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China's New Calculations in the South China Sea

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Yun Sun, Fellow with the East Asia Program at the Stimson Center, explains that "Official statements and legal studies analysis from within China also reflect a recalibrated determination to uphold the country's controversial nine-dashed line in the South China Sea."

In recent months, China's unilateral actions asserting its claims in the South China Sea (SCS) have driven regional tensions to a new high. China's well-calculated moves are motivated by multiple internal and external factors. These include boosting President Xi Jinping's prestige and authority for his domestic reform agenda, along with an assumption that the United States is extremely unlikely to intervene at this moment in time. Other than the overt actions to assert its claims in the SCS, official statements and legal studies analysis from within China also reflect a recalibrated determination to uphold the country's controversial nine-dashed line in the South China Sea.

From a Chinese perspective, the most transparent and direct explanation of China's rising assertiveness in the South China Sea is simple: China believes that its past unilateral restraint has done nothing to improve China's position regarding SCS disputes and these inactions have in fact resulted in other claimant countries strengthening their presence and claims. Therefore, for China to improve its position in the current climate or for future negotiations, it must first change the status-quo through all available means necessary. China prefers to utilize civilian and paramilitary approaches but does not reject military coercion if required. An advantaged position and certain exclusive privilege in the South China Sea are both believed to be indispensable for China's aspiration to become a "strong maritime power," a "key task" stipulated by the 18th Party Congress in 2012 and a policy personally endorsed by Xi. While China's aspirations for a "Blue Water Navy" and naval expansion face multiple choke points along its east coast from Japan down to the Philippines, the South China Sea is considered to offer China a much larger and less constrained maritime domain for naval maneuvers.

While the policy to change the status quo and pursue a strong maritime power status has existed for a few years, the particular timing of China's most recent actions is closely associated with Chinese domestic politics—President Xi needs a strong foreign policy posture in order to strengthen his domestic power base. Xi's ongoing reform agenda since his inauguration in 2013, including "deepening economic reforms" and a strong "anti-corruption" campaign, have touched upon many sensitive issues related to existing interest groups and leadership politics in China. Therefore, Xi needs as much foreign policy credits as possible to build his strong-man image and defuse internal criticisms of his various domestic agendas. This does not necessarily suggest or prove that Xi personally does not endorse an assertive foreign policy, but it does add an additional layer of strong motivation to it.

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Last but not least, China is behaving assertively in the South China Sea because it believes it can. This assessment is not only based on China's growing military capacity, which dwarfs the capabilities of perhaps all other Southeast Asian claimant countries combined, but also on a strong conviction in China that the United States will not use its hard power to counter Chinese actions. China has watched closely the US hesitation about military intervention in



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Syria, and also in Ukraine, and draws the conclusion that the Obama administration does not want to involve itself in a military conflict. It is further believed that there is no desire within the Obama administration for a foreign policy legacy that includes a conflict with China. Having said that, China does recognize the difference between Ukraine, which is not a member of NATO, and the Philippines, which is a US ally. However, when China seized control of Scarborough Shoal in 2012, the United States did nothing. Furthermore, as Madame Fu Ying, Chairperson of the Foreign Affairs Committee of the National People's Congress, pointed out recently at the Shangri-La Dialogue, the dispute between China and Vietnam “has nothing to do with US.” The implied message is that Vietnam is not even a US ally and the likelihood of US military intervention on behalf on Vietnam is extremely remote, if not non-existent.

Other than taking unilateral actions to change the status quo, China is also strengthening the arguments behind its controversial “nine-dashed line” in the South China Sea. PLA Deputy Chief of Staff, General Wang Guanzhong made an unprecedented six-point elaboration on the legitimacy of the nine-dashed line at the Shangri-La Dialogue, a clear indication of Beijing's determination to uphold its controversial claims. This is in sharp contrast to a few years ago when the Chinese foreign policy and legal communities were still debating the validity of the nine-dashed line. Now Chinese analysts almost unanimously argue that China should unilaterally stick to the controversial claim.

China understands very well the contradictions between the nine-dashed line and the UNCLOS treaty, and has invested significantly in legal research to substantiate the “historic rights” argument. Some Chinese experts have found justification within UNCLOS itself, claiming that the treaty is “ambiguous” and “inconclusive” on the issue of historic titles. Therefore, in their view, the issue of historic rights is unresolved by UNCLOS and is an ongoing, open discussion. Other Chinese experts claim that the nine-dashed line would find no support from UNCLOS. Instead, they try to explore alternative justifications for it beyond UNCLOS from other international customary laws or codes of practices. Both schools argue that since the nine-dashed line predated UNCLOS for four decades and China's historical rights predated UNCLOS for even longer, therefore UNCLOS *cannot retroactively be applied* to supersede China's sovereignty, sovereign rights and maritime administrative rights formed throughout history.

China is also carefully calibrating what to claim within the nine-dashed line. The reason for its intentional “strategic ambiguity” is clear: to leave room and flexibility for future negotiations. Most Chinese analysts are inclined to see the waters within the nine-dashed line as a Chinese Exclusive Economic Zone, although the government is yet to openly endorse that position.

Many within the Chinese policy community clearly understand the weaknesses of these legal arguments. Nevertheless, having weak but legitimate justifications is better than having no justification at all, especially when such positions are backed by strong national power and the willingness to use it. In comparison, the reputational cost for China is believed to be manageable. In fact, in China's cost-benefit analysis, the real benefits of its coercive actions substantially outweigh the costs. After all, China has other ways—mainly economic—to improve ties with Southeast Asia while its claims in the South China Sea can hardly be achieved through any other method other than coercion. In addition, China does not accept the dispute settlement mechanism stipulated by UNCLOS. So even if the international tribunal supports the Philippines' claims, China will not accept the result and it will be very difficult, if not completely impossible, for the court to enforce its ruling.

Whether others like it or not, China is getting what it wants. The new developments in China's calculations and positions deserve accurate understanding and a timely response by the countries in the region, especially the United States.

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