



Scarborough Shoal Dispute, China's Assertiveness, and Taiwan's South China Sea Policy

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Abstract

With the emergence of China's rapid economic and military power, broad discussions of China and East Asia's political relationship surfaced. Although China's attitude towards neighbouring countries has been continuously amiable, conflictual incidents were occasionally reported. Among them, the South China Sea with overlapping sovereignty claim by many countries is an area that is prone to constant conflicts for China and its neighbour countries. In April, 2012, although the confrontation between China and the Philippines in the Scarborough Shoal was eventually resolved without leading to any direct conflicts, China's strong message claiming sovereignty right in the significant dispute nevertheless indicates China's growing assertiveness in South China Sea.

This study provides an analytical review on two interrelated issues. First, it attempts to review and analyze the Scarborough Shoal dispute and its impact on China's South China Sea Policy. This paper argues that China's assertive approach toward South China Sea will be a non-military proactive effort in the near future, although Beijing's attitude and actions has been stronger and military forces have become an option.

Second, the paper reviews China's assertiveness in South China Sea, and its implication for Taiwan's South China Sea Policy. Taiwan's South





China Sea Policy approach has been more restrained comparatively than other claimants in the area. It calls for an open, regional or multilateral approach toward cooperation, and has until now maintained a cautious approaches toward cooperation with China, exclusively on territorial sovereignty contentions or joint development in the disputed islands, particularly the Spratlys. And thus, the policy will largely remain subtle and ambiguous in the years ahead, as Taiwan does not want to provoke either China or the ASEAN claimants in the South China Sea.

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JEL classification: *F51, F52, F59, H56*

1. China's Evolving Position in South China Sea

With the rising of China's power, discussion around the world on China and East Asia's political relationship surfaced. Although China's attitude towards neighbouring countries has been continuing amiable, conflictual incidents were occasionally reported. Among them, the South China Sea (SCS) with overlapping sovereignty claims by many countries in an area that is prone to constant conflict for China and its neighbour countries. The flare-up between China and the Philippines over Scarborough Shoal (Huangyan Island, 黃岩島) in April 2012 was a typical case in this particular regard. Although the confrontation between China and the Philippines in the Scarborough Shoal was eventually resolved without leading to any direct conflicts, China's strong message claiming sovereignty right in the significant dispute nevertheless indicate China's growing assertive attitude, and even a more proactive efforts than ever in its South China Sea policy.

China's growing assertive behaviour in the South China Sea has been examined and reviewed in recent discussion and publication in the academic circle.¹ Media across the regions have also focused on China's possible motivations. And the publications of an article in the *Global Times*, op-ed on September 29th, 2011 with the title "Time to teach those around the South China Sea a lesson", was picked up in particular by



numerous news outlets in both China and around the world.

Since the beginning of the Post-Cold War era, China's strategy of self-constraint has been based on Deng Xiaoping's "24-Characters guidance" of "observe calmly; secure own position on; cope with affairs calmly; hide our capacities and bide our time; be good at maintaining a low profile; and never claim leadership".² China's peaceful rise narrative was meant to keep a low profile and to reassure neighbours and the world of peaceful intentions. The narrative now is that the more power China gets, the more challenges it encounters. As China's status on the international stage increases, it brings more attention and has made China more suspicious of the outside world. The central theme of the low profile strategy was never to take a global lead as it was actually more disadvantages in terms of trouble and cost than being the world's leader would provide.³

The *Global Times* op-ed, going further by saying "A good time to take military action in the South China Sea", seems to break with Deng Xiaoping's strategic guidance. The op-ed was penned by Long Tao 龍韜, a pseudonym that means "wave of the dragon". He wrote, "Do not worry about small-scale wars; it is the best way to release the potential of war. Play a few small battles and big battles can be avoided." Long added further that military action should be focused on striking the Philippines and Vietnam, "the two noisiest troublemakers to achieve the effect of killing one chicken to scare the monkeys." Through military action, he went on, China could transform the South China Sea into "a sea of fire", an act made possible by the fact that "of the more than 1,000 oilrigs and four airfield on the Spratly Islands, none belongs to China."⁴ Long asked in his writing, "Who'll suffer most when Western oil giants withdraw?" Such sabre-rattling would seem unwise and counter-productive from a strategic and military point of view, as it is likely to push Vietnam and the Philippines towards the US, as well as towards India or Japan, to form a coalition against China. But the op-ed may have the one more immediate goal: to scare Western oil companies always from Vietnam and the Philippines and to deter them from concluding deals with them.



A new cache of US diplomatic cables released by Wikileaks on September 1, 2011, highlighted efforts going back to at least 2006, to pressure oil companies such as Exxon Mobil, BP, Chevron and Petronas after they cut deals with Hanoi. US and other international companies with interests in China were convinced to leave. The world's largest oil firm, Exxon Mobil, was threatened repeatedly by Chinese diplomats to end activities in Vietnam but still went forward with their joint-ventures projects in Vietnam.

However, according to one of Beijing's think tanks, China Institute of International Studies (CIIS), China's image has been distorted concerning the South China Sea issue. As Su Xiaohui (Deputy Director of the Department for International and Strategic Studies, CIIS) claims, the way that China has been becoming more assertive in dealing with disputes with weak neighbours has been distorted.⁵ In fact, Su Xiaohui asserts, China's policies concerning the South China Sea are consistent. China is seeking a balance between defending national interests and maintaining an agreeable regional environment.⁶ Based on such rationale, China is firm in defending territorial sovereignty and legitimate rights, and at the same time, persists in peaceful development and is willing to solve the disputes with concerned parties through bilateral dialogue and negotiation. China will continue to manage good-neighbour relationships and partnerships, as she put it.⁷

In any case, Li Mingjiang, a long-time observer on South China Sea issues from S. Rajaratnam School of International Studies, Nanyang Technological University of Singapore, suggests that the high tensions and conflicts in the South China Sea have sparked a serious policy debate in China ever since, with a diverse and wide range of views and policy proposals being put forward by Chinese analysts.⁸ Li contends that the majority of Chinese analysts seem to share the consensus that the conflicts in the South China Sea should be blamed on regional states for failing to respect Chinese interests and for colluding with external powers. He said, "this is perhaps an indication that China is unlikely to make significant amendments to its policy on the South China Sea. The logic behind this is that a major policy overhaul is not necessary if there is nothing seriously wrong with Chinese behavior."



However, as Li continues, the pressure for a tougher policy does not come from the mainstream scholarly community, but from the popular nationalists. New developments in China, including the growth of nationalism, the growth of China's comprehensive capabilities, and the compartmentalization of administrative duties among different agencies, will very likely prompt China to speed up its efforts to further consolidate its economic and military presence in the South China Sea. In this regard, Beijing is unlikely to reduce its current level of law enforcement activities in the South China Sea. Moreover, it is becoming more difficult to coordinate the actions of the different Chinese agencies that are involved in maritime affairs.

While facing with the development in the South China Sea and the compartmentalization of administrative duties among different agencies, China adjusted existing administration policies and strengthened its maritime management for the sake of cooperating with China's good-neighbour diplomacy toward its neighbouring countries. For example, in June 2013, China's State Council approved the establishment of Sansha 三沙, a city to administer the Xisha 西沙, Zhongsha 中沙 and Nansha 南沙 islands and their surrounding waters. In July of the same year, the Central Military Commission authorized the Guangzhou Military Command to form a garrison command in the Sansha City. In November, a map of Sansha city was issued. And China's Hainan Province passed a regulation related to ocean security underlining China's determination to preserve its maritime security. Under this regulation, several measures can be taken against foreign ships that illegally enter China's territory.

In addition, China also strengthens the surveillance in related waters. According to China's State Oceanic Administration, Chinese marine surveillance ships carried out 58 patrol missions in the South China Sea in 2012. In early 2013, a China marine surveillance detachment accomplished an airborne and seaborne patrol of the Xisha Islands in the South China Sea.⁹ As Li Mingjiang contends, while Beijing would propose much tougher policies to better protect its interests on the one hand, China's concerns about its relations with Southeast Asia, its strategic rivalry with the United State, and its priority



for domestic economic development, on the other hand, are likely to constrain Beijing from becoming openly confrontational vis-à-vis the neighbouring states. These concerns will serve as significant constraints to China's maritime law enforcement, and even the use of the military forces to solve the conflicts. Against such backdrop, Beijing is likely to practise, as Li asserts, a non-confrontational assertiveness in the South China Sea dispute in the near future.¹⁰

2. The Scarborough Shoal Dispute and Its Implications

The flare-up between China and the Philippines over the cluster of rock formations in South China Sea known as "Scarborough Shoal" in April 2012 has tested the region's tenuous calm. The Scarborough Shoal is marked by a triangular-shaped chain of reefs and rocks, enclosing an area of the lagoon with 150 square kilometers width in its nature. The tallest of the rocks projects 3 meters above water at high tide. The surrounding water is rich in fisheries and marine life which have been exploited by fishing vessels from China and the Philippines for decades. Scarborough Shoal is located 124 nautical miles (nm) from Zambalies province in the Philippines and 472 nm from the coast of China. It is within the 200 nm exclusive economic zone (EEZ) claimed by the Philippines from its main archipelago. However, the fact that the Shoal is within the EEZ of the Philippines does not give the Philippines sovereignty over it or make it part of its territory. How the dispute is resolved holds broader implication for the region wary of a rising China.

The standoff began April 8 of 2012 when a Philippine reconnaissance aircraft spotted 5 Chinese fishing vessels in the lagoon. The Philippine navy dispatched a frigate CBRP (Gregorio del Pilar, the largest ship of Philippine Naval Forces), to investigate the Chinese vessels, and two days later, two China Marine surveillance ships soon arrived, interposing themselves between the frigate and the fishing vessels. China and the Philippines formally protested against the other's actions. To lower tensions, the Philippines withdrew the navy frigate, replacing it with a Coast Guard Cutter. And China reinforced its presence by dispatching its newest Fishery Law Enforcement Command



Ship, Yuzheng 310. The standoff went on more than a month ever since.

Under the 1982 UN Convention on the Law of the Sea (UNCLOS), an island is defined as a naturally formed feature that can support human habitation or has an economic function, and entitled to a 200nm EEZ. If a feature does not meet these criteria, it's classified as a rock, entitled to 12 nm of territorial waters, but not an EEZ. Because five or so rocks on the shoal and reportedly above water at high tide, it meets the definition of an "island" under the UNCLOS. Therefore, it is subject to a claim of sovereignty in its own right and is entitled to a 12nm territorial sea of its own. Scarborough Shoal is a classic case of a territorial sovereignty dispute. And UNCLOS, however, lacks authority to decide on sovereignty disputes over land features such as islands and rocks. The law applies only in cases of disputes arising from maritime jurisdiction.

Both China and the Philippines claim that Scarborough Shoal is an integral part of their national territory. The Philippines, referring to Scarborough Shoal as Panatag Shoal, asserts that it has exercised effective occupation and effective jurisdiction over the Shoal since independence in 1946. To reinforce this claim it points out that it built a light house on the Shoal in 1965 and that it has conducted surveys and research in the waters surrounding the Shoal. Manila also argues that the Shoal falls within its 200 nm EEZ.

China, referring to Scarborough Shoal as Huangyan Island, asserts that Scarborough Shoal and its adjacent waters have been Chinese territory for generations and that it discovered the Shoal, incorporated it with its territory and exercised jurisdiction over it. Further, the Shoal is included in the Zhongsha islands (中沙群島, also known as Macclesfield Bank), one of the four archipelagoes inside China's infamous nine-dashed line map to which it has historic claims to sovereignty. China also argues that the Philippines never disputed Chinese jurisdiction until 1979.

The dispute continued for more than a month. Both sides used political posturing to accompany bilateral diplomacy to advance their claims. The Philippines has adopted a three-pronged strategy – legal, political and diplomatic – threatening to take the dispute unilaterally to the international tribunal; seeking support from fellow members of the



Association of Southeast Asian Nations (ASEAN) and the international community, and in the meantime continuing negotiations with China.

China, on the other hand, has resorted to a variety of measures to pressure the Philippines: such as issuing a travel advisory that led to the cancellation of 80 scheduled Chinese tour group and chartered flights to the Philippines; temporarily halting imports of Filipino bananas to China and orchestrating a hostile press campaign. In 2011, the Philippines exported \$60 million worth of bananas to China, its 3rd largest banana exports market. Losses of banana inputs in May of that year were estimated at round \$34 million. China is also the source of the 4th largest number tourists to the Philippines. In May, 1,500 Chinese tourists' cancellation of their trips to the Philippines resulted in a loss of nearly \$1 million to the Philippines tourist industry.

However, just as relations between the Philippines and China were becoming increasingly intense, both sides made concessions. On May 13, almost after a month of the standoff, China announced imposition of a unilateral fishery ban for two and a half months in the South China Sea covering the area that includes the Shoal, warning that action would be taken against foreign fishing vessels that violate the ban.

By the same token, on May 16th, the Philippines also issued its own fishing ban around the shoal. The announcement of the fishing ban by both sides was definitely offering a way to alleviate the tension of the conflict over the shoal. Although the reciprocal fishing bans did offer a way to de-escalation, these expectations were short-lived. In late May, China dispatched three additional marine surveillance ships to Scarborough Shoal accompanied by 10 Chinese fishing boats according to Philippines sources. China admitted that 20 fishing boats were at the shoal, and the Chinese civilian authorities took no steps to prevent these craft from fishing while China's ban remained in force.

The significance of the Scarborough Shoal dispute presented clear evidence on China's assertive conduct in South China Sea. Furthermore, the standoff served to further highlight the shifting, to some extent, of China's policy of "shelving dispute and seeking joint development" toward a more pro-active behaviour in the South China Sea compared to the past. In short, this study observes that China's attitude and actions,



including its diplomatic position, has been stronger, and more proactive, and military force has become an option while economic power has been utilized.

3. Taiwan's South China Sea Policy Dilemma in the Post-Cold War Era

While the Republic of China on Taiwan (ROC) claims sovereignty over all the islands within the South China Sea as China does, it only has effective control over the entire area within the U-shaped line to be its historical waters in which it has preferential rights but this boundary line has been challenged by other ASEAN claimants. Taiwan has built an airstrip on the Pratas Island (Tungsha Dao 東沙島) and maintains a garrison of marines. So far, it has not been seriously challenged by either the PRC or any ASEAN states. The ROC on Taiwan was also the first claimant to occupy Taiping 太平 (Itu Aba) Island in the Spratlys with troops. The island has a garrison of marines (approximately 112 troops), a radar station, a meteorological centre, a power plant, and a strip.¹¹

Although the Spratly Islands are traditional fishing grounds for small Taiwan vessels and are potentially rich in oil and gas deposits, they are some 800 nautical miles southwest of Taiwan and beyond Taipei's power projection. Nevertheless, Taipei has given the South China Sea issue quite high priority in the Post-Cold War era. In 1990 Taipei government approved the placing of the Paratas Island and Taiping Island under the temporary jurisdiction of the municipal government of Kaohsiung, Taiwan's southernmost city. In 1992 an interministerial South China Sea Task Force was established to review and revise the ROC's South China Sea policy. In 1993 the ROC government further adopted a South China Sea Policy Guideline (hereafter the Policy Guideline) whose goals were to: (1) safeguard ROC sovereignty over the island in the South China Sea, (2) strengthen development and management of the South China Sea, (3) promote cooperation among the littoral states of the South China Sea, (4) resolve disputes peacefully, and (5) protect the area's ecological environment.¹² Obviously Taipei's policy is to seek peaceful resolution of territorial disputes in the South



China Sea, particularly in the Spratly Islands. As the policy guideline indicates, Taiwan is willing to cooperate with other claimants in technical areas such as navigation safety, pollution control disaster relief, seaborne rescue, oceanographic research, and ecological conservation. Such a position follows the principle contained in the 1992 ASEAN Declaration on the South China Sea, which called on all claimants to settle disputes by peaceful means and resolved to “explore the possibility of cooperation in the South China Sea relating to the safety of maritime navigation and communication, protection against pollution of the marine environment coordination of search and rescue operation, efforts towards combating piracy and armed robbery as well as collaboration in the campaign against illicit trafficking in drugs.”¹³

After the Mischief Reef incident between the PRC and the Philippines, Taipei echoed the call of ASEAN to refrain from taking action that might destabilize the South China Sea and endanger the peaceful settlement of the Spratly dispute. Taipei also reiterated its own five principles regarding the South China Sea which was mentioned earlier. However due to the absence of diplomatic relations with any of the region’s countries, Taiwan has found it difficult to conduct any kind of negotiation on the disputed islands. Taiwan’s ambiguous international status further weakens its bargaining position. One Malaysian scholar has ever argued that Taiwan has “no juridical standing to make any claim to any territory.”¹⁴ Taiwan also stands alone in its military posture vis-à-vis other claimants in the South China Sea, having neither a bilateral security pact nor a multilateral mechanism through which it can obtain outside assistance. Furthermore, under pressure from Beijing, the ASEAN states have excluded Taiwan from the ASEAN Regional Forum (ARF). Although Taiwan’s scholars have been invited to participate in the working group meeting of the Council for Security Cooperation in the Asia Pacific (CSCAP) since April 1996, Taiwan is not a member of CSCAP and is not allowed to raise the issue of cross-Strait relations in this track-two regional security forum.

With the exception of the Workshop on Managing Potential Conflict in the South China Sea (hereafter, the South China Sea workshop series), Taiwan has no access to any multilateral forum in which the Spratly



Islands dispute could be resolved. Even though, Taiwan's participation in the South China Sea workshop series has been far from smooth. For one thing its delegation has been variously designated "Taiwan, China" and "Taipei, China". In addition to the main workshop, Taiwan has actively participated in five offshoot technical working group meetings on legal matters, marine scientific research, the marine environmental protection, resource assessment and ways of development, and safety of navigation, shipping, and communication. According to Taipei's policy guideline, Taiwan also intends to seek opportunities to host international conferences on the South China Sea issue. However, under pressure from Beijing, Taiwan has been prevented from sponsoring the technical working group meeting on safety of navigation, shipping, and communication. Since 1993, Foreign Minister Ali Alatas of Indonesia has urged that the workshop would be upgraded to a more formal government-to-government dialogue. Taipei prefers the existing informal setup, as it fears that it would be excluded from any formal talks, but if its participation could be guaranteed, it would have no objection to upgrading.

Although the ROC government was the first claimant to send troops to the Spratly Islands, it took no action when other claimants occupied other islets in the region. After the Mischief Reef incident, the Philippines and Vietnam began to reinforce their garrisons on the disputed islands, but Defense Minister Chiang Chung-lin of the ROC has stated that Taiwan has no plan to send more troops to the Spratly.¹⁵ Vietnam and the Philippines also plan to build more lighthouses on the islands they occupy in order to strengthen their sovereignty claims but Taiwan has refrained from taking similar action. It is clear that Taipei has adopted a policy of self-restraint with regard to the South China Sea, and its historical claim. For Taipei policy makers, the real security is in the Taiwan Strait, and Taiwan's ability to project and sustain military force declines with the distance of the Spratly Islands relative to the constant military threat from the PRC.

Confrontations among Taiwan's political parties over China reunification and Taiwan independence have weakened Taipei's united stand on policy toward the South China Sea issues as well. Whether



Taipei should cooperate with Beijing in these territorial claims is a constant point of dispute inside Taiwan. Those who regard China as real threat say Taiwan should not cooperate with the PRC because such action could put Taiwan into a subordinate role and justify other claimants' rejection of negotiating directly with Taipei. The Democratic Progressive Party (DPP), Taiwan's main opposing party, rejected the idea of cooperation with Beijing in the South China Sea, preferring that Taiwan have rooms to maneuver between the PRC and other claimant. However, former Interior Minister Huang Kun-Huei argued that the lack of diplomatic tie make it impossible for Taiwan to establish a military alliance with other claimants to counter the PRC's military presence.¹⁶ Any collaboration between Taiwan and the Southeast Asian countries would certainly be regarded by China as a betrayal of Chinese national interests and therefore invite harsh criticism.

Those who deem a better cross-Strait relationship a prerequisite for Taiwan's security say Taipei should cooperate with Beijing in the South China Sea as a way to build confidence in the Taiwan Strait. For nationalistic reason, some people in Taiwan would rather see the Spratlys occupied by the PRC than by members of ASEAN. Political figures of the New Party, for example, are inclined to urge the government to form an alliance with the PRC to counterbalance other claimants. These people also believe talks with China on the development of resources in the area could strengthen Taiwan claims to sovereignty and improve mutual trust between Taipei and Beijing. While Taiwan and China are rivals in other areas, in the South China Sea, they have neither challenged each other's claims nor been involved in any military conflict with each other. Taiwan has adopted a broadly neutral but more pro-China inclination in the China-Vietnam military clashes in 1988 and the China-Philippines conflict in 1995, and one scholar has argued that "should mainland China and Taiwan stand shoulder-to-shoulder in the negotiation process, they will make a stronger case vis-à-vis other claimants."¹⁷ Taipei would invite a backlash from several quarters if it chose to collaborate with Beijing in the South China Sea. First, such a move might damage Taiwan's policy of encouraging stronger economic ties with Southeast Asia. Furthermore, it could



jeopardize Taiwan's status as an independent political entity, as "big brother" China would always have the final say in any solution of the Spratly Island disputes.

Others in the government would prefer cooperation with the PRC to take place within a multilateral context. Former Foreign Minister Fredrick Chien, for instance, hinted in 1993 that it was a least likely prospect for Taipei and Beijing officially to conduct joint development of natural resources in the South China Sea, and that Taipei might actually side with other Asia-Pacific countries to counterbalance the PRC's assertive in the region.¹⁸ Even though President Lee Teng-Hui of the ROC seems to prefer maintain the status quo over an apparent tilt either toward or away from Beijing, he has suggested that Japan and the U.S. could help in stabilizing the South China Sea.¹⁹ It is obvious that Taiwan itself is divided as to the strategy it should adopt on the South China Sea. The policy, however, will largely remain subtle and ambiguous in the years ahead, as Taiwan does not want to provoke either China or the ASEAN claimants in the South China Sea because it is trying to improve its relations with both.

4. President Ma and Cross-Strait Relations in Taiwan's South China Sea Policy

When the KMT returned to power in Taiwan, there was scarcely any coordination between Taiwan and China in their South China Sea policy. While tensions over the region have grown steadily since 2009, after China, Vietnam and Malaysia submitted their respective claims under the UNCLOS, relations across the Taiwan Strait were moving into a more cooperative rather than confrontation, direction after President Ma Ying-jeou took the office in May 2008. On the basis of the so-called "1992 Consensus", Taipei and Beijing revived institutional dialogue through the official designated Strait Exchange Foundation (Taiwan) and Association for Relations across the Taiwan Strait (China). This provides a new impetus for cross-Strait cooperation in the South China Sea. Several senior members of China's PLA-Navy began to call for joint defense of sovereignty or joint patrol of law enforcement between the



two sides in the South China Sea. It was suggested cross-Strait military confidence-building could start by defending China's sovereignty together in the South China Sea. For example, Taiwan that controls the Taiping Island – the largest island with fresh water in the Spratlys – could provide logistic supply to China in case of a conflict. Should China and Taiwan cooperate in this way, China's leverage in the Spratly Islands will increase significantly. Within Taiwan, the idea of joint defense seems to be welcomed by some Veterans and re-unification advocates. It has been suggested that Taiwan could probably take advantage of the similar claims made by China as a tactic to express its own legal stance over the disputed islands and waters to highlight Taiwan, as one of the claimants and to refute all the other claims. However, Taipei's position in this regard appears to be more cautious instead.

Taiwan's position on the South China Sea under President Ma's administration has been clearly expressed in a press statement issued by the Taiwan Ministry of Foreign Affairs. In short, it reaffirms Republic of China or Taiwan has the sovereign right over all of islands and their surrounding waters, and reiterates that it upholds the basic principles of "safeguarding sovereignty, shelving disputes, peace and reciprocity and joint exploration". Furthermore, Taiwan supports for an open, regional, or multilateral approach toward cooperation in this area.²⁰

Ma's government has been steadfastly reiterating Taiwan's territorial claims toward South China Sea islands, and has tried to demonstrate the determination in defending them through a combination of hard and soft power approaches. For example, on February 2, 2009, Taiwan protested against the Philippines regarding the latter's enactment to incorporate the Scarborough Shoal in the Macclesfield Bank, and part of the Spratly Islands into Philippines territory.²¹ Also in May 2009, Taiwan's Ministry of Foreign Affairs published statements opposing the submission by Vietnam: as well as that submitted by Vietnam and Malaysia jointly to the UN Commission on the Limits of the Continental Shelf, extending the outer limits of their respective continental shelf beyond 200 nautical miles beyond their baselines.²² In addition to taking diplomatic stances, President Ma visited the Pratas Islands on September



10, 2008, where he stressed that Taiwan should continue to strengthen its defense capability, so that Taiwan could conduct negotiation with China from a position of strength.²³

In April 2011, the government announced that the coastguard personnel stationed on the Taiping Island would be trained by the country's Marine Corps to carry out sea combat, giving Taiwan combat-ready troops in the region for the first time since 2000.²⁴ As to the cross-strait cooperation, President Ma has made cross-strait energy cooperation a priority. Cross-strait cooperation in the development of offshore hydrocarbon resources had begun in 1993, but was suspended in 2004 as a result of serious political stalemate in cross-strait relations. As soon as President Ma took office, he instructed the administration to study how Taiwan and China could resume cooperation. In December 2008, Taiwan's China Petroleum Corporation (CPC Taiwan) and the China National Offshore Oil Corporation (CNOOC) signed four agreements, whereby the two companies will conduct joint exploration in the Taiwan Strait and off the southern Guangdong coast of China in undisputed areas within northern South China Sea.²⁵ The business model created by the two companies for hydrocarbon joint development might be applied in the future to joint hydrocarbon exploratory efforts in the Spratlys under appropriate conditions resume cooperation.

Moreover, since mid-2008, Taiwan and China have negotiated and concluded 16 agreements. Some of those agreements, including the Cross-strait Sea Transportation agreement, Agreement on Cooperation in respect in Joint Crime Fighting and Judicial Mutual Assistance, and Cross-strait Agreement on Cooperation in respect of Fishing Crew Affairs, offer possible legal foundation for future cross-strait cooperation in the South China Sea on humanitarian assistance, anti-piracy, combating illegal trafficking, and other related areas. In November 2009, the two sides also successfully initiated a joint project entitled "Southeast Asia Network for Education and Training" at the 19th Indonesian Workshops on Managing Potential Conflicts in the South China Sea. This was the first cross-strait joint initiative since the inception of the workshop in 1990.²⁶ And in July 2011, experts from Taiwan and China jointly published a very first report on South China



Sea. The report assessed the situation in South China Sea throughout 2010 and provided a comprehensive review of the increasing complexity of the regional situation. It was worth-nothing that the final chapter, entitled “Prospects of Cooperation in the South China Sea”, calls for the creation of cross-Strait mechanisms to deal with South China Sea issues together. In particular, it suggests that a cross-Strait military coordinator mechanism be established to defend their territorial claims together, and if necessary, the two sides should create positive conditions for joint patrol of the South China Sea. The report received mixed reactions within Taiwan as well as abroad, and Taiwan officials have reacted by dismissing the possibility of cooperation in this particular regard.²⁷ Nevertheless, the report still represented a serious effort by academics and policy thinkers across the Taiwan Strait in helping build cross-Strait confidence.

With the progresses of functional cooperation in certain aspects across the Strait, one could find that Beijing seems do not mind, perhaps even welcomes, Taiwan’s claims to the South China Sea. That is because both Taipei and Beijing have re-embraced the so-called “1992 Consensus” since May 2008, when President Ma came to office. President Ma accepts that there is only one China and cross-Strait relations are not state-to-state relations, but rather “special relations”, even though he maintains that “One China” is “the Republic of China”.

Since Taiwan is basically excluded from all of the multilateral mechanisms such as the ASEAN Regional Forum and ASEAN-Plus where the South China Sea disputes could be discussed officially, China remains the one that dictates the interpretation of “One China”, the Chinese position, and influences the relevant agenda in those forums.

Furthermore, China and Taiwan have both used the so-called U-shaped line to claim a substantial portion of the South China Sea. And that would to some extent give China an advantage, in that Taiwan’s territorial claims, as well as its uninterrupted occupation of Pratas or Taiping islands since 1956, form an indispensable component of the Chinese claims.

From Beijing’s perspective, as long as Taiwan continues to be an integral part of the state of China, Beijing will have a stronger legal



ground to assert and enforce its own claims, and Taiwan's sovereignty claims toward the South China Sea may well be tolerated as a concerted effort in defending the Chinese position against others.

All this suggest a strong linkage between Beijing's insistence on the "One China" principle in cross-Strait relations and the South China Sea dispute, and under such circumstances Taiwan's sovereignty claims toward South China Sea could be served as a linchpin to China's expanding national interests as a maritime power and PLA-N's defensive missions. Moreover, because of such a linkage, Taiwan has much to consider when evaluating its cooperation with China in the South China Sea. First, cross-Strait relations remain a highly sensitive and divisive issue in Taiwan's domestic politics. The two main political parties – the National Party KMT and the DPP disagree on their cross-Strait policies. For example, former DPP chairperson and candidate for the 2012 presidential election – Tsai Ing-wen accused the incumbent Ma of undermining Taiwan's political and economic independence by conducting negotiation and cooperation with China on the basis of "One China", even though Ma's definition for "One China" is different from that of Beijing's. It is to say that in a vibrant democracy like Taiwan, no political leader can freely conduct is relations with China without some forms of scrutiny from the people. Secondly, Taiwan and China continue to face the challenge in building more mutual trust. China's missile deployment toward Taiwan and its refusal to renounce the possibility of using force against Taiwan makes China the primary threat to Taiwan's national security. In addition, Taipei and Beijing still have to overcome considerable political differences to enable Taiwan to deepen and widen its international space in its own right. In July 20, 2011, immediately after ASEAN and China had agreed on the Guidelines for Implementing the 2002 Declaration of Conduct of Parties in the South China Sea (The Guideline), Taiwan has formally expressed its discontent and reiterated its basic South China Sea principles of "safeguarding sovereignty, shelving disputes, promoting peace and reciprocity, and encouraging joint exploration". At the same time, it stressed that: "As the government should be included in the dispute dialogue mechanism, it will not recognize any resolution reached without its participation."²⁸



Thirdly, Taiwan's military cooperation with China in the South China Sea could also touch US nerves. The US has become more actively involved in the disputes since 2010, and has been in loggerheads with China over issues of freedom of navigation, the appropriate legal bases for territorial and maritime claims, as well as approach for resolving disputes. Although the US has long claimed to maintain a neutral position on the competing territorial claims,²⁹ the Obama administration clearly disagrees with China's legal claims, particularly the nine-dotted line. Moreover, the US joint military exercises with Vietnam and the Philippines are perceived as attempt to balance PRC's growing over in the region. The concern over a potential conflict between PRC and US in the South China Sea region presents a strategic dilemma for China. If Taiwan allies itself closely with PRC in the South China Sea territorial disputes, the US might face more domestic calls for re-considering its role in defending Taiwan against a PRC use of force.³⁰ However, if Taiwan openly supports an increased US presence in the South China Sea, it could rekindle Beijing's suspicion toward Taiwan's intentions and possibly lead to setback in the furtherance of cross-Strait economic and functional cooperation.

In addition, military cooperation with China in the South China Sea risks Taiwan from Southeast Asian claimants' perspective. Some Southeast Asian countries have pointed out that, while Taiwan has been objecting to the Southeast Asian countries unilateral acts during recent controversies, it has made no challenge towards PRC's claims. This, together with an identical legal claim, has been interpreted as a sign that Taiwan has decided to side with Beijing and the two has at least reached a tacit understanding toward a "common Chinese front".

5. Conclusion

China's assertiveness in South China Sea, particularly its approach toward the Scarborough Shoal dispute has significant implications and impact on Taiwan's South China Sea policy. First, the significance of the standoff represent a clear evidence on a shifting, to some extent, of China's policy of "shelving dispute and seeking joint development"



toward a more pro-active behaviour in the South China Sea, and yet a non-military one in its nature. Moreover, it is more likely that this has become a type of pattern and approach for handling the maritime and territorial disputes in the South China Sea in the near future. However, such act and approach certainly does not apply to territorial disputes with other conflicts over sovereignty that may occur in other places, such as the East Sea. In addition, after the standoff, the status quo of entire South China Sea remains intact. Neither has there been any change in ASEAN's approach toward the South China Sea, nor has it any tilting to a closer relations with the US for its implicit, if not explicit, counter-balance of China's power expansion.

Meanwhile, although China shifts its low-profile policy to a more pro-active one in South China Sea, it, however, still expressed a wish to come up with the Declaration on the Conduct of Parties in the South China Sea (DOC) as a platform to solve the problems with the concerned parties in South China Sea, and even did not rule out a possibility of working toward a establishment of the Code of Conduct (COC) in the near future. Assertions such as this perhaps also represent a shifting by China towards the use of multilateral mechanisms to solve sovereignty disputes in the South China Sea. Meanwhile, the adoption of a multilateral approach by China is, at least in the short term, a form of hedging policy in its nature, in that it plays a balancing role in response to America's global and regional dominance and political wrangling among the ASEAN nations.

Against such circumstances, Taiwan's policy toward the South China Sea dispute since the beginning of the Post-Cold War era and early 21st century has been more restrained than other claimants particularly China, Vietnam and the Philippines. And it has until now maintained a cautious approach toward cooperating with China exclusively on territorial sovereignty contentions or joint development in the disputed islands particularly the Spratlys, and appears to support the principle of freedom of navigation advocated by the US.³¹ More significantly, Taiwan has consistently been calling for "putting aside disputes" for joint cooperation and development in the South China Sea. Specifically, the parties concerned should shelve their different claims



and cooperate in the research, development and management of marine resources. This direction should be pursued with a view to promote peace and sustainable development of the region, without prejudice to their respective claims and the eventual solution to disputes. The various proposals expounded by Taiwan's top leaders show Taiwan's support for an open, regional, and multilateral approach toward cooperation.

However, when counting on the domestic politics, it is obvious that Taiwan itself is divided as to the strategy it should adopt on the South China Sea. The policy, in any case, will largely remain subtle and ambiguous in the years ahead, as Taiwan does not want to provoke either China or the ASEAN claimants in the South China Sea because it is trying to improve its relations with both. And more importantly, Taiwan's South China Sea policy, to a large extent, serves as a pivotal part of the US grand strategy toward Asia-Pacific.

Notes

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