

# China, The Impeccable Affair and Renewed Rivalry in the South China Sea

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Developments in the South China Sea during the first quarter of 2009 reinforced several trends that have been apparent over the past two years. First, the Spratly Islands dispute has once again come to dominate Sino-Philippine relations, despite attempts by Beijing and Manila to move beyond it. Second, China has adopted a more assertive posture toward its territorial and maritime boundary claims in the South China Sea than at any time since the late 1990s. Third, the 2002 breakthrough agreement between the 10 members of the Association of Southeast Asian Nations (ASEAN) and China to manage tensions in the South China Sea is in danger of becoming irrelevant. Fourth, the USNS Impeccable incident on March 8 highlighted the growing strategic importance of the South China Sea for the United States and China, and reawakened concerns in ASEAN capitals that the region may one day become the principal theater wherein Sino-U.S. maritime rivalry is played out.



### The Impeccable

#### China and the Philippines Spar over Spratlys Ownership

In 2005, Chinese and Philippine leaders were lauding a “golden age” in bilateral relations premised on burgeoning trade, Chinese pledges to invest in several large infrastructure projects, and an agreement between the national energy companies of the Philippines, Vietnam and China to conduct joint seismic surveys near the disputed Spratly Islands (China Brief, August 16, 2006). In 2007-2008, however, this forward momentum was thrust into reverse: the infrastructure projects that China had agreed to fund were cancelled or suspended by Manila in the wake of corruption allegations; the constitutionality of the tripartite exploration agreement was challenged by Philippine opposition politicians; and the People's Republic of China (PRC) was accused of bullying the Philippines over legislation to update the country's baseline

claims (China Brief, April 28, 2008).



Sino-Philippine relations continued their retrograde motion in early 2009. The legislative process for the archipelagic baselines bill—which the Philippines is required to submit to the United Nations before a May 13 deadline—was suspended during the second half of 2008, but resumed in January. On February 17, Congress finally approved the Archipelagic Baselines Act that designated Philippine territorial claims in the South China Sea as a “regime of islands”—not part of the main archipelago but still under Philippine sovereignty.

China’s response was in the high dudgeon. Vice Foreign Minister Wang Guangya summoned the Philippine charge d’affaires and denounced the Act as a violation of China’s sovereignty and therefore “illegal and invalid” (Xinhua News Agency, February 18). As a further sign of its displeasure, Beijing cancelled a planned trip to Manila by vice chairman of the National People’s Congress, Li Jianguo.

Several other claimants also protested the bill, including Vietnam and Taiwan. On March 5, in a move clearly related to the Philippine legislation, then Malaysian Prime Minister

Abdullah Badawi visited Swallow Reef and reiterated his country’s sovereignty claims in the South China Sea, some of which overlap with those of the Philippines (Bernama, March 5). In response to Abdullah’s visit, China reiterated that it had “indisputable sovereignty” over the atolls occupied by Malaysia (Xinhua News Agency, March 6).

The Arroyo administration was unmoved by the protests from China and the other claimants. To avoid exposing itself to accusations of caving in to Chinese pressure or selling out the national patrimony, the government made clear that it would sign the bill into law because it complied with the United Nations Convention on the Law of the Sea and did not violate China’s sovereignty. In a conciliatory gesture, however, the government said it was willing to discuss the issue with China and explain its position.

China’s protest provoked a stronger reaction among Filipino politicians. Senator Joker Arroyo, for instance, declared “We should not allow ourselves to be bullied by China”, while his senatorial colleague Manuel Roxas asked “Are we going to surrender just because they [the Chinese] have a stronger army or navy?” (Philippine Daily Inquirer, February 20).

On March 10 the Arroyo administration signed the baselines bill into law (in a minor diplomatic faux pas this occurred on the same day the new Chinese ambassador, Liu Jianchao, presented his credentials at the presidential palace). According to Arroyo’s staff, by signing the bill into law the Philippines was “sending the message to the whole world that we are affirming our national sovereignty and protecting our national interests” (GMA News, March 12). When China reiterated its objection through its embassy in Manila, the Department of Foreign Affairs (DFA) downplayed the protest, claiming that bilateral relations remained “deep and productive” (Manila Times, March 13).

The signing of the baselines bill into law coincided with the fallout from the March 8 incident in which the U.S. surveillance ship USNS Impeccable was involved in a skirmish with five Chinese vessels 75 miles off Hainan Island in the South China Sea. Beijing declared that the Impeccable was engaged in illegal activities in its Exclusive Economic Zone (EEZ) and announced that it would send one of its largest patrol boats, the Yuzheng 311, to protect its vessels in the Paracel and Spratly Islands and to “demonstrate Beijing’s sovereignty over China’s islands” (China Daily, March 16).

The Arroyo administration reacted to the Chinese announcement with dismay. National Security Adviser Norberto Gonzales called an emergency meeting of the cabinet’s security cluster to discuss China’s actions, adding: “This should remind us that even in this era of dialogue and understanding in the world there will always be nations that will show might and threaten perceived weak nations like us” (PDI, March 16). Defense Secretary Gilberto Teodoro called the dispatch of the patrol boat “an unwelcome development” while the DFA urged all parties to adhere to the 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea (DoC), which enjoins claimants not to engage in activities that would “complicate or escalate disputes and affect peace and stability” (PDI, March 16). A presidential spokesperson was reported as saying that while Manila was committed to a diplomatic solution, it might be forced to seek support from its treaty ally the United States and its fellow ASEAN members (PDI, March 16). Manila’s rhetoric was reminiscent of the second half of the 1990s when Sino-Philippine tensions over the Spratly were at their height—the “golden age” was well and truly over.

Critics, however, accused the Arroyo administration of playing up the incident to undermine a political campaign to abrogate the 1998 U.S.-Philippines Visiting Forces

Agreement (VFA) because of a custody dispute over a U.S. serviceman convicted of rape. The VFA was instrumental in restoring U.S.-Philippine military relations in the late 1990s, and was supported by some Filipino politicians as a possible deterrent against Chinese expansionism in the South China Sea (Ian Storey, “Manila looks to USA for help over Spratlys,” *Jane’s Intelligence Review*, August 1999).

The PRC embassy in Manila moved to assuage Philippine anxiety. It argued that the Yuzheng 311 was on a routine mission to protect fishing boats, and on March 24 Ambassador Liu said China was committed to settling the South China Sea dispute peacefully and urged all parties to “engage in cooperation rather than confrontation” (Xinhua News Agency, March 24).

### Increased Chinese Assertiveness

In the wake of the Impeccable incident and passage of the Philippine’s baselines bill, Beijing could have decided to send a stronger message to Washington and Manila by sending a heavily-armed warship to patrol its territorial claims; instead, the dispatch of the Yuzheng 311 was a calibrated response and a signal that China did not want tensions to escalate. Nonetheless, China’s emphatic response can be seen as part of a pattern of increased assertiveness in the South China Sea visible over the past two years.

This pattern of events includes pressure on British Petroleum and ExxonMobil in April 2007 and June 2008, respectively, not to participate in offshore energy projects with Vietnam in waters claimed by China; increased naval patrols and military exercise off the Paracel Islands in the second half of 2007; the passage of legislation in December 2007 creating a county level city on Hainan Island called Sansha to administer Beijing’s claims in the South China (China Brief, December 13, 2007); and perceived attempts by China to

dissuade Philippine legislators from including the Spratlys in the country's baselines bill.

Several possible explanations account for China's more assertive behavior. The main target of Chinese activities is Vietnam, and it is possible that Beijing may be attempting to pressure Hanoi into accepting a joint exploration and production agreement in energy fields off the Vietnamese coast similar to the 2008 pact between China and Japan to develop the Chunxiao gas field in the East China Sea. As a pressure tactic, Beijing has leaned on foreign oil companies not to enter into deals with Vietnam, the implicit threat being that those corporations that do will be barred from future energy projects in China. Thus far this tactic has proved ineffective, as the oil companies in question have indicated their resolve to follow through with existing deals. China may also be sending a signal to Vietnam that it strongly disapproves of growing U.S.-Vietnam defense ties.

Another likely reason is China's continued demand for energy resources despite falling oil prices caused by the global financial crisis. Indeed in its 2008 Defense White Paper the PRC averred that "struggles for strategic resources" were intensifying (Xinhua News Agency, January 20, 2009). A third reason is that after two decades of military modernization the People's Liberation Army (PLA) is now in a better position to project power in support of China's maritime territorial claims. These capabilities include a new generation of surface warships, submarines, and fighter aircraft with extended operational ranges. As the Pentagon's recent annual report on the PLA noted, these capabilities "increase Beijing's options for military coercion to press diplomatic advantage, advance interests, and resolve disputes in its favor" (Annual Report to Congress on the Military Power of the PRC, p. 28).

Beijing's increasing assertiveness in the South

China Sea highlights the ineffectiveness of the 2002 ASEAN-China agreement to manage tensions in the area. The 2002 DoC was concluded after several years of negotiations and represented an attempt to freeze the status quo, lower tensions, and promote confidence building measures. However, the final text was a watered down version of a 1996 code of conduct between the Philippines and China, and suffers from a number of flaws: it is not a binding treaty and does not enumerate sanctions in the event of transgressions; the geographical scope of the agreement is not set out (because China objected to the inclusion of the Paracels); and the DoC is not inclusive (Taiwan is a claimant in the Spratlys but not a signatory to the ASEAN-China agreement).

The most promising outcome of the DoC was the 2005 Joint Marine Seismic Undertaking (JMSU), an agreement between the national energy companies of China, the Philippines, and Vietnam to explore for oil and gas in the disputed waters of the South China Sea over a three year period. Yet, in 2008 when questions were raised in the Philippines concerning the JMSU's constitutionality and its connection to the scandal-tainted PRC infrastructure projects, the Arroyo government—which had once hailed the tripartite endeavor as an historic breakthrough for peace and security in the region—distanced itself from the agreement. When the JMSU lapsed on June 30, 2008 no attempt was made to extend it. The termination of the JMSU essentially puts the Spratly dispute back to square one.

When the DoC was forged ASEAN and China agreed that negotiations on a formal and binding code of conduct would continue. While that commitment has been reaffirmed at every ASEAN-China forum since, more than six years on there is no sign that the two sides are any closer to signing such a treaty.

## The South China Sea and Regional Security



The standoff between the Impeccable and Chinese naval vessels on March 8 has reawakened concerns in Southeast Asia that if Sino-U.S. strategic rivalry heats up, regional stability will be imperiled. The skirmish called to mind the April 2001 EP-3 surveillance plane incident, which also took place off Hainan Island in the South China Sea. Speaking shortly after that crisis, Singapore's Senior Minister Lee Kuan Yew remarked: "We in Southeast Asia held our breath. When it was over, we heaved a sigh of relief" (South China Morning Post, May 23, 2001). Although the Impeccable incident was not nearly as serious as the EP-3 episode, and the dynamics of U.S.-China relations have changed substantially for the better since 2001, the rapid expansion of China's naval forces has aroused greater scrutiny from the U.S. military. It subsequently emerged that the Impeccable was monitoring Chinese submarines based at the Sanya Naval Base on Hainan Island; given intense U.S. interest in China's submarine fleet, future skirmishes between U.S. surveillance ships and the PLA Navy in the South China Sea cannot be ruled out, especially absent a bilateral Incidents at Sea Agreement. The ASEAN states view the prospect of further Sino-U.S. naval spats as deeply unsettling: they do not want to see Great Power rivalry played out in their front yard, nor do they want to be forced to choose between America and China.

In its 2009 report to Congress on the PLA, the Pentagon warned that the rapid transformation of the Chinese armed forces was changing Asia's military balance in favor of the PRC and providing it with the capabilities to conduct military operations beyond Taiwan, including in the South China Sea. Washington has demonstrated a keener interest in Southeast Asia's most intractable territorial dispute over the past several years, driven mainly by freedom of navigation concerns but also by the need to protect the commercial activities of U.S. energy companies. It was in this vein that the U.S. expressed support for "Vietnam's national sovereignty, security, and territorial

integrity" at a meeting between former President Bush and Vietnamese Prime Minister Nguyen Tan Dung in mid-2008, and that a month earlier at the Shangri La Dialogue Secretary of Defense Robert Gates had cautioned against "pressure tactics" and "coercive diplomacy" in the race for energy resources "even when they coexist beside outward displays of cooperation" (U.S.-Vietnam Statement, June 24, 2008; Speech Delivered by Secretary of Defense Robert M. Gates, May 31, 2008).

During the latest Sino-Philippine spat over the Spratlys, President Barack Obama called Arroyo on the phone to reaffirm the U.S.-Philippine alliance relationship and Washington's commitment to the VFA (PDI, March 17). The intent of that call is open to interpretation, but the timing suggests it was a gesture of support for the Philippines in its altercation with the PRC.

Over the past two years the South China Sea dispute has moved from the back to the middle burner of Asian security issues; if present trends continue, it may not be long before it is seen once again as a major potential regional flashpoint.

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*See also Ian Storey's Conflict in the South China Sea: China's Relations with Vietnam and the Philippines [here](#).*