

# China's Assertive Behavior

## Part Two: The Maritime Periphery

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In *CLM 32*, we examined how both Chinese and outside observers look at China's growing assertiveness on the international stage, that is, the purely perceptual dimensions of the issue. In *CLM 34*, we assessed whether, to what extent, and in what manner the Chinese government is becoming more assertive in defining and promoting the concept of "core interests."

The primary focus of this essay, as indicated in *CLM 34*, is Chinese assertiveness concerning U.S. political and military behavior along China's maritime periphery. This topic inevitably also concerns Chinese behavior toward Japan, South Korea, and some ASEAN nations, given their status as both close security allies of the United States and maritime nations whose actions toward Beijing influence U.S. interests in the region (e.g., peace, stability, and freedom of navigation). Thus, this paper will examine Chinese actions along China's entire maritime periphery, from the Yellow Sea to the South China Sea, with regard to both disputed and undisputed maritime areas, as well as those recent official PRC diplomatic statements and legal submissions of relevance to such maritime behavior.

The primary purpose of such an examination is: a) to assess whether, to what degree, and in what major ways China has become more assertive along its maritime periphery in recent years; b) to examine the external and internal forces motivating China to become more or less assertive over time; and c) to assess the prospects for Chinese assertiveness with regard to maritime sovereignty issues in the future.

The essay will examine what have been regarded by outside observers as the most potentially troubling Chinese actions and diplomatic or legal statements with regard to territorial issues taken along China's maritime periphery since approximately 2007–2008, when concern with a more "assertive" China was emerging in the West and elsewhere (see *CLM 32*). These encompass five major issue areas: 1) legal and diplomatic submissions, statements, and governmental actions with regard to the South China Sea; 2) diplomatic statements and governmental actions with

regard to the East China Sea; 3) legal statements and actions concerning China's maritime Exclusive Economic Zone (EEZ); and 4) diplomatic, official, and media statements and actions with regard to the Yellow Sea.

For each issue area, the essay will: 1) provide as accurate a summary as possible from open sources of the major relevant Chinese behavior that has occurred since 2007–2008; 2) assess whether such behavior represents an increase or decrease in frequency and type or intensity compared to earlier years; and 3) examine the larger external and domestic context surrounding such Chinese behavior, to determine the apparent motives and objectives at work and the reasons for apparent changes in level and intensity over time. The essay will conclude with an assessment of the significance of and future prospects for Chinese assertiveness in the maritime realm derived from the preceding analysis.

## A Definition

Any such assessment must begin with a clear definition of Chinese “assertiveness” regarding maritime issues. As indicated in *CLM* 34, assertiveness can encompass many types of activities and statements; some can be very beneficial and others highly detrimental to U.S. interests. In this *CLM*, the primary focus is on Chinese official or governmental behavior and statements that might appear to threaten U.S. and/or allied interests or otherwise challenge the status quo in maritime Asia along China's periphery, thereby undermining Asian stability and causing concern to U.S. and Asian leaders.

## The South China Sea: An Unchanged Strategy, But Greater Activism, Largely in Reaction to Others

### *Legal and diplomatic statements and submissions*

During the past two plus years, China has formally presented a justification of its longstanding territorial claims in the South China Sea, as part of a formal process administered by the UN Commission on the Law of the Sea (UNCLOS) involving the submission of technical information in support of claims to extended maritime continental shelf rights.<sup>2</sup>

China's stance was contained in three documents: a *note verbale* to the Secretary-General of the United Nations and a preliminary declaration of claims to an extended continental shelf, both submitted in May 2009; and a second *note verbale*, submitted to the UN in April 2011.<sup>3</sup>

In the first document, Beijing stated that it “has indisputable sovereignty over the islands of the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof.” Chinese officials subsequently repeated versions of this statement in 2010 and 2011.<sup>4</sup>

The document also contained the well-known map of the region that includes the “nine-dashed line” (*jiuduanxian*, 九段线). First produced by the Nationalist Chinese government in 1947, this map shows nine dashes or hash marks that form a U shape around all the islands of the South China Sea, including the Paracel and Spratly islands. Some of these dashes lie close to the coasts of Vietnam, Malaysia, and the Philippines. This submission was the first time that China had presented a map to the UN in support of its claims, but it was certainly not the first map produced in China depicting the dotted line.<sup>5</sup>

The second document asserted China’s “right to make submissions on the outer limits of the continental shelf that extends beyond 200 nautical miles in the East China Sea and in other sea areas.” It also included maps and topographical baseline details, dealing almost exclusively with the East China Sea. However, as indicated in the above language, the document reserved China’s right to submit claims “in other sea areas.” This presumably includes the South China Sea, especially its northern portions off the coasts of Hainan Island and Guangzhou Province, which are not under dispute.<sup>6</sup>

The third document (the April 2011 *note verbale*) again repeated much of the content of the 2009 *note verbale*, but used more detailed language. Indeed, it was more specific than any previous communication to the UN on the subject.<sup>7</sup> As one expert describes it, China “stated—for the first time—that the islands are entitled to a territorial sea, EEZ and continental shelf.”<sup>8</sup>

Some observers argue that these three official Chinese documents represent a more assertive stance toward maritime sovereignty claims, considering the abovementioned language in the *note verbale* claiming indisputable sovereignty, and the submission of a map with the nine-dashed line, as well as the subsequent statement of intentions to claim an extended continental shelf in the East China Sea and possibly other areas.<sup>9</sup> Indeed, for some observers, the perception was created by these documents that “China was escalating the dispute and expanding its claim.”<sup>10</sup>

However, such an argument seems problematic in several respects. First, the submission of the three documents did not constitute new, unilateral actions by China. They were all taken *in response to* requests for information made by the UN with specific deadlines or in reaction to the actions of other nations. The first document was a reaction to submissions to the UN’s Commission on the Limits of the Continental Shelf made by Malaysia and Vietnam, which were in turn submitted in response to a UN deadline for nations to provide technical information on claims to extended continental shelves (ECS) beyond 200 nautical miles (the breadth of the Exclusive Economic Zone [EEZ] claimed by nations). Vietnam, Malaysia, and the Philippines all submitted claims to areas in the South China Sea that overlap with China’s claims.<sup>11</sup> The second document was submitted in response to a UN request to present claims for ECS by May 13, 2009.<sup>12</sup> The third document (i.e., the *note verbale* of April 2011) was submitted in response to a *note verbale* submitted by the Philippines in April 2011 objecting to China’s May 2009 *note verbale* and the dotted-line map.<sup>13</sup> In short, a deadline established by the UN created “a moment for states to issue claims, counter-claims, and counter counter-claims.”<sup>14</sup>

Second, most of the wording employed in the May 2009 *note verbale* is congruent with China's longstanding position on the issue. In particular, the first phrase ("China has indisputable sovereignty over the islands of the South China Sea and the adjacent waters") has been the standard answer of the Chinese government for decades, predating the May 2009 *note verbale* since at least the 1970s.<sup>15</sup>

However, the second phrase of the statement in the 2009 *note verbale* ("and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof") does not appear to be a standard phrase employed regularly in the past by the Chinese government, despite the fact that the document asserts that the positions described by both phrases have been "consistently held by the Chinese Government," and are "widely known by the international community."<sup>16</sup> At the same time, the references to "seabed and subsoil" were not entirely new. Instead, they are consistent with similar language in China's 1998 exclusive economic zone law, which was passed to harmonize China's domestic legal regime with UNCLOS.

Third, as some very knowledgeable analysts of this issue argue, although it does arguably provide some clarification on China's existing territorial claims in the South China Sea, China's 2009 *note verbale* almost certainly does not expand those claims.<sup>17</sup> Based on language found in UNCLOS, the wording of that document contained in the first phrase cited above ("indisputable sovereignty") suggests that China claims sovereignty over the islands of the South China Sea and the standard 12-nautical-mile territorial sea around the islands. The wording in the second phrase cited above ("and enjoys sovereign rights") indicates a Chinese claim to the EEZ and, if applicable,<sup>18</sup> an extended continental shelf measured from the islands.<sup>19</sup>

Such areas certainly do not extend beyond the hash marks on the 1947 map, and almost certainly do not include all the waters *inside* those marks. Indeed, the geographic extent of China's maritime sovereignty claims as suggested in the 2009 *note verbale* could vary significantly from island to island, depending on whether a specific island or other formation is entitled to an EEZ and a continental shelf of its own. Many such geographic features almost certainly are not entitled to such extensive maritime territory, according to UNCLOS, because they are mere "rocks" and not islands.<sup>20</sup> Nevertheless, as a single island can hypothetically generate an EEZ of approximately 125,000 square nautical miles, China would likely be able to claim maritime rights to much of the South China Sea under UNCLOS from the features that could be classified as islands and thus be entitled to a 200nm EEZ (e.g., Woody Island [held by China] in the Paracels as well as Spratly Island [held by Vietnam] and Itu Aba [held by Taiwan] in the Spratlys).<sup>21</sup>

Thus, even though China appeared more assertive in submitting a map with the infamous nine-dashed line in its note to the UN, it has not defined its claims as encompassing all the waters contained within those lines. Indeed, as Fravel states: "only one interpretation [of the dotted line] is consistent with China's diplomatic statements and actions: the line depicts China's claim to the *island groups* contained within the line, namely, the Paracels and the Spratlys" [emphasis added].<sup>22</sup>

Moreover, as one analyst observes, the fact that China's claim as expressed in the *note verbale*, along with those of other claimants, are all presented in the context of UNCLOS definitions of maritime claims, "establishes a common framework which should make it easier to explore possible solutions."<sup>23</sup> This potentially undermines the views of those in China and elsewhere who might seek to arbitrarily or recklessly advance maritime claims based solely on independent criteria.<sup>24</sup>

Indeed, most recently, Beijing has reinforced the impression that it wishes to manage its claims to disputed territories in the South China Sea on the basis of common international criteria by continuing to support the Declaration on the Conduct of Parties in the South China Sea (DOC) signed between ASEAN and China in 2002.<sup>25</sup> Specifically, since late 2010, Beijing has been participating in efforts to draft and negotiate a more binding Code of Conduct, as called for by the DOC, largely via the ASEAN-China Joint Working Group on the Implementation of the Declaration on the Conduct of Parties in the South China Sea.<sup>26</sup>

While such efforts have thus far shown sporadic progress at best—in part because of China's longstanding objection to any procedures or actions that resemble a multilateral approach to resolving the territorial disputes<sup>27</sup>—in fall 2010, Beijing reportedly indicated that it was "open to different formulas and initiatives," thus signaling increased flexibility.<sup>28</sup> China's increased support for efforts to establish a formal Code of Conduct was acknowledged by U.S. officials.<sup>29</sup>

#### *Activities Presumably Undertaken in Support of China's Claims*

In recent years, Beijing has undertaken a variety of activities to defend its claims over territories and waters in the South China Sea. The most important of these include: 1) the imposition and expansion of an annual unilateral fishing ban (in the northern part of the area); 2) regular maritime security patrols (primarily conducted by the Chinese Fisheries Administration and State Oceanographic Administration, and sometimes involving the detention of Vietnamese fishermen and the cutting of cables of survey ships); 3) various forms of political and diplomatic pressure (including demarches and planting markers on unoccupied reefs); and 4) the conducting of scientific activities and extensive naval exercises in the vicinity. By and large, these activities have increased in number (or duration) and intensity over the last several years.

The annual unilateral fishing ban to replenish rapidly shrinking fishing stocks began in June 1999 and usually occurred in June and July. It initially did not include foreign boats. However, in 2009, the length of the ban increased and the policy was apparently expanded to include foreign boats. This change coincided with an increase in the detention of Vietnamese fishermen.<sup>30</sup>

Maritime security patrols or "cruises" (*xunhang*, 巡航) by vessels from the Fisheries Administration first began in China's EEZ in around 2000 (after the passage of China's 1998 EEZ law). In 2005, new regulations were issued to strengthen and standardize the activities of Fisheries Administration vessels in China's EEZs, resulting in a more regular

deployment of such vessels in the South China Sea and elsewhere. Although complete data on the scope and frequency of these cruises over time is unavailable, it appears that Fisheries Administration vessels, usually consisting of a pair of ships, are deployed to the region approximately seven or eight times per year, based on data from 2008.<sup>31</sup>

As part of their duty to enforce fishing laws and demonstrate sovereignty, China's maritime security patrols (primarily involving Fisheries Administration vessels) apparently detained an increasing number of Vietnamese fishermen between 2005 and 2009; however, the number of detentions appears to have dropped since then. There are no reports of China detaining and holding Vietnamese fishermen in 2011, but Chinese patrols are still confiscating the catches of Vietnamese vessels that operate in the waters near the Paracels. Chinese maritime patrol vessels have also on occasion shot at and rammed Vietnamese and Philippine vessels.<sup>32</sup>

However, in the first half of 2011, China's maritime patrols have apparently begun targeting hydrocarbon seismic exploration vessels, while previously they had focused primarily on fishing boats. These increased patrols have resulted in clashes with Philippine and Vietnamese ships that some observers identify as evidence of a significantly more assertive posture. Moreover, China has built an advanced deep-water oil rig for use in the South China Sea, though it has not yet been used to conduct drilling in disputed waters. While it could be used in the future to drill in disputed southern areas of the South China Sea, it is also very possible that the rig will be located in undisputed deep water closer to China's coast, where oil resources have been located.<sup>33</sup>

The PLA Navy (PLAN) has also conducted *regular* patrols in the disputed waters of the South China Sea since approximately 2005, although the frequency and type of ship involved are largely unknown. In addition, since the start of escort missions in the Gulf of Aden in December 2008, each flotilla has transited through the South China Sea, often stopping near some of the Chinese-held reefs.<sup>34</sup>

Information regarding Chinese naval exercises is difficult to gather because it is not reported systematically in the Chinese media. However, in the past few years, the frequency and scope of exercises in the area have apparently increased, and include exercises in disputed areas. In particular, some exercises in the region now cover longer distances, include ships from all three of China's fleets, and encompass a wide number of activities, such as opposition-force, live-fire drills, counterterrorism, search and rescue, and coral reef assault operations, among others. Last year witnessed a large number of high-profile exercises, including relatively large task forces, advanced ships, missile launches, and amphibious landings. There have also been reports of long-range naval aviation exercises from Nanjing and Guangzhou that incorporate radar jamming, night flying, mid-air refueling, and simulated bombing runs in the South China Sea.<sup>35</sup> Although many of these exercises occur in parts of the South China Sea that are undisputed, namely the waters south of Guangzhou Province and around Hainan Island, they bolster China's ability to signal its resolve to defend its claims because media reports describe them as taking place at an undisclosed location in these waters.

As indicated in *CLM* 33, many observers cite the above Chinese activities in the South China Sea as a prime example of Beijing's greater assertiveness in recent years and months. In many cases, the implication is that China has in some fundamental sense altered its strategy and approach to managing its maritime claims in that region, from an emphasis on negotiation to an increasing reliance on coercion and a use of force, thus presumably threatening the U.S. interest in a peaceful resolution of the disputes.<sup>36</sup>

As the above summary of China's actions clearly indicates, there is little doubt that China has increased its overall presence and deployed a greater number of more sophisticated military, Fisheries Administration, and State Oceanographic Administration marine surveillance vessels in the South China Sea since roughly 2005. Beijing has also on occasion taken more direct action against other claimants, for example, by detaining Vietnamese fisherman, expanding a fishing moratorium, and cutting seismic survey cables. In most cases, however, these activities, as with the above formal legal submissions, have taken place in response to what China views as growing and more assertive challenges to its claim occurring since roughly 2007, challenges that require a response in turn.<sup>37</sup> These challenges from Beijing's perspective are listed in a table in the attached appendix.

For example, when the Philippine Congress passed an archipelagic baseline law in February 2009, China declared publicly in March 2009 that one purpose of patrols by vessels from the Fisheries Administration was to "demonstrate sovereignty." More generally, China has sought to grapple with Vietnam's declared strategy of internationalizing the dispute launched at the end of 2009, namely, efforts to draw attention to and support from the international community for Vietnam's claims. China's series of naval exercises in the South China Sea in 2010 were perhaps one response to Vietnam's strategy. Finally, Chinese fishermen are also detained and shot at by vessels from other states in these waters, and vessels licensed by other Southeast Asian nations also regularly conduct seismic surveys and oil drilling in the disputed waters.<sup>38</sup>

In addition to responding to such activism by other claimants, China's greater presence and activism are to some extent a logical consequence of its increasing capabilities. It is acquiring more numbers and improved types of vessels capable of supporting its existing position and is deploying them accordingly. Taken together, the resulting behavior can be considered a form of greater assertiveness, but it is certainly not unique overall among the claimants in the South China Sea, and it is not being undertaken to forcibly resolve the disputes on Beijing's terms. In other words, Beijing is displaying a greater capability to support its longstanding approach of deferring settlements while actively defending its claims from challenges by other states.

## **The East China Sea: Nationalism-fueled Confrontations and Disputes, but Clear Limits to Assertiveness**

In recent years, China's (largely military) presence in the East China Sea has clearly increased. In particular, PLAN warships have entered and exited the East China Sea through narrow seas between Japanese islands on several occasions since 2004. Although

such waters are regarded as high seas and thus open for passage under UNCLOS, these transits have been regarded with concern by the Japanese government. Some of these deployments were unprecedented in the number and sophistication of the ships involved, and signaled a clear increase in China's ability to operate naval vessels in a coordinated manner over much further distances from home.<sup>39</sup>

Also, several incidents have occurred between Chinese aircraft or naval vessels and Japanese vessels, some in disputed waters within the East China Sea. For example, in January 2005, Chinese destroyers reportedly crisscrossed the Chunxiao gas and oil fields. When the Japanese protested this and other such deployments of military vessels, "Beijing argued that these were normal exercises in its waters."<sup>40</sup> In 2010, a Chinese helicopter involved in military exercises near Japanese waters buzzed a Japanese naval vessel twice, while a Chinese ship chased a Japanese coast guard vessel that Tokyo says was conducting marine surveys.<sup>41</sup> A similar incident occurred when a Chinese helicopter flew close to a Japanese destroyer in March 2011, prompting a formal Japanese protest.<sup>42</sup> China has also continued drilling in the Kashi/Tianwaitan gas field, which Japan claimed was a violation of the 2008 consensus on joint development in the East China Sea.<sup>43</sup>

In September 2010, Beijing took a very aggressive diplomatic stance toward Tokyo in reaction to Japan's arrest of a Chinese fishing boat captain on suspicion of intentionally ramming his vessel into Japan Coast Guard ships near the disputed Senkaku/Diaoyu Islands. Beijing initially protested the Japanese decision to seize the Chinese fishing vessel and hold the captain and crew, and then markedly intensified its response after Tokyo decided to hold the captain (after releasing the rest of the crew) and announced that it would investigate the incident. China's response included a variety of actions, some quite aggressive.<sup>44</sup> In addition, after Japan released the captain of the Chinese fishing boat, Beijing, rather than moving to defuse the tensions, requested that Tokyo apologize for detaining him and pay compensation. Tokyo refused to apologize, and demanded that China pay for repairs to the Japanese coast guard boats damaged in the collision.<sup>45</sup>

As in the case of activities in the South China Sea, many observers regard China's recent actions in the East China Sea, including those in or near areas disputed with Japan, as clearly more assertive than in the past, and even aggressive. Beijing is viewed by some as asserting its military presence in the region in a major way, thereby altering the status quo in potentially troubling directions, with little explanation or warning.<sup>46</sup> And China's handling of the September 2010 collision was viewed by many observers as excessive and provocative.

In fact, as in the South China Sea, Chinese behavior again reflects the combined influence of increasing capabilities in support of long-held national objectives and responses to actions regarded as provocative or unprecedented. However, arguably even more than in the case of the South China Sea, China's reaction to at least some activities in the East China Sea involving Tokyo are particularly influenced by strong nationalistic sentiments toward Japan.

Recent PLAN deployments through East China Sea waters near Japanese territory clearly reflect the increasing capacity of China's navy to operate in blue water regions along its periphery. Many of the deployments near Japan have been part of longer voyages into the western Pacific or southward, to the South China Sea and beyond. There is no question that such activities, as with many PLAN actions in other nearby maritime regions, reflect Beijing's desire to employ its growing military capabilities to support its territorial claims in disputed waters, defend its interpretation of its EEZ, and more generally strengthen its presence in the western Pacific, as a sign of its increasing ability to promote its interests in that vital region.<sup>47</sup>

Whether one regards such activities as troublingly "assertive" depends on one's assessment of the likely motives and impact of China's actions.<sup>48</sup> Such naval deployments are certainly "modest in scale compared to U.S. naval operations."<sup>49</sup> But they are also altering the distribution of forces in the western Pacific to unpredictable ends, and supporting claims (in the case of the EEZ) that are opposed by many other nations, thereby causing real concern in the U.S. and Japan. At the very least, by bringing more military capabilities into or near disputed waters, such increased deployments could raise the likelihood of incidents or crises, or perhaps even eventually increase China's willingness to employ military force to handle territorial disputes. And this likelihood is increased further, particularly with regard to disputes in the East China Sea, by the fact that acute nationalist sensitivities toward Japan exist among the Chinese public. Such sensitivities can exert significant pressure on China's leaders at critical moments.

China's handling of the September 2010 incident with Japan was not solely an expression of unjustified assertiveness and nationalist pique, however. Although Beijing clearly overreacted, almost certainly in part due to domestic pressure, it was also responding to what it regarded as a clear departure by Japan from the status quo in handling such incidents. According to one deeply knowledgeable observer of Sino-Japanese interactions, precedent (including an incident in 2004 and one in 2008) suggested that Japan would not have detained the Chinese fishing boat captain, but instead would have deported him to China. That is part of why the Chinese reacted so strongly to Japan's actions: because they were unexpected.<sup>50</sup>

More broadly, the response of both China and Japan to specific incidents such as altercations involving gas fields in or near disputed territories and the collision of September 2010 are part of a competitive dynamic involving military and political activities in support of maritime sovereignty claims, made more sensitive by the presence of natural resources and nationalist public pressures. In this ongoing competition, *both sides* appear to engage in assertive behavior at various times, often in response to apparent "provocations."<sup>51</sup>

At the same time, *both sides* exhibit restraint and undertake compromises at times. For example, both countries, but particularly China, also made significant compromises in order to conclude the 2008 agreement on joint development of resources in parts of the East China Sea. (Although, in the case of China, movement toward implementing this agreement has been stymied by domestic nationalist opposition that viewed the

agreement as too conciliatory.)<sup>52</sup> Moreover, since 2004, China has tried to prevent Mainland-based activists from traveling to the disputed Senkaku/Diaoyu Islands. Likewise, Japan has engaged in similar behavior in an attempt to contain the potential for escalation.<sup>53</sup>

In addition, China's assertiveness in handling maritime sovereignty and other incidents with Japan continues to remain subject to a larger political and strategic need to maintain or even deepen cooperative relations with Tokyo. It is clearly not in China's interest to allow such incidents to escalate to the point where they can create serious damage to relations with a key economic partner and important geostrategic player in the Asia Pacific. The same holds true for Japan.<sup>54</sup> Hence soon after the September 2010 incident, China and Japan agreed to resume high-level bilateral contacts on a regular basis and reaffirmed the need for cooperation.<sup>55</sup>

As in its approach to the South China Sea, Beijing has not altered its existing strategy in the East China Sea arena, choosing instead to defer settlement and engage in political and diplomatic negotiation while defending its existing claims to disputed territory.<sup>56</sup> At the same time, Beijing's commitment to defend its territorial claims and seek energy resources, combined with its growing military capabilities and strong nationalist sentiments toward Japan, clearly suggest that, as in the South China Sea, managing its behavior in the East China Sea will likely prove increasingly challenging.

## The Exclusive Economic Zone: More Challenges to a (Growing?) U.S. Presence, and a Legal/Diplomatic Effort to Garner Support for a Minority View

### *Legal and diplomatic statements and submissions*

In addition to the claims discussed above regarding maritime territories, the Chinese government has in recent years presented an interpretation of UNCLOS definitions of the rights of coastal states with regard to their EEZs that is viewed by many observers as both unconventional and assertive. In particular, since the early 2000s, Beijing has publicly set forth a minority viewpoint regarding “the right to draw straight baselines from which the breadth of the territorial sea is measured, the right to exercise innocent passage through the territorial sea by warships, and the right to conduct military surveillance activities in the . . . EEZ of the coastal state.”<sup>57</sup> Most notably, the Chinese government argues that foreign military vessels must provide prior notification before entering an EEZ and that foreign military activities involving hydrography, surveys, and intelligence-gathering within the EEZ are illegal because they signify hostile intent and thus violate the “peaceful purposes” provisions of UNCLOS.<sup>58</sup>

The United States and an overwhelming majority of other nations do not accept this interpretation, however, arguing instead that such activities are not hostile and hence are not prohibited under UNCLOS. In particular, Washington asserts that although coastal states are granted jurisdiction over environmental and economic resource-related activities within their EEZ, nothing in UNCLOS or state practice restricts military

activities undertaken with due regard.<sup>59</sup> Hence, some knowledgeable observers believe that Beijing's position, if widely accepted, would result in "increased maritime instability," and thus poses a threat to the status quo in the maritime realm.<sup>60</sup>

*Activities Presumably Undertaken in Support of China's Claims*

From Beijing's perspective, the above interpretation has provided a legal underpinning to the official statements and actions China has taken over the past decade opposing the activities of U.S. military platforms operating within China's EEZ. Most notably, since late 2000, Chinese naval vessels and aircraft have repeatedly confronted U.S. military surveillance ships and aircraft operating in the waters and airspace of China's EEZ,<sup>61</sup> resulting in at least one collision (the so-called EP-3 incident in April 2001) and several near collisions or close-by harassment (including the so-called USNS *Impeccable* and USNS *Victorious* incidents in March and May 2009 in addition to the trailing of the USNS *Bowditch* in 2001 and 2002), and in each case generating serious political crises.<sup>62</sup>

In addition, Chinese officials, and military officers in particular, have identified U.S. reconnaissance in China's nearby waters as one of three obstacles to future positive advances in Sino-American military-to-military exchanges. Although not specifically identified as occurring only in China's EEZ, there is little doubt that Beijing includes U.S. activities in such waters.<sup>63</sup>

While many outside observers regard China's physical challenges to U.S. or other foreign military surveillance activities within China's EEZ as a highly significant indication of increased assertiveness, from Beijing's perspective, such activities constitute a legitimate and understandable reaction to what is perceived as hostile behavior. Equally significant, China's more aggressive challenges in recent years were apparently prompted by increases in the tempo and intrusiveness of U.S. surveillance activities within China's EEZ in response to the ongoing modernization of China's naval forces.<sup>64</sup> According to Chinese sources, Beijing repeatedly requested that Washington cease such increasing activities, apparently to no avail.<sup>65</sup>

Such Chinese justifications, whether based on accurate information or not, certainly do not justify often dangerous, close-in interceptions of U.S. aircraft and vessels, including apparent attempts to force U.S. vessels to cease their activities. Even if they are taken in response to enhanced U.S. surveillance along China's coastline (arguably a form of "assertive" behavior in itself), Chinese interceptions can legitimately be regarded as themselves assertive, even aggressive in nature. Again, as in the case of other maritime sovereignty issues, China's increasingly muscular behavior results in part from a combination of an increased capability to act in support of existing policies, combined with need to respond to perceived provocations by others.

## The Yellow Sea: More Verbal Challenges of the U.S. and Allied Military Presence, but Apparently PLA-driven, and Subject to (Civilian?) Limits

The final recent example of apparent Chinese assertiveness in issues of maritime sovereignty involves Chinese statements and actions in response to U.S. and allied military operations in the Yellow Sea near the Korean Peninsula. Most notably, in the summer of 2010, Beijing repeatedly criticized, using increasingly strong language, a joint military exercise (“Invincible Spirit”) to be staged by U.S. and Republic of Korea forces in the Yellow Sea near China and the Korean Peninsula, despite the fact that the exercise would occur in international waters, and that similar exercises have been held in the past without such Chinese protest.<sup>66</sup> The U.S./allied exercises were intended as a signal of resolve and deterrence toward Pyongyang in the aftermath of the sinking of a South Korean frigate (the *Cheonan*) in disputed waters near the peninsula on March 26, 2010.<sup>67</sup>

In addition, Beijing also held several military exercises in the East China Sea and Yellow Sea, in the months of June and September 2010, respectively. Although described officially as “routine,” these actions were interpreted by some observers as unprecedented in nature and a direct Chinese response to the U.S.-ROK military exercises.<sup>68</sup> Some observers also pointed to visits by two very senior PLA officers (deputy chairmen of the Central Military Committee) to the Shenyang Military Region and the North Sea navy base near the Yellow Sea in June 2010 as another indication of China’s response to the U.S. and South Korean exercises.<sup>69</sup>

In this instance, Beijing’s diplomatic statements were clearly triggered by U.S. and allied actions. In particular, the Chinese leadership apparently regarded the U.S./allied exercises in summer and fall 2010 as a potential threat to stability on the increasingly tense Korean Peninsula. They clearly did not agree with Washington and Seoul that such actions would stabilize the situation. Hence, from such a perspective, China’s behavior might be viewed as a one-time reaction to a tense situation. However, as indicated in endnote 68, Beijing’s increasingly strong diplomatic protest in this case was apparently not limited to the Yellow Sea. It specified opposition to foreign military vessels or planes operating “in China’s *coastal* waters” [authors’ emphasis]. The location of this area was not defined. Specifically, it is unclear, based on the official Chinese Foreign Ministry statements, whether Beijing was cautioning against exercises within its EEZ, or sought to include waters beyond its EEZ. Yet the very general language employed in the June and July statements strongly suggested that Beijing was objecting at that time to the exercises based solely on their proximity to China (i.e., in undefined coastal waters), and not just because the exercises might occur in China’s EEZ. Moreover, the linkage in the official statements made between “coastal waters” and “China’s security interests” suggests that Beijing’s concern was not solely based on the tense situation on the Korean Peninsula. Indeed, this more general threat perception is suggested by unofficial explanations for China’s protest to the exercises provided at the time by serving Chinese military officers.<sup>70</sup> However, in November 2010, Beijing issued official statements objecting only to “any military activities conducted within China’s EEZ without receiving permission.”<sup>71</sup>

What explains such variations in official statements? It appears that a combination of public attention generated by China's unofficial media, along with commentary on the issue by retired military officers, and statements by senior generals, pushed the PRC Ministry of Foreign Affairs (MFA) to adopt the increasingly strong language noted above to protest the U.S./allied exercises, and to characterize China's objections on the basis of activities to occur in its "coastal waters" and not its EEZ. In early June, *Huanqiu Shibao* (Global Times), a newspaper with tabloid-like qualities, published a report from the Yonhap News Agency about upcoming U.S.-South Korean exercises in the Yellow Sea and then interviewed several Chinese military commentators, who described them as provocative. The report did not state where in the Yellow Sea the exercises would occur. It also published an editorial which stated that "emotionally, the Chinese people cannot accept the presence of the U.S. aircraft carrier in the Yellow Sea." The following day, the paper published the results of an online poll from its website, in which more than 96 percent of respondents agreed that the exercises "pose[d] a threat to China."<sup>72</sup>

In the weeks that followed, the story spread and additional military commentators like retired Major General Luo Yuan began to weigh in, expressing opposition to the exercise. Although the MFA on June 22 used moderate phrasing, stating that they were "following the development closely," the PLA Deputy Chief of Staff (Ma Xiaotian) used much stronger language on July 1 during what appeared to be an impromptu interview on Phoenix Television. He asserted that Beijing was not merely "concerned" about the exercises, but "extremely opposed" (*feichang fandui*, 非常反对) to them because they were "close to Chinese territorial waters."<sup>73</sup>

In a statement on July 6, Foreign Ministry Spokesperson Qin Gang stated, "We have taken note of the remarks of Deputy Chief of General Staff Ma Xiaotian. We will follow closely the situation and make further statements accordingly."<sup>74</sup> Two days later, the Foreign Ministry Spokesperson Qin Gang used much stronger language that appeared to endorse the position articulated by Ma Xiaotian. He stated that China "resolutely opposed" (*jianjue fandui*, 坚决反对) the presence of "foreign ships" in the Yellow Sea and "other coastal waters [*jinhai*, 近海]" that would influence "China's security interests."<sup>75</sup> In addition, in the above-noted statement of July 15, Foreign Ministry Spokesperson Qin Gang also stated: "The Chinese public has also voiced their strong feelings. We will closely follow the developments of the situation."<sup>76</sup>

Taken together, the above contextual factors suggest that although China was again reacting to what were viewed as potentially dangerous and provocative actions by others (in the form of nearby military exercises), it was also being more broadly assertive by couching its objection within a larger official stance of opposition to the conduct of any activities affecting China's security and interests taking place in coastal waters (which overlap considerably with China's EEZ). The episode was also propelled by the role of the media in stoking public opinion, which created an opportunity for military commentators to speak out on the issue, culminating in Ma Xiaotian's July 1 interview.

However, China appeared to clarify its position in November 2010, in response to a further escalation of the situation on the Korean Peninsula. After North Korea shelled

South Korea's Yeonpyeong Island, killing several persons, and the U.S. and South Korea announced additional military exercises in response (which included the participation of a U.S. carrier), Beijing issued the abovementioned statement protesting only "any military activities conducted within China's EEZ without receiving permission."<sup>77</sup>

As suggested above, this focus on China's EEZ appeared to constitute a more clearly defined and perhaps more legally defensible position. It also reflected some moderation from the stance taken in July. Beijing (or at least the Foreign Ministry) probably calculated that a repeat of the "maximalist" position presented in the summer would have proven excessively provocative to Washington and Seoul in that instance, given North Korea's clear provocation, and the anger felt in the U.S. and South Korea over Beijing's earlier prevarications concerning Pyongyang following the *Cheonan* incident.

## Conclusions and Prospects

The foregoing analysis indicates that interpreting recent Chinese assertiveness with regard to maritime sovereignty claims and maritime periphery defense is by no means a simple and straightforward matter. On the broadest level, regarding its disputed territorial claims, in the past few years, China has not altered its basic, longstanding two-sided strategy of a) avoiding conflict while deferring the resolution of difficult disputes (such as those in the East China Sea and South China Sea) in favor of negotiation and cautious management (sometimes involving notable concessions), while b) maintaining a resolute defense against perceived attempts by others to undermine China's diplomatic, legal, political, economic, and military position.

The first half of this strategy means that whatever assertive actions China might have taken concerning its maritime sovereignty claims, such actions have not constituted unilateral attempts to resolve a particular issue by force or otherwise reject a preference for negotiation. When possible, Beijing has attempted to maintain an emphasis on bilateral negotiation and avoid conflict.<sup>78</sup>

Apart from the 2008 consensus agreement for developing resources in the East China Sea, Beijing has not compromised in any outstanding territorial or maritime sovereignty dispute since it resolved the conflict with Russia over Heixiazi Island at the confluence of the Amur and Ussuri rivers in 2004. At the same time, China has demonstrated a growing willingness and ability to affirm its claims and to support its claims in new ways, in large part via an enhanced physical presence and more clearly defined legal and diplomatic statements. As shown above, this greater assertiveness stems from a variety of sources, including: 1) a greater ability to deploy more-numerous and in some cases more-capable air and naval assets of various types (both military and especially civilian) into or near disputed areas, thus increasing China's capability and willingness to defend its interests; 2) the emergence of new, more diverse, and highly active popular and elite media, along with a greater level of media freedom to comment on maritime sovereignty issues, thus increasing the speed, scope, and intensity of public scrutiny paid to disputes, resulting in greater pressure on China's leaders; and 3) a more active stance (or specific "provocations," from Beijing's perspective) by claimants and/or other foreign entities

operating in China’s claimed territorial waters, EEZ, or even coastal waters beyond the EEZ, thus prompting what Beijing regard as a logical and necessary response, in order to defend its policies and prevent an adverse change in the status quo.<sup>79</sup>

In addition, the intensity of Beijing’s response (as well as, in some cases, actions that precipitate assertive government actions by both sides, as in the September 2010 Sino-Japanese boat collision) are increasingly influenced by the more assertive behavior of growing numbers of subordinate governmental actors or even some nongovernmental or quasi-governmental actors, such as oil companies, fishermen, scientists, five maritime law enforcement agencies, and local governments. As we have seen, the Chinese military in particular is probably taking a more active and assertive stance toward maritime sovereignty issues, via both official and unofficial statements in the media and through the exercise of a quasi-independent level of control over many of the operational aspects of China’s military presence in the western Pacific.<sup>80</sup>

In looking toward the future, and taken as a whole, the above analysis suggests that China’s longstanding and deep-rooted two-sided approach to dealing with maritime sovereignty disputes is unlikely to change significantly in the near to medium term. Nonetheless, increases in China’s strength relative to other powers in the western Pacific (including, perhaps, the United States), combined with the emergence of more-assertive actors not entirely controlled by the central civilian government (including, most likely, / the military), a more open and active media, and rising levels of national self-confidence will together almost certainly increase the number and intensity of troublingly assertive behaviors by Beijing along its maritime periphery. Since most other countries involved in maritime disputes are much weaker than China, most of these incidents will be diplomatic and not military in nature. However, the potential for rapid escalation in some cases, and the arguably growing possibility that the U.S. might intervene militarily if coercion or conflict results, suggests that growing Chinese assertiveness over maritime sovereignty issues is arguably one of the most important potential causes of serious confrontation or even conflict between the U.S., allied powers, and China over the coming years.

## Appendix:

### Timeline of Actions of South China Sea Claimants Other than China

<i>Date</i>	<i>Action</i>
2006–2007	Vietnam increases offshore petroleum exploration projects in waters claimed by China.
January 2007	The Fourth Plenum of the Vietnam Communist Party’s Central Committee adopts a resolution mandating the development of a national ‘Maritime Strategy Towards the Year 2020.’ The strategy envisions that maritime industries, especially fishing and petroleum, would account for 55 percent of GDP in 2020, up from 48 percent in 2005.
April 2007	Vietnam elevates Trường Sa (Spratly Island) to the level of a “township”

- under the Trùng Sa District.
- November 2007 The Philippine legislature begins debate on an archipelagic baselines law, which includes 53 features from the Spratlys as part of the Philippine archipelago.
- June 2008 The 2004 joint seismic survey agreement with the Philippines and Vietnam expires, dashing China's hopes for "joint development" (Deng Xiaoping's guideline for managing these disputes).
- February 2009 The Philippine legislature passes an archipelagic baseline law that includes claims to some of the Spratlys. The bill is signed into law in March 2009.
- March 2009 Malaysian Prime Minister Badawi makes a public visit to Swallow Reef, a feature in the South China occupied by Malaysia, to demonstrate Malaysia's own claim.
- November 2009 Vietnam's foreign ministry hosts a large international academic conference on the South China Sea to launch its campaign to "internationalize" the dispute.
- December 2009 The number of Vietnamese fishing vessels sheltering in the Paracel Islands, controlled by China since 1974, increases (many are detained by China).
- January 2010 Vietnam assumes the rotating chairmanship of ASEAN and begins a public effort to build consensus within ASEAN on the South China Sea.
- March 2010 The Vietnamese prime minister makes a public visit to one of the Vietnamese-held Spratly Islands to demonstrate Vietnam's claim.
- April 2010 Approximately 20 Vietnamese fishing and coast guard vessels surround a Chinese Fisheries Administration patrol vessel.
- July 2010 The United States and 11 other countries express concern about the situation in the South China Sea during the annual meeting of the ASEAN Regional Forum.
- November 2010 Vietnam's foreign ministry hosts a second international academic conference on the South China Sea.
- February 2011 The Philippines begins a seismic survey in the waters near Reed Bank.
- April 2011 The Philippines submits a *note verbale* to the UN contesting China's claims from its May 2009 note to the UN.
- March 2011 Vietnam begins seismic surveys in waters claimed by China
- June 2011 Five legislators from the Philippines visit Thitu Island
- June 2011 Vietnam holds live-fire naval exercises in the South China Sea.

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## Notes

<sup>1</sup> In this issue, we are privileged to have M. Taylor Fravel of MIT, one of the leading experts on China's behavior with regard to territorial issues, serve as co-author. His books include *Strong Borders, Secure Nation: Cooperation and Conflict in China's Territorial Disputes* (Princeton, 2008).

<sup>2</sup> M. Taylor Fravel, "China's Strategy in the South China Sea," *Contemporary Southeast Asia* (forthcoming): The basis for the PRC's claims in the South China Sea is a statement that Zhou Enlai issued in 1951 during the peace treaty negotiations with Japan, which declared China's sovereignty over the Paracel and Spratly islands, the two archipelagos that are disputed in the South China Sea. Claims to these islands were re-affirmed in September 1958, when China claimed rights to territorial waters during the Jinmen crisis. The claim was codified by the National People's Congress (NPC) in 1992, when the islands were included in the text of the *Law of the People's Republic of China on the Territorial Waters and the Contiguous Zone* that was passed to claim maritime rights under UNCLOS. In 1996, China issued a declaration on the baselines of its territorial sea, which established baselines for the Paracel (Xisha) Islands, and in 1998, the NPC codified China's claim to EEZs from its land features. Thus, China claims the islands and other features in the South China Sea and also claims maritime rights based on its claim to these land features.

<sup>3</sup> The first two documents are, respectively, People's Republic of China, *Note Verbale* to the Secretary General of the United Nations with regard to the joint submission made by Malaysia and Viet Nam to the Commission on the Limits of the Continental Shelf, CML/17/2009, May 7, 2009 ([http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/mysvnm33\\_09/chn\\_2009re\\_mys\\_vnm\\_e.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2009re_mys_vnm_e.pdf), hereafter referred to as "PRC, *Note Verbale* May 2009") and People's Republic of China, "Preliminary Information Indicative of the Outer Limits of the Continental Shelf Beyond 200 Nautical Miles of the People's Republic of China," May 11, 2009 ([http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/preliminary/chn2009preliminaryinformation\\_english.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/preliminary/chn2009preliminaryinformation_english.pdf); henceforth cited as "PRC, 'Preliminary Information'"). This preliminary submission constitutes a statement of intention to submit continental shelf applications and provide initial information supporting such claims. The third document is People's Republic of China, *Note Verbale* to the Secretary-General of the United Nations with regard to the Republic of Philippines' Note Verbale No.000228, CML/8/2011, April 14, 2011 (hereafter shortened to "PRC, *Note Verbale* April 2011"). English translation at [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/vnm37\\_09/chn\\_2011\\_re\\_phl\\_e.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/chn_2011_re_phl_e.pdf); Chinese version available at [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/vnm37\\_09/chn\\_2011\\_re\\_phl.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/chn_2011_re_phl.pdf).

<sup>4</sup> "Foreign Ministry Spokesperson Jiang Yu's Regular Press Conference on January 5, 2010," Ministry of Foreign Affairs of the People's Republic of China, January 6, 2010, <http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t650054.htm>; "Foreign Ministry Spokesperson Hong Lei's Regular Press Conference on February 1, 2011," Ministry of Foreign Affairs of the People's Republic of China, February 2, 2011, <http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t792082.htm>; and "Foreign Ministry Spokesperson Jiang Yu's Regular Press Conference on March 24, 2011," Ministry of Foreign Affairs of the People's Republic of China, March 25, 2011, <http://www.fmprc.gov.cn/eng/xwfw/s2510/t810015.htm>.

<sup>5</sup> Robert Beckman, "South China Sea: How China Could Clarify its Claims," RSIS Commentary no. 116/2010, September 16, 2010, <http://www.rsis.edu.sg/publications/Perspective/RSIS1162010.pdf>; Yang Fang, "China's Position on the South China Sea: Problems and Progress," RSIS Commentary no. 162/2010, December 2, 2010, <http://www.rsis.edu.sg/publications/Perspective/RSIS1162010.pdf>. For a list of documents that China has submitted to the UN relating to its maritime sovereignty claims, see <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/CHN.htm>.

<sup>6</sup> PRC, "Preliminary Information" (see note 3, above).

<sup>7</sup> "China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof. China's sovereignty and related rights and jurisdiction in the South China Sea are supported by abundant historical and legal evidence. . . . Since 1930s, the Chinese Government has given publicity several times the geographical scope of China's Nansha Islands and the names of its components. China's Nansha Islands is therefore clearly defined. In addition, under the relevant provisions of the *1982 United Nations Convention on the Law of the Sea*, as well as the *Law of the People's Republic of China on the Territorial*

*Sea and the Contiguous Zone (1992)* and the *Law on the Exclusive Economic Zone and the Continental Shelf of the People's Republic of China (1998)*, China's Nansha Islands is fully entitled to Territorial Sea, Exclusive Economic Zone (EEZ) and Continental Shelf." PRC, *Note Verbale* April 2011.

<sup>8</sup> Robert Beckman, "Islands or Rocks? Evolving Dispute in South China Sea," RSIS Commentary no. 75/2011, May 10, 2011, <http://www.rsis.edu.sg/publications/Perspective/RSIS0752011.pdf>.

<sup>9</sup> Beckman, in "South China Sea" (see note 5, above), states: "What some observers regard as particularly significant is that this is apparently the first time China attached the map to an official communication to the UN. This has led some to conclude that China is officially claiming all the waters within the u-shaped line as its territorial or historic waters, a position which is contrary to the 1982 Law of the Sea Convention (UNCLOS)."

<sup>10</sup> M. Taylor Fravel, "China's Behavior in Its Territorial Disputes: Past, Present, and Future," unpublished paper, February 2011.

<sup>11</sup> Fravel, "China's Strategy" (see note 2, above). Pursuant to [Article 76](#) of UNCLOS, coastal states are able to claim extended continental shelves (ECS) beyond 200 nautical miles (the breadth of the EEZ). They were asked to submit technical information on their ECS claims to UNCLOS's Commission on the Limits of the Continental Shelf (CLCS) by May 13, 2009. Vietnam and Malaysia submitted a [joint claim](#) in the South China Sea on May 6, 2009, and Vietnam submitted an additional [separate claim](#) on May 7, 2009. China sent two *notes verbales* to the UN repudiating the claims of Vietnam and Malaysia, which were then rebutted by Vietnam and Malaysia in similar notes. The Chinese notes were virtually identical in content, and bore nearly identical titles. They were the aforementioned PRC, *Note Verbale* May 2009, and People's Republic of China, *Note Verbale* to the Secretary-General of the United Nations with regard to the submission made by Viet Nam to the Commission on the Limits of the Continental Shelf, CML/18/2009, May 7, 2009, [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/mysvnm33\\_09/chn\\_2009re\\_mys\\_vnm\\_e.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2009re_mys_vnm_e.pdf). For all correspondence related to the joint Malaysia-Vietnam claim, see [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/submission\\_mysvnm\\_33\\_2009.htm](http://www.un.org/Depts/los/clcs_new/submissions_files/submission_mysvnm_33_2009.htm); for all correspondence related to Vietnam's independent claim, see [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/submission\\_vnm\\_37\\_2009.htm](http://www.un.org/Depts/los/clcs_new/submissions_files/submission_vnm_37_2009.htm). See also United Nations Convention on the Law of the Sea (UNCLOS), concluded December 10, 1982 (entered into force November 16, 1994), 1833 UNTS 3; 21 ILM 1261 (1982) [http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/closindx.htm](http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm).

<sup>12</sup> PRC, "Preliminary Information." Originally, on May 13, 1999, countries were given a 10-year window to submit claims for ECS. However, China and others pressed to extend the deadline, and after some negotiation, states were also allowed to merely submit preliminary information indicating their intent to apply and then submit full applications at a later, unspecified date. See Jiang Huai: "Outer Continental Shelf: Last Space for 'Blue Land-Grab'," *Shijie Zhishi*, April 16, 2009, pp. 52–54, OSC CPP20090518671002.

<sup>13</sup> PRC, *Note Verbale* April 2011.

<sup>14</sup> Fravel, "China's Behavior" (see note 10).

<sup>15</sup> Fravel, "China's Strategy." As Fravel states: "China claims the islands and other features in the South China Sea and also claims maritime rights based on its claim to these land features. These claims are usually expressed in the language "China has indisputable sovereignty over the Spratly Islands (or South China Sea islands) and adjacent waters." Also see "Foreign Ministry Spokesperson Qin Gang's Remarks on Malaysian Prime Minister Claiming Sovereignty Over the Danwan Reef," Ministry of Foreign Affairs of the People's Republic of China, March 6, 2009, <http://www.fmprc.gov.cn/eng/xwfw/s2510/2535/t541186.htm>; "Foreign Ministry Spokesperson Jiang Yu's Regular Press Conference on January 24, 2008," Ministry of Foreign Affairs of the People's Republic of China, January 25, 2008, <http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t402972.htm>; Ministry of Foreign Affairs of the People's Republic of China, "The Issue of South China Sea," June 2000, English translation available at <http://www.fas.org/news/china/2000/china-000600.htm>; Mingjiang Li, "Reconciling Assertiveness and Cooperation? China's Changing Approach to the South China Sea Dispute," *Security Challenges*, vol. 6, no. 2 (Winter 2010), 49–68, <http://www.securitychallenges.org.au/ArticlePDFs/vol6no2Mingjiang.pdf>; and Jianming Shen, "China's Sovereignty over the South China Sea Islands: A Historical Perspective," *Chinese Journal of International Law*, no. 1 (2002), <http://chinesejil.oxfordjournals.org/content/1/1/94.full.pdf>.

<sup>16</sup> An online search of both the English and Chinese websites of the PRC Ministry of Foreign Affairs revealed no similar phrase. A search for the phrase 主权利和管辖权 (“sovereign rights and jurisdiction”) yielded only references to China’s stance with regard to the Chunxiao oil and gas fields in the East China Sea, and a conference on the Arctic.

<sup>17</sup> For example, as Beckman states, “The Note contains no language suggesting that China claims that all the waters inside the dotted-line are its territorial waters or historic waters, or that it has any historic rights in the waters inside the dotted-line. This suggests that China’s claim is only to the islands inside the dotted-line, and to the maritime zones that can be generated from such islands, a position consistent with UNCLOS.” See Robert Beckman, “South China Sea: Worsening Dispute or Growing Clarity in Claims?” RSIS Commentary no. 90, August 16, 2010, <http://www.rsis.edu.sg/publications/Perspective/RSIS0902010.pdf>.

<sup>18</sup> It is likely that no state would be able to claim a continental shelf from features in the Spratly Islands, because the shelf drops off quickly from features in the islands. That is why none of the other claimants claimed such rights *from the islands* in their 2009 submission to the UN.

<sup>19</sup> UNCLOS uses the term “adjacent” to define the “territorial sea,” and that territorial sea can be established at a breadth up to 12 nautical miles. The terms “sovereign rights” and “jurisdiction” come directly from the UNCLOS section on the EEZ, where they are also connected with “the seabed and subsoil.” The term “sovereign rights” and “seabed and subsoil” used in the *note verbale* also are found in the UNCLOS section on the Continental Shelf. See United Nations Convention on the Law of the Sea (UNCLOS), concluded December 10, 1982 (entered into force November 16, 1994), 1833 UNTS 3; 21 ILM 1261 (1982) [http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/closindx.htm](http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm). Also see Beckman, “South China Sea: Worsening?” (note 17, above).

<sup>20</sup> According to Article 121(3) of UNCLOS (see preceding note), if an island is a rock “which cannot sustain human habitation or economic life of [its] own [it] shall have no exclusive economic zone or continental shelf.” At the same time, this UNCLOS article does not state that such a “rock” cannot be claimed as the sovereign territory of a state or that its adjacent 12-mile waters cannot be claimed as territorial waters. As indicated, many of the land features in the South China Sea fit into this category. It is not clear whether China claims sovereignty over any such “rocks,” much less an EEZ/ECS extending from them. That said, China has made at least one other submission to UNCLOS, again in response to a submission by another nation (in this case Japan), suggesting that it accepts the notion, defined in Article 121(3), that uninhabited rocks *cannot* be used as a basis for claims to an EEZ or an ECS. See People’s Republic of China, “Note Verbale to the Secretary-General of the United Nations with Reference to Japan’s Submission to the Commission on the Limits of the Continental Shelf,” November 12, 2008, CML/2/2009, February 6, 2009, [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/jpn08/chn\\_6feb09\\_e.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/jpn08/chn_6feb09_e.pdf). Also see People’s Republic of China, “Proposal for the inclusion of a supplementary item in the agenda of the nineteenth Meeting of States Parties,” May 21, 2009, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/346/61/PDF/N0934661.pdf?OpenElement>. As Beckman states, given this Chinese precedent, the other claimants in the South China Sea “are likely to maintain that this argument should also apply to the small geographic features in the Spratly Islands as well.” Beckman, “Islands or Rocks?” (see note 8).

<sup>21</sup> Of course, because such hypothetical EEZs overlap with the claims of other states, China would be bound by UNCLOS to reach a fair resolution on the disputed areas.

<sup>22</sup> Fravel buttresses this interpretation by stating: “When China issued its territorial waters baselines in 1996, it drew baselines around the Paracels but not the Spratlys. Although unnoticed at the time, this act suggests that China intends to proceed with its claims in the South China Sea through UNCLOS. If the ‘nine-dotted line’ represented historic waters or anything other than a claim to the islands contained within the line, then China would have no need to draw baselines around the Paracels or claim an EEZ [from those baselines].” Fravel, “China’s Behavior.” At the same time, as Fravel also states, “the unwillingness or inability of the Chinese government to define the line . . . allows various actors within China to define the line as representing territorial waters, historic waters, or customary waters.” Fravel, “China’s Strategy.” Analysts have also noted that China’s drawing straight baselines around the Paracels is inconsistent with UNCLOS, since China is a continental and not an archipelagic state—though Vietnam has also drawn straight baselines in a similar fashion, not to mention Ecuador around the Galapagos and the United Kingdom around the Falkland Islands. See Robert Beckman, “UNCLOS and the Maritime Security of China,” presented at Conference on China and East Asia Strategic Dynamics, March 11-12, 2010,

Singapore, <http://cil.nus.edu.sg/wp/wp-content/uploads/2010/08/Beckman-paper-RSIS-Conference-March-2010.pdf>.

<sup>23</sup> Beckman, “South China Sea: Worsening?”

<sup>24</sup> As Peter Prows states, UNCLOS definitions of the continental shelf represent an attempt to depoliticize claims to maritime territory “by defining the breadth of continental shelves according to legalized scientific criteria.” See Peter Prows, “Tough Love: The Dramatic Birth and Looming Demise of UNCLOS Property Law (and What Is To Be Done About It),” July 2006, New York University Public Law and Legal Theory Working Papers, Paper 30, [http://lsr.nellco.org/nyu\\_plltwp/30](http://lsr.nellco.org/nyu_plltwp/30).

<sup>25</sup> Although not a binding legal document, the DOC contains a “collective commitment to promot[e] peace and stability in [the South China Sea] through dialogue and cooperation and the peaceful resolution of disputes in accordance with universally agreed principles of international law including the United Nations Convention on the Law of the Sea (UNCLOS 1982) and other relevant international maritime laws.”

“Chairman’s Statement of the 17th ASEAN Summit,” Ha Noi, October 28, 2010,

<http://www.aseansec.org/25452.htm>. In support of those ends, the DOC pledged the claimants to “exercise self-restraint . . . by refraining from action of inhabiting on the presently uninhabited islands” and to engage in various confidence-building measures, such as cooperative activities related to environmental protection, marine research, safety and communication, search and rescue, and combating illicit drugs and arms trafficking and piracy. See “Declaration on the Conduct of Parties in the South China Sea,” November 4, 2002, <http://www.aseansec.org/13163.htm>. After the 2002 Declaration of Conduct was signed, a joint working group on implementation of the declaration was formed in 2004. See “Need To Clarify the Complex Issues Relating to South China Sea,” interview with Vu Ho, deputy director of ASEAN Department under the Ministry of Foreign Affairs, by Xuan Linh, April 19, 2010, *VietnamNet*, OSC SEP20100420013007. Also see Carlyle A. Thayer, “Recent Developments in the South China Sea: Grounds for Cautious Optimism?” RSIS Working Paper no. 220, December 14, 2010, <http://www.rsis.edu.sg/publications/WorkingPapers/WP220.pdf>.

<sup>26</sup> See Chairman’s Statement of the 13th ASEAN-China Summit, Ha Noi, October 29, 2010,

<http://www.aseansec.org/25481.htm>; Ian Storey, “China’s Missteps in Southeast Asia: Less Charm, More Offensive,” *China Brief*, vol. 10, no. 25, December 17, 2010, [http://www.jamestown.org/single/?no\\_cache=1&tx\\_ttnews%5Btt\\_news%5D=37294](http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=37294); and Yang Fang, “China’s Position on the South China Sea: Problems and Progress,” RSIS Commentary no. 162/2010, December 2, 2010, <http://www.rsis.edu.sg/publications/Perspective/RSIS1162010.pdf>. Yang states: “China has recently announced that it is working with all of the 10 ASEAN countries to formalise the 2002 Declaration of Conduct of Parties (DOC) dealing with the South China Sea territorial dispute. Despite China’s reluctance to internationalise the issue and stick to a bilateral solution to the problem, its overture to ASEAN has been seen as Beijing’s willingness to defuse the tension.”

<sup>27</sup> For example, Ian Storey reports talks between ASEAN and China on implementation guidelines reportedly remain “deadlocked over modalities, primarily because Beijing insists that ASEAN members should not discuss the dispute prior to meeting with Chinese officials.” (“China and the Philippines: Implications of the Reed Bank Incident,” *China Brief*, vol. 11, no. 8, May 6, 2011). See also Carlyle A. Thayer, “Recent Developments in the South China Sea: Grounds for Cautious Optimism?” RSIS Working Paper no. 220, December 14, 2010, <http://www.rsis.edu.sg/publications/WorkingPapers/WP220.pdf>.

<sup>28</sup> “中国与东南亚邻国开始谈判商讨南海行为新准则,” 《东方早报》 (“China and Southeast Asian neighbors begin negotiations to discuss a new code of conduct in the South China Sea,” *Dongfang Zaobao*), October 2, 2010, [http://news.ifeng.com/mil/1/detail\\_2010\\_10/02/2692626\\_1.shtml](http://news.ifeng.com/mil/1/detail_2010_10/02/2692626_1.shtml). “刘建超表示, 中国现在‘对保持该地区和平、繁荣和稳定的不同准则和倡议持开放态度’。‘任何对达到这个目标具有建设性的想法都受中方欢迎。’他说, ‘对于我们来说最重要的是, 每个人都应以合作的精神向前进。’” (“Liu Jianchao stated, China is now ‘open to different formulas and initiatives that will preserve peace, prosperity and stability in this region.’ ‘Any constructive ideas that are conducive to this goal are welcomed by the Chinese side.’ He said, ‘The most important thing for us is that everybody should move forward in the spirit of cooperation.’”) See also “China, ASEAN begin discussion on stronger code of conduct,” Xinhua, September 30, 2010, [http://www.chinadaily.com.cn/china/2010-09/30/content\\_11371512.htm](http://www.chinadaily.com.cn/china/2010-09/30/content_11371512.htm).

<sup>29</sup> See Hillary Rodham Clinton, Secretary of State, “America’s Engagement in the Asia-Pacific,” remarks at the Kahala Hotel, Honolulu, HI, October 28, 2010, <http://www.state.gov/secretary/rm/2010/10/150141.htm>;

and Kurt M. Campbell, Assistant Secretary, Bureau of East Asian and Pacific Affairs, “Press Availability in Kuala Lumpur, Malaysia,” March 10, 2010, <http://www.state.gov/p/eap/rls/rm/2010/03/138007.htm>.

<sup>30</sup> Fravel states: “Although detentions occurred in earlier years, and Vietnamese vessels were detained outside of the period of the ban, China nevertheless demonstrated an increased willingness to enforce the ban not just against Chinese boats but also against foreign ones.” Fravel, “China’s Strategy.”

<sup>31</sup> Vessels conducting a cruise have several tasks: to enforce China’s fishing laws, demonstrate China’s sovereignty over contested waters, and provide aid and assistance to Chinese fishermen. Such aid includes search and rescue, but also protection against detention by law enforcement patrols from other countries (termed *huyu*, 护渔). With respect to the exercise of sovereignty, one of the most important acts in addition to cruises is the detention of foreign fishing vessels and their crews. Fravel, “China’s Strategy.”

<sup>32</sup> While reporting is sporadic and largely based on Vietnamese sources, “between 2005 and October 2010, China detained 63 fishing boats with 725 men. Roughly half of these detentions occurred in 2009, when Vietnamese sources indicate that China detained 33 boats with 433 sailors aboard. Total numbers for 2010 are unavailable, but they appear to be much lower.” These detentions usually have taken place around or near the Paracels not the Spratlys. Typically, the crew and boat are seized and the equipment and catch are confiscated, but the crew and boat are usually released after a fine is paid. Fravel, “China’s Strategy.”

This is apparently increasingly the case in 2011. According to a Reuters press digest of Vietnamese news, “China has changed the way it harasses Vietnamese fishermen, seizing equipment instead of detaining and beating them and asking for ransoms” according to a Vietnamese border patrol representative in the central province of Quang Ngai. “Press Digest—Vietnam newspapers—May 31,” Reuters, May 30, 2011, <http://www.reuters.com/article/2011/05/31/vietnam-press-idUSL3E7GV05M20110531>. See also Ben Bland, “Vietnam’s fishermen on front line in China clash,” *Financial Times*, June 20, 2011, <http://www.ft.com/cms/s/0/0b4e8380-9b52-11e0-bbc6-00144feabdc0.html#ixzz1PxxC6gIP>.

<sup>33</sup> See remarks of Carlyle Thayer, Ian Storey, and Tran Truong Thuy at CSIS conference on Maritime Security in the South China Sea, June 20, 2011; Carl Thayer, “Aggressive Assertiveness: Beijing Ratchets Up Pressure in South China Sea,” *Defense News*, June 12, 2011; Ian Storey, “China and the Philippines: Implications of the Reed Bank Incident,” *China Brief*, vol. 11, no. 8, May 6, 2011; Bland and Kathrin Hille, “Vietnam and China oil clashes intensify,” *Financial Times*, May 27, 2011, <http://www.ft.com/intl/cms/s/0/4d3badc0-8867-11e0-a1c3-00144feabdc0.html#axzz1PwWalgAa>; “Philippines protests to China over oil rig plan,” Agence France-Presse, June 1, 2011. In his remarks, Thuy noted that the clashes between Chinese patrol boats and the Vietnamese oil exploration vessels occurred on the Vietnamese side of any potential median line between an EEZ drawn from the baselines of China’s claimed territory and the Vietnamese coastline, which he pointed to as an example of increased Chinese assertiveness.

Thayer and Storey, as well as Bonnie Glaser in her remarks at the same CSIS conference, also noted that Chinese ships had allegedly been seen unloading construction materials near Amy Douglas Bank and placing posts and a buoy near the bank. If these reports are true, Storey noted, it would be one of the most serious violations of the 2002 Declaration of Conduct to date. However, it is important to note that it does not appear that any structures have yet been built, and the presence of the buoy does not clearly and definitively signal an attempt at “inhabiting on the presently uninhabited” feature (to use language from the DOC). See “Statement of the Department of Foreign Affairs On Developments in the West Philippine Sea (South China Sea),” Republic of the Philippines Department of Foreign Affairs, June 1, 2011, <http://dfa.gov.ph/main/index.php/newsroom/dfa-releases/3112-statement-of-the-department-of-foreign-affairs-on-developments-in-the-west-philippine-sea-south-china-sea>.

<sup>34</sup> The PLAN first operated in the disputed waters in 1983. Fravel, “China’s Strategy.”

<sup>35</sup> Fravel, “China’s Strategy.” Also see Tim Cook, Rising Tensions in the South China Sea, NBR Expert Interview with Iain J. Storey, The National Bureau of Asian Research, at <http://www.nbr.org/research/activity.aspx?id=151>; and Abe Denmark, “China’s Navy Gets Its Act Together, and Gets Aggressive,” *Wired*, Danger Room, April 26, 2010, <http://www.wired.com/dangerroom/2010/04/chinas-navy-gets-its-act-together-and-gets-aggressive/#ixzz0yO6DNodl>.

<sup>36</sup> See, for example, Carlyle A. Thayer, “The United States and Chinese Assertiveness in the South China Sea,” *Security Challenges*, vol. 6, no. 2 (Winter 2010): 69–84; Remarks of panelists Bonnie Glaser, Tran Truong Thuy, Carlyle Thayer, and Ian Storey at CSIS conference on Maritime Security in the South China

Sea, June 20, 2011; Carl Thayer, “Aggressive Assertiveness: Beijing Ratchets Up Pressure in South China Sea,” *Defense News*, June 12, 2011.

<sup>37</sup> For example, Vice Foreign Minister Cui Tiankai stated in June 2011, “We are troubled by some recent events in the South China Sea but we were not the party who provoked these incidents. . . . If you examine the facts closely, you will recognize who are the countries that have occupied islands under other countries’ sovereignty by illegal means. It was certainly not China. Who are the countries that have done the most to explore oil and gas resources in the region? It was certainly not China. Who are the countries that displayed force or used force against the fishermen of other countries? Again, it was certainly not China.” Quoted in “China Urges U.S. to Stay Out of Sea Dispute,” Reuters, June 22, 2011.

<sup>38</sup> Fravel, “China’s Behavior.” See also National Committee for Border Affairs, Ministry of Foreign Affairs, Socialist Republic of Viet Nam, “The Indisputable Sovereignty of Viet Nam over the Parcel Islands,” published online in Vietnamese, January 30, 2011, translated by Nguyễn Trịnh Đôn, June 8, 2011, English translation available at <http://en.seasfoundation.org/index.php>, original in Vietnamese available at <http://www.biengioilanhtho.gov.vn/Media/bbg/News/Archives/vie/chu%20quyen%20tren%20%20quan%20dao%20Hoang%20Sa%20-%20Truong%20sa.pdf>. This official Vietnamese source notes that “in April 2007, the Government of Viet Nam established Trường Sa Township (thị xã), Song Tử Tây and Sinh Tồn Communes (xã) under Trường Sa District (huyện) in the Spratly Islands.”

<sup>39</sup> In October 2008, a PLAN surface action group for the first time steamed through the Tsugaru Strait, circumnavigated Japan, and circled back to port by way of the international strait between Okinawa and the Miyako Islands. In June 2009, a Chinese naval flotilla visited waters near Okinotorishima through the same maritime strait. In March 2010, six ships from the North Sea Fleet (Beihai based in Qingdao) passed through the Miyako Strait near Japan and the Bashi Strait between the Philippines and Taiwan and continued on to the South China Sea and as far south as the Malacca Strait. These ships were part of a large North Sea Fleet exercise discussed above, in the section on the South China Sea. In April 2010, two Japan Maritime Self-Defense Force destroyers encountered eight PLAN warships and two submarines in international waters southwest of Okinawa, near the Ryukyus. The Chinese squadron transited the Miyako Strait before turning south toward Okinotorishima.

According to some observers, the March and April 2010 missions were the first naval deployments of any size beyond the ‘First Island Chain’—the term used by China for the line formed by the Aleutians, the Kuriles, Japan’s archipelago, the Ryukyus, Taiwan, the Philippines and Borneo. One report states that the unprecedented deployments of Chinese North and East Sea fleets to southern waters “marks a shift towards a consolidated central command and away from the out-of-date system of having three independently operating fleets. It shows that the navy is willing and able to break through the First Island Chain and into the Pacific—a substantial change from previous doctrine. The new focus is now on ‘long-range maritime training’ in order to ‘protect national maritime sovereignty.’” See Chinese Navy’s New Strategy in Action,” *Strategic Comments* (Institute for International Strategic Studies), vol. 16, no. 16 (May 2010). And according to some reports, this was the first time such a large number of Chinese warships had come so close to Japan. As the two Japanese destroyers shadowed the Chinese flotilla, one vessel was very closely approached by a Chinese helicopter, prompting a Japanese protest. See Toshi Yoshihara and James Holmes, “The Japanese Archipelago through Chinese Eyes,” *China Brief*, vol. 10, no. 16 (August 5, 2010), [http://www.jamestown.org/uploads/media/cb\\_010\\_79.pdf](http://www.jamestown.org/uploads/media/cb_010_79.pdf); “Chinese Submarines, Destroyers Spotted in High Seas Near Okinawa,” Kyodo News, April 13, 2010, <http://www.japantoday.com/category/national/view/chinese-submarines-destroyers-spotted-in-high-seas-near-okinawa>; Abe Denmark, “China’s Navy Gets Its Act Together, and Gets Aggressive,” *Wired*, April 26, 2010, <http://www.wired.com/dangerroom/2010/04/chinas-navy-gets-its-act-together-and-gets-aggressive/#ixzz0yO6DNodl>; Edward Wong, “Chinese Military Seeks to Extend Its Naval Power,” *New York Times*, April 23, 2010; and Peter J Brown, “China’s Navy Cruises into Pacific Ascendancy,” *Asia Times*, April 22, 2010, <http://www.atimes.com/atimes/China/LD22Ad01.html>.

Then, in June 2011, several PLAN warships again transited on high seas between Okinawa and the Miyako Islands, which some observers described as a scenario that is increasingly normal and to be expected. Lyle Goldstein wrote in an email to the *New York Times*, “At one level, this is the new ‘normal.’ . . . This is especially true with respect to the group of Chinese P.L.A. navy ships going through the ‘first island chain’ to conduct a medium-sized exercise.” He added that such events are likely to become increasingly regular and expansive, “especially once China adds a carrier to the mix.” Edward

Wong, “China Navy Reaches Far, Unsettling the Region,” *New York Times*, June 14, 2011, <http://www.nytimes.com/2011/06/15/world/asia/15china.html>.

<sup>40</sup> Reinhard Drifte, “From ‘Sea of Confrontation’ to ‘Sea of Peace, Cooperation and Friendship’?—Japan Facing China in the East China Sea,” *Japan aktuell*, March 2008. Drifte provides a very detailed and balanced examination of the history of Sino-Japanese interactions in the East China Sea.

<sup>41</sup> Yoree Koh, “Boat Crash Fuels Beijing-Tokyo Row,” *Wall Street Journal*, September 8, 2010, <http://online.wsj.com/article/SB10001424052748704362404575479163404472760.html>.

<sup>42</sup> Mure Dickie and Kathrin Hille, “Japan protests over China military incident,” *Financial Times*, March 8, 2011, <http://www.ft.com/cms/s/0/a908e70c-4957-11e0-b051-00144feab49a.html#ixzz1Q6pmOShe>.

<sup>43</sup> However, Beijing argued that the gas fields were part of China’s exclusive economic zone and not subject to the agreement. James J. Przystup, “Japan–China Relations: Gyoza, Beans, and Aircraft Carriers,” *Comparative Connections*, vol. 10, no. 4 (CSIS, January 2009). Kenji Minemura, “PRC Steps Up Offensive on Territorial Dispute Over Senkaku Islands; Heated Exchange During Summit Meeting,” *Asahi Shimbun Online*, December 13, 2008, OSC JPP20081215036002. China started producing gas from Tianwaitian in 2006. See U.S. Energy Information Administration, “East China Sea,” March 2008, [http://ei-01.eia.doe.gov/emeu/cabs/East\\_China\\_Sea/Full.html](http://ei-01.eia.doe.gov/emeu/cabs/East_China_Sea/Full.html).

<sup>44</sup> For example, the Chinese Foreign Ministry repeatedly demarched Tokyo and summoned Japan’s ambassador, sometimes in the middle of the night. Beijing also postponed East China Sea negotiations, cancelled planned high-level talks and visits, detained four Japanese nationals for entering a restricted area, and suggested that tourism with Japan might decline. Beijing also apparently influenced the timing of a reduction in shipments to Japan of rare minerals that had been earlier announced. See Wenran Jiang, “New Twists over Old Disputes in China-Japan Relations,” *China Brief*, vol. 10, issue 20, October 8, 2010; Tania Branigan, “Relations between China and Japan worsen over filming of military targets,” *Guardian*, September 24, 2010. Beijing also reportedly blocked exports to Japan; Richard C. Bush III, “China–Japan Security Relations,” Brookings Policy Brief Series, October 2010, Brookings Institution, [http://www.brookings.edu/~media/Files/rc/papers/2010/10\\_china\\_japan\\_bush/10\\_china\\_japan\\_bush.pdf](http://www.brookings.edu/~media/Files/rc/papers/2010/10_china_japan_bush/10_china_japan_bush.pdf); Elizabeth C. Economy, Joshua Kurlantzick, Sheila A. Smith, and Scott A. Snyder, “Checking China’s Territorial Moves,” October 21, 2010, Interview at Expert Roundup of Council on Foreign Relations, [http://www.cfr.org/publication/23196/checking\\_chinas\\_territorial\\_moves.html](http://www.cfr.org/publication/23196/checking_chinas_territorial_moves.html); M. G. Koo, “The Senkaku/Diaoyu Dispute and Sino-Japanese Political-Economic Relations: Cold Politics and Hot Economics?” *Pacific Review*, vol. 22, no. 2 (2009): 205–32; Krista Wiegand, “China’s Strategy in the Senkaku/Diaoyu Islands Dispute: Issue Linkage and Coercive Diplomacy,” *Asian Security*, vol. 5, no. 2 (2009): 170–93; Justin McCurry, “Japan-China row escalates over fishing boat collision,” *Guardian*, September 9, 2010; Yoree Koh, “Boat Crash Fuels Beijing-Tokyo Row,” *Wall Street Journal*, September 8, 2010; Keith Bradsher, “Amid Tension, China Blocks Vital Exports to Japan,” *New York Times*, September 23, 2010; and Austin Ramzy, “China-Japan Tensions Grow After Shipping Collision,” *Time*, September 13, 2010. Ramzy states: “Beijing’s Foreign Ministry spokeswoman Jiang Yu said Thursday that “Japan’s so-called evidence-taking is illegal, invalid and in vain.”

<sup>45</sup> Danielle Demetriou, “Japan demands China pays for damage to coastguard boats,” *Telegraph*, September 27, 2010; Malcom Foster, “Japan, China test each other’s diplomatic resolve,” Associated Press, September 27, 2010; and Mike Mochizuki, “China over-reached,” Q&A, *Oriental Economist*, vol. 78, no.10 (Japan Watchers LLC, October 2010), pp. 5–7.

<sup>46</sup> For example, Japanese Defense Minister Kitazawa Toshimi was quoted as being “upset that so many Chinese warships had sailed so near to Japan [in April 2010] on their way to the western Pacific Ocean without any prior notification by China.” Peter J. Brown, “China’s navy cruises into Pacific ascendancy,” *Asia Times*, April 22, 2010, <http://www.atimes.com/atimes/China/LD22Ad01.html>.

<sup>47</sup> Rear Adm. Zhang Huachen, deputy commander of the East Sea Fleet, stated in an interview with China National Radio during the 2010 National People’s Congress that “Now changes are occurring in [our] naval strategy, which is shifting from near seas defense (*jinhai fangyu*, 近海防御) to far seas defense (*yuanhai fangwei*, 远海防卫).” See “张华臣：中国海军要向大型化信息化综合化发展” (“Zhang Huachen: China’s Navy is moving toward large-scale development of information technology”), China National Radio, March 6, 2010, [http://www.cnr.cn/junshi/ztl/lh/dbwyxs/201003/t20100306\\_506110904.html](http://www.cnr.cn/junshi/ztl/lh/dbwyxs/201003/t20100306_506110904.html). A far less official statement indicates that Beijing is becoming more assertive with its military in support of existing policies because it has greater capabilities. For example, Xu Guangyu, a retired general, said: “We kept silent about territorial disputes with our neighbours in the past because our navy was incapable of defending our

economic zones, but now the navy is able to carry out its task.” See Cary Huang, “A Bolder China Asserts ‘Core’ Interests But Will It Act?” *South China Morning Post*, August 12, 2010, OSC CPP20100812715004.

<sup>48</sup> As indicated in CLM 33, for many Chinese analysts, China’s behavior in the maritime realm, including both its general naval buildup and its legal and diplomatic stance toward various maritime territorial issues, reflects a natural and necessary desire to protect its growing maritime interests by enhancing its capabilities and presence, thus “[making] up for its past ignorance about sea power.” Hence, for these pundits, it is wrong to interpret such Chinese behavior as aggressive or expansionist. It is what any modernizing power with low initial capabilities and growing interests would do. For example, see Zhang Ting, “China To Face Pressure Defending Interests in South China Sea,” *China Daily*, July 28, 2010, OSC CPP20100728167003.

<sup>49</sup> Toshi Yoshihara and James Holmes, “The Japanese Archipelago through Chinese Eyes,” *China Brief*, vol. 10, issue 16, August 5, 2010, [http://www.jamestown.org/uploads/media/cb\\_010\\_77.pdf](http://www.jamestown.org/uploads/media/cb_010_77.pdf). “Though modest in scale compared to U.S. naval operations, these expeditions demonstrate the PLAN’s capacity to operate east of the Japanese archipelago while testifying to its growing reach in the Western Pacific. Recent Sino-Japanese encounters offer a foretaste of East Asia’s nautical future.”

<sup>50</sup> See Mike Mochizuki, “China over-reached,” Q&A, *Oriental Economist*, vol. 78, no.10 (Japan Watchers LLC, October 2010), pp. 5–7. In addition, Beijing likely perceived a need to act firmly in this case because Japan had apologized to the captain of a *Taiwan* boat that collided with a Japanese Coast Guard frigate in 2008. As Mochizuki states, “From Beijing’s perspective, to have a Taiwanese government stand up to Tokyo and get an apology, and for Beijing not to do the same, would lead to criticisms among nationalists in China.” In this regard, one must remember that Taiwan also claims sovereignty over the Senkaku/Diaoyu islands. Also see Wenran Jiang, “New Twists over Old Disputes in China-Japan Relations,” *China Brief*, vol. 10, issue 20, October 8, 2010. Jiang states: “Beijing perceived the arrest of the Chinese fishing crew on September 7 and later the prolonged detention of the captain by Japan as a unilateral break from the status quo, an escalation of Tokyo’s assertion of sovereignty.”

<sup>51</sup> See Drifte, “From ‘Sea of Confrontation’” (note 40, above). As Drifte writes: “The investigation of the Japanese-Chinese territorial disputes in the [East China Sea] provides an illustration of how Japan has changed its general approach to China, and how it is attempting to balance a much more assertive approach with the relative decline of its power in relation to China. On the Chinese side we see a move away from very centralised control of the disputes to a decisionmaking process where public opinion, individual ministries, oil companies, and particularly the navy are increasingly gaining more influence. Despite China’s relentless pursuit of its energy interests in the [East China Sea], one cannot put the blame completely on China since we have seen that both sides have, at different times, gone ahead without achieving prior consent from the other side.” Also see Haruna Minoura, “Energy Security and Japan-China Relations: Competition or Cooperation,” Master’s Thesis, Elliott School of International Affairs, George Washington University, January 31, 2011. Minoura writes: “on the Japanese side, public opinion and hawkish domestic actors have pressured the government to take a harder line on the dispute. Even after Japan departed from the confrontational approach evident until 2005, it continues to protest China’s drilling of the Tianwaitian field and Chinese activities in the Chunxiao field.” We are indebted to Mike Mochizuki for drawing our attention to these important sources.

<sup>52</sup> Minoura, “Energy Security and Japan-China Relations.”

<sup>53</sup> M. Taylor Fravel, “Explaining Stability in the Senkaku (Diaoyu) Dispute,” in Gerald Curtis, Ryosei Kokubun, and Wang Jisi, eds., *Getting the Triangle Straight: Managing China-Japan-US Relations* (Washington, D.C.: Brookings Institution Press, 2010), [http://www.jcie.org/researchpdfs/Triangle/7\\_fravel.pdf](http://www.jcie.org/researchpdfs/Triangle/7_fravel.pdf).

<sup>54</sup> Maintaining some level of positive influence with Japan provides China with significant benefits, including enhanced leverage over many strategic and economic issues in Northeast Asia, including relations with the U.S. See Michael D. Swaine, *America’s Challenge: Engaging a Rising China in the Twenty-First Century* (Washington, D.C.: Carnegie Endowment, 2011). For a perceptive discussion of Chinese and Japanese motivations and behavior regarding their resource and territorial competition in the East China Sea, see Minoura, “Energy Security and Japan-China Relations.” Minoura writes: “Although the East China Sea dispute is ongoing and disagreements persist with periods of heightened tension, Japan and China have maintained dialogue on the issue at the working-level. . . . [A] joint development agreement [of 2008] aims to manage the EEZ and territorial dispute by focusing on economic cooperation and building confidence between the two sides. In this case, it was the Chinese side which conceded by

agreeing to allow Japanese participation in the gas field already explored by Chinese firms, and to develop an area straddling the median line claimed by Japan. However, the dispute is ongoing because neither side is willing to compromise their sovereignty claims in the East China Sea.”

<sup>55</sup> “China, Japan leaders agree to improve ties,” Agence France-Presse, October 5, 2010.

<sup>56</sup> As Fravel states: “China has never used major military force to uphold its claims to maritime rights (as distinct from using force over claims to islands and features that can generate maritime rights). Taken together, these dimensions suggest that China is likely to maintain a strategy of delaying the settlement of its remaining territorial disputes. China will emphasize defending its existing claims from challenges by other states and, perhaps, adopting confidence-building or conflict management measures to limit the ability of these disputes to harm China’s broader grand strategy of reassurance and its engagement with the region.” Fravel, “China’s Behavior.”

<sup>57</sup> See Yann-Huei Song, “Declarations and Statements with Respect to the 1982 UNCLOS: Potential Legal Disputes between the United States and China after U.S. Accession to the Convention,” *Ocean Development and International Law*, vol. 36 (2005): 261–89.

<sup>58</sup> Ibid. Also see Ren Xiaofeng and Cheng Xizhong, “A Chinese Perspective,” *Marine Policy*, vol. 29, no. 2 (2005): 139–46. The authors state: “Regarding the regime of military and intelligence gathering activities in the EEZ, China argues that the freedoms of navigation and overflight in the EEZ have certain restrictions including that the activity must be peaceful and not threaten to use force against the coastal State. [Such nonpeaceful activity allegedly] includes military surveys, military maneuvers, and military reconnaissance, which are a form of battlefield preparation. These activities are also subject to due regard for the rights of the coastal State. China also argues that there are serious shortcomings regarding the regime of marine scientific research in the EEZ and that marine surveys or military surveys carried out by MSR [military surveillance and reconnaissance] platforms require the consent of the coastal State.”

<sup>59</sup> See, for example, Peter Dutton and John Garofano, “High Seas Freedoms: China Undermines Maritime Law,” *Far Eastern Economic Review*, April 3, 2009; Scot Marciel, “Maritime Issues and Sovereignty Disputes in East Asia,” statement before the Subcommittee on East Asian and Pacific Affairs Committee in Washington, D.C., July 15, 2009; Peter Dutton, testimony before the U.S. Senate Committee on Foreign Relations, Hearing on Maritime Disputes and Sovereignty Issues in East Asia, July 15, 2009, <http://foreign.senate.gov/testimony/2009/DuttonTestimony090715p.pdf>; Peter A. Dutton, Testimony before the United States–China Economic and Security Review Commission Hearing on the Implications of China’s Naval Modernization for the United States, June 11, 2009, [http://www.uscc.gov/hearings/2009/hearings/written\\_testimonies/09\\_06\\_11\\_wrts/09\\_06\\_11\\_dutton\\_statement.pdf](http://www.uscc.gov/hearings/2009/hearings/written_testimonies/09_06_11_wrts/09_06_11_dutton_statement.pdf); and Peter A. Dutton, “Through a Chinese Lens,” *Proceedings*, vol. 136/4/1286 (April 2010): 24–29. Also see Raul (Pete) Pedrozo, “Responding to Ms. Zhang’s Talking Points on the EEZ,” *Chinese Journal of International Law*, vol. 10, no. 1 (2011): 207–223. Also see Office of the Secretary of Defense, “Annual Report to Congress: Military and Security Developments Involving the People’s Republic of China 2010,” United States Department of Defense, August 2010, [http://www.defense.gov/pubs/pdfs/2010\\_CMPR\\_Final.pdf](http://www.defense.gov/pubs/pdfs/2010_CMPR_Final.pdf). The report states: “An overwhelming majority of nations throughout the world, including the United States, believe that customary international law, as reflected in the UN Convention on the Law of the Sea (UNCLOS), effectively balances the resource-related sovereign rights of littoral states in their EEZ with the freedoms of navigation and overflight and other internationally lawful uses of the sea of other nations. This majority view is based upon a sound reading of the negotiating history of UNCLOS, the actual text of UNCLOS itself, and decades of state practice.”

<sup>60</sup> For a strong statement of the U.S. position on this issue, see Dutton, Testimony before the United States–China Economic and Security Review Commission. Dutton states: “The Chinese approach to law of the sea is problematic on several levels. In a strictly legal sense, it is an attempt to carve out a regional exception to the traditional freedoms of access and rights of maritime communication that have long been protected by international law because they enhance global economic development and promote international political stability. Additionally, law is law, or not at all. In other words, an East Asian regional exception to a rule of international law undermines the applicability of the rule in all places. Increased maritime instability would be the logical and inevitable result of the universal application of interpretations of international law of the sea that remove the authority of all states to use non-sovereign maritime zones for traditional naval purposes. This is particularly problematic inasmuch as approximately 38 percent of the world’s oceans are covered by the EEZ. Just as the lack of governance on land results in the disruptive spill-over effects of

failed states, so too at sea would a removal of international authority to provide order result in increased zones of instability.”

<sup>61</sup> See Shirley A. Kan, coordinator, *China-U.S. Aircraft Collision Incident of April 2001: Assessments and Policy Implications*, CRS Report for Congress, October 10, 2001, 14–15, <http://www.scribd.com/doc/55978792/S-Aircraft-Collision-Incident-of-April-2001>. Kan states: “According to the Pentagon, the PLA began its recent pattern of aggressive interceptions of U.S. reconnaissance flights in December 2000. At his news conference on April 13, 2001, Secretary Rumsfeld revealed that, since December, there were 44 PLA interceptions of U.S. reconnaissance flights off the coast of China, with six coming within 30 feet, and two within 10 feet, occurring on December 17 and 19, 2000, January 24 and 30, 2001, March 21 and April 1.”

<sup>62</sup> See Captain Raul Pedrozo, JAGC, U.S. Navy, “Close Encounters at Sea: The USNS *Impeccable* Incident,” *Naval War College Review*, vol. 62, no. 3 (Summer 2009); Jim Garamone, “Chinese Vessels Shadow, Harass Unarmed U.S. Survey Ship,” American Forces Press Service, March 9, 2009, <http://www.defense.gov/news/newsarticle.aspx?id=53401>; Li Xiaokun, “Chinese Fishing Vessels Confront U.S. Ship,” *China Daily*, May 7, 2009, [www1.chinadaily.com.cn/china/2009-05/07/content\\_7751489.htm](http://www1.chinadaily.com.cn/china/2009-05/07/content_7751489.htm); Eric Donnelly, “The United States–China EP-3 Incident: Legality and Realpolitik,” *Journal of Conflict and Security Law*, vol. 9, no. 1 (2004): 25–42; and Trevor Hollingsbee, “Matters Behind the Mission: the Background to the EP-3 Affair,” *Jane’s Security*, April 10, 2001. Many such Chinese confrontations apparently took place in response to increased U.S. military surveillance operations within China’s EEZ, according to some interviewed former officials.

<sup>63</sup> For example, see General Ma Xiaotian, Deputy Chief of General Staff, People’s Liberation Army, China, Remarks at the 9th IISS Asia Security Summit, The Shangri-La Dialogue, Singapore, Second Plenary Session: New Dimensions of Security, Q&A, June 5, 2010, <http://www.iiss.org/conferences/the-shangri-la-dialogue/shangri-la-dialogue-2010/plenary-session-speeches/second-plenary-session/copyof-ma-xiaotian>. Ma states: “We believe that there are three main obstacles in the development of military relations: the first is the sales of arms to Taiwan, the second is *the intense spy and patrol behaviours of US planes and ships in South China Sea and East China Sea* [authors’ emphasis], and the third is the ‘2000 National Defence Authorization Act,’ adopted by the United States Congress in 2000, as well as the ‘DeLay Amendment’, adopted a year later.”

<sup>64</sup> See Thomas Ricks, “Anger Over Flights Grew in Past Year,” *Washington Post*, April 7, 2001. Ricks quotes sources as stating that U.S. military flights approximately 50 miles off China’s coastline (and hence within its EEZ) increased in the second half of 2000. Kurt Campbell, former Deputy Assistant Secretary of State wrote in April 2001 that “the United States has stepped up reconnaissance flights along China’s coast.” Both sources are cited in Kan, *China-U.S. Aircraft Collision Incident* (see note 61, above). For similar statements by Chinese sources, see Zhang Tuosheng, “US should respect law of sea,” *China Daily*, November 26, 2010, [http://www.chinadaily.com.cn/thinktank/2010-11/26/content\\_11613005.htm](http://www.chinadaily.com.cn/thinktank/2010-11/26/content_11613005.htm); and “China urges U.S. to reduce surveillance operations,” *Xinhua*, August 28, 2009, [http://eng.mod.gov.cn/Press/2009-08/28/content\\_4083151.htm](http://eng.mod.gov.cn/Press/2009-08/28/content_4083151.htm).

<sup>65</sup> For an early Chinese reference to such requests, see “Foreign Ministry Spokeswoman’s Press Conference on September 26, 2002,” Embassy of the People’s Republic of China in the Republic of Zimbabwe, August 16, 2004, <http://big5.fmprc.gov.cn/gate/big5/www.chinaembassy.org.zw/eng/xwdt/t149134.htm>. Reporters not identified.

<sup>66</sup> On June 22<sup>nd</sup>, Foreign Ministry Spokesperson Qin Gang stated, with regard to the exercise, “We are very concerned about the relevant report and are following the development closely.” See “Foreign Ministry Spokesperson Qin Gang’s Regular Press Conference on June 22, 2010,” Ministry of Foreign Affairs of the People’s Republic of China, June 23, 2010, <http://www.mfa.gov.cn/eng/xwfw/s2510/2511/t711047.htm>. On July 6<sup>th</sup>, Qin Gang stated, “We are concerned over relevant reports and have expressed our serious concern to relevant parties.” See “Foreign Ministry Spokesperson Qin Gang’s Regular Press Conference on July 6, 2010,” Ministry of Foreign Affairs of the People’s Republic of China, July 7, 2010, <http://www.mfa.gov.cn/eng/xwfw/s2510/2511/t714568.htm>. On 8 and 15 July, Qin Gang expressed “resolute opposition” [*jianjue fandui*, 坚决反对] to “foreign military vessels and planes’ conducting activities in the Yellow Sea and China’s coastal waters that undermine China’s security interests.” This conveyed a sharper stance than previously. See “Foreign Ministry Spokesperson Qin Gang’s Regular Press Conference on July 8, 2010,” Ministry of Foreign Affairs of the People’s Republic of China, July 9, 2010, <http://www.mfa.gov.cn/eng/xwfw/s2510/2511/t715219.htm>. Also see “Foreign Ministry Spokesperson Qin

Gang's Regular Press Conference on July 15, 2010," Ministry of Foreign Affairs of the People's Republic of China, July 16, 2010, <http://www.mfa.gov.cn/eng/xwfw/s2510/2511/t717494.htm>. Qin repeated his statement of July 8<sup>th</sup>.

In a meeting with Hillary Clinton, PRC Foreign Minister Yang Jiechi repeated this strong stance, stating that Beijing "firmly opposes foreign warships and military aircraft entering the Yellow Sea and other coastal waters of China to engage in activities affecting China's security and interests." See Ministry of Foreign Affairs of the People's Republic of China, "Yang Jiechi Meets with U.S. Secretary of State Clinton and Canadian Foreign Minister Cannon," July 23, 2010,

<http://www.fmprc.gov.cn/eng/wjb/wjbz/2467/t719784.htm>. Also see Li Yang: "Sino-US Relations Face Arduous Test As Curtains Lift on Large-Scale US-ROK Military Exercise," *Zhongguo Xinwen She*, July 25, 2010, OSC CPP20100725138003. Also see Foreign Ministry Spokesperson Jiang Yu's Remarks on U.S. Announcement to Send Aircraft Carrier to Take Part in the ROK-US Joint Military Exercises in the Yellow Sea," Ministry of Foreign Affairs of the People's Republic of China, August 9, 2010,

<http://www.mfa.gov.cn/eng/xwfw/s2510/2535/t722518.htm>. Jiang stated: "We have expressed our clear and firm position on the ROK-U.S. joint military exercises to the relevant parties on several occasions. We urge the relevant parties to take China's position and concern seriously."

<sup>67</sup> Beijing angered both Washington and Seoul by refusing to publicly condemn North Korea for the act, or even to acknowledge Pyongyang's responsibility. See Chico Harlan and Colum Lynch, "U.N. Security Council Condemns Sinking of South Korean Warship," *Washington Post*, July 10, 2010; Kwang-Tae Kim, "S. Korea, U.S. to Hold War Games After Any UN Action," Associated Press, July 6, 2010, <http://www.google.com/hostednews/ap/article/ALeqM5hP68wYc-SVkurz50Ez4sLGIf0V9wD9GPFMOI>.

<sup>68</sup> "PLA Navy starts live-ammunition training in west Pacific," Xinhua, June 30, 2010, [http://eng.mod.gov.cn/DefenseNews/2010-07/01/content\\_4170141.htm](http://eng.mod.gov.cn/DefenseNews/2010-07/01/content_4170141.htm); "China launches war games in Yellow Sea," Agence France-Presse, September 1, 2010,

[http://www.channelnewsasia.com/stories/afp\\_asiapacific/view/1078415/1/.html](http://www.channelnewsasia.com/stories/afp_asiapacific/view/1078415/1/.html); and Liu Yue-shan, "'Stealth Assassin' Goes Into Action During Four Troop Training Exercises Within a Month—Frequent Drills of Long-Range Strikes," *Wen Wei Po*, July 30, 2010, OSC CPP20100730788007. This *Wen Wei Po* article cites "renowned Chinese military expert Liu Jiangping" as indicating that, "ever since the foreign media broke the news that the USS *George Washington*, a US aircraft carrier, would be taking part in the exercises in the Yellow Sea, the PLA has conducted several training exercises in succession, with both the number and intensity of the exercises exceeding those of the past. He indicated that, from the last day of last month to the end of this month, the PLA has now altogether launched four training exercises in the East China Sea, the Yellow Sea, and the South China Sea, of which there was one each in the East China Sea and the South China Sea, and two in the Yellow Sea, something which was relatively seldom seen in the past." Also see Kuo Chung-lun, "The PLA Generals Get Louder," *Shih-pao Chou-kan* [China Times Weekly], no. 1691, July 16–22, 2010, OSC CPP20100729099001; and Liu Bin and Liu Changxin, "'Explosive Contact': Chinese and US Navies Stand Off in Yellow Sea," *Nanfang Zhoumo*, July 7, 2010, OSC CPP20100709788015. Foreign Ministry Spokesperson Qin Gang stated that the PLA's planned exercises in the East China Sea were an "annual regular military exercise" rather than a response to U.S.-ROK drills. See Foreign Ministry Spokesperson Qin Gang's Regular Press Conference on June 29, 2010, Ministry of Foreign Affairs of the People's Republic of China, June 30, 2010, <http://www.mfa.gov.cn/eng/xwfw/s2510/2511/t712798.htm>.

<sup>69</sup> Liu and Liu, "'Explosive Contact'" (see preceding note).

<sup>70</sup> The U.S./allied operations were criticized for several reasons, including (1) their possibly provocative effect on North Korea (which was the announced target of the exercises); (2) the close proximity of the exercises to key Chinese strategic assets and population centers; (3) the potential for the United States to conduct reconnaissance that might infringe upon China's "security interests"; and (4) the intense historical sensitivity of the area for the Chinese, as a former "gateway" for the invasion of China by foreign powers such as Japan. See "Major General Luo Yuan Discusses the U.S.-ROK Joint Military Exercise in the Yellow Sea," *Renmin Wang*, July 13, 2010, OSC CPP20100713787008; Major General Luo Yuan, "US Engaging in Gunboat Diplomacy," *People's Daily*, August 13, 2010, OSC CPP20100813787009; Cary Huang, "PLA Ramped Up China's Stand on US-Korea Drill," *South China Morning Post*, August 6, 2010; Li Yang: "Sino-US Relations Face Arduous Test as Curtains Lift on Large-Scale U.S.-ROK Military Exercise," *Zhongguo Xinwen She*, July 25, 2010, OSC CPP20100725138003; "Major General Yin Zhuo, a

Noted Military Expert, Comments on U.S.–South Korean Military Exercises,” *Renmin Wang*, July 29, 2010, OSC CPP20100730787001.

<sup>71</sup> For the quote, see “外交部发言人洪磊答记者问,” 中华人民共和国外交 (“A reporter asked Foreign Ministry spokesperson Hong Lei a question”), Ministry of Foreign Affairs of the People’s Republic of China, November 26, 2010, <http://www.fmprc.gov.cn/chn/gxh/tyb/fyrbt/dhdw/t772435.htm>. Also see “China opposes any military acts in exclusive economic zone without permission,” Xinhua, November 26, 2010, [http://news.xinhuanet.com/english2010/china/2010-11/26/c\\_13624036.htm](http://news.xinhuanet.com/english2010/china/2010-11/26/c_13624036.htm); Jeremy Page, Jay Solomon, and Julian Barnes, “China Warns U.S. as Korea Tensions Rise,” *Wall Street Journal*, November 26, 2010. See also Edward N. Luttwak, “Why North Korea Survives,” *Wall Street Journal*, November 30, 2010; and Shirley A. Kan, “U.S.-China Military Contacts: Issues for Congress,” CRS Report for Congress, July 26, 2011, 28, <http://www.fas.org/sgp/crs/natsec/RL32496.pdf>.

<sup>72</sup> “专家:美核航母开进黄海与韩军演已不可避免,” 《环球时报》 (“Expert: U.S. nuclear aircraft carrier conducting exercises with Korean military in the Yellow Sea is inevitable,” *Global Times*), June 8, 2010, <http://mil.huanqiu.com/Observation/2010-06/846675.html>; “环球时报社评: 韩国体把美航母带入黄海,” 《环球时报》 (editorial: “South Korea should not take U.S. aircraft carrier into the Yellow Sea,”) *Global Times*, June 8, 2010, <http://opinion.huanqiu.com/roll/2010-06/846455.html>;

“引美航母入黄海激怒中国网友韩国形象堪忧,” 《环球网》 (“Angered over U.S. aircraft carriers entering the Yellow Sea, Chinese netizens’ image of Korea is worrying,” *Global Times Online*), June 9, 2010, <http://mil.huanqiu.com/china/2010-06/849599.html>.

<sup>73</sup> “HK Phoenix TV: PLA Deputy Chief of Staff Opposes US-ROK Drill, Welcomes Gates’ Visit,” *Feng Huang Wei Shih Tzu Hsun Tai*, July 1, 2010, OSC CPP20100702572002. For the text and video of Ma’s interview, see [http://news.ifeng.com/mainland/detail\\_2010\\_07/01/1702694\\_0.shtml](http://news.ifeng.com/mainland/detail_2010_07/01/1702694_0.shtml).

<sup>74</sup> For an explicit assertion, based on information provided by unnamed diplomats, that “[P]olitical pressure from the military community forced the central government to change the text of its official statements several times in the past two months to harden its tone over the US-South Korean joint naval drill near its territorial waters,” see Cary Huang, “PLA ramped up China’s stand on US-Korea drill,” *South China Morning Post*, August 6, 2010.

<sup>75</sup> “2010年7月8日外交部发言人秦刚举行例行记者会部” 中华人民共和国外交 (“Foreign Ministry Spokesperson Qin Gang’s regular press conference on July 8, 2010,” Ministry of Foreign Affairs of the People’s Republic of China), July 8, 2010, <http://www.fmprc.gov.cn/chn/gxh/tyb/fyrbt/jzhsl/t714888.htm>.

<sup>76</sup> Also see “PLA Navy starts live-ammunition training in west Pacific,” Xinhua, June 30, 2010, [http://eng.mod.gov.cn/DefenseNews/2010-07/01/content\\_4170141.htm](http://eng.mod.gov.cn/DefenseNews/2010-07/01/content_4170141.htm). This Chinese government source stated that Chinese websites and other forums were “flooded with furious criticism” of the planned U.S.-ROK war games. Cary Huang, in the article cited in note 74, references a diplomatic source as stating that the PLA had not only pressured the policymakers, but also used the publicity campaign tactic to win public support.

<sup>77</sup> See note 71 above.

<sup>78</sup> China has used force in past territorial disputes to “signal resolve and deter further challenges from neighboring states when it concluded that its position in a dispute was weakening or its neighbors were becoming increasingly assertive.” (Fravel, “China’s Behavior”) However, it “has never used major military force to uphold its claims to maritime rights (as distinct from using force over claims to islands and features that can generate maritime rights).” The last significant military conflict over territory involving China occurred in March 1988, when Chinese and Vietnamese naval forces clashed on Johnson Reef in the South China Sea. In late 1994, China seized Mischief Reef, an unoccupied reef claimed by the Philippines and Vietnam, but did not engage in combat operations with forces from either country during the occupation. See M. Taylor Fravel, *Strong Borders, Secure Nation: Cooperation and Conflict in China’s Territorial Disputes* (Princeton 2008).

<sup>79</sup> As Fravel asserts in “China’s Behavior,” “China remains focused on defending its existing claims from what it perceives as a new wave of challenges from other states.”

<sup>80</sup> Some well-informed Chinese sources have informed the authors that no clear, explicit, codified regulations or executive orders exist in the Chinese government to ensure the coordination and control by senior civilian party leaders over specific offshore (and perhaps onshore) military operations or exercises carried out in support of larger defense programs approved by the CCP leadership. This means that the military probably enjoys considerable latitude in deploying forces into disputed or sensitive maritime areas,

to show the flag or challenge other claimants or foreign surveillance vessels. Such quasi-independence of action is enhanced by the fact that the Ministry of Foreign Affairs—and the foreign affairs system within the PLA—probably exercises little ongoing authority over such operational matters. The former is viewed as unusually weak at present within the party-military system, and the latter is formally subordinate within the PLA hierarchy to the department in charge of operations and training. This does not mean that the military enjoys *carte blanche* to handle a maritime dispute, or can react to a crisis as it sees fit. Senior leaders can intervene and enforce corrective actions when necessary; but their level of knowledge and oversight is reportedly inconsistent and weak at best. Hence, overall, this situation suggests that the extent and type of possible assertiveness China undertakes in this realm do not always flow from central party leadership decisions.