territory. And thus other claimant states do not have the right to use their EEZ or continental shelf claims under UNCLOS to make any demand on the islands.¹⁷

Strategic Interests and Moderation

Throughout the 1990s, China has made great efforts to normalize its relations with Southeast Asian states. Departing from its initial approach that favoured bilateral relations, China got

¹³ Wu Shicun, [a study on the South China Sea dispute], pp. 46-49.

¹⁴ Wu Shicun, [a study on the South China Sea dispute], p. 49; Li Jinming, [South China Sea disputes and international law of the sea], p. 54.

¹⁵ Wu Shicun, [a study on the South China Sea dispute], p. 49.

¹⁶ Jia Yu, "Nanhai 'duan xu xian' de falu diwei" [the legal status of the dotted line in the South China Sea], *China's Borderland History and Geography Studies*, no. 2, 2005; Wang Yongzhi, et al., "Guanyu nanhai duan xu xian de zonghe taolun" [a comprehensive discussion of the South China Sea dotted line], *Journal of Ocean University of China* (Social Sciences Edition), No. 3, 2008, pp. 1-5.

¹⁷ Guo Yuan, "dui nanhai zhengduan de guoji haiyang fa fenxi" [an analysis of the application of international law of the sea on the South China Sea disputes], *beifang fa xue* [legal studies in the north], vol. 3, no. 14, 2009, pp. 133-138; Guo Yuan, "hezuo: jie jue nanhan wenti de bi you zhi lu" [cooperation: the inevitable approach to the solution of the South China Sea dispute], *China's Borderland History and Geography Studies*, Vol. 19, No. 12, June 2009, pp. 127-135.

more involved in multilateral and regional institutions,¹⁸ especially in frameworks that allowed Beijing to enhance its dialogue with ASEAN. When former president Jiang Zemin and all the ASEAN leaders organised the first ASEAN plus China Summit in December 1997, they issued a joint statement of establishing a relationship of good neighbourliness and mutual trust oriented towards the twenty-first century. As a consequence, economic and political relations between China and the ASEAN countries developed rapidly.¹⁹ But security relations were tarnished by territorial disputes in the South China Sea. At the turn of the century, however, the tensions began to decline, thanks to a series of agreements: China and Vietnam signed a Treaty on the Land Border in December 1999, followed by an agreement demarcating maritime zones in the Gulf of Tonkin in 2000,²⁰ and in November 2002, China and ASEAN signed the Declaration on the Conduct of Parties in the South China Sea (DOC). Meanwhile, at the ASEAN-China summit in November 2001, ASEAN leaders accepted China's proposal to create a China-ASEAN Free Trade Area (CAFTA) that would include China, Brunei, Malaysia, Indonesia, the Philippines, Singapore and Thailand by the year 2010, followed by Cambodia, Laos, Myanmar and Vietnam by the year 2015.²¹

Generally speaking, China's approach to the South China Sea dispute in the first half of the past decade reflected the overall re-orientation of Beijing's diplomacy in Southeast Asia, which many pundits characterize as "charm offensive" or "soft power." China has essentially attempted to seek some balance in pursuing its sovereign, economic, and strategic interests in the dispute. Given the political, economic, and strategic importance of the South China Sea for China, many people in China may have wished to use more assertive means to push for China's interests in the area. However, in the past decade, there has been no major military conflict between China and other disputants.²² Prediction that in the aftermath of the Asian financial crisis in 1997, ASEAN states would be unable to pressurize China into accepting multilateral negotiations turned out to be incorrect.²³ China, on one hand, held a strong position on its claim of sovereignty at all diplomatic occasions, took peace-meal actions to consolidate its presence in the South Chian Sea, and responded with stern warnings when other disputants acted against Chinese interests. But on the other hand, Beijing felt that it had to address other more important goals in its foreign policy towards Southeast Asia, entailing quite a few significant changes in the Chinese actual behaviour.

It is widely believed that China has only opted for a bilateral approach to the South China Sea dispute. In reality, this assertion is largely a myth. So far, there has been no serious discussion, either bilateral or multilateral, about the sovereignty issues of the islands or the demarcation

¹⁸ Christopher R. Hughes, "Nationalism and multilateralism in Chinese foreign policy: implications for Southeast Asia," *The Pacific Review*, Vol. 18, No.1, 2005, pp. 119-135, Ronald C. Keith, "China as a Rising World Power and its Response to 'Globalization'," *The Review of International Affairs*, Vol. 3, No. 4, 2004, pp. 507-523.

¹⁹ Saw Swee-Hock, Sheng Lijun, Chin Kin-Wah, eds., *ASEAN-China Relations, Realities and Prospects*, ISEAS, Singapore, 2005.

²⁰ Zou Keyuan, "The Sino-Vietnamese Agreement on Maritime Boundary Delimitation in the Gulf of Tonkin," *Ocean Development and International Law*, No.36, 2005, pp.13-24.

²¹ Sheng Lijun, "China-ASEAN Free Trade Area, Origins, Developments and Strategic Motivations", *ISEAS Working Paper*, International Politics and Security Issues Series No.1, ISEAS, Singapore, 2003; Ian Storey, "China-ASEAN Summit: Beijing Charm Offensive Continues," *China Brief*, Jamestown Foundation, Vol.6, Issue 23, 22 Nov. 2006.

²² The territorial dispute in the SCS is often cited as one evidence to support the dooms-day scenario of security in East Asia; see for example: Aaron L. Friedberg, "Ripe for Rivalry: Prospects for Peace in a Multipolar Asia," *International Security*, Vol.18, No.3, Winter 1993-1994, pp.5-33.

²³ For such prediction, see Allan Collins, *The Security Dilemmas of Southeast Asia*, Macmillan Basingstoke, 2000, p.169.

of maritime zones. It makes little sense to say that China only favours a bilateral approach to the problem. So far, the positive things that have taken place in the South China Sea dispute are confidence-building measures and at the same time also measures to manage the dispute (with the exception of the China-Philippine-Vietnam joint seismic study being a small step towards joint development). And these things have been multilateral. In fact, the claims by different parties overlap so much that it is impossible for China to discuss with any single ASEAN claimant country if China is willing to solve this problem diplomatically at all in the future.

For all the existing confidence-building measures and dispute management measures, China has been dealing with ASEAN as a collectivity over the dispute for many years. For instance, The 1997 Joint Statement of ASEAN and Chinese leaders discussed the possibility of adopting a code of conduct in the South China Sea. The Declaration on the Conduct of Parties in the South China Sea (DOC) was signed by all ASEAN foreign ministers and Chinese Special Envoy Wang Yi in Phnom Penh on November 4, 2002. The 2003 Joint Declaration of the Heads of State/Government of the Association of Southeast Asian Nations and the People's Republic of China on Strategic Partnership for Peace and Prosperity mentions that the two sides will implement the Declaration on the Conduct of Parties in the South China Sea, discuss and plan the way, areas and projects of follow-up actions. The Plan of Action to Implement the Joint Declaration on ASEAN-China Strategic Partnership for Peace and Prosperity discussed in detail how the two sides could implement the DOC.

The DOC has not proven to be very effective in managing the dispute in the South China Sea. But one can perhaps get some sense of its positive role by asking this question: could the dispute have been worse if there had been no DOC? Moreover, the DOC does seem to serve as a stepping stone for further discussion and policy deliberation among the claimant countries. The DOC, ineffective as it has been in regulating the actual behaviours of relevant parties, does have certain moral restraint on the parties concerned. This demonstrated to some extent China's acceptance of norms to regulate issues concerning the South China Sea, no matter how primitive and informal the norms are. Also, by joining the ASEAN Treaty of Amity and Cooperation, China has legally committed itself not to use force against members of the ASEAN.

Why would China adopt these relatively more moderate policies? It is an important question, not only to understand the history in the past decade, but also to have some clue for future development. One factor that most observers can agree upon is insufficient capability of the PLA Navy (PLAN),²⁴ but this factor alone does not give us a satisfactory explanation: after all, China did take forceful actions in 1974, 1988, and 1995 when its navy was even far inferior. What essentially shaped China's policy on the South China Sea dispute towards cooperation and moderation was the strategic context that China found itself in and China's visionary response to that context. There were various domestic factors that facilitated the implementation of that moderate policy as well.

In the aftermath of the Tiananmen crackdown in 1989, China was diplomatically isolated in the first half of the 1990s. In order to break the isolation, Beijing began to engage with Southeast Asian nations both bilaterally and multilaterally in the mid-1990s. In that process of engagement, China learned that its engagement policy was welcomed by regional states and was effective in broadening China's international presence and participation. More

²⁴ Felix K.Chang, "Beijing's reach in the South China Sea," *Orbis*, Vol. 40, Issue 3, Summer 1996; Ralf Emmers, "The De-escalation of the Spratly Dispute in Sino-Southeast Asian Relations," *RSIS Working Paper*, No.129, 6 June 2007.

importantly, China realized that engagement was the best policy tool to counter the widespread “China threat” discourse in the West and in China’s neighbourhood. This policy line led to the Chinese decision not to devalue its currency during the Asian financial crisis in 1997/1998, which won considerable praise from Southeast Asian countries.

In the past decade, two sets of strategic thinking have dominated the milieu of foreign policy making in China. One is the notion of “an important period of strategic opportunity” (*zhongyao zhanlue jiyu qi*), which was put forth in the political report of the 16th Party Congress and thereafter has been repeatedly emphasized by top Chinese leaders at numerous occasions. The basic idea of this concept is that the first twenty years of the new century would be China’s strategic opportunity to develop itself. There are both good opportunities and serious challenges to China’s development, but overall it is very possible for China to experience another major leap forward in the two decades if China handles its domestic and international challenges properly. The implicit warning is that if this “important period of strategic importance” is missed, China may not have another opportunity to ensure another major take-off. The second notion that perhaps has operationalized the first strategic thinking is the Chinese leaders’ dictum that China should constantly well coordinate its domestic and international situations (*tongchou guonei guowai liangge daju*). The basic idea is that China should do everything possible to create a conducive external environment for the sake of domestic socio-economic development.

Under these strategic thinkings, at the turn of the new century, China was even more cognizant and confident that further engagement with Southeast Asian countries served China’s strategic interests. These strategic interests included the following aspects. First of all, Chinese decision makers believed that China would need a stable and peaceful regional environment in order to concentrate on domestic economic development. Related to that consideration, China also needed the supply of raw materials and energy resources, the markets, and investment in regional states. There was the existent imperative of creating a positive image of China in East Asia in order to water down the “China threat” rhetoric.

But Beijing’s strategic consideration became far more comprehensive. China also began to aim to establish a stronger strategic foothold in the region to compete with the US strategic influence. That was why we saw a dazzling series of amazing Chinese moves in proactively engaging with ASEAN: the FTA initiative (including the early harvest scheme), the DOC, the signing of the TAC, the announcement for a strategic partnership, and the addition of many more official cooperation mechanisms, and many political documents proclaimed by Chinese and ASEAN leaders. The US preponderant military presence in East Asia and its extensive security ties with many Southeast Asian countries were factors that Chinese policy makers had to contend with. Beijing understood that a heavy-handed Chinese approach could only push other claimant states much closer to Washington in the security arena.

China also believed that supporting ASEAN as a regional grouping served China’s regional and even global strategic interests. Regionally, a more united and stronger ASEAN would help dilute American strategic supremacy and make members of ASEAN more confident in perceiving China’s rise so that they did not have to side with the US or any other major power to counter-balance China. Supporting ASEAN was also good for China’s global strategy of encouraging the emergence of multipolarity.

Inside China, various conditions during much of the past decade were also conducive for a moderate policy in the South China Sea dispute. The military establishment, usually the more hawkish element in any country, continued to enjoy abundant financial budget and was

primarily preoccupied with various new programs to modernize its war-fighting capabilities. The military leadership appeared to believe that China's military power still lagged far behind that of the United States and its allies in East Asia. A head-to-head confrontation with the US or any other major power would not be a wise choice. The various Chinese maritime law enforcement agencies were also keen to beef up their capabilities rather than to use their inadequate capacity to prematurely challenge or provoke other disputant states in China's neighbourhood. Thus, Maritime territorial disputes, to some extent, were put on the back burner.

It is often not fully recognized that the decade since the late 1990s were the most notable period of China starting to actively participate in various maritime cooperation projects in East Asia.²⁵ During this period, various Chinese maritime agencies engaged with Malaysia, the Philippines, Indonesia Vietnam, and Thailand for maritime cooperation projects. During a visit to Southeast Asian countries by Wang Shuguang, the former head of China's State Oceanic Administration, he even proposed that maritime ministers of countries surrounding the South China Sea meet regularly to discuss multilateral cooperation in the maritime domain.²⁶ China has also participated in the United Nations Environment Programme's (UNEP) Global Meeting of Regional Seas and Global Program of Action for the Protection of the Marine Environment from Land-based Activities, the Partnership in Environmental Management for the Seas of East Asia (PEMSEA), the Northwest Pacific Action Plan (NPAP), the North Pacific Coast Guard Forum (NPCGF), and the Container Security Initiative (CSI). Sun Zhihui, former chief of China's Oceanic Administration, noted at the Second East Asia Seas Congress meeting that China intends to deal with maritime issues in the region to promote peace and stability, so that China can concentrate on economic development in the next 20-year "important period of strategic opportunity."²⁷ Clearly, China's maritime policy in the past decade was regarded as part of its larger strategic consideration.

Non-confrontational Assertiveness: the Emerging New Context

2010 was a significant year in China's foreign and security policy. It was probably the most complicated and turbulent year for China's international politics in the past decade. Beijing's unprecedented strong response to US arms sale to Taiwan and President Obama's meeting with Dalai Lama, China's political and security protection of North Korea in the wake of the Cheonan incident and the Yeonpyeong bombing, the reportedly assertive Chinese actions in the South China Sea, China's heavy-handed approach to US naval exercises in the Yellow Sea, and Beijing's pressure tactics during the Sino-Japanese crisis over the Diaoyu/Senkaku island dispute were believed to be concrete examples of China becoming more assertive in East Asia. It is widely believed that Beijing has jettisoned its erstwhile "low profile" international posture and has instead become more aggressive in pushing for its own

²⁵ Li Mingjiang, "China and Maritime Cooperation in East Asia: Recent Developments and Future Prospects," *Journal of Contemporary China*, Vol. 19, No 64, March 2010, pp. 291-310.

²⁶ Yang Yan, "Zhongguo haiyang daibiaotuan fangwen dongnanya san guo" [Chinese marine delegation visits three Southeast Asian countries], *zhongguo haiyang bao* [China ocean newspaper], 24 December 2004.

²⁷ Yu Jianbin, "Rang 'dongya hai jiyuan' geng meihao" [making the East Asian Seas region a more beautiful home], *People's Daily*, 12 December 2006.

narrowly-defined national interests. Some analysts even believe that China is inclined to adopt a confrontational strategy in the region.

It is perhaps a crucial moment for the rest of the world, in particular regional states, to have an accurate assessment of China's strategic thinking with regard to East Asian security and the South China Sea dispute. While acknowledging the fact that China has become more assertive and is likely to remain so in the foreseeable future, we also have to be sober-minded to note that China is unlikely to pursue any kind of confrontational strategy in its regional international politics. Non-confrontational assertiveness is likely to underpin China's foreign and security policy in the near future and it is possibly the reality that ASEAN countries will have to grapple with in their China policy in relation to the South China Sea dispute.

What does China's non-confrontational assertiveness essentially mean? It means that at the strategic level, Beijing is not likely to pursue any conspicuous confrontation with other major powers and ASEAN. China is not likely to pursue an ostensibly coercive approach towards its smaller neighbors for fear that such coercion may have a profound impact on China's strategic position in the region and relations with other major powers. But at the same time, China will be assertive in dealing with issues that are of crucial importance to its national interests. There may seem to be some contradictions between the strategic non-confrontation and tactical assertiveness, but it appears that China has been able to balance the two through dexterous diplomacy. In the past decade or more, for instance, China has arguably practiced non-confrontational assertiveness in its external policy with regard to human rights, maritime territorial and demarcation disputes, and even the Taiwan issue. Assertive actions were taken whenever China's core concerns on these issues were infringed upon. But at the same time, Beijing has always been careful not to escalate any dispute into a major long-term confrontation with any other major power. What is different between today and the past is that Beijing is likely to be willing to employ more assertive means in dealing with major disputed issues in its foreign relations.

A couple factors have contributed to the fact that China is becoming more assertive in regional security affairs. First of all, it has to do with the fact that China's power has grown to the extent that it can afford to be more assertive. Its military modernization efforts have generated quite impressive results. China has become the number two economy in the world and it has become a crucial growth engine for many regional states. China's maritime law enforcement capability has also been significantly augmented in recent years and appears to grow further in the coming years. In an anarchic world, the growth of one country's capability always comes hand in hand with the greater temptation to use pressure tactics and brinkmanship. Secondly, partially because of the increased power capability, China's self-confidence has also notably grown, especially in the wake of the financial crisis. Chinese elite were excited to see that China weathered the financial crisis better than any other country. The bullish mindset was further boosted by their observation that the West was stagnating or even, relatively speaking, declining. China's self-confidence and rising nationalism interacted to produce a more assertive China.

Thirdly, the increased capability and enhanced confidence, together with unabated nationalism, has contributed to the elevation of China's concerns about its core national interests. Although the Chinese usage of the term "core interests" is still subject to different interpretations, some senior Chinese officials have stated that they may include the ruling position of the party, territorial sovereignty and integrity, and economic and social development. China has sought to codify its concerns about "core interests" in its foreign relations, for instance during Obama's visit to China in 2009, and has clearly demonstrated its resolve to defend its "core interests" in actions in recent years. Once "core interest" becomes a prominent concern for the top political elite, different bureaucratic agencies in the Chinese political system may find it possible and very rewarding to behave assertively. As a result, bureaucratic politics chime in and further complicate China's handling of the South China Sea dispute.

In addition to this overall emerging context of non-confrontational assertiveness, the context of China's policy-making in relation to the South China Sea is also subtly changing. First of all, there is widespread disappointment and frustration in China regarding the developments in the region. Similar to Vietnamese complaint of China's brutality against Vietnamese fishermen, China also complains that its traditional fishing ground in the Spratlys has been shrinking²⁸ and its fishermen have been badly treated. One Chinese report notes that since 1989, over 300 instances of Chinese fishing vessels being arrested, expelled and even fired upon have taken place in the Spratly area and over 80 Chinese fishing boats and over 1,800 Chinese fishermen have been arrested.²⁹ While most Chinese analysts agree with the government position that "shelving disputes and joint development" should still be the official position of China, some observers in China are increasingly critical of this policy. They argue that this policy has actually worked against Chinese interests in that it has de facto allowed other claimant states to unilaterally exploit the resources in the South China Sea.³⁰

Beijing is also unhappy of other states' attempt to rally under the ASEAN flag and use the ASEAN Regional Forum (ARF) to discuss the South China Sea issue in order to exert

²⁸ Xi Zhigang, "Zhongguo nanhai zhanlue xin siwei" [China's new thinking on the South China Sea issue], *moulue tiandi* [the strategic arena], no. 2, 2010, pp.56-60.

²⁹ http://news.xinhuanet.com/mil/2010-04/06/content_13307981.htm, accessed April 5, 2010

³⁰ Liu Zhongmin, "lengzhan hou dongnanya guojia nanhai zhengce de fazhan dongxiang yu zhongguo de duice sikao" [developments and trends in Southeast Asian countries' South China Sea policies and China's responses], *nanyang wenti yanjiu* [Southeast Asian affairs], no. 2, 2008, pp.25-34; Wang Yongzhi, et al., "Guanyu nanhai duan xu xian de zonghe taolun" [a comprehensive view of the South China Sea dotted line], *Journal of Ocean University of China* (Social Sciences Edition), NO. 3. 2008, pp. 1-5; Li Guoxuan, "nanhai gongtong kaifa zhiduhua: neihan, tiaojian yu Zhiyue yinsu" [the institutionalization of joint development in the South China Sea: scope, conditions, and constraints], *nanyang wenti yanjiu* [Southeast Asian affairs], no. 1, 2008, pp. 61-68.

pressure on China.³¹ China is particularly concerned about the involvement of other major powers, in particular the United States. In the understanding of Chinese scholars, Washington has been pursuing a policy of “active neutrality” in the South China Sea. It is a policy of “neutrality” in that the US has openly stated that it does not support the territorial claim of any party and does not intend to get involved in the imbroglios. But it is active in the sense that it has repeatedly warned against any forceful means to solve the problem and any action that would impede the freedom and safety of navigation and the overall stability in the region. It is also an active policy in that the US has quite strongly insisted of having the freedom of using the South China Sea, including China’s EEZ areas, to conduct military surveillance activities.³² The US government has openly stated that it would protect the interests of American oil companies that have businesses and are assisting other claimant countries in energy exploitation in the South China Sea.³³ Various US-led naval exercises in the South China Sea have reinforced the Chinese analysts’ negative view of Washington’s role in the disputes.³⁴ Overall, many Chinese analysts conclude that the US has continued to pursue a strategy of military preponderance in the South China Sea area and has become more active in the disputes as part of US strategy to contain or constrain China’s rise.³⁵

In recent years, China has begun to pay more attention to the South China Sea, hoping to reap the potential energy resources. In 2005, the Chinese Ministry of Land and Resources identified the South China Sea as one of the ten strategic energy zones and made plans to accelerate efforts to exploit the deep water oil and gas in the region. CNOOC and several scientific research institutes in China have stepped up efforts to further study the oil and gas reserves in the deep water area in the South China Sea.³⁶ Despite doubts about the reported huge reserve of oil and gas resources in the South China Sea by various international experts, the Chinese seem to be quite certain about the prospect of energy resources in the area. Zhang Fengjiu, a senior engineer at CNOOC, reports that up to 2007 China has discovered 323.5

³¹ Liu Zhongmin, “lengzhan hou dongnanya guojia nanhai zhengce de fazhan dongxiang yu zhongguo de duice sikao” [developments and trends in Southeast Asian countries’ South China Sea policies and China’s responses], *nanyang wenti yanjiu* [Southeast Asian affairs], no. 2, 2008, pp.25-34.

³² Cai Penghong, “meiguo nanhai zhengce pouxi” [analyzing American policy towards the South China Sea issue], *xiandai guoji guanxi* [contemporary international relations], no. 9, 2009, pp.1-7,35.

³³ Lu Fanghua, “shi xi nanhai wenti zhong de meiguo yinsu” [an examination of the US factor in the South China Sea problem], *dongnanya nanya yanjiu* [Southeast Asia and South Asia studies], no. 4, Dec. 2009, pp.6-10.

³⁴ Zhang Zuo, “mei jie ‘kalate’ yanxi, buju nan zhongguo hai” [the US making plans in the South China Sea by staging the CARAT exercises], *huanqiu junshi* [global military affairs], no. 202, July 2009.

³⁵ Lu Fanghua, “shi xi nanhai wenti zhong de meiguo yinsu” [an examination of the US factor in the South China Sea problem], *dongnanya nanya yanjiu* [Southeast Asia and South Asia studies], no. 4, Dec. 2009, pp.6-10; Cai Penghong, “meiguo nanhai zhengce pouxi” [analyzing American policy towards the South China Sea issue], *xiandai guoji guanxi* [contemporary international relations], no. 9, 2009, pp.1-7,35; Wang Chuanjian, “meiguo de nan zhongguo hai zhengce: lishi yu xianshi” [American South China Sea policy: history and reality], *waijiao pinglun* [diplomatic affairs], no. 6, 2009, pp.87-100.

³⁶ *China Ocean Petroleum Newspaper*, January 23, 2009.

billion cubic meters of natural gas in the South China Sea. He also notes that China has been extracting about 6 billion cubic meters of natural gas in the South China Sea annually, accounting for 88 percent of China's natural gas production in the sea.³⁷ Various research institutes in China have started a comprehensive study on methane gas hydrate (the so-called combustible ice) in the South China Sea.³⁸ In August 2006, China announced that it planned to invest RMB800 million in studying the exploration of combustible ice in the South China Sea and intended to trial extract before 2015. It is estimated that the reserve of combustible ice in the northern part of the South China Sea would amount to 50 percent of all the oil reserves in the land area of China.³⁹

CNOOC plans to invest RMB200 billion (US\$29 billion) before 2020 to set up 800 oil platforms in deep water areas. The company plans to produce 250 million tons of crude oil equivalent in deep water areas by 2015 and 500 million tons by 2020. CNOOC is now stepping up efforts, including developing the required technologies, equipment, and human resources, to meet these targets.⁴⁰ CNOOC has signed contracts with American, Canadian, and British oil companies to explore and exploit the oil and gas resources in the northern part of the South China Sea. In recent years, CNOOC, in cooperation with its partner Husky Energy, has successfully discovered three areas of natural gas reserve on Block 29/26 in the Pearl River basin in the eastern part of the South China Sea. The latest discovery, the Liuhua 29-1 exploration well, announced by CNOOC on February 9, 2010, tested natural gas at an equipment restricted rate of 57 million cubic feet (mmcf) per day.⁴¹ According to Husky, "the three natural gas fields; Liwan 3-1, Liuhua 34-2, and Liuhua 29-1 have confirmed the resource potential as a major gas development project in the South China Sea and supports an earlier estimation of petroleum initially in place of 4 to 6 tcf (trillion cubic feet) for the Block."⁴²

In addition to CNOOC, CNPC (China National Petroleum Corporation) and Sinopec (China Petrochemical Corporation) have also been granted areas in the South China Sea and have decided to make major investments in the deep-water oil and gas projects in the South China Sea.⁴³ Given the enormous Chinese interest in energy resources in the area, China may continue to emphasize its "shelving disputes and joint exploitation" policy in the South China Sea. But at the same time, since many regional claimant states are not strongly interested in

³⁷ Zhang Fengjiu, "wo guo nanhai tianranqi kaifa qianjing zhanwang" [the prospect of natural gas exploitation in the South China Sea], *tianranqi gongye* [natural gas industry], vol. 29, no. 1, January 2009, pp.17-20.

³⁸ *China Land and Resources Newspaper*, September 22, 2008.

³⁹ <http://www.chinamining.com.cn/news/listnews.asp?classid=154&siteid=74942>, accessed April 25, 2010.

⁴⁰ Zhou Shouwei, "nan zhongguo hai shenshui kaifa de tiaozhan yu jiyu" [challenges and opportunities for deep water exploitation in the South China Sea], *gao keji yu canyehua* [hi-technology and industrialization], December 2008, pp.20-23.

⁴¹ <http://www.cnooc.com.cn/news.php?id=301091>, accessed April 2, 2010.

⁴² <http://www.huskyenergy.com/news/2010/husky-energy-announces-third-discovery-in-south-china-sea.asp>, accessed April 3, 2010.

⁴³ http://www.cs.com.cn/ssgs/02/200812/t20081229_1698907.htm, accessed March 22, 2010.

the Chinese proposal, it is quite likely that China may also step up efforts to unilaterally exploit the resources in the Spratlys area in the foreseeable future.⁴⁴

Given all these changes that have taken place inside and outside China and the rapid rise in China's expectation for tangible material benefits, China is unmistakably poised to step up its efforts to assert its interests in the South China Sea region, although these apparently Chinese assertive actions have other purposes that may be irrelevant to the South China Sea disputes. In early 2009, the air force of the Guangzhou Military Region conducted a large-scale exercise in the far South China Sea. The exercise, in particular the air-borne refuelling of China's indigenous J-10 jet fighters, was regarded as a deterrent signal by many Chinese analysts that China sent to other claimant states in the South China Sea. The exercise indicates that China is "gradually taking steps to adopt a more assertive strategy" towards the South China Sea disputes instead of simply issuing diplomatic protests as it had done in the past.⁴⁵

In March 2009, China sent its fishery administration vessel 311, the largest fishery patrol vessel converted from a retired warship, to Paracels for patrolling. In May, another fishery administration fleet patrolled the Paracels area again. On April 1, 2010, two Chinese fishery administration vessels set off for the South China Sea to protect the fishing activities of Chinese fishermen. Unlike similar patrols in the past, this time the Chinese government decided to conduct regular patrols in the Spratlys area. Liu Tianrong, a senior official at the Fishery Administration of the South Sea Area said that at the sailing ceremony that the crews of the two vessels were determined to counter piracy, resist the arrests of Chinese fishing boats by other states, oppose the actions of other states in expelling Chinese fishing boats, and highlight Chinese sovereignty in the South China Sea.⁴⁶ Four days later, the Chinese fishery administration fleet arrived at an area at the southern end of the Spratly archipelago (N5°30') and began to provide protection for Chinese fishing boats. This is an area what the Chinese fishing community traditionally calls the "Southwest fishing area" because it is located in the Southwest of the Spratlys.⁴⁷ From late March to early April, a flotilla of the PLAN North Sea Fleet took a long distance to the South China Sea and conducted naval exercises.⁴⁸

Over the last decade, China has made good efforts in enhancing its maritime enforcement capabilities, including "unprecedented capability" of using satellites to monitor and conduct

⁴⁴ Feng Yunfei, "Guanyu zhongguo nanhai kaifa zhanlue sixiang de tanjiu" [thoughts on China's strategic approach to the South China Sea exploitation], *canye yu keji luntan* [industrial and science tribune], vol. 7, no. 12, 2008, pp.35-37; Zhang Fengjiu, "wo guo nanhai tianranqi kaifa qianjing zhanwang" [the prospect of natural gas exploitation in the South China Sea], *tianranqi gongye* [natural gas industry], vol. 29, no. 1, January 2009, pp.17-20.

⁴⁵ Xi Zhigang, "Zhongguo nanhai zhanlue xin siwei" [China's new thinking on the South China Sea issue], *moulue tiandi* [the strategic arena], no. 2, 2010, pp.56-60.

⁴⁶ http://news.xinhuanet.com/mil/2010-04/06/content_13307981.htm, accessed April 6, 2010.

⁴⁷ Nanfang Ribao [Southern Daily], April 7, 2010.

⁴⁸ <http://mil.huanqiu.com/china/2010-04/777498.html>, accessed April 14, 2010.

operations along its disputed maritime periphery,⁴⁹ although China's enforcement capabilities still remain "balkanized and relatively weak" as compared to other major powers.⁵⁰ But increasingly, China has begun to apply its capability to protect its interests in the South China Sea. In much of 2010, the outside world was concerned about the Chinese claim of treating the South China Sea issue as one of its "core national interests."⁵¹ Although it is still unclear how, why, and under what context the Chinese officials made the remarks, the fact that China has neither officially clarified nor refuted such rhetoric indicates that some segments in China do intend to be more serious about protecting China's own interests in the South China Sea.

Implications for China-ASEAN Interactions in the South China Sea

What does China's non-confrontational assertive policy posture in the South China Sea imply for ASEAN and its claimant countries in the dispute? Essentially, it means that in the coming years other claimant countries will be prepared to deal with a China that is more likely to use pressure tactics on contentious issues between them. Beijing is less likely to make concessions on the South China Sea issue, for instance, reluctance to reach a legally binding code of conduct and clearer stance on the "my sovereignty" precondition for joint development schemes in the South China Sea. As China starts to be more active in protecting what it perceives as its own national interests in the South China Sea, disputes and skirmishes are possible. Unilateral actions by ASEAN claimant countries in the South China Sea would likely beget Chinese counter measures and in fact might be used by China as excuses to assert its own interests. This vicious circle of events, if it happens at all, will have a significantly negative impact on China-ASEAN cooperation in many other areas, i.e. non-traditional security cooperation and regional economic integration.

At the same time, leaders in ASEAN countries may find it useful to note that China has little intention to see any major confrontation with Southeast Asian neighbours. Despite emerging signs of China becoming more assertive, there are significant constraints that could limit China's muscle-flexing. China faces several dilemmas in the South China Sea disputes. First of all, the predicament is how to maintain the balance between the protection of its sovereign and other maritime interests in the South China Sea and at the same time to sustain a peaceful and stable relationship with Southeast Asian countries, particularly those nations that are direct claimant states. Southeast Asia has been often dubbed as China's strategic backyard. Beijing needs to maintain good relations with its Southeast Asian neighbours in order to diffuse the "China threat" thesis, cultivate a positive China image in the international scene, and push for multipolarization in world politics. A heavy-handed Chinese approach could easily swing other claimant states to the security embrace of the United States and other external powers, for instance Japan and India. Secondly, Beijing has to constantly encounter

⁴⁹ Peter J. Brown, "China's Navy Cruises into Pacific Ascendancy," *Asia Times*, 22 April 2010.

⁵⁰ Lyle J. Goldstein, "Five Dragons Stirring Up the Sea: Challenge and Opportunity in China's Improving Maritime Enforcement Capabilities," *Naval War College China Maritime Study* 5, April 2010.

⁵¹ <http://www.nytimes.com/2010/04/24/world/asia/24navy.html?hp=&pagewanted=all>, accessed May 1, 2010.

the difficult maritime disputes with Japan in the East. The challenges in the East Sea are no less daunting than those in the South China Sea. In fact, in recent years, there have been numerous emerging crisis situations between China and Japan. Japan is a much stronger rival, both in terms of economic and military power, for China in the maritime domain. The challenge for Beijing is how to avoid the simultaneous occurrence and escalation of maritime conflicts in the East and in the South. In this sense, China will have to tread carefully in the South China Sea in order to avoid a two-front confrontation in the maritime domain. Thirdly, perhaps most importantly, China's political elite have been sober-minded that the most central task for China is to focus on domestic socio-economic development for decades to come. Chinese elite firmly believe, perhaps rightly so, that a peaceful and stable environment, particularly in its East Asian neighbourhood, is indispensable for sustained domestic economic growth.

Given this context, China is likely to practice self-constraint so as to avoid a major confrontation with Southeast Asian countries. Beijing is also likely to reciprocate any regional states' goodwill to prevent any crisis from escalating into a confrontation. All these essentially mean that there is a good window of opportunity for the two sides to maintain the status quo and manage the dispute well. It would be useful if the two sides could attempt to set up more effective mechanisms for crisis prevention and crisis management. The two sides could also do a better job in explaining their strategic intentions to each other. Needless to say, such explanations will not completely clear the distrust between the two countries, but they might help in mitigating their misunderstandings. In this sense, it is important to maintain regular high-level communications between the two sides.

What ASEAN could further do is probably to continue to work on regional institutions and norms. The pace of regional institutional building has been slow in recent years, but it is better than nothing. Regional institutions have always provided a suitable conduit for the leaders of China and ASEAN claimant states. One may also not downplay the socialization effect of interactions in various regional institutions. Efforts to further develop norms in regulating regional international relations should continue and ASEAN could continue to play the driver's role.

The opportunity to push for joint development in the South China Sea has not been lost if ASEAN claimant countries are amenable to the idea. To push for win-win deals, one step that China could undertake is to further clarify its positions on its claims in the South China Sea. For many years, Beijing has pushed for a "joint development" scheme in the South China Sea. But at the same time, China has insisted that other claimant states have to recognize Chinese sovereignty in the South China Sea as a precondition. As one can imagine, regional states have categorically refused to accept the Chinese precondition. In light of the emerging consensus among Chinese scholars on the definition of the U-shaped line and bilateral and multilateral practices that have taken place in the South China Sea, it is possible for China to more clearly define the implications of its U-shaped line and practice significant flexibility in its "my sovereignty" precondition.

According to a Chinese maritime strategist, generally speaking, there are four views and interpretations of the U-shaped line.⁵² The first view is that the islands and their adjacent waters within the line are areas of Chinese jurisdiction. This is also the official position: “China enjoys indisputable sovereignty over the islands and their adjacent waters in the Spratlys.”⁵³ Still there is ambiguity over the extent of “adjacent waters.” The second view is that the line is the boundary of China’s historical rights, including sovereignty over the islands, islets, atolls and shoals and all the natural resources in the waters, while allowing other countries to have the freedom to navigate, over-fly, and lay cables and pipelines under the water. The third view, largely held by some Taiwanese scholars, indicates that the South China Sea should be China’s historical water, meaning that the area is China’s internal water or territorial sea.⁵⁴ The fourth view is that the line represents national territorial boundary. Everything within the line is Chinese territory.

Some Chinese analysts believe that Beijing should provide a more clear-cut explanation to the U-shaped line sooner rather than later given the fact that other regional claimant states have stated their EEZ and continental shelf in the South China Sea and the fact that regional states have been aggressively exploiting the oil and natural gas resources in the area.⁵⁵ The talks with Vietnam on the demarcation of maritime zones and resource development in the south of the Tonkin Gulf have added to the urgency for China to clarify its position on the U-shaped line.⁵⁶ China will need to promulgate its maritime base line in the Spratlys and EEZ and continental shelf zones. All these measures are urgently needed because the Chinese patrol missions will have to be based on certain legal grounds. Without these legal measures, it is difficult to for the Chinese patrol crews to determine the boundary of their patrols and actions appropriate to protect China’s maritime interests in the Spratlys area.⁵⁷

The debate in China has arrived at a point where China can now offer a clearer position on its claims in the South China Sea. Chinese analysts are aware that the possible Chinese claim of owning the South China Sea as its internal water, territorial water, or historical water is weakened by the government’s pronouncements regarding freedom and safety of foreign vessels and aeroplanes in and over the area. The fact that the dotted lines are symbols typically used for undetermined state boundary indicates that China may not be able to claim the area as part of its territory.⁵⁸ It is also argued that in the process of promulgating the

⁵² Jia Yu, “Nanhai ‘duan xu xian’ de falu diwei” [the legal status of the dotted line in the South China Sea], *China’s Borderland History and Geography Studies*, no. 2, 2005.

⁵³ <http://www.fmccprc.gov.hk/chn/wj/fyrth/t310165.htm>, accessed March 21, 2010.

⁵⁴ Cheng-yi Lin, “Taiwan’s South China Sea Policy,” *Asian Survey*, vol. 37, no.4, 1997, pp.323-324.

⁵⁵ Wang Yongzhi, et al., “Guanyu nanhai duan xu xian de zonghe taolun” [a comprehensive view of the South China Sea dotted line], *Journal of Ocean University of China (Social Sciences Edition)*, NO. 3. 2008, pp. 1-5.

⁵⁶ Li Linghua, nanhai zhoubian guojia de haiyang huajie lifa yu shijian [regional states’ legislation and practice in maritime demarcation in the South China Sea], *Journal of Guangdong Ocean University*, Vol.28 No.2, Apr. 2008, pp. 6-11.

⁵⁷ Li Jinming, “nanhai jushi yu yingdui hanyangfa de xin fazhan” [the situation in the South China Sea and responses to the latest developments in the international law of the sea], *nanyang wenti yanjiu* [Southeast Asian affairs], No. 4 2009, pp. 12-19.

⁵⁸ Jia Yu, “Nanhai ‘duan xu xian’ de falu diwei” [the legal status of the dotted line in the South China Sea], *China’s Borderland History and Geography Studies*, no. 2, 2005.

South China Sea map and the dotted lines in the late 1940s the explicit intention of the Chinese government (ROC) was to decide and publicize the boundaries and sovereignty of the Paracel and Spratly archipelagos. The Chinese government at that time did not intend to claim the whole water area of the South China Sea.⁵⁹

There seems to be a widely held view that the nine dotted lines are not China's territorial boundary but support China's sovereign rights over the islands and islets and other relevant rights over the natural resources in the South China Sea.⁶⁰ Chinese maritime legal experts have taken note that the notion of "historical water" has become less relevant in international maritime delimitations. Moreover, China had objected the Vietnamese claim of historical water in the Tonkin Gulf demarcation.⁶¹ Many Chinese scholars believe that China enjoys "historical rights" in the South China Sea,⁶² which are implied in Article 14 of the 1998 Chinese Law on the EEZ and Continental Shelf: "regulations in this law do not affect the historical rights that the PRC should enjoy." They argue that China has both legal rights that are derived from the UNCLOS and historical rights that are derived from the U-shape line. All in all, these rights would include: sovereignty over the islands and their adjacent waters and rights over the natural resources within the U-shaped line.⁶³

In practice, China has shown considerable flexibility in its "my sovereignty" precondition in relation to joint development. In various official proclamations, Beijing has only claimed "sovereignty and sovereign rights over the islands and their adjacent waters" in the South China Sea. China has openly stated that it would allow the freedom of international communications in the South China Sea, including maritime navigation, flights in the airspace over South China Sea, and the laying of cables and pipelines on the seabed. The China-Philippine-Vietnam joint seismic study, which was essentially part of "joint development", did not require any recognition of China's sovereignty in the area under study. China has already accepted "joint development" in its EEZ and continental shelf in the East China Sea with Japan and in the Tonkin Gulf with Vietnam; in neither case did China require the other party to accept Chinese sovereignty as a precondition. China also categorically rejected Vietnam's suggestion of treating the Tonkin Gulf as an area of historical water

⁵⁹Jia Yu, "Nanhai 'duan xu xian' de falu diwei" [the legal status of the dotted line in the South China Sea], *China's Borderland History and Geography Studies*, no. 2, 2005; Wu Jiahui, et al., "zhong yue beibuan huajie shuangying jieguo dui jiejuo nanhai huajie wenti de qishi" [the win-win results in Sino-Vietnamese Tonkin Gulf demarcation and the implications for maritime delimitation in the South China Sea], *redai dili* [tropical geography], vol. 29, no. 6, Nov. 2009, pp.600-603.

⁶⁰Zhiguo Gao, "The South China Sea: From Conflict to Cooperation," *Ocean Development & International Law*, vol. 25, 1994, p.346; Zhao Haili, *Haiyang fa wenti yanjiu* [problems in the law of the sea] (Beijing: Peking University Press, 1996), p.37; Li Linghua, "nanhai zhoubian guojia de haiyang huajie lifa yu shijian" [regional states' legislation and practice in maritime demarcation in the South China Sea], *Journal of Guangdong Ocean University*, Vol.28 No.2, Apr. 2008, pp. 6-11; Zhao Xueqing and Cheng Lu, "Haiyang fa shiye xia de zhongguo nanhai dalujia huajie fenzheng," *Journal of Jinan University*, No. 6 2009, pp. 77-82.

⁶¹Wang Yongzhi, et al., "Guanyu nanhai duan xu xian de zonghe taolun" [a comprehensive view of the South China Sea dotted line], *Journal of Ocean University of China* (Social Sciences Edition), NO. 3. 2008, pp. 1-5.

⁶²Li Jinming, *nanhai zhengduan yu guoji haiyang fa* [South China Sea disputes and international law of the sea], (Beijing: Ocean Press, 2003), p. 59; Zou Keyuan, "Historic Rights in International Law and in China's Practice," *Ocean Development & International Law*, vol. 32, no. 2, 2001.

⁶³Jia Yu, "Nanhai 'duan xu xian' de falu diwei" [the legal status of the dotted line in the South China Sea], *China's Borderland History and Geography Studies*, no. 2, 2005.

during their demarcation negotiations. China is actively negotiating with Vietnam over “joint development” in the area south of the Tonkin Gulf, which is essentially part of the South China Sea.

For “joint development” to take place, China may consider some flexibility with regard to the “my sovereignty” precondition. In fact, all other claimant parties should also drop any position on sovereignty for any joint exploitation proposal because according to UNCLOS no country enjoys full sovereignty beyond territorial sea. Insisting on “my sovereignty” contradicts with the notion of “shelving disputes.” After all, the proposed “joint development” plan is not about the islands. If China could take the lead to further downplay sovereign claims in the waters of the South China Sea, it would significantly remove a barrier to “joint development.”

A clearer Chinese position on its claims in the South China Sea and Chinese willingness to push for benevolent objectives, i.e. truly win-win situations, would facilitate serious discussions of some of the grand proposals that have emerged. Xue Li, a senior strategic analyst at the Chinese Academy of Social Sciences, proposes a Spratly Energy Development Organization to include all the seven claimant parties to jointly explore and exploit the energy resources in the Spratlys area.⁶⁴ Some Chinese scholars also believe that it would be a good idea to establish a South China Sea economic circle.⁶⁵ Further downplaying sovereignty in the waters of the South China Sea would certainly help the realization of the Pan-Beibu Gulf Economic Zone, which is now quite enthusiastically pushed by the Guangxi Ethnic Zhuang Autonomous Region in China.

Joint development and closer economic integration around the South China Sea could be the first major step towards a reasonable final solution to the disputes. The Chinese believe that the “shelving disputes and joint development” proposal has a benevolent intention. They thought that the proposal is not an end objective of itself, but rather a step towards a larger goal of finding a final solution to the disputes. They believe that joint development could help enhance understanding and gradually build consensus through cooperation so that one day in the future various parties could find more realistic options to solve the problem once and for all.⁶⁶ It may even be possible to submit the disputes to international arbitration in the future.⁶⁷

⁶⁴ Xue Li, “nansha nengyuan kaifa zuzhi: nanhai wenti de chulu” [Spratly energy development organization: a solution for the South China Sea issue], *shangwu zhoukan* [business weekly], June 20, 2009, pp. 60-62.)

⁶⁵ Yu Wenjin, et al., “nanhai jingji quan de tichu yu tantao” [a proposal and analysis of South China Sea economic circle], *diyu yanjiu yu kaifa* [Areal Research and Development], Vol. 27 No. 1, Feb. 2008, pp. 6-10.

⁶⁶ Li Guoxuan, “nanhai gongtong kaifa zhiduhua: neihan, tiaojian yu Zhiyue yinsu” [the institutionalization of joint development in the South China Sea: scope, conditions, and constraints], *nanyang wenti yanjiu* [Southeast Asian affairs], no. 1, 2008, pp. 61-68; Li Guoqiang, “dui jie jue nansha qundao zhuquan zhengyi jige fang’an de jiexi” [an analysis of the several proposals for the solution of the Spratly islands], *China’s Borderland History and Geography Studies*, no. 3, 2000, pp. 79-83.

⁶⁷ Guo Yuan, “dui nanhai zhengduan de guoji haiyang fa fenxi” [an analysis of the application of international law of the sea on the South China Sea disputes], *beifang fa xue* [legal studies in the north], vol. 3, no. 14, 2009, pp. 133-138;

Conclusion

China's policy on the South China Sea issue has been shaped by many factors, which include domestic politics, public sentiment, domestic economic development, and most importantly China's own strategic calculation. The configuration of major factors that helped determine Beijing's approach to the dispute differed at different times, but obviously China's strategic thinking has had the most important impact on its decision. This paper has demonstrated how Beijing's strategic calculations in the decade since the late 1990s have entailed a more or less moderate approach to the South China Sea contention. China's strategic priority in striving to shape a stable and peaceful international environment, particularly in its neighborhood, essentially limited China's choices in dealing with the dispute. "Calculated moderation" was perhaps the only logical and possible option for China.

Starting in recent years, the context for China's strategic thinking has somewhat changed. Beijing now understands that its strategic position has slightly changed to its favor, although the fundamentals of the geo-strategic structure in East Asia may have not changed at all. China appears to be less worried about the possibility of any formal containment or constraint policy in the region that might very likely be led by the United States. Beijing's perception of its own power and capability has also changed. Whereas in the past two decades it felt it was weak and vulnerable, now it has gained much confidence in handling touch regional issues. Together with this perception of power growth, no matter real or not, Chinese nationalism seems to be on the rise as well. Assertive nationalism in China has become an effectively double-edged sword for the decision makers when it comes to territorial and sovereignty disputes with neighboring countries. Also, energy security has become an increasingly more important component in China's strategic thinking as well. All these new trends essentially mean that China is likely to be more assertive in handling regional disputes in the coming years.

But at the same time, there is little evidence to show that China intends to practice pure coercion or confrontation towards its maritime neighbors. Some of the fundamental elements and the context of China's previous strategic thinking still exist. What is likely to take place in China's actual behavior in its management of territorial disputes in the region can be characterized as non-confrontational assertiveness. Its assertiveness is likely to be manifested as intransigence, non-compromise, piecemeal reinforcements, and stern counter-measures in response to "intervention" by external powers.

In response to China's non-confrontational assertiveness, ASEAN (or some ASEAN countries) may attempt to play the balance of power game by getting external powers, i.e. the US, involved in the dispute. This strategy might be effective to some extent in taming China's assertiveness. Overly playing this game may also result in China hardening its position and adopting counter-measures, which may further complicate the South China Sea dispute and damage the bilateral relations between individual ASEAN countries and China as well. ASEAN can play a proactive role in helping shape China's strategic thinking. It

could constantly try to convince China that properly managing the dispute serves China's strategic and long-term interests. It could continue to socialize China in various regional institutions and forums. And most importantly, ASEAN (especially those claimant countries) could perhaps seriously consider the "joint development" option as there is still fairly strong political and intellectual support for such initiative in China.