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Chinese Assertiveness in the South China Sea and Southeast Asian Responses

Carlyle A. Thayer

Abstract: This article reviews Chinese assertive behaviour towards the Philippines and Vietnam over South China Sea issues in 2011. The article compares and contrasts Chinese diplomatic behaviour in the period before and after the adoption by ASEAN member states and China of Guidelines for the Implementation the Declaration on Conduct of Parties in the South China Sea in July. In the first period China aggressively asserted its claims to sovereignty by interfering with commercial fishing and oil exploration activities of vessels operating in the Exclusive Economic Zones of Vietnam and the Philippines. Both states resisted Chinese actions. The Philippines allocated increased funding for defence modernization, lobbied ASEAN states and shored up its alliance with the United States. Vietnam too protested Chinese action and undertook symbolic steps to defend national sovereignty. In the second period all states moved to contain South China Sea tensions from affecting their larger bilateral relations. It remains to be seen, however, if proposed confidence building measures will ameliorate Chinese assertiveness.

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Keywords: ASEAN, China, Vietnam, Philippines, South China Sea, Chinese assertiveness, force modernisation

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Introduction

During the first half of 2011 China embarked on pattern of aggressively asserting its sovereignty claims in the South China Sea by targeting the commercial operations of oil exploration ships in waters claimed by the Philippines and Vietnam. China's actions not only raised regional tensions but also provoked the Philippines into making repeated diplomatic protests, increasing the defence budget, lobbying regional states for political support and aligning more closely with the United States. Vietnam responded by calculated displays of resolve to defend national sovereignty and it too stepped up its defence cooperation with the US.

During the second half of the year tensions over the South China Sea began to subside. China and the Association of Southeast Asian Nations (ASEAN) finally agreed to guidelines to implement the 2002 Declaration on Conduct of Parties in the South China Sea (DOC). China also initiated a round of diplomacy with the Philippines by inviting President Benigno Aquino III to Beijing. Vietnam sent a special envoy to China and both sides exchanged a flurry of high-level delegations.

This article reviews political and military developments related to the South China Sea during the first nine months of 2011. It is organised into eight parts. Part one discusses Chinese assertiveness directed at the Philippines in the first half of the year. Part two reviews the responses by the Philippines. Part three discusses Chinese assertiveness directed at Vietnam during the first half of the year. Part four reviews Vietnam's responses. Part five considers the adoption of Guidelines for the Implementation of the DOC (Declaration on Conduct of Parties in the South China Sea). Part six analyses relations between China and the Philippines in the post-DOC Guidelines period. Part seven analyses relations between China and Vietnam in the same period. Part eight offers some concluding observations.

1 Chinese Assertiveness and the Philippines (January-June)

According to the Philippines Department of Foreign Affairs (DFA), Chinese ships and aircraft intruded into waters and air space claimed by the Philippines on no less than six occasions during the first five months of 2011 (De Leon and Torres 2011; Esplanada and Quismundo 2011). Chinese actions led the Philippines to lodge repeated diplomatic protests with Chinese authorities and lobby other regional states for political support. This section reviews Chinese assertiveness and Filipino responses during this period.

Three major incidents of Chinese assertiveness stand out. First, on 25 February three Filipino boats fishing in the waters one hundred and forty nautical miles west of Palawan island were accosted by a People's Liberation Army Navy (PLAN) missile frigate. The Chinese ship ordered the fishing craft to leave the area under threat of gunfire. When the Filipino boats tarried the frigate fired three rounds that landed approximately 550 metres from the fishing craft (Jamandre 2011b). The fishing boats fled. One returned three days later to recover an anchor that had been left behind and spotted three Chinese fishing vessels operating in the area.

The second major incident took place on 2 March when two Chinese patrol boats ordered the MV Veritas Voyager, a survey ship operating in the Reed Bank area off Palawan, to leave. The Chinese boats twice conducted threatening manoeuvres in what appeared a threat to ram the survey ship (*British Broadcasting Corporation* 2011; Heath and Kate 2011; Calica 2011a; Jamandre 2011b). MV Veritas Voyager was forced to suspend operations and leave the area.

The third major incident took place on 24 May when Filipino fishermen witnessed a China Maritime Surveillance vessel and PLAN ships unloading steel posts, building materials and a buoy near Iroquois Reef-Amy Douglas Bank one hundred nautical miles off Palawan (Pasaylo 2011; Orendain 2011b; Evangelista 2011b; Poblete 2011; *ABS-CBN News* 2011b; AFP 2011f; Esplanada and Quismundo 2011). The fishermen reported their sighting to the AFP the next day.

2 Responses by the Philippines (January-June)

The Philippine government reportedly did not file a formal protest with the Chinese Embassy over the first major incident on 25 February (Calica 2011b). Later, the Chinese Ambassador to the Philippines denied that any live firing had taken place (Gomez 2011d). The Philippines responded to the second major incident (2 March) 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 on 4 March. China questioned the account they were given and otherwise ignored the protest (Jamandre 2011b). After the incident the Philippines announced a temporary halt to seismic testing and then ordered the Philippine Navy and Philippines Coast Guard to escort the survey ship when testing resumed (AFP 2011a; Calica 2011a).

In response to the third major incident (24 May) Navy Headquarters in Manila ordered a ship to verify the sighting but when it arrived on scene the Chinese ships had departed. Local fishermen removed the steel polls and

handed them over to authorities. On 31 May, the DFA summoned the Chinese Charge d' Affaires to seek a clarification of the incident. The following day the Philippines conveyed its "serious concerns" in a Note Verbale to the Chinese Embassy. The Chinese responded,

[t]he reported 'incursion of Chinese ships' is not true [...] It's only China's marine research ship conducting normal maritime research activities in the South China Sea (GMA News 2011; *The Philippine Star* 2011b).

On 5 April, the Philippine Mission to the United Nations submitted a letter restating the Philippines' claim to sovereignty over the Kalayaan Island Group (KIG),¹ adjacent waters and geological features including relevant waters, seabed and subsoil (Philippine Mission to the United Nations 2011; AFP 2011b; Jamandre 2011a; Esplanada 2011). China responded with a Note Verbale to the United Nations (dated 14 April) that accused the Philippines of invading and occupying

some islands and reefs of China's Nansha [Spratly] 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 (Jamandre 2011b; Cerrojano 2011).

The Chinese Note Verbale also argued that on the basis of domestic legislation, "China's Nansha Islands is fully entitled to Territorial Sea, EEZ [Exclusive Economic Zone] and Continental Shelf".²

In 2011 the Philippines defence and military agencies began drawing up a new defence strategy in response to developments in the South China Sea. The new strategy focused on both internal security operations and external territorial defence. On 28 March, AFP chief General Eduardo Oban 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 island and repair barracks (Laude 2011). The AFP was allocated USD 183 million in funds from the USD 1 billion Capability Upgrade Program to purchase two offshore fast patrol boats, long-range maritime aircraft, surveillance and

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- 1 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).
 - 2 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.

communication equipment including air defence and coastal radars on the western seaboard to better protect its territory (Grevatt 2011; *Reuters* 2011a; Associated Press 2011a; *The Philippines Star* 2011b). President Aquino had earlier released USD 255 million to the armed forces.

In May, a Philippine navy study recommended the acquisition of submarines as a “deterrent against future potential conflicts” (Evangelista 2001a).³ In June it was reported that the Philippines Embassy in Washington was in the market for excess defence equipment from the US under its Foreign Military Sales (Ubac 2011). 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 West Philippines Sea (Escalante 2011a). In August, the Philippines acquired the U.S. Coast Guard Cutter USCGC Hamilton that will patrol disputed waters in the South China Sea (Manila Bulletin 2011a; AFP 2011c; Villanueva 2011). The Philippines also expects to take delivery of two additional U.S. Coast Guard Cutters, three new Taiwan-manufactured Multi-Purpose Attack Craft and six jet fighters (*Reuters* 2011b; AFP 2011m).

2.1 Lobbying ASEAN Members

In response to Chinese assertiveness, President Aquino embarked on an intense round of lobbying with regional states to back a new diplomatic initiative designed to address conflicting territorial disputes. On 8 March, President Aquino paid an official visit to Indonesia where he conferred with President Susilo Bambang Yudhoyono. At a joint press conference after their talks, President Aquino expressed his 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 (Simamora 2011).

On 1 June, President Aquino continued his lobbying during an official visit to Brunei Darussalam for discussions with Sultan Hassanal Bolkiah. According to a Presidential spokesperson 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 (Bengco 2011; Escalante 2011b; *The Philippine Star* 2011a).

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 dif-

3 The prospect of the Philippines acquiring submarines is remote.

ferent bilateral agreement with China. Let's come together as a body (Poblete 2011).

Aquino also renewed his call for the immediate adoption of the implementing guidelines on the DOC (*Manila Bulletin* 2011b). The following day a DFA spokesperson called for a “more binding Code of Conduct of 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. 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” (Poblete 2011; Legaspi 2011; Gomez 2011b). The Aquino Administration is supporting two legislative measures in response to China's assertiveness in the Spratly Islands.

2.2 Diplomatic Exchanges

On 14 May, 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. The aircraft carrier made a “routine port call and goodwill visit” accompanied by the USS Bunker Hill, USS Shiloh and USS Gridley (Avendano, Pazzibugan and Aning 2011). In fact the visit by the carrier was a reaffirmation of the alliance relationship on the eve of a visit by China's Defence Minister General Liang Guanglie.

General Liang paid an official visit to the Philippines from 21-25 May for discussions with his counterpart Defense Secretary Voltaire Gazmin. The two ministers agreed to hold regular discussions to promote trust and confidence and find common ground on territorial disputes in the Spratly Islands. A joint statement declared,

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 (*ABS-CBN News* 2011a; Avendano and Pazzibugan 2011; Orendain 2011a; Gomez 2011a; Gomez 2011c).

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 and the reported intrusion of Chinese air-

craft into Philippine air space (Cheng 2011). Aquino told Liang that more maritime incidents in disputed areas of the South China Sea could spark a regional arms race (AFP 2011e; Depasupil 2011).

All the major incidents of Chinese assertiveness against the Philippines occurred prior to the annual meeting of the Shangri-La Dialogue held in Singapore from 3-5 June. Territorial disputes in the South China Sea were raised in all plenary sessions. In light of recent ministerial discussions, Defense Secretary Gazmin reportedly watered down comments on the South China Sea in his draft text before delivery.⁴ His began his address by declaring, “maritime security is one of our foremost concerns”. In an obvious reference to the 2 March Reed Bank incident Gazmin stated that the actions by other states

[m]ake [...] 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 (Gazmin 2011).

On 4 June, the DFA issued a statement revealing it had lodged another protest with the Chinese Embassy 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” (Republic of the Philippines 2011). The Chinese Foreign Ministry responded on 7 June,

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 (*Xinhua* 2011c; AFP 2011g; *Renters* 2011e).

On 9 June, the Chinese Ambassador to the Philippines publicly weighed in for the first time when he met with reporters in Manila. The ambassador noted 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,” he said (Gomez 2011d). In response to a question how China would react if countries went ahead

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

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 affirmed. Liang also confirmed to reporters 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 claimed (Gomez 2011d).

2.3 Zone of Peace, Freedom, Friendship and Cooperation

In response to Chinese assertiveness, President Aquino launched a new initiative calling for the South China Sea to become a Zone of Peace, Freedom, Friendship and Cooperation (ZOPFF/C). Aquino explained "what is ours is ours, and with what is disputed, we can work towards joint cooperation" (Del Rosario 2011). He directed the Department of Foreign Affairs to promote the ZOPFF/C concept through sustained consultations and dialogue.

According to the DFA, 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 the United Nations Convention on Law of the Sea (UNCLOS) in particular (Legaspi 2011). A disputed area, according to the DFA, 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 Chinese assertiveness and Vietnam (January-June)

During the first half of 2011, Chinese assertiveness directed against Vietnam included the imposition of an annual fishing ban and, more significantly, China's unprecedented action in interfering with the commercial activities of oil exploration vessels operating within Vietnam's Exclusive Economic Zones. Chinese assertiveness provoked a firm reaffirmation of national sovereignty by Vietnam's leaders and a continuation of Vietnam's self-help military modernisation program.

3.1 China's Annual Unilateral Fishing Ban

On 11 May, the Haikou Municipal Government, Hainan Province, issued an announcement imposing China's annual unilateral fishing ban in the South China Sea from 16 May to 1 August, 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 (*Voice of Vietnam News* 2011b).

Vietnam also protested the deployment of a Chinese Fishery Administration Vessel to patrol in the waters around the Paracel Islands from 5-25 May. 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 (VNA 2011b).

Vietnamese local authorities in Phu Yet Province reported the arrival of Chinese fishing boats in Vietnamese waters during the so-called "fishing ban" in greater numbers than in the past. Chinese fishing craft operating between Da Nang City and the Spratly Islands numbered between 120 and 150 and on occasion rose to 200 (*Thanh Nien News* 2011a). Although Vietnamese fishermen vowed to defy the ban, the state-controlled Vietnamese press has only reported two major incidents (DPA 2011b). On 1 June, it was reported that Chinese military vessels threatened to use their guns against a Vietnamese fishing boat operating in waters near the Spratly archipelago (Dien and Hung 2011). A more serious incident took place on 5 July when armed Chinese naval troops reportedly beat the skipper of a Vietnamese fishing boat, threatened the crew, and then forced the boat to leave contested waters near the Paracel Islands (*Associated Press* 2011c).

3.2 Cable Cutting Incidents

Between May and June Chinese vessels accosted Vietnamese exploration ships on at least two and possibly three occasions. The first incident took place on 26 May and involved a confrontation between three China Maritime Surveillance ships and the Vietnamese seismic survey ship, Binh Minh 02 operating well within Vietnam's Exclusive Economic Zone. During this incident a Chinese Maritime Surveillance ship was filmed cutting the Binh Minh's cable that was towing seismic monitoring equipment (PetroVietnam

2011; *Reuters* 2011c). Vietnam lodged a diplomatic protest with China's Ambassador claiming that the actions of the Chinese ships violated international law and Vietnam's sovereignty (VNA 2011c). Vietnam also sought compensation for the damage caused. The Binh Minh 02 returned to port for repairs and later resumed its oil exploration activities accompanied by an escort of eight ships (DPA 2011c; AFP 2011c; Heath and Kate 2011).

China responded to Vietnam's protest on 28 May with the following statement, "[w]hat relevant Chinese departments did was completely normal marine law-enforcement and surveillance activities in China's jurisdictional area" (*Reuters* 2011d). Vietnam retorted the following day:

the area where Vietnam conducted exploration activities situates entirely in the exclusive economic zone and the two hundred 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 (*Thanh Nien News* 2011b).

China responded in kind:

the law enforcement 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 (Duong 2011).

The second alleged cable cutting incident involved the Viking II seismic survey ship. On 29 and 31 May Chinese vessels attempted to approach its rear deck and interfere with its operations. Security escorts with the Viking II successfully blocked their approaches (Dien and Hung 2011). However, according to Vietnam's Ministry of Foreign Affairs, a second "premeditated and carefully calculated" cable cutting incident took place on 9 June. Vietnam charged that a Chinese fishing boat equipped with a "cutting device" deliberately snared the Viking II's cable while it was operating in the vicinity of Vanguard Bank (Timberlake 2011a; *Reuters* 2011f; Heath and Kate 2011). According to an official Vietnamese spokesperson, "China's systematic acts were aimed at turning an undisputed region into one of dispute, to carry out its ambition to make China's nine-dash line claim a reality" (*United Press International* 2011).⁵

Chinese authorities offered a completely different version. They claimed that the Viking II incident occurred when armed Vietnamese ships chased Chinese fishing boats from Vanguard (Wan-an) Bank. One of the

5 The nine-dash lines refer to marks on China's official map demarcating its claims to the South China Sea.

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, “[t]he Vietnamese ship put the lives and safety of the Chinese fishermen in serious danger” (*Reuters* 2011g). A third cable cutting incident reportedly occurred in late June but Vietnam decided not to publicise the matter and inflame relations with China (Thayer 2011).

4 Vietnam’s Response to Chinese Assertiveness

In January 2011 Vietnam held the eleventh national congress of the Vietnam Communist Party. An indication of the importance of maintaining good relations with China was indicated after the congress when the new Secretary General, Nguyen Phu Trong, dispatched special envoy Hoang Binh Quan to Beijing. Quan met with President and General Secretary of the Chinese Communist Party, Hu Jintao, 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 a reciprocal invitation to Secretary General Trong to visit China (*Xinhua* 2011a; *Voice of Vietnam News* 2011a).

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. The main purpose of Guo’s visit was to plan for the next round of joint naval patrols in the Gulf of Tonkin and to discuss expanding the scope of future cooperative military activities (Li 2011). Guo’s visit took place prior to the first cable cutting incident and the South China Sea was not a major feature of bilateral discussions. However South China Sea issues were raised when General Guo was received by Prime Minister Nguyen Tan Dung. Dung, in an obvious message to leaders in Beijing, “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” (VNA 2001a).

Immediately following General Guo’s visit, Vietnam hosted a meeting of the heads of the government delegations on border negotiations between China and Vietnam (18-19 April). 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” (People’s Republic of China 2011a). A Vietnamese spokesperson revealed that “the two sides agreed they will sign an agreement on the fundamental guide-

lines to settle the maritime issues” but negotiations were still continuing and no date had been set to sign the agreement (AFP 2011d; DPA 2011a).

The first cable-cutting incident took place after the above high-level visits. China’s continued assertiveness in the South China Sea raised tensions in bilateral relations and impacted on Vietnamese domestic politics. The result was a marked stiffening of the Vietnam government’s public stance in response to elite pressure including public demonstrations by students and prominent intellectuals.

In June, under the shadow of the 26 May cable cutting incident, Vietnam’s Defence Minister raised South China Sea issues in his plenary address to the Shangri-La Dialogue in Singapore. He 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” (Phung 2011). The defence ministers of Vietnam and China, Phung Quang Thanh and Liang Guanglie, met informally on the sidelines of Singapore meeting. Thanh expressed the concern of Vietnamese party and state leaders over what he termed a “pressing incident” and then offered the conciliatory comment that “[s]ometime, regrettable cases happen which are beyond the expectation of both sides.” Thanh concluded with these words, “[w]e truly expect no repetition of similar incidents” (*Thanh Nien News* 2011c). Liang replied that China did not want a similar incident to occur in the future (*Xinhua* 2011b). Liang and his aides noted in particular that the People’s Liberation Army was not involved in the incident. Nonetheless, four days later a second cable-cutting incident occurred.

4.1 Vietnam Stiffens Public Diplomacy

On 9 June, Prime Minister Nguyen Tan Dung responded to the cable cutting incidents and growing domestic pressure by making an unusually strong statement in public 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” (AFP 2011i). 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” (DPA 2011d).

4.2 Live-Firing Exercises

On 9 June, after the Chinese Ambassador to the Philippines called on Vietnam and the Philippines to cease oil exploration in the South China Sea, and after China announced it would be conducting routine naval exercises in the Western Pacific (Blanchard and Martina 2011), Vietnam's Northern Maritime Safety Corporation announced that two live-firing exercises would be held on 13 June in the waters near Hon Ong Island (Bao Dam An Toan Hang Hai Mien Bac 2011). 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 (Ruwitch 2011; Mason 2011a; AFP 2011j; DPA 2011e).

The first phase of the exercise involved coastal artillery, while the second part of the exercise involved missile corvettes firing their deck guns. Reportedly, anti-ship missiles were also fired from Sukhoi jet aircraft.⁶

On 11 June, 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" (*Associated Press* 2011b).

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 (AFP 2011h; Timberlake 2011b).

China's new wave of aggressive assertiveness provoked a patriotic anti-China response among students and a wider section of the Vietnamese community (Reuters 2011f; Timberlake 2011b; AFP 2011k). Using Facebook and other social networking sites they mounted a series of eleven anti-China demonstrations on Sundays over a twelve week period beginning on 5 June.

6 Reported by a confidential Vietnamese military source to the author.

4.3 Second Special Envoy to China

In mid-year there were diplomatic signs that China and Vietnam were moving to contain tensions arising from their territorial dispute in the South China Sea. For example, the navies of both countries conducted their eleventh routine joint patrol in the Gulf of Tonkin on 19-20 June (Mason 2011b; AFP 2011). After the patrol was concluded, the Vietnamese ships paid a visit to Zhanjiang, Guangdong, Vietnam's second ever port call to China (*Quan Doi Nhan Dan Online* 2011a; 2011b; *People's Daily Online* 2011).

After the second weekend of anti-China demonstrations, 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 Councillor Dai Bingguo (Wong 2011; Spegele 2011; Martin 2011; Qin 2011). According to a joint press release issued on 25 June:

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.

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 (Socialist Republic of Vietnam 2011).

5 Adoption of Guidelines for the Implementation of 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 Joint Working Group (JWG) to Implement the DOC. The JWG held its first meeting in Manila from 4-5 August 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 arises (Association of South-east Asian Nations 2004).

ASEAN tabled draft guidelines for discussion and China objected to point two that specified, “ASEAN will continue its current practice of consulting among themselves before meeting with China.” China insisted that outstanding disputes should be resolved by bilateral consultations “among relevant parties” and not with ASEAN. Consequently, the JWG did not make any progress for the next six years.

Recent Chinese assertiveness in advancing its sovereignty claims in the South China Sea provoked an international backlash. South China Sea disputes featured prominently in 2010 at the ASEAN Regional Forum and at the inaugural ASEAN Defense Ministers Meeting Plus. China was isolated diplomatically and sought to limit further damage by agreeing to revive the moribund ASEAN-China Joint Working Group. The fifth meeting of the JWG was convened in Kunming, China, in December 2010. The sixth JWG met in Medan, Indonesia, in April 2011. At both meetings it became clear that progress was hostage to China’s insistence that territorial and sovereignty claims could only be settled bilaterally by the states concerned.

In July 2011, ASEAN Senior Officials quietly dropped the offending point two in their original draft guidelines and offered a drastically revised set of draft guidelines to their ministers for approval. On 20 July, the ASEAN and Chinese foreign ministers finally reached agreement on The Guidelines for the Implementation the DOC. These guidelines consist of eight brief points preceded by a three-paragraph preamble (Association of Southeast Asian Nations 2011).⁷

The preamble identified the DOC as “a milestone document signed between the ASEAN Member States and China,” underscoring that the DOC was not an agreement between ASEAN as a group and China. Second, the preamble stated that the “effective implementation of the DOC will contribute to the deepening of the ASEAN-China Strategic Partnership for Peace and Prosperity.” This was an inducement for China to take concrete action. Finally, the preamble noted that Guidelines “are to guide the imple-

7 The Guidelines for the Implementation of the DOC were posted on the ASEAN Secretariat web site under External Relations, China, Cooperation on the South China Sea. They have since been removed.

mentation of possible joint cooperative activities, measures and projects as provided for in the DOC.” This formulation clearly indicates that the Guidelines are tentative and nothing is binding.

The eight substantive points in the Guidelines are as follows:

1. The implementation of the DOC should be carried out in a step-by-step approach in line with the provisions of the DOC.
2. The Parties to the DOC will continue to promote dialogue and consultations in accordance with the spirit of the DOC.
3. The implementation of activities or projects as provided for in the DOC should be clearly identified.
4. The participation in the activities or projects should be carried out on a voluntary basis.
5. Initial activities to be undertaken under the ambit of the DOC should be confidence-building measures.
6. The decision to implement concrete measures or activities of the DOC should be based on consensus among parties concerned, and lead to the eventual realization of a Code of Conduct.
7. In the implementation of the agreed projects under the DOC, the services of the Experts and Eminent Persons, if deemed necessary, will be sought to provide specific inputs on the projects concerned.
8. Progress of the implementation of the agreed activities and projects under the DOC shall be reported annually to the ASEAN-China Ministerial Meeting (PMC) (Association of Southeast Asian Nations 2011).

Immediately after the Guidelines were adopted, the Philippines Foreign Secretary Albert Del Rosario noted that they would need more “teeth” to make them effective. According to Del Rosario,

[t]he necessary elements to make the guidelines succeed are still incomplete. We’re looking for the participants to be honorable. Beyond that there’s not much room for us to exact consequences for misbehavior (Romero 2011).

6 China’s Relations with the Philippines Post-DOC Guidelines

6.1 China Hosts State Visit by President Aquino

After President Aquino assumed office he received an invitation to pay an official state visit to China. The visit was reportedly postponed on one or more occasions because of rising tensions over territorial disputes in the South China Sea. After ASEAN and China adopted the Guidelines on the

DOC the Philippines dispatched its foreign secretary to Beijing to organise the state visit.

President Aquino paid an official visit to Beijing from 30 August to 3 September at the invitation of President Hu Jintao. The joint statement issued at after their talks indicated that economic issues featured prominently. For example, it was later reported that Aquino garnered USD 1.3 billion in new investments (*Malaya* 2011).⁸ The joint statement only made reference to the South China Sea near the bottom of the list of topics discussed (point 15 of 17 points):

Both leaders exchanged views on the maritime disputes and agreed not to let the maritime disputes affect the broader picture of friendship and cooperation between the two countries. The two leaders reiterated their commitment to addressing the disputes through peaceful dialogue, to maintain continued regional peace, security, stability and an environment conducive to economic progress. Both leaders reaffirmed their commitments to respect and abide by the Declaration on the Conduct of Parties in the South China Sea signed by China and the ASEAN member countries in 2002 (Joint Statement of the Philippines and China 2011).

Significantly, immediately after Aquino's state visit to Beijing, the Philippines announced on 7 September that PHP 4.95 billion (USD 118 million) would be allocated to top up the defence budget (AFP 2011n). These funds were earmarked for the purchase a naval patrol vessel, six helicopters and other military equipment in order to secure the Malampaya Natural Gas and Power Project located in disputed waters off the coast of Palawan.

6.2 Push for Binding Code of Conduct

On Aquino's return to Manila he revealed that President Hu Jintao supported an "implementing agreement" for a South China Sea Code of Conduct. According to Aquino, this was "very significant, because before it was just a general statement of principles. Now there's a desire to really put in the implementing rules and regulations" (*Bloomberg News* 2011; Dacanay 2011). Nevertheless, President Aquino has continued to press for a multilateral South China Sea Code of Conduct and agreement on demarcating the precise maritime areas in dispute. In September, during an official visit to Japan,

8. Jara (2011) reported, "Aquino said the Chinese 'goodies' he brought home consisted of \$1.28 billion worth of new investments, \$3.8 billion in assured investments and \$7.9 billion from businessmen who showed interest in investing in the Philippines."

President Aquino raised South China Sea issues with Prime Minister Nado and received his support (*The Economic Times* 2011).

6.3 Zone of Peace, Freedom, Friendship and Cooperation

In July, at the 44th ASEAN Ministerial Meeting, the Foreign Secretary of the Philippines presented his counterparts with a proposal for an agreement on a Zone of Peace, Freedom, Friendship and Cooperation in the South China Sea. The ministers took note of this proposal and referred it to a meeting of ASEAN Senior Officials and legal experts for consideration (Cupin 2011; Padden 2011). In preparation for this meeting, the Philippines DFA drew up a proposal to create “enclaves” for disputed maritime territory in the South China Sea in order to separate these areas from non-disputed maritime territory. According to the DFA proposal,

[e]nclaving will literally operationalize the ‘shelving of territorial disputes’ and pave the way for effective and meaningful cooperation among the claimant countries in the West Philippine Sea (or) South China Sea (ELR/VIS 2011a; 2011b).

The proposal was endorsed by the ASEAN Legal Experts Meeting on 22 September and will be forwarded to the ASEAN Senior Officials who in turn will make recommendations to their ministers prior to the convening of the 19th ASEAN Summit in Bali in November.

7 China’s Relations with Vietnam Post-DOC Guidelines

As noted above, on 25 June China and Vietnam agreed to “steer public opinions” in order to tone down domestic protests and media reporting on the South China Sea. Nevertheless, public anti-China demonstrations continued in Hanoi until 21 August when they were finally halted.⁹

On 1 August, China and Vietnam held the seventh round of bilateral border discussions aimed at reaching agreement on a set of “fundamental guiding principles” as a framework for settling maritime issues. These confidential discussions began in early 2010. 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 and China,

9 No protests took place on Sunday, 31 July.

however, differed on the question of multilateral negotiations. According to Vietnam:

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 (Socialist Republic of Vietnam 2010).¹⁰

At the conclusion of the seventh round a Vietnamese spokesperson noted that “the two sides reached preliminary consensus on some principles” and that the eighth round of discussion would be held later in the year (VNA 2011d).

7.1 2nd Defence-Security Strategic Dialogue

On 28 August, China and Vietnam held their 2nd Defence-Security Strategic Dialogue at deputy minister level in Beijing. Lt. General Ma Xiaotian, Vice Chairman of the PLA General Staff hosted his Vietnamese counterpart, Lt. General Nguyen Chi Vinh, Deputy Minister of National Defence. The two generals agreed to step up the exchange of military delegations, open a hot line between the two defence ministries, and expand military training. Lt. General Ma noted that the sovereignty dispute in the South China Sea was the “most difficult and sensitive issue” in bilateral relations. Lt. General Vinh responded by stating Vietnam’s readiness “to cooperate for mutual development with China in really disputed areas” in accord with international law and the mutual interest of both sides. General Vinh also stressed that there were three closely related aspects to the East Sea issue: “the declaration of sovereignty by concerned countries, solving issues related to the ties between Vietnam and China, and solving issues at multilateral forums” (VNA 2011e).

7.2 5th Meeting of the Joint Steering Committee

On 6 September, China and Vietnam held the fifth annual meeting of their bilateral Joint Steering Committee in Hanoi. China was represented by State Councillor Dai Bingguo who met with his counter-part Deputy Prime Minister Nguyen Thien Nhan. The Joint Steering Committee oversees all aspects of their bilateral relations. The two interlocutors, *inter alia*, discussed con-

10 Greg Torod, *South China Morning Post*, kindly provided a copy of this document to the author.

flicting territorial claims in the South China Sea. According to the final communiqué:

They believe it is critical to properly solve the marine issues in order to maintain the general situation of friendly cooperation between China and Vietnam. They reiterate to abide by the consensus reached between leaders of the two countries, international laws and the spirit of the Declaration on the Conduct of Parties in the South China Sea, solve the marine disputes peacefully through negotiations and friendly consultations and take effective measures to safeguard peace and stability of South China Sea. They will accelerate the process of negotiations and seek fundamental and long-term solutions acceptable to both sides. They agree to strengthen negotiations on the marine issues and sign the agreement on the basic principles guiding the settlement of marine issues between China and Vietnam at an early date. They will boost the implementation of the Declaration on the Conduct of Parties in the South China Sea and follow-up work and try to achieve substantial progress soon (People's Republic of China 2011b).

8 Concluding Observations

This article reviewed Chinese assertiveness in the South China Sea during the first nine months of 2011. In particular this article analysed Chinese aggressive assertiveness in the months prior to the signing of the Guidelines to Implement the DOC and Chinese diplomatic behaviour in the months after the Guidelines were adopted.

China's aggressive assertion of sovereignty over the South China Sea in the first half of 2001 raised tensions in its bilateral relations with the Philippines and Vietnam. China failed to engage diplomatically with the protests filed by both countries; China routinely dismissed their diplomatic complaints or claimed the alleged incidents never occurred. Three serious incidents were initiated by Chinese state ships (including one PLAN warship) against Filipino vessels operating within the Philippines' Exclusive Economic Zone.

Chinese assertiveness also put strains on its relations with Vietnam. In 2011 China once again imposed a unilateral fishing ban in the South China Sea and took action against Vietnamese transgressors but not its own domestic fishing fleet that intruded in larger numbers in to Vietnamese waters. More seriously, Chinese state vessels deliberately interfered with the lawful commercial activities of oil exploration ships operating within Vietnam's Exclusive Economic Zone.

Chinese assertiveness provoked what must be considered from Beijing's perspective a counter-productive reaction by the Philippines and Vietnam. The Philippines has officially protested and publicized each and every major infringement of its sovereignty by Chinese vessels. The Aquino Administration is now committed to modernizing its armed forces for territorial defence particularly in the West Philippine Sea. The Philippines has revived its defence-security cooperation with the United States under the aegis of their 1951 Mutual Security Treaty. And the Philippines have taken the lead among ASEAN states in internationalizing territorial disputes in the South China Sea. It has sought diplomatically to unify ASEAN in its dealing with China.

Vietnam too has been provoked to respond to Chinese assertiveness in new ways. In addition to lodging diplomatic protests, key Vietnamese leaders have publicly affirmed their determination to defend national sovereignty. This was underscored by a highly symbolic live-firing naval exercise. Vietnam has also begun to gradually step up its defence cooperation with the United States. More significantly, Vietnam initiated a force modernization program several years ago that will result in a credible anti-access/ area-denial strategy vis-à-vis China. Vietnam has already placed an order for six conventional Kilo-class submarines and ten more Su-30 multi-role jet fighters. In 2011 it also took delivery of its second Gephard-class guided missile frigate.

In mid-year the adoption of the Guidelines for Implementation the DOC signalled a change in tack by the key protagonists. China and the Philippines, and China and Vietnam, sought to contain tension arising from South China Sea disputes from affecting their larger bilateral relations. The President of the Philippines visited Beijing and returned with promises of further Chinese investment. Vietnam employed the diplomatic device of using special envoys to engage the Chinese leadership. Both sides worked to limit tensions by conducting their normal round of high-level exchanges, including the Joint Steering Committee.

It is too early to make a definitive assessment of whether or not the Guidelines to Implement the DOC will lead to meaningful confidence building measures. The Guidelines, after all, are not binding. Regional attention is now focused on diplomatic efforts to upgrade the DOC into a more binding Code of Conduct. While these developments are hopeful signs, at any moment the diplomatic process could be upset by China's return to assertive behaviour in response to oil exploration by littoral states. China can be expected to act assertively if developing defence ties by regional states with the United States are viewed in Beijing as an attempt to exclude China from an area over which it claims "indisputable sovereignty." Finally, Chi-

nese behaviour will be determined in part by ASEAN's ability to reach consensus on the Philippines' initiative for a Zone of Peace, Freedom, Friendship and Cooperation. If ASEAN falters China can be expected to play on differences among its members.

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