



Maritime Domain Awareness in the South China Sea in the 21st Century: The Current Situation, Challenges, Consequences and the Future

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ROYAL AUSTRALIAN NAVY

SEA POWER

SOUNDINGS



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Introduction to the Geography of the South China Sea

Covering an area of 3.5 million square kilometres, the South China Sea is at latitude 13°30'00.00" north, longitude 110°00'01.44" east. The water mass is approximately 1800 kilometres in length and about 900 kilometres in width. Located in China's backyard, the South China Sea is semi-enclosed by littoral states: China, Brunei, Indonesia, Malaysia, the Philippines and Vietnam (not including Taiwan).¹ The South China Sea is first mentioned in a poetry book, *Shi Jing*, which dates from 475–221BC.²

The South China Sea is tremendously rich in natural resources – fisheries, oil and natural gas – and the potential for resources conflict is high. The high demand for fish exacerbates the problem of diminishing fish stocks, which have declined by 95 per cent since the 1950s.³ Studies illustrate that if coastal states keep acting unilaterally rather than collaboratively and cooperatively, marine species in the South China Sea will decrease by a further 59 per cent by 2045. Additionally, coral reefs continue to decline at an alarming rate.⁴

Likewise, the oil and natural gas resources attract oil companies from around the world to the disputed waters. However, since China has acted to force companies to end business relationships with contestant South China Sea claimant states, commercial imperatives must be balanced with political sensitivities.⁵ According to the US Energy Information Administration, the South China Sea is estimated to hold 11 billion barrels (1.7 billion tons) of oil and 190 trillion cubic feet (5.4 trillion cubic metres) of natural gas. The Chinese Ministry of Land and Resources offers more optimistic data, suggesting 23–30 billion tons of oil and 16 trillion cubic metres of gas are contained behind the proposed “nine-dash line”, which demarcates the Chinese claim to the South China Sea.⁶

Alongside fish and seabed natural resources, the South China Sea is a significant trade and commercial route for cargo vessels transiting from the West Pacific Ocean to the Indian Ocean and the world. Europe–Asia–America trade runs through the South China Sea to the Indian Ocean and the Mediterranean. In short, the South China Sea trade routes are of vital and complex importance to the world.⁷



The Challenges of the Chinese Belt and Road Initiative

During Chinese President Xi Jinping’s visit to Kazakhstan, in September 2013, he delivered a remarkable speech at Nazarbayev University in Astana, the capital city. In a reflective mood, he said, “Shaanxi, my home my province, is right at the starting point of the ancient Silk Road; today, as I stand here and look back at that episode of history, I could almost hear the camel bells echoing in the mountains and see wisps of smoke rising from the desert. A near neighbour is better than a distant relative.”⁸ President Xi’s reflection served to frame his main point: that economic success asks states “to combat the ‘three forces’ of terrorism, separatism and extremism as well as drug trafficking and transnational organized crime”. Dealing with these is vital for economic development and for the well-being of the people in the region.⁹



People’s Liberation Army - Navy officers and sailors line the wharf as HMAS Melbourne berths at Zhanjiang Naval Base, China. Photographer: ABIS Bonny Gassner.



Xi also stated that working more closely together would allow China and its neighbours to expand regional cooperation with a more open mind and broader vision and achieve new glories together. By Xi's lights, China and the countries of Central Asia have a golden opportunity to profit from closer economic ties, from deeper cooperation and from expanded development space in the Eurasian region. For Xi, China and Central Asian states should take an innovative approach and jointly build an "economic belt along the Silk Road".¹⁰ He argued this could be done by connecting East Asia, West Asia and South Asia to facilitate economic development and travel in the region. In conjunction with lowered trade barriers, such a network would reduce the costs of doing business, increasing the velocity and scale of trade and stimulating progress in the region.¹¹

This idea is described as One Belt, One Road – 'Belt' linking land, and 'Road' linking seas. The acronym is BRI, for the official Belt and Road Initiative.¹² China says the BRI aims to create international connections through infrastructure projects to boost countries' economic prosperity and cooperation by connecting Asia, Africa and Europe. On land, several routes will be developed, while on the seas the emphasis will be on developing ports and ensuring more efficient maritime transport routes. BRI envisages China collaborating closely with other states to establish six international economic corridors: (1) New Eurasia Land Bridge, (2) China–Mongolia–Russia, (3) China–West Asia–Central Asia, (4) China–Pakistan, (5) China–Indochina Peninsula, and (6) Bangladesh–China–India–Myanmar.¹³ These are shown in Figure 1 (below).

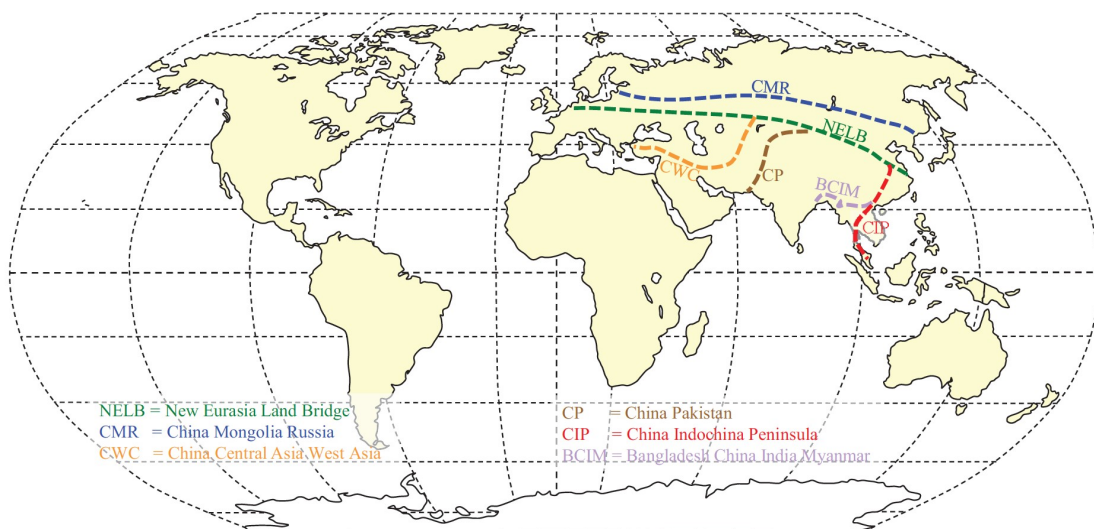


Figure 1. *The New Silk Road economic corridors.*



Table 1 (below) indicates the 30 countries involved in the BRI or Core New Silk Road (CNSR) Projects.¹⁴

Table 1. Core New Silk Road (CNSR) countries, excluding China

Afghanistan	Belarus	Israel	Laos	Pakistan	Thailand
Armenia	Bhutan	Jordan	Malaysia	Palestine	Turkey
Azerbaijan	Georgia	Kazakhstan	Mongolia	Qatar	Turkmenistan
Bahrain	Iran	Kuwait	Myanmar	Russia	Uzbekistan
Bangladesh	Iraq	Kyrgyzstan	Nepal	Syria	Viet Nam

Note: Shaded cells included in panel b of Figure 3; together these countries represent about 89% of CNSR total income in 2011 (when only information for Syria is missing).

From China’s perspective, the BRI is a catalyst for investment and trade; critics of the program characterise it as an economic trap, which will make poor countries poorer and more likely to fall under China’s political influence.

The China–Pakistan Economic Corridor (CPEC) offers an example of undue Chinese economic influence. Investing in the CPEC, China put \$60 billion into improving the energy grid, with enormous new power plants, and constructing roads, railway lines, desalination plants and port facilities. Taken on face value, the project makes good sense; for Pakistan, in the absence of alternatives a close working relationship with China is attractive and common sense. But under cover of infrastructure investment, China exerts an undue influence; the character of the debt to China incurred by Pakistan is unknown. Equally unknown is the ability (or inability) of the government to deal with its financial obligation.

Countries whose financial institutions are often under stress bear the greatest risk of coming under economic pressure. For instance, Laos or Tonga would find it almost impossible to manage large debt loads, and an overwhelming debt burden to China would cause political instability.¹⁵

The port of Hambantota in Sri Lanka offers another example. Constructed at a cost of some \$1.3 billion, the port’s new facilities and new shipping terminal entailed a debt burden beyond the capacity of the Sri Lankan government to repay to China. To discharge the debt, the Sri Lankan government granted a 99-year lease over the facilities to a Chinese company in the summer of 2017.¹⁶



In such cases, critics accuse China of neo-imperialism. Although President Xi declared that Chinese development loans advanced to some African countries would be cancelled, China has not yet acted on this promise.

In the short term, the management of the BRI will depend upon how great projects and project clusters develop. China is aware of concerns about debt sustainability and scrutinises case studies for plan evaluation and expected outcomes.

China's Behaviour towards the South China Sea Claimant States

China lays claim to a significant proportion of the South China Sea and to two groups of islands, the Paracel and Spratly islands, which are also claimed by other states. Only China and Vietnam claim the whole of the Paracel islands. Brunei, Malaysia and the Philippines claim some features of the Spratly islands; China claims the whole of the Spratlys.¹⁷

Since the mid-1970s, the South China Sea has been the scene of many incidents between China and claimant states. Among the most high profile are the 1974 Paracel Islands, the 1988 Johnson Reef, the 1995 Mischief Reef, and the 2012 Scarborough Shoal incidents.¹⁸ The central point is: China's behaviour has been the centre of gravity in terms of regional stability.

Parallel to clashes with the South China Sea claimant states, China has been involved in significant incidents with the US. For instance, in the Hainan Island incident of 2001, a Chinese fighter jet collided with a US EP3 renaissance aircraft in international air space. Damaged, the EP3 put down on Hainan and its crew were detained. The Chinese pilot was not recovered.¹⁹ China described the incident as defence of sovereign claims. For the United States, the incident contravened the rights of freedom of navigation according to the 1982 United Nations Convention on the Law of the Seas (UNCLOS), such international rights not amounting to a violation of Chinese sovereignty.²⁰ In 2002, in a similar incident, China intercepted the US hydrographic survey ship, the USNS *Bowditch*.

After the 2012 Scarborough Shoal incident, the Philippines launched an arbitral complaint against China to deny its claim in the South China Sea through UNCLOS. In response, China issued a Position Paper in which it claimed that the subject matter of the arbitration is sovereign Chinese territory, beyond the jurisdiction of UNCLOS. China used both hard and soft strategies to deal with the dispute in the South China Sea.

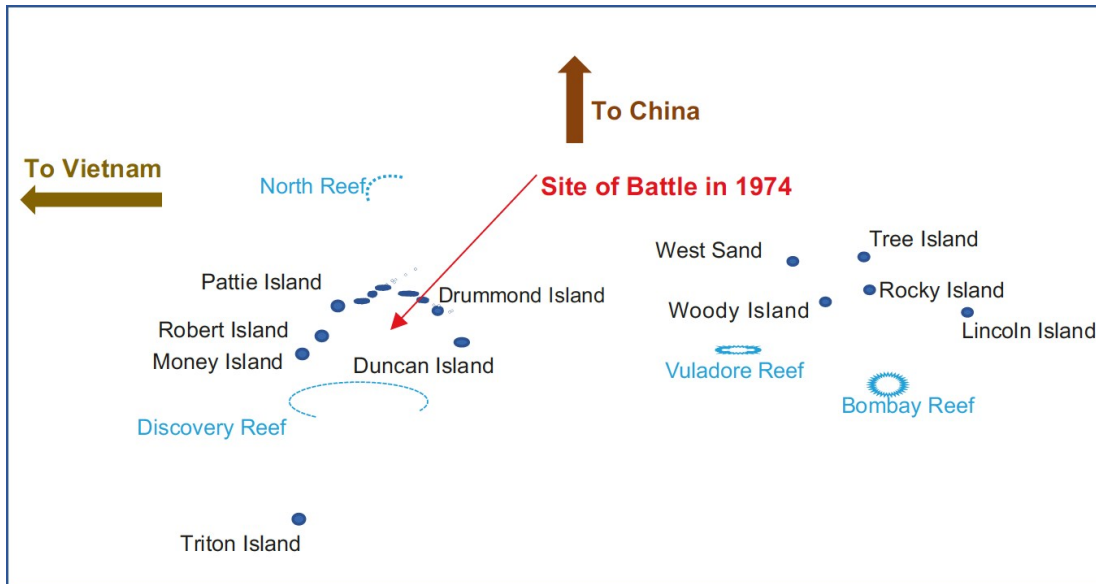


Figure 2: The Paracel islands.

Hard strategy

In response to the July 2016 tribunal ruling of the case initiated by the Philippines, China asserted its claim to the Paracel and Spratly islands dating back to the Han Dynasty in the second century BC.²¹ Were it to be established, a claim of historical sovereignty would have significant stature. According to international law, sovereignty obtains from specific criteria: (1) occupation of *terra nullius* (no man's land); (2) prescription or maintaining effective administration for a considerable period; (3) cession, or transfer by treaty; (4) accession, or growth of territory naturally.²² Following Article 2 of the UN Charter, conquest and subjugation do not give rise to a valid claim. Thus, it is significant that to make its claim in disputed waters, China has used military force against the Philippines and Vietnam – for instance, the 1988 Johnson Reef incident between China and Vietnam and the 2012 Scarborough Shoal incident between China and the Philippines. In the aftermaths of these incidents, the People's Liberation Army Navy claimed sovereignty over the features. China understands that if it needs to lay claim over any disputed area, it will have to control that area and use its presence to validate the claim afterwards. China's actions have been protested by the claimant states and the US on the basis that they are inconsistent with the international law mentioned above.



Soft strategy

In the years immediately following the formation of the People's Republic of China, no significant claim was made by China on maritime territory in the South China Sea, although it had several ongoing negotiations to settle land boundary claims with neighbouring states. On 9 September 1958, China promulgated its Declaration on the Territorial Sea, staking a claim to the South China Sea. The Declaration asserts:

The breadth of the territorial sea of the People's Republic of China shall be twelve nautical miles (nm). This provision applies to all territories of the People's Republic of China including the Chinese mainland and its coastal islands, as well as Taiwan and its surrounding islands, the Penghu Islands, the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha Islands and all other islands belonging to China, which are separated from the mainland and its coastal islands by the high seas.²³

China officially declared its Law on the Territorial Sea and the Contiguous Zone on 25 February 1992. Article 2 reasserted the claim:

The land territory of the People's Republic of China includes the mainland of the People's Republic of China and its coastal islands: Taiwan and all islands appertaining thereto including the Diaoyu Islands; the Penghu Islands; the Dongsha Islands; the Xisha Islands; the Zhongsha Islands and the Nansha Islands; as well as the other islands belonging to the People's Republic of China.²⁴

On 7 June 1996, China ratified UNCLOS and reaffirmed "sovereignty over all its archipelagos and islands" by referring to Article 2 of the 1992 law. Two years later, on 26 June 1998, China declared its *Exclusive Economic Zone and Continental Shelf Act*.²⁵ In it, for the first time China officially referred to "historic rights".²⁶ To be plain: China did not use this Act as a claim over the South China Sea, but to give support to China's assertion of what it perceives as its maritime domain.

To mitigate tensions in the South China Sea, China adopted a reassurance policy towards the other claimants. China was fully aware of the absence of regional stability, and sensitive to the fact that Chinese ambition would be – actually or potentially – destabilising. Thus, China called upon competing claimants to ameliorate the situation by signing the Declaration on the Conduct of Parties in the South China Sea in November 2002 and the Treaty of Amity and Cooperation in Southeast Asia the following year,



In further assertive diplomacy, on 7 May 2009, China, delivered a *note verbale* (no. CML/17/2009) to the UN Secretary General, in response to Malaysia and Vietnam's joint submission to the UN Commission on the Limits of the Continental Shelf. In the *note verbale*, China asserted that:

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 (see attached map). The above position is consistently held by the Chinese Government and is widely known by the international community.²⁸

China attached the nine-dash line chart and declared it to the public, although the line has no standing in international law. China also issued *notes verbales* asserting its claim in the South China Sea, dated 14 April 2011, in response to the Philippines' 2011 *note verbale*.²⁹

Resolutions

Enormously powerful, China takes a dim view of other states' claims to the South China Sea. Claimant states, on the other hand, see themselves as the victims of China's bullying. But beyond being powerful, China is also complex and not easily characterised; it is ready to be assertive and yet equally ready to seek entente. For example, dealing with territory claims in the South China Sea, China has made concessions and prosecuted military operations, sought signatures to the Declaration of Conduct and Treaty of Amity and Cooperation, and constructed and sequestered new land features. Since the last high-profile incident off Scarborough Shoal in 2012, China seems to be seeking direct negotiation with the other claimant states in order to find non-military solutions. In an interesting contrast, China has declined to engage with international legal mechanisms. Most likely, this is due to the political cost. In its Position Paper rebutting the arbitral claim initiated by the Philippines before the Permanent Court of Arbitration, China stated:

China stands ready to continue to resolve the relevant disputes peacefully through negotiation and consultation with the states directly concerned on the basis of respecting historical facts and in accordance with international law.



Pending final statement, China is also ready to make every effort with states directly concerned to enter into provisional arrangements of a practical nature, including joint development in relevant maritime areas, in order to achieve win-win results and jointly maintain peace and stability in the South China Sea.³⁰

On this account, China would seem to prefer negotiation over arbitration. Feasibly, the deep reason is pragmatic, a hardheaded realpolitik. Through this lens, the South China Sea is more than a regional contest, and a reflection of China–US competition. Similarly, China has been building military power beyond the reach of other claimant states in the South China Sea. From this realist perspective, tension in the South China Sea might be construed as a test of balance-of-power politics. To balance powers in the region, there must be an external power: the United States of America and its allies. This suggestion reflects the tension which arises as the United States seeks to secure freedom of navigation and China seeks to secure regional hegemony.

Conclusion

To settle disputes in the South China Sea, international law must work alongside negotiations involving mutual trust. Cross-strait cooperation between China and Taiwan should be strengthened. Second, states should prioritise environmental concerns and problems in their national agendas and perceive them as a security issue. Third, states should recognise the need for effective regional cooperation for fisheries conservation and management, regardless of maritime/territorial disputes. Fourth, a framework for ocean governance and management of oceans affairs should be promoted based on the Law of the Sea Convention and other regional initiatives, especially ASEAN+1. Fifth, and finally, there is a need to transform ways of thinking as a foundation to lead policy and research directions, including considering the role played by nationalism in policy- and decision-making.

Resolving tension in the South China Sea calls for a deeper understanding of numerous factors at the core of the dispute. The contest will not be resolved by power. China is too big compared to the other claimant states in all fields – population, trade, economy, military capacity, maritime technology and force, weapons of mass destruction, diplomacy, and so on. And China is too ambitious.



To balance China's power, other nations must welcome China as a partner to the rule-making table. And the UNCLOS must be explored as a cornerstone to a negotiated settlement.

The aim must be peace, stability and prosperity for all nations.

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