

The real story behind the South China Sea dispute

During the last ASEAN Regional Forum (ARF) meeting in Hanoi, Vietnam, US Secretary of State Hillary Clinton created a stir during the usually low-key gathering. She declared that “The United States has a national interest in freedom of navigation, open access to Asia’s maritime commons and respect for international law in the South China Sea” and that America seeks “a collaborative diplomatic process by all claimants for resolving the various territorial disputes without coercion.” Though the United States has maintained a potent naval presence in the region since WWII, this incident broke new ground in identifying American interests regarding the South China Sea. However, matters are not as straightforward as they initially appear since the US action must be viewed in light of shifting geopolitical trends identified here.

Two groups of islands are under contention which China claims possession of in their entirety: the Paracel Islands that are contested by China, Taiwan, and Vietnam; and the Spratly Islands disputed by China and ASEAN members Brunei, Malaysia, the Philippines, and Vietnam. (Note Taiwan is not an ARF participant) While the US is keen on safeguarding its commercial and military interests by keeping routes passing through these areas open, China believes it to be interference in the sense that America is not a party to these longstanding territorial disputes. To curry favour, the US also portrays itself to ASEAN members as being willing to bring up the matter in multilateral forums and to check China’s tendency to negotiate individually with weaker Southeast Asian states. Although mainstream media often portrays Secretary Clinton speaking up as evidence of renewed US engagement in the region, there are reasons to put these claims in doubt:



1. Military exercises between the US Navy and ASEAN members have been exceedingly common - even so during the George W. Bush administration. Since 1995, Cooperation Afloat Readiness And Training (CARAT) naval exercises have been conducted annually between the US and six out of 10 ASEAN members: Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand. This year, Cambodia became the first new CARAT participant in 16 years. Additionally, the Philippines and the US have held regular exercises in the wake of the global war on terror. As for other ASEAN members, Laos is landlocked, while Myanmar and the US are famously at loggerheads. Despite its symbolism coming some decades after the Vietnam conflict, the recent emergence of US-Vietnam naval exercises is not exceptional when viewed in the wider regional context.

2. Consider the implications of trade, especially the China-ASEAN FTA. From a political-economic standpoint, the economic subtext is of China rapidly leaving the US behind in trade volume terms with ASEAN. Having surpassed the US as ASEAN’s third largest trading partner in 2008, China emerged as ASEAN’s outright largest trading partner in 2009 followed by the EU, Japan, and the United States. Moreover, at midyear 2010, trade between ASEAN and China is up 55% year-on-year at \$136.5 billion. While a global recovery partly accounts for this increase, the China-ASEAN Free Trade Agreement which came into effect at the start of 2010 has helped China cement its status in terms of trade volume with ASEAN.

While the Western media has portrayed fallout from the ARF incident as reflective of rising military tensions in the region, the diplomatic situation with China and ASEAN remains calm. Vietnamese state media dutifully reported with no suggestion of rising tensions that their officials representing ASEAN were in bordering Guangxi province between 12-13 August to further actualize the trade agreement with China. Moreover, an ASEAN gathering of trade ministers in Da Nang at the end of September attended by EU Trade Commissioner Karel De Gucht and Chinese Commerce Minister Chen Deming was notable for the absence of any American trade official. By stating the US absence was “a disappointment,” ASEAN Secretary-General Surin Pitsuwan hinted at questionable American reengagement with the region.

3. In 2002, China and ASEAN countries making claims on islands in the area concluded the Declaration on the Conduct of Parties in the South China Sea (DOC). There is little to suggest that China is keen on using force to seize these islands, or that even more far-fetched, ASEAN countries will do so. They have stuck to the informal text of the DOC and are in talks to make these arrangements more concrete.

4. It is highly questionable why America has brought up the matter of the South China Sea by citing “international law” as justification when it is not even a signatory to the UN Convention on the Law of the Sea (UNCLOS) that governs these matters. Several reasons are made as to why the US has not ratified the convention, but America appears even less keen on abiding by “international law” than China as evidenced by its refusal to sign UNCLOS. Hence, US claims to participating in this debate are very thin. Not only is it not contesting any of the islands, but it does not even abide by the international law pertaining to disputes over maritime jurisdiction. Hence, suggestions that America is willing to adjudicate on this matter are scarcely believable.

5. The ideal outcome would be to refer the matter to the International Court of Justice (ICJ) for arbitration. The countries involved have differing interpretations of their Exclusive Economic Zones (EEZs) under UNCLOS which they all have signed on to unlike the US. China’s claim is the most expansive as it covers the entirety of the Paracels and the Spratlys. In the past, Indonesia has tried to act as an impartial arbiter to settle matters, but China has not been particularly receptive to this offer.

Overall, however, the best way to adjudicate this dispute would be to refer it to the ICJ in the Hague - the UN court that deals with territorial disputes concerning the interpretation of UNCLOS. Still, China will probably be the most reluctant party to submit to third-party proceedings given past precedents.

6. Vietnam did not “surprise” China at the ARF with US help but has long since signalled its intention to bring this matter up as the current ASEAN chair. A far back as April 2010, news outlets such as the BBC talked about Vietnam being keen on discussing the South China Sea in ASEAN forums. (Alike the EU, the ASEAN chair rotates, but annually instead of semiannually) Thus, it would be disingenuous to suggest that this matter caught China by surprise despite its obvious reservations.

7. China is generally loathe to contest US naval dominance directly. While China may be spending more on military hardware relative to years past, its expenditures pale in comparison to US expenditures. In contrast, the PRC is drawing up plans for extensive overland transportation routes that cannot be as easily disrupted. Already, China has voiced its keenness on establishing rail links to South and West Asia via a new Silk Road. Additionally, unlike aircraft carriers, destroyers, or frigates, this kind of expenditure is directly conducive to building infrastructure and trade ties.

8. At the ARF, participants including China concluded by resolving to continue discussions on the matter. Despite the fearmongering that some commentators have done, China did not object to participating in further dialogue over the matter which was already underway with ASEAN to begin with. The ministers’ statement reaffirms that the eventual conclusion of a Regional Code of Conduct in the South China Sea should follow on from the earlier declaration mentioned above. An ASEAN-China Joint Working Group on the Implementation of the DOC occurred in Vietnam in April 2010 and another Joint Working Group Meeting will occur in China before the end of 2010.

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Overall, the media frenzy over Secretary Clinton’s remarks at ARF are largely manufactured. Not only is America not a party to the dispute, but its offer to act as a mediator on various claims based on “international law” is doubtful given that it is not a signatory to UNCLOS. The US has little to offer in resolving these territorial disputes, and suggesting that the South China Sea will cause an outbreak of military tensions in the region is not consistent with recent Sino-ASEAN ties that are steadily becoming closer - especially in the economic realm.

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