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The Reckless and the Resolute: Confrontation in the South China Sea

Eric A. McVadon

The capabilities of the USNS *Impeccable* leave little doubt as to its purpose sailing in the South China Sea, 75 miles off the coast of China's Hainan Island.¹ As the prefix USNS implies, the *Impeccable* is a predominantly civilian-manned ocean surveillance vessel. However, it, along with several other ships, tows the sonar array system (SURTASS²) that performs acoustic collection surveillance to help locate and identify submarines. While these operations are routine peacetime activities, they would be applied to any future antisubmarine warfare.³

While the *Impeccable's* confrontation was the first widely reported naval incident between the two countries in recent years, it was not unprecedented. The USNS *Victorious*, the ship replaced by the *Impeccable*, experienced harassment by a Chinese Bureau of Fisheries vessel and repeated low-altitude passes by a Chinese navy

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maritime patrol aircraft. In that incident, the Chinese ship illuminated the US ship with a high-intensity light and during the night crossed her bow at close distance without warning. The harassment intensified with the *Impeccable* and reached a peak on March 8. A radio call demanded that the *Impeccable* leave the area or “suffer the consequences”. The *Impeccable’s* passage was also blocked by a Chinese vessel, which turned across her bow, stopped and placed obstacles in the water. One Chinese ship with guns (reported as a frigate but probably a patrol boat), closed to about 100 yards. Another came within 25 feet, despite attempts to ward it off with fire hoses.⁴ The Chinese crew also attempted to snag the cable for the towed array.⁵ The reports suggest danger of collision and injury. Thus Chinese government ships blatantly violated the norms of good seamanship and safe maneuvering and the rules of the road—formally known as the International Regulations for Avoiding Collisions at Sea.⁶

The core issue of these incidents are the two countries’ differing interpretations and applications of international law to US naval activity in China’s Exclusive Economic Zone (EEZ). While neither is likely to significantly change their positions, such incidents, with their inherent risks of escalation and disruption of Sino-American relations, could be avoided through a clearer understanding of acceptable behavior in their interaction on the high seas, as well as a better system of communication and consultation. It is imperative the two countries find a way to agree to disagree, and find a way to avoid or defuse future confrontations that could lead to larger conflict.

DIFFERING INTERPRETATIONS

The Chinese justification for harassment of these US Navy ocean surveillance ships derives from an interpretation of a provision in the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The Treaty provides coastal nations with Exclusive Economic Zones (EEZs), generally extending 200 miles seaward from the coastal baseline. States have special rights in their EEZs over exploration for and use of marine resources, but the normal rights of all other states to sail and fly in the EEZ are protected.

The United States, while not yet a party to UNCLOS, does adhere to its provisions under customary international law.⁷ China is a party to the treaty. Both accept the concept of an EEZ as stated in UNCLOS as providing the coastal State sovereign rights concerning the natural resources of the zone.⁸ Differences arise regarding what activities in the EEZ are permissible under the Treaty, including naval operations. The United States emphasizes the UNCLOS rule that preserves the rights of all states in the coastal State’s EEZ to freedom of navigation, overflight and even laying pipelines and cables.⁹ It interprets this as including naval activities that are of a non-aggressive nature and done in preparation for self-defense.

When China ratified UNCLOS in 1996, it filed a declaration emphasizing *sover-*

eign rights and jurisdiction over the EEZ.¹⁰ Moreover, Chinese international lawyers justify a more restrictive interpretation, citing further treaty language, which reads: “States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State”¹¹

China, in adopting this position, is accused by some of attempting to treat its EEZ like territorial waters. Germany, for example, pointedly declared when it ratified the treaty that the EEZ is a new concept designed to grant coastal states certain resource rights while preserving the rights of others to conduct normal, peaceful activities in the zone, striking a delicate balance between the rights of the coastal state and other states. The German declaration concludes with this directly pertinent sentence: “In particular, the rights and jurisdiction of the coastal State in such zone do not include the rights to obtain notification of military exercises or manoeuvres or to authorize them.”¹² This rebuff of the interpretation championed by China is perhaps a model for the United States to follow if it soon ratifies UNCLOS, as many expect it will.

On the other hand, there are other states that dispute the US interpretation and agree with China that US reconnaissance and surveillance activities conducted within its EEZ without its permission are violations of UNCLOS.¹³ In short, there is sufficient ambiguity to lead to differing interpretations, whether justified or not. The Chinese delegate to UNCLOS negotiations is quoted as saying that “freedom of scientific research in the past has meant espionage”.¹⁴ The United States remains resolute in the view that military activities on the high seas and in the EEZ are consistent with the “peaceful purpose” requirement, if they are conducted in a non-threatening fashion in order to prepare for legitimate self-defense.¹⁵ Neither side is inclined to change its position.

CONTRADICTIONS IN EEZ POLICY?

While China has been firm in defending what it sees as its sovereign rights at sea, its own track record with regard to military activities in the EEZs of other states raises questions. Some point out that China, over the years, has violated its own position on EEZ sovereignty by operating survey ships in Japanese waters. Indeed, Tokyo often protests the presence of Chinese survey ships near Japan (within the EEZ). Yet, the vast majority of these complaints are about operations in the disputed waters of the East China Sea (near Chunxiao and Diaoyutai), which China regards as its EEZ — thus justifying its presence. Nevertheless, there have also been intrusions in undisputed Japanese EEZ waters. The *Defense of Japan 2000 White Paper* describes a Chinese “information-gathering” ship circling Japan.¹⁶ In addition, the *2001 White Paper* reports the sighting of a Chinese navy missile observation support and survey and research ship navigating off the coast of Hamamatsu on the east coast of Japan to Tsushima, while appearing to conduct information-gathering activities.¹⁷

After a record of previous intrusions that would undermine its EEZ position, Beijing appears to have insulated itself from such arguments. In early 2001, Japan and China agreed on a two-month mutual prior notification system for maritime sci-

entific research in waters between the two countries. China is to give Japan at least two months' notice when its research ships plan to enter waters "near Japan and in which Japan takes an interest" while Japan is to inform China similarly before entering waters "near" China.¹⁸ Having concluded notification arrangements with Tokyo, Beijing probably feels it has now gained immunity from accusations that its actions contradict its own interpretation of the EEZ rights.

Beijing's recent move to dispatch People's Liberation Army Navy ships to the Gulf of Aden in support of anti-piracy operations seemingly represents a further divergence from its stated interpretation of EEZ rules. In a surprising decision that was announced last December, China declared that it would send three PLA Navy ships to the Gulf of Aden to protect Chinese shipping from Somali pirates. These ships did not become full-fledged members of Task Force 151—an international flotilla

Who Decided to Become Aggressive?

Did the top Chinese leaders specifically direct or approve the confrontations in the South China Sea, the 2007 anti-satellite (ASAT) missile test two years ago, and the aggressive action against a US EP-3 aircraft eight years ago? As to the *Impeccable* affair, it appears that as soon as the top leadership in Beijing was engaged, the aggressive behavior was halted. Is it possible that the harassment of the *Victorious* and the *Impeccable* was merely a reaction by low-level officials who were frustrated with US prying?

Indeed, the early March harassments of the *Victorious* and the *Impeccable* had strange timing if the decisions were indeed being made in Beijing. To amplify the doubts that Chinese president Hu Jintao was aware initially of the aggressive actions in the South China Sea, there are the following: US Secretary of State Hillary Clinton, on her first visit abroad in the new job, had a very warm and successful visit in Beijing in late February, and her counterpart, Chinese Foreign Minister Yang Jiechi, had a similarly successful visit to Washington in early March where he set up the London G20 meeting between Presidents Hu and Obama.

It would seem bizarre for Beijing to be doing so much to foster bilateral relations and for President Hu, back in Beijing, to be directing Chinese sailors to stage near-collisions with *Impeccable* and make threats over bridge-to-bridge radio. Perhaps the most compelling argument that the orders had not come from on high is the rapid and definitive manner with which the confrontation was resolved

once it reached the highest levels of both governments. It also seems unlikely that the White House was specifically aware that, during this period of critical engagement between Washington and Beijing, the USNS *Impeccable* was engaged in activities near China that were likely to draw a reaction from the Chinese. The *Impeccable* and the *Victorious* were probably carrying out a long-established deployment and collection plan. Similar suspicions surround the notorious January 2007 anti-satellite (ASAT) missile test that successfully intercepted a decaying Chinese weather satellite and created a debris field in space. With respect to this missile shot, then-US National Security Adviser Steve Hadley, in an interview with the *New York Times*, suggested that the most senior leaders in China might not have been aware of the testing. "The question on something like this is, at what level in the Chinese government are people witting, and have they approved?" he asked. The *Times* went on to state that American officials "were uncertain whether China's top leaders, including President Hu Jintao, were fully aware of the test or the reaction it would engender." These officials, the article states, presume that President Hu was generally aware of the missile testing program but speculate that he may not have known the timing of the test. China's continuing silence suggested, at a minimum, that Hu did not anticipate a strong international reaction.³⁵

Speculation also persists that senior Chinese leaders did not make the specific

decisions that resulted in the April 2001 collision of the US Navy EP-3 (on a routine reconnaissance mission) and the PLA Navy F-8 (conducting a routine intercept mission) near Hainan Island. Through personal conversations, two knowledgeable PLA Navy officers relayed that PLA Navy personnel at the Lingshui naval air base and the Yulin naval base believed that the frequency of reconnaissance flights had increased and that the standoff distance from PLA Navy ships had decreased. The middle-grade officers there on Hainan were said to be frustrated, even angry, and felt like their protests had been ignored by the Americans. F-8 pilot Lieutenant Commander Wang Wei's conduct, with his gestures and reckless passes or join-ups with the EP-3, was consistent with the attitude attributed to the PLA Navy officers at these two bases on Hainan. A PLA Navy senior officer related that, after the F-8 had fallen into the sea, the flight leader requested by radio permission to shoot down the American aircraft. Officials at Lingshui relayed the request to PLA Navy headquarters at Beijing. The request, assuming the validity of this assertion, was denied. The level of ire among the Lingshui officers was apparently not matched in Beijing.

The general consensus among China watchers — that the collision owed more to Wang Wei's reckless and poor airmanship in his highly maneuverable fighter and likely not an aggressive move by the relatively cumbersome four-engine EP-3 — has never reached Beijing's top leaders. Many had hoped that recognition of this shortcoming might bring about reforms in the Chinese government and lead to the development of a crisis management system that might include something resembling the US National Security Council. Rudimentary efforts in that direction apparently failed, and crises in China seem still to be handled without benefit of a system for supplying accurate information to top Chinese leaders, especially if it is bad or unwelcome news.

Notes

- ¹ David E. Sanger and Joseph Kahn, "US Tries to Interpret China's Silence Over Test," *New York Times*, January 22, 2007; http://www.nytimes.com/2007/01/22/world/asia/22missile.html?_r=1

that includes the United States, several European countries, and, recently, the ROK and Japan.¹⁹ This deployment marks the first time since the establishment of the PLA Navy that a force has been sent to conduct combat-like operations beyond the Chinese littoral waters. It raises questions not only how will China manage its naval expansion into distant places, but also how it would defend its interpretation of permissible operations in the EEZs of other countries.

Before the Senate Armed Services Committee, Admiral Timothy J. Keating, commander, US Pacific Command, contrasted the two simultaneously occurring events, the South China Sea confrontation and the Gulf of Aden anti-piracy operation. "The *Impeccable* incident is certainly a troubling indicator that China, particularly in the South China Sea, is behaving in an aggressive, troublesome manner, and they're not willing to abide by acceptable standards of behavior or rules of the road," he said. But, at the same time, Keating noted that China is cooperating with the international naval task force led by the United States to fight piracy in the Gulf of Aden. The two types of Chinese behavior, the admiral added, are confusing.²⁰

From Beijing's perspective, its position on these two events is clear. With respect to its operations in the Gulf of Aden, Chinese leaders are careful to justify it based on the United Nations Security Council actions authorizing the operations.²¹ China

even awaited a definitive UNSC decision before publicly declaring intent to send a naval force. Equally important, China has noted the expressed desire of the Somalia government for help in combating piracy.²² These were important factors in the unprecedented Chinese decision to dispatch a force on what is essentially a combat mission within the EEZ of another country. In citing these factors, China seems to have carefully constructed a legal framework to defend against assertions of a double standard: that is, objecting to US military activities in its EEZ while conducting such activities in another state's EEZ.

This point was reinforced with the statement by the Chinese rear admiral heading the anti-piracy operation who made clear that his force would not accept direction from others but would limit the interaction to the "exchange of information" with other ships of the multinational force,²³ thereby avoiding the possibility of being assigned tasks incompatible with Beijing's guidelines for the employment of force. In this way, the PLA Navy operations in the Gulf of Aden conform to Beijing's interpretation of the UNCLOS: that non-coastal states must obtain the coastal state's approval for military operations in an EEZ.

While the diverging interpretations of permissible activities within an EEZ under international law provide a rationale for the two countries' conduct, the problem would exist even if EEZs did not. There is something more fundamental behind the actions of Beijing and Washington in these confrontations. Beijing understandably opposes Washington's right to fly reconnaissance aircraft and position surveillance ships off the coast of China. Washington's position, if largely tacit, is that intelligence collection against the Chinese military is warranted if China attacks Taiwan or undertakes other actions that require a US military response. In other words, China is indignant at what it sees as American intrusive conduct,²⁴ and China's refusal to renounce the use of force against Taiwan compels the United States to maintain efforts to ensure success if US military intervention is required.

SEEKING A SOLUTION

The repetition of risky encounters between the two countries again points to the need for a formal mechanism for dealing with maritime incidents between the two countries. As retired Australian Rear Admiral Sam Bateman put it, "It is important that incidents such as the recent ones are not allowed to escalate. In a scenario not unlike that of the USS *Pueblo* off North Korea in 1968, China could be tempted to seize an unarmed MSC survey vessel in its EEZ. Or in a similar provocative action, the US might begin to escort its survey vessels with naval warships."²⁵ Thus there is a clear need for confidence-building measures and a code of conduct to mitigate escalation.

While some suggest that China should go to the United Nations to establish and clarify its position, the Chinese already think the EEZ rules work their way. The point to be made to the senior Chinese leadership is that we agree to disagree on EEZ rules, but how we then react or avoid overreaction is the matter to be resolved. For

example, China might legitimately employ noisemakers to foil acoustic collection or otherwise mask submarine emissions, but it cannot physically snag the towed array or stage near-collisions.

At least on paper, the United States and China have developed a framework to resolve such incidents. In 1998, the two countries established a mechanism called the Military Maritime Consultative Agreement, which included maritime and aviation safety working groups; however, the agreement fell apart after the 2001 EP-3 incident. Following the collision between the planes, then-Secretary of State Colin Powell attempted to utilize the MMCA framework to call an emergency meeting to investigate the accident. But, when he called the Chinese foreign minister, Chinese officials made it clear they had no interest in the agreement that they had signed. Instead, they insisted Washington halt the reconnaissance flights and subsequently suspended the MMCA talks—an action former Deputy Assistant Secretary of State Randy Shriver labeled a counterintuitive response if there ever was one.²⁶ In the context of the recent incident, Shriver stated that we have the vehicle for managing incidents at sea, but the Chinese are not particularly interested in a rules-based, operator-to-operator approach to safety on the high seas. They have other (probably strategic) objectives in play.

The United States argues that military activities in the EEZ constitute “peaceful purposes.”

Despite unfavorable past experiences, a new bilateral environment accompanied by pressing economic and other issues that demand cooperation presents a fresh opportunity. This time an effort to revisit the MMCA should aim at a higher level in the Chinese government thereby depriving lower level officials the chance to reject the idea. The goal would be either to seek a direct remedy from the top, or to propose that the highest levels of each government direct the prompt convening of a meeting of the MMCA principals and its safety working groups. The goal of the meeting would not be to resolve the fundamental divergence, but to establish procedures to govern conduct during confrontations such as with the EP-3 and *Impeccable*. There is precedent with the 1972 US-Soviet Incidents at Sea Agreement (INCSEA), where violations would be handled jointly by senior officials.

INCSEA AS PRECEDENT

Before INCSEA, encounters with the Soviets were often dangerous and outcomes unpredictable. After INCSEA, that was rarely the case. As this author experienced first-hand in the 1960s and 1970s, “games of chicken” on the seas led to loss on both sides, in terms of military equipment and lives. The many close calls (see insert) illustrate an atmosphere where actions by officers of both navies at sea and in the air were exacerbating tensions with consequent political fallout and the risk of escalation.²⁷

Soviet naval ships routinely shadowed and often harassed or interfered with op-

erations of the US Navy and other NATO countries. Some incidents were deliberate expressions of policy, while others were attributable to aggressiveness or even inexperience. Soviet fighters often intercepted US Navy P-2 and P-3s. Aircraft carriers were shadowed endlessly by Soviet “trawlers” and occasionally by Bear aircraft.

The US employed such tactics as surprising Soviet Navy ships by flying aircraft low and at high speed, remaining below the radar horizon and escaping detection until the last minute. In this way, Soviet activities could be observed.²⁸ American carrier-based pilots reportedly flew sufficiently low over Soviet warships to snag radio antenna wires between masts with lowered tailhooks—likely apocryphal but representative of the aggressive attitudes at the time. In less aggressive activities, from the Iceland Defense Force, US fighters intercepted Soviet Bear aircraft, and P-3s were sent to locate Soviet submarines and even simulate attacks on Soviet surface ship formations.²⁹

High-risk activities reached a peak in 1967. On 10 and 11 May of that year, Soviet navy ships collided with the destroyer USS *Walker* in the Sea of Japan as it was attempting to fend off Soviet efforts to disrupt the flight operations of the carrier USS *Hornet* that USS *Walker* was escorting. Then-Congressman Gerald R. Ford suggested that the US Navy be authorized to use its guns to respond. Soon after, a Soviet navy Tu-16 Badger aircraft cart wheeled into the Norwegian Sea while “buzzing” the carrier USS *Essex* during flight operations, killing the Soviet crew of seven.

After several major incidents, the Soviets finally agreed to start talks on safety at sea.³⁰ The talks produced INCSEA, a tangible result. Conduct by both sides became generally more responsible. The risk of investigation under INCSEA and charges for violations of the agreement acted as a deterrent to officers on both sides. Under the agreement, each side had a mechanism to report dangerous conduct, thus deterring many risky and provocative actions. The average number of incidents per year dropped from over 100 in the 1960s to 40 by 1974. The 1973 Arab-Israeli War saw close to 100 Soviet ships intermingling with US forces in tense circumstances, yet no serious incidents occurred.³¹

When violations did occur, they were resolved smoothly because a mechanism was in place to adjudicate, review procedures, and correct transgressions. INCSEA not only provided rules but was also something of a safety valve. Indignation, frustration, ideological differences, and the like could be vented. The wronged would be heard and the reckless chastised. INCSEA worked because neither government wanted collisions or escalation.

INCSEA WITH CHINA?

The top leadership in China seems to share the desire to avoid escalation. If nothing else, proposing use of the MMCA to develop an agreement could be a way to start a conversation between top leaders where both sides could be candid about their reasons, rationale and readiness to avoid a recurrence. However, both the United

States and China have expressed opposition to replicating the 1972 US-Soviet INCSEA agreement because that agreement was clearly made between adversaries.

Any new agreement will inevitably repeat many of the common sense rules of the road laid out in the INCSEA document. However, a new direction might be undertaken in certain important ways. First, it may be critical to incorporate additional and modified provisions that change the language and tone, so as to avoid misunderstandings and unwanted associations. In essence, an agreement with China might be conceived as prescribing procedures for *coordination* (in place of the emphasis on incidents). These might be called a Military Maritime Coordination Procedures Agreement (MMCPA). CPA is already a widely familiar term both at sea and in the air; it stands for closest point of approach, or the minimum distance calculated when a ship or aircraft is approaching another ship or aircraft. A minimum CPA for ships while conducting surveillance could be agreed upon. A similar minimum distance could be prescribed for aircraft. Additionally, the agreement could become a coordination method that, to a far greater extent than INCSEA, employs communications as an additional buffer (beyond the written rules) to avoid collisions or other incidents. For instance, a vessel or aircraft about to commence surveillance would reveal its presence, and then both sides would keep each other apprised of movements of interest.

With respect to language or tone, the agreement with China, in line with the coordination theme, could replace the confrontational thrust generally associated with INCSEA with a collegial and professional quality. Moreover, the wording, as compared to that of INCSEA, should be amplified and updated to reflect technological advances, and the scope might be broadened to include vessels and aircraft of government agencies other than the armed forces, since such vessels have been involved in recent events.

In general (see appendix for details), MMCPA would cover the activities of military, government and auxiliary ships and aircraft on the high seas and in the airspace above. Approaching vessels and aircraft would announce by radio maneuvers of interest to the other country. The agreement would, like INCSEA, prohibit interference with naval formations and require special consideration for maneuvers in areas of heavy sea traffic. Also like INCSEA, MMCPA would envision the negotiation of minimum distances for closure and prohibit simulated attacks and the use of strong lights or lasers to illuminate ship bridges and aircraft cockpits.

SURPRISE RESOLUTION

As it happened, the March 2009 incident ended unexpectedly. A March 20 Chinese news report started with the declaration that the Chinese military was ready to call an end to the standoff with the United States after diplomatic efforts had reduced tensions. It was stated that top commanders did not have plans to increase the military presence in the South China Sea and that military analysts agreed it was time to end the dispute and move on with more important issues concerning

Sino-US relations.³² This occurred despite the fact that Beijing had followed Washington's declaration that it was sending a destroyer to escort the *Impeccable* with an announcement that it would augment patrols in the South China Sea, converting decommissioned naval ships and possibly acquiring fishing boats to join the effort.³³ In addition, the USNS *Impeccable* was said to be remaining in the area.³⁴

The surprise ending was consistent with many China watchers' expectations that the top leadership would conclude that this confrontation was not the issue upon which Beijing and Washington should be expending time, effort and hard-earned goodwill. An overriding need required China and the United States to stop squabbling over EEZ rules and intelligence collection rights and move on to the issues facing the G20, the Six-Party process, global climate change, among other things.

Although this confrontation finished peacefully, it is by no means a permanent resolution. The USNS *Impeccable* continues to sail off Hainan and US reconnaissance aircraft still fly through China's EEZ. The potential for trouble will persist. The short-term solution was the apparent mutual recognition of the importance of other issues. The mid-term solution might resemble the described coordination agreement with the Chinese that would make surveillance and confrontation less risky to the bilateral relationship and to those involved at sea and in the air. The toughest issues can be resolved through the adoption of cooperative undertakings, such things as broad maritime cooperation that will serve to build trust and confidence between Beijing and Washington—which now feel the need to continue to hedge in the form of military readiness to confront the other. Engagement can serve to reduce the need to hedge. 🤖

APPENDIX

CONCEPTUAL OUTLINE FOR US-CHINA MILITARY

MARITIME COORDINATION PROCEDURES AGREEMENT (MMCPA)

Based on the concept, as described in the article, of an agreement to facilitate coordination, what follows is a very much abbreviated version (in the form of working guidelines, not formal language) of an agreement with China, by a new name. Procedures from the 1972 INCSEA agreement appear in regular font, while new suggestions are bolded and include the author's explanatory comments in italics:

Geographic scope: The navigation of the high seas including EEZs and flight over the high seas [thus effectively excluding territorial waters—just as in 1972]

Types of vessels and aircraft covered: Ships, **other vessels**, and aircraft of the naval forces, naval auxiliaries, and **other government agencies** of the United States and China—whether alone or in formation.

Bases and premise:

- International Regulations for Preventing Collisions at Sea (Rules of the Road)
- International law codified in the 1958 Geneva Convention on the High Seas
- Instruction of the commanding officers of their respective ships to observe strictly

the letter and spirit of these fundamental guidelines.

Article 10 of the Geneva Convention provides an underlying basis: 1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard, inter alia, to: (a) *The use of signals, the maintenance of communications and the prevention of collisions...* [This new proposal gives emphasis to radio and other electronic means of exchanging information that now seem available and appropriate for use between the United States and China. INCSEA contemplated visual signals and communications. The suggested requirement, described below in some detail, to make a voluntary announcement of impending arrival in the vicinity also sets a better tone—collegial and professional rather than adversarial or confrontational]

Conduct by ships, **other vessels** [patrol craft and other types not called ships could be involved], and aircraft:

- Avoid ship collisions by adhering to Rules of the Road; **announce when a deviation from the Rules is intended and receive acknowledgement**; e.g., electing to stop or turn away when in the position of a privileged crossing ship and obligated normally to maintain course and speed.
- Avoid aircraft collisions by adhering to ICAO (International Civil Aviation Organization) visual or instrument flight rules and take extraordinary precautions when operations require deviation from such practices; e.g., operating in “due regard” status where an aircraft is responsible over the high seas for separation from other aircraft.
- Do not interfere in the “formations” of the other party.
- Avoid maneuvers in areas of heavy sea traffic where international traffic schemes exist.
- Surveillance ships are to maintain a safe distance from the object of investigation so as to avoid “embarrassing or endangering the ships under surveillance” [consider a minimum distance rule, possibly 500 yards or meters, without mutual consent for a closer approach].
- Use accepted international signals including bridge-to-bridge radio circuits when ships maneuver near one another; after initial contact, automated position-reporting means may be utilized as available, but intentions must be announced for maneuvering in the immediate vicinity, perhaps within 2,000 yards.
- Do not simulate attacks with actions such as pointing guns, missile launchers, torpedo tubes; locking on with fire-control radars, launching objects toward, or illuminating with powerful lights or lasers the bridges of the other party’s ships or cockpits of aircraft.
- Inform vessels when submarines are exercising near them.
- Require aircraft commanders, in addition to complying with ICAO rules for collision avoidance, to use the greatest caution and prudence in approaching aircraft and ships of the other party and not permitting simulated attacks against aircraft or ships, performing aerobatics over ships, or dropping hazardous objects near them.
- Require the ship or aircraft arriving in the vicinity of the other party’s ships, vessels, or aircraft to announce on bridge-to-bridge radio, a specified radio

frequency (to be monitored when surveillance is likely or observed), or other advanced reporting means the following “approach report”:

- » Identity (as best known) of unit(s) being approached, call sign of transmitting vessel or aircraft, identity or composition of approaching unit or group, position (relative or geographic), altitude, course and speed, intentions. These could be formatted to facilitate use by those with lack of language skill.
- » The approach report from a US Navy aircraft might sound as follows: “The following is a US-China MMCPA approach report. Unidentified PLA Navy ships 45 miles northwest of Hainan Island, this is US Navy 7937, one EP-3 aircraft 14 miles south of your formation at flight level 215 on a course of 025 at 335 knots expecting to transit your position and proceed northward. Do you have known aircraft in your vicinity? Over.”
- » The approach report from a PLA Navy surface group might be composed as follows: “The following is a US-China MMCPA approach report. Unidentified US Navy aircraft carrier formation 225 miles east of Djibouti, this is PLA Navy destroyer 136 in company with another destroyer and a frigate at 12 degrees 10 minutes north latitude and 46 degrees 38 minutes east longitude on a course of 295 at 12 knots. We are considering coming left to 185 to avoid interference with your ongoing flight operations and to avoid heavy merchant traffic. When will you complete flight operations? Over.”

NOTES

¹ The prefix USNS, not USS, indicates that these are not warships but rather vessels operated primarily by civilians (with some uniformed Navy personnel) to do special missions and technical tasks for the US Navy.

² Tactical-Auxiliary General Ocean Surveillance

³ Surveillance Towed Array Sensor System

⁴ It was reported that the crew of the *Impeccable* used fire hoses to try to stop the approach, but the Chinese crew stripped to their underwear and came within about 25 feet. “US protests ‘harassment’ of USNS *Impeccable* by Chinese vessels,” *Los Angeles Times*, March 9, 2009, <http://www.latimes.com/news/nationworld/world/la-fg-impeccable-china10-2009mar10,0,5014118.story?track=rss>

⁵ “Pentagon says Chinese vessels harassed US ship,” CNN, March 9, 2009, <http://www.cnn.com/2009/POLITICS/03/09/us.navy.china/>

⁶ The COLREGS, as they are sometimes called, are premised on the need to avoid collisions at sea—as reflected in the title. Obviously, actions to heighten the danger of collision are not anticipated. Extracts from Rules 2 and 8 are illustrative of obligations:

Rule 2

(a) Nothing in these Rules shall exonerate any vessel, or the owner, master, or crew thereof, from the consequences of any neglect to comply with these Rules or of the *neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the*

case.

Rule 8

(d) *Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance.* The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(e) If necessary to avoid collision or allow more time to assess the situation, a vessel may slacken her speed or take all way off by stopping or reversing her means of propulsion.

(f)

(i) A vessel which, by any of these rules, is *required not to impede the passage or safe passage of another vessel* shall when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation *if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the rules of this part.*

(iii) A vessel the passage of which is not to be impeded remains *fully obliged to comply with the rules of this part when the two vessels are approaching one another so as to involve risk of collision.* [Emphasis supplied.]

⁷ President Clinton signed the Convention in 1994 and passed it to the Senate for the required ratification. After a decade and a half of delay, the Senate may ratify it in 2009. China ratified it in 1996.

⁸ UNCLOS Article 56 (1) states: In the exclusive economic zone, *the coastal State has:*

(a) *sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.* [Emphasis supplied.]

⁹ Article 58 (1) states with respect to permissible activities in another country's EEZ: In the exclusive economic zone, *all States...enjoy...the freedoms...of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines....* [Emphasis supplied.]

¹⁰ Article 310 of the Convention allows States and entities to make declarations or statements regarding its application at the time of signing, ratifying or acceding to the Convention, *which do not purport to exclude or modify the legal effect of the provisions of the Convention.* Upon ratifying the treaty in 1996, China, nevertheless, made the following declaration with respect to jurisdiction over its EEZ: In accordance with the provisions of the United Nations Convention on the Law of the Sea, the People's Republic of China shall enjoy sovereign rights and jurisdiction over an exclusive economic zone of 200 nautical miles and the continental shelf. This declaration is at the website of United Nations Oceans and Law of the Sea, Division for Ocean Affairs and the Law of the Sea, Declarations and statements; http://www.un.org/Depts/los/convention_agreements/convention_declarations.htm#China%20Upon%20ratification. Listed alphabetically under China.

¹¹ UNCLOS Article 58 (3); http://www.un.org/Depts/los/convention_agreements/texts/unclos/part5.htm

¹² *Ibid.* Listed alphabetically under Germany.

¹³ The diverse views on military activities in an EEZ expressed authoritatively by UNCLOS delegates and specialists of several countries including China, the United States, Singapore, Mexico and others are described in Van Dyke, Jon M., "Military Ships and Planes Operating in

the EEZ of Another Country,” undated paper, <http://www.hawaii.edu/elp/publications/faculty/TokyoPaperFinal.doc>, pp. 3-6. On p. 5, Van Dyke stated: “[C]ountries have remained conflicted about this issue, expressing the view that they made strategic sacrifices during the Convention’s negotiations in order to achieve a universally acceptable Convention, and are still uneasy about other countries’ military activities close to their coasts....”

¹⁴ Wallace, Michele, “The Right of Warships to Operate in the Exclusive Economic Zone as Perceived by Delegates to the Third United Nations Law of the Sea Convention” in Jon M. Van Dyke, Lewis M. Alexander, and Joseph R. Morgan (eds.), *International Navigation: Rocks and Shoals Ahead?* Honolulu: Law of the Sea Institute, 1988, pp. 345, 346-47; as cited in <http://www.hawaii.edu/elp/publications/faculty/TokyoPaperFinal.doc>.

¹⁵ Article 58 of UNCLOS concerning EEZs, refers to the applicability of Article 88, which states: “The high seas shall be reserved for peaceful purposes.”

¹⁶ Assumed to be conducting information gathering operations since the ship was casting its equipment into the sea and rotating its antennas. *Defense of Japan 2000 White Paper* English translation by Urban Connections, p. 49; <http://www.infoasia.co.jp>

¹⁷ *Defense of Japan 2001 White Paper* available at <http://www.jda.go.jp/e/pab/wp2001/youyaku/by1301030000.htm>

¹⁸ “Japan, China agree on 2-month maritime notice system,” Japan Policy & Politics, Kyodo News Agency, Feb 19, 2001; available at http://findarticles.com/p/articles/mi_m0XPQ/is_2001_Feb_19/ai_70709776.

¹⁹ Interestingly, Seoul and Tokyo decided to send ships only after Beijing had done so. The Chinese ships, although remaining independent, are communicating with Task Force 151 ships by e-mail and bridge-to-bridge radio, and exchanging information on operations and positions, thus participating substantially, if not officially, in the multinational undertaking to protect maritime activity in the Gulf of Aden. It is not clear if the JMSDF ship is part of TF 151 or simply cooperating.

²⁰ Al Pessin , “US Admiral Calls for Renewed US-China Military Talks,” VOANews.com, 19 March 2009; <http://www.voanews.com/english/2009-03-19-voa63.cfm>

²¹ “Remarks by Vice Minister He Yafei at the UNSC Ministerial Meeting On Counter Piracy off the Coast of Somalia,” Ministry of Foreign Affairs of the PRC, 17 December 2008, <http://www.fmprc.gov.cn/eng/wjb/zzjg/gjs/gjsxw/t526519.htm>

²² “Vice Foreign Minister He Yafei Meets with Foreign Minister of the Transitional Federal Government (TFG) of Somalia Ali Ahmed Jama,” Ministry of Foreign Affairs of the PRC, 17 December 2008, <http://www.fmprc.gov.cn/eng/wjb/zzjg/gjs/gjsxw/t526947.htm>

²³ “Chinese Navy sends most sophisticated ships on escort mission off Somalia,” *China View: Window of China*, 26 December 2008; http://news.xinhuanet.com/english/2008-12/26/content_10565179.htm

²⁴ The author met with a think-tanker from a prominent Shanghai university on April 2, 2009. He described the widely held view among the Chinese public that, issues of international law aside, the United States should not conduct operations in areas of sensitivity to China—such as near this new nuclear submarine base. He went on to say that there are only small areas that fall into this category.

²⁵ Bateman made this statement in a give-and-take in the Nelson Report on March 16, 2009.

²⁶ Nelson Report, March 11, 2009

²⁷ The descriptions of the circumstances that led to and then resulted from the INCSEA agreement are a combination of the author’s recollections of personal experiences in his career in the US Navy and reports from that period, which were refreshed, reaffirmed, and augmented by

reading numerous documents and articles, prominently including the following three: (1) Winkler, David F., "IncSea, games of "chicken," and fortunate timing," *Sea Power*, April 2001, available at http://findarticles.com/p/articles/mi_qa3738/is_200104/ai_n8932960/; (2) David N. Griffiths, "Catalyst for Confidence: 25 Years of INCSEA," available at http://www.noac-national.ca/article/griffiths/incsea_bydavidngriffiths.html; (3) Rose Gottemoeller, "US-Russia Cooperation on Iran: Aftermath of the Summer War in Georgia," *Pro et Contra*, July-August 2008; <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=22449&prog=zru>

²⁸ The author recalls conducting a similar maneuver in a P-2 aircraft, over Soviet ships in the Sea of Japan in 1962.

²⁹ As Commander of the Iceland Defense Force 1986-89, the author routinely directed F-15s from Iceland to intercept Soviet Bear aircraft and sent P-3s to find Soviet submarines and to simulate attacks on Soviet surface ship formations. These activities benefited from the, by then, well-established IncSea rules.

³⁰ A US Navy officer involved in the last incident involving the USS *Essex* explained how this dangerous pass over his ship had led to that Soviet plane crashing into the sea; his Soviet counterpart solemnly note that his son had been on that flight.

³¹ *Ibid.*

³² *Ibid.*

³³ Jane Macartney, "China ends naval stand-off and credits Barack Obama," *Times Online*, March 21, 2009; <http://www.timesonline.co.uk/tol/news/world/asia/article5942562.ece>

³⁴ "Sino-US sea standoff appears to have ended," *China Daily*.

³⁵ David E. Sanger and Joseph Kahn, "US Tries to Interpret China's Silence Over Test," *New York Times*, January 22, 2007; http://www.nytimes.com/2007/01/22/world/asia/22missile.html?_r=1

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The Legality of the “*Impeccable* Incident”

Ji Guoxing

The “*Impeccable* Incident” constitutes the most serious friction between China and the United States since the collision of their military aircraft near Hainan Island in April 2001. Like the previous one, this incident shows the two countries’ differing understandings and implementation of the United Nations Convention on the Law of the Sea (UNCLOS) – particularly the Convention’s provisions on coastal states’ rights in their exclusive economic zones (EEZs). In attempting to justify the US conduct in the South China Sea, Chairman of the Joint Chiefs of Staff Admiral Michael Mullen said that though the *USNS Impeccable* was in China’s EEZ, the United States has the right to enter this area. “These aren’t territorial waters. Territorial waters go out to 12 nm [nautical miles], and exclusive economic zones go out to 200 nm. Any country has the right to enter,” he said. But in fact, the *Impeccable*’s activities did contravene the UNCLOS, as the Convention affords China

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jurisdiction over relevant activities in the EEZ and prohibits actions that are not for peaceful purposes.

The UNCLOS, the document underlying this controversy, was adopted in April 1982 after more than 14 years’ of negotiation and consultation, and finally took effect in November 1994. To date, 156 countries have signed it. Although the United States has not yet ratified the Convention, it is still bound to follow it, as the Convention has become customary international law. Since the Convention itself is the outcome of compromise between coastal states and maritime powers, it attempts to strike a balance between the needs of coastal countries striving to expand their marine interests and rights over resources and of maritime powers insistent on preserving their freedom of navigation. Therefore the Convention is ambiguous on many issues. Each country usually takes the interpretation most favorable to its own interests and there are always many differences over the Convention’s enforcement.

HIGH SEAS VS. INTERNATIONAL WATERS

Though the United States supports the EEZ regime, it insists on using language that reinforces its own interpretation of the Convention’s provisions. In particular, the United States continues to use the phrase “international waters” when referring to the EEZ, in an attempt to support its desire for unimpeded freedom of navigation. But since UNCLOS took effect, the words “international waters” have no legal meaning. Historically, the terms “high seas” and “international waters” were interchangeable, as both words referred to the waters beyond the territorial seas. But now, according to the UNCLOS, “high seas” refer to the sea areas beyond the extent of national jurisdiction. According to Article 86 of the Convention, “high seas” refer to “all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State.” UNCLOS does not address the notion of international waters, and the term does not appear in the Convention.

The United States believes that “All waters seaward of the territorial seas are international waters where the ships and aircraft of all States enjoy the high seas freedom of navigation and overflight;” “International waters include the contiguous zone, exclusive economic zone and high seas;” and “The international respect for freedom of the seas guarantees legal access up to the territorial waters of all coastal countries of the world.”¹ However, while the United States regards the EEZs of other countries as international waters, it requires other countries to abide by its procedures and designated routes when flying in its “Air Defense Identification Zone” (ADIZ), which extends 434 nautical miles off its coast. The ADIZ is unilaterally set by the United States and its extent greatly exceeds that of the exclusive economic zone, though there is no provision for this in international law.²

At present the United States regards the freedom of navigation in exclusive eco-

conomic zones as equal to the freedom of navigation on high seas; but this is in conflict with the UNCLOS. Although the Convention grants freedom of navigation in the EEZ, such freedom is subject to the resource-related and environment-related laws and regulations of the coastal state. According to Article 58, in the exclusive economic zone, all States enjoy the freedoms of navigation, overflight, the laying of submarine cables and pipelines, but when exercising their rights, "States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State." Thus, the United States enjoys the freedom of overflight and navigation in China's EEZ, but such freedom is not unrestricted, and US aircraft and vessels must observe the relevant Chinese laws. By the end of the 1990s, China had promulgated more than thirty laws and regulations related to marine resources and environment, covering the basic marine legal system, mineral resources, fishing, environmental protection and marine scientific research among others.³

China is not alone in its protest against US activities in its EEZ. For example, although India explicitly opposes other countries conducting military activities in its EEZ, the US navy operates there all the same, and these operations increased after September 11. Each time the US navy enters the Indian EEZ, the Indian government lodges a protest.⁴ Likewise, the "Regional Maritime Security Initiative" (RMSI) championed by the United States has also met resistance from coastal states. The US planned to deploy its marines and special operations forces on high-speed vessels along the Strait of Malacca to flush out terrorists, but this caused an immediate negative reaction in Asia. The main reason is that RMSI does not conform to the right of innocent passage in the territorial sea, nor to the right of transit passage in the international straits, and that it also transcends the right of freedom of navigation in the EEZ. Similarly, the US "Proliferation Security Initiative" (PSI) plans to intercept ships and planes carrying suspected weapons of mass destruction (WMD). PSI is very controversial, because the legality of interdicting such shipments on the high seas as well as in EEZs and territorial waters is highly questionable and contravenes international law.

NOT FOR PEACEFUL PURPOSES

The US military survey activities in the Chinese EEZ violate the fundamental principle of the UNCLOS for "peaceful uses of the seas." According to Article 301, "In exercising their rights and performing their duties under this Convention, State Parties shall refrain from any threat or use of force against the territorial integrity or political independence of any State".⁵ As a marine surveillance ship, the *Impeccable's* expedition to the south of Hainan Island aimed to detect activities of the Chinese submarines deployed at the Sanya Submarine Base. In an interview with the Russian ITAR-TASS News Agency, an anonymous Pentagon official admitted that the ship was indeed engaged in collecting intelligence in the South China Sea.⁶ The activities of the *Impeccable* are obviously aimed at collecting military information and are not for peaceful purposes. They openly encroach on the national security and peaceful

order of China and constitute a threat of force against its territorial integrity and political independence.

As the Convention is the outcome of compromises between coastal states and maritime powers, the issue of military and information-gathering activities in the EEZ is an unspecified “grey area” in the Convention. Since the formulation of the Convention, there have existed two opposite standpoints on the matter. The coastal states including Brazil, Cape Verde, Uruguay, India, Pakistan, Bangladesh, Malaysia and China oppose the military and information activities of other countries in their EEZs, which, they argue, jeopardize their security and violate the fundamental principle for “peaceful uses of the seas.” On the other hand, the United States, Italy, Germany, the Netherlands and Britain actively advocate the freedom of military and information activities in the EEZ. For China and other coastal countries, what is not authorized in the Convention is not permitted; for the US and other maritime powers, what is not explicitly prohibited in the Convention is permitted.

The United States emphasizes that the *Impeccable* was in the Chinese EEZ but not in the Chinese territorial sea, and thus the Convention’s provisions on “innocent passage” are not applicable to the *Impeccable*. Article 19 of the Convention enumerates 12 activities that should be considered to be prejudicial to the peace, good order or security of the coastal State and not in conformity with innocent passage of the territorial sea. Item 3 refers to “any act aimed at collecting information to the prejudice of the defense or security of the coastal State.” The United States believes that the provisions on innocent passage are not applicable to the *Impeccable*. But the problem is that an activity considered to violate innocent passage in the territorial sea cannot be considered to be a “peaceful activity” in the EEZ.

The United States calls its reconnaissance in the South China Sea a “hydrographic survey”. China and other coastal states hold that hydrographic surveys relate to resources and environment in EEZs. They fall into the category of marine scientific research, and should be subject to the jurisdiction of the coastal states. The United States emphasizes that hydrographic surveys are part of the right of freedom of navigation, with the purpose to draw marine charts and to ensure the safety of submarine navigation. Yet, the freedom of navigation in the EEZ is subject to the restrictions of relevant laws and regulations of coastal states.

According to some US critics, China’s position on these issues is hypocritical, as they allege that China also engages in military and information-collecting activities in Japan’s EEZ. However, China’s activities in the East China Sea involve several contentious issues with Japan. First, the Diaoyudao Islands are historically part of Chinese territory, and Chinese ships have the right to enter sea areas adjacent to them; Second, China and Japan have not yet delimited the EEZ line in the East China Sea, and when their EEZ claims overlap, Japan cannot accuse China of its encroachment upon Japan’s EEZ. Third, Chinese warships passing through the Tsugaru and Tsushima Straits are exercising the right of transit passage in straits used for interna-

tional navigation, and Japan cannot use this to assert China's "expansion." Besides, the Chinese ships that traverse the Japanese territorial sea abide by the provisions of the innocent passage through the territorial sea.

American critics have accused China of duplicity, and criticized "China's provocation." But the fact is that it was the US survey ship that came to China's EEZ and tried to collect information. What would the United States do if the tables were turned? If China or other countries would imitate US actions and try to collect information in the United States' EEZ, how would Washington react? The United States and China are equal members of the international community, and the United States should give up its hegemonic mentality.

AN EQUITABLE RESOLUTION

According to Article 59 of the Convention, the conflict regarding the attribution of rights and jurisdiction in the exclusive economic zone "should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole." The China-US dispute on the *Impeccable* should be resolved in line with this spirit and on the basis of equity, with full respect for coastal states' regulations on the management of resources and military activities within the EEZs and for maritime powers' need for freedom of navigation.

In view of the difficulties in resolving the dispute within a short period of time, it is necessary for China and the United States to adopt confidence-building measures: first establish a maritime code of conduct, second, develop and sign an incidents at sea agreement (INCSEA). As to the code of conduct, they could try to reach some consensus on the military information activities in the EEZ. The aim is not to prohibit navigation or overflight in the EEZ, but only to create a framework for the exercise of freedom of navigation. For example, they could specify that activities such as collecting marine meteorological information to safeguard safe navigation are permissible, and that activities such as collecting military intelligence for military purposes are not permissible. They could also clarify each other's stand on the extent of China's jurisdiction in managing the resources and environment in its EEZ and on the extent of the US application of the freedom of navigation in the Chinese EEZ.

As to an INCSEA agreement, China and the United States, based on the Military Maritime Consultative Agreement (MMCA) reached between them in January 1998, could further sign a document similar to the 1972 US-Soviet INCSEA agreement. Although the US-Soviet agreement was signed during the Cold War, its positive role in preventing marine incidents has been acknowledged in the world community and many countries have followed suit. For example, Indonesia and Malaysia signed an INCSEA agreement in 2001. At that time, the two countries had not yet settled their dispute over the islands of Sipadan and Ligitan in the Sulawesi Sea, and their vessels often had encounters in the sea areas adjacent to the two islands. As in the original INCSEA agreement, there are concrete rules and regulations regarding the safe dis-

tance that must be kept between the ships and planes encountered. Also, both sides agreed to avoid dangerous actions and to exercise restraint in their naval operations, thus preventing the escalation of the tense situation. There is also an INCSEA agreement between Japan and the ROK. Although there is a long-standing dispute over the ownership of Dokdo Island, no unexpected accidents have ever taken place between the Japanese and Korean navies.

Finally, little can be accomplished until the United States revises its adversarial mentality towards China. The third US President, John Adams, once said that America "does not go abroad in search of monsters to destroy. She is the well-wisher to freedom and independence of all." However, the United States now seems to look for adversaries and enemies abroad. China seems to be one of its targets, as US military authorities continuously speak of a "China threat." China has no intention to confront the United States in the Pacific, no intention to drive the United States out of East Asia and no intention to replace the US role in East Asia. In fact, China's main strategic interests in the Asian-Pacific converge with those of the United States, and they need cooperation in many aspects such as safeguarding the strategic lanes of communication (SLOCs), fighting against terrorism and dealing with the current international financial crisis. If the United States regards China as its potential enemy, it will be impossible for them to talk about the commonalities in strategic interests. Following the Impeccable incident, President Obama has emphasized the enhancement of the level and frequency of China-US military dialogs to avoid the recurrence of such incidents in the future. This is certainly a positive step. ☺

NOTES

¹ Dennis Mandsager. "U.S. Free Navigation Program: Policy, Procedure and Future"; in Michael N. Schmitt edited. "The Law of Military Operations", International Law Studies, Vol. 72, p114 and p117. Newport, Rhode Island: Naval War College Press, 1998.

² Some Chinese scholars suggest that China should formulate the law concerning the establishment of ADIZ and organically connect it with the exclusive economic zone. See Xue Guifang, Xiong Xuyuan. *A Legal Analysis of the Establishment of Air Defense Identification*

³ See *Collection of the Sea Laws and Regulations of PRC (3rd Edition)*. Beijing; Ocean Press, 2001.

⁴ Comments made by Ram Anand, honorable professor with Nehru University of India, at the International Meeting on EEZ Regime sponsored by the Institute for Ocean Policy, Ship and Ocean Foundation in Tokyo on February 19-20, 2003.

⁵ This Article was included in Part XVI: "General Provisions" of the Convention; although it does not specifically refer to the EEZ, it includes the EEZ.

⁶ Chinese editon from ITAR-TASS. See, <http://news.sohu.com/20090312/n262749905.shtml>



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The Impeccable Incident: Truth and Consequences

Mark Valencia

The *Impeccable* incident 75 miles south of the island of Hainan in China's Exclusive Economic Zone (EEZ) was supposedly due to different interpretations of international law.¹ But more fundamentally it underscored the lack of transparency and trust in the US-China relationship. Given the mutual uncertainty regarding strategic intent, such incidents are likely to increase in frequency and intensity if the two rivals cannot develop a *modus operandi* to deal with their differences.

According to the Pentagon, "five Chinese vessels shadowed and aggressively maneuvered in dangerously close proximity to USNS *Impeccable*, in an apparent coordinated effort to harass the US ocean surveillance ship while it was conducting routine operations in international waters."² The Pentagon cited recent instances of previous "harassment of its naval vessel including shining of spotlights, low altitude flyovers,

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crossing of bows at night at close range, and finally a bridge-to-bridge warning calling [Impeccable's] operations illegal and directing Impeccable to leave the area or 'suffer the consequences.'" The US Navy's *Bowditch*, an oceanographic survey ship, has been occasionally hounded out of China's EEZ in the Yellow, East China and South China Seas beginning in 2002. Pentagon spokesman Stewart Upton explained that "Chinese ships and aircraft routinely steam or fly near US Navy ships in this area. However these actions [regarding the Impeccable] were considerably more aggressive and unprofessional than we have seen, and greatly increased the risk of collision or miscalculation."

SPLITTING HAIRS

There are several problems and lacunae in the Pentagon's explanation of the incident. First of all there is no such thing as "international waters." According to the 1982 UN Convention on the Law of the Sea, there are internal waters, territorial waters, the exclusive economic zone and the high seas, each with their own regime regarding freedom of navigation. "International waters" is a term used by the US Navy to indicate areas where it thinks it has unconstrained navigational freedom. The term is imprecise and confusing and its use should be discontinued.

The legal underpinnings of the US position are soft and ambiguous. According to the 1982 convention, marine scientific research in a foreign EEZ can only be undertaken with the consent of the coastal state. This is because such research and activities may have direct bearing on the exploration, exploitation, conservation or man-

agement of the coastal state's living and non-living resources. The research must also be for peaceful purposes only. China is among some 156 nations that have ratified the convention. The US is among a small minority that has not, although it maintains that most of it is binding customary law. However, customary law is constantly evolving based on state

China has recorded at least 200 incidents of US intelligence gathering in its EEZ.

practice. China maintains that what the United States is doing comes under the marine scientific research provisions of the convention and that it did not give the required consent to the United States. However, the United States distinguishes between marine scientific research, which requires consent, and hydrographic and military surveys, which are mentioned separately in the convention. The United States maintains that the latter do not require consent and that they are an exercise of the freedom of navigation and "other internationally lawful uses of the sea" protected by the convention.

Critics of this position point out that collection of data that is specifically for a military purpose may also unintentionally or otherwise shed light on resources in the area. They also argue that a country that has not ratified the convention does not have much credibility interpreting it to its advantage.

The mission of the *Impeccable* is to use passive and active low-frequency sonar

arrays to enable detection and tracking of undersea threats, including submarines. Tracking is a necessary prelude to targeting. China argues that the collection of such data is a “preparation of the battle field” and thus a threat of use of force - a violation of the UN Charter and certainly not a peaceful use of the ocean as required by the convention. China is not alone in barring certain military activities from its EEZ. Brazil, India, Malaysia and Vietnam also have some restrictions. The United States argues that its data gathering is purely defensive and certainly not a threat of use of force.

Regarding the confrontation, China would say that its vessels were not harassing the *Impeccable* but simply trying to make it cease violating what China says is both international and Chinese law and leave the area. The United States argues that according to the convention, China must pay “due regard” to its navigational and operational rights and that “harassing” its vessel - particularly a naval vessel which has sovereign immunity - is a violation of the due regard principle.

CUTTING TO THE CHASE

Those are the respective legal arguments. However this confrontation was not really about the finer points of international law. Rather it was about mutual distrust stemming from China’s military expansion and aggressive US actions to monitor this growing Chinese “threat” in order to neutralize it if need be.

Beijing has long sought to prevent other countries from carrying out surveillance or surveying operations within its EEZ. In 2002, China enacted a law against the undertaking of such activities in its EEZ without its permission. China has recorded at least 200 incidents of US vessels collecting intelligence in its EEZ, but generally has avoided such confrontations.³ However, it has tried to enforce its interpretation of the law several times against the *Bowditch*, a US hydrographic survey vessel. But this time the Chinese approach was different in degree. For example, it was considerably more aggressive and sustained. Why?

China is currently no match militarily for the United States in a full military conflict. However, there may come a day when it is - and the United States is taking no chances. It is particularly concerned with China’s fleet of submarines. In the last decade China has acquired 12 Russian kilo-class subs and built by itself two types of new nuclear-powered ones—the Jin-class, which carries ballistic missiles, and the Shan-class attack subs.⁴ China plans to build at least five Jin-class SSBN so that like the United States, it can have a near-continuous presence at sea of this nuclear deterrent.⁵ China has recently built a submarine base at Yulin, Hainan with 11 submerged tunnel openings to accommodate its new subs. Thus, the US concern and focus on Yulin.

Instead of simply surveying the ocean bottom like the *Bowditch*, to aid in the future navigation of its own subs and detection of underwater threats, the *Impeccable* was probably tracking Chinese submarines.⁶ Indeed it may have been trying to de-

termine at what distance it could detect the subs exiting China's Yulin base. It was also likely mapping the navigational channels emanating from Yulin to facilitate targeting in case it one day becomes necessary to bottle them up.⁷ Because China does not have a similar capability to monitor the US fleet and ocean bottom off its ports, this incident embarrassed the Chinese navy, potentially emasculated its submarine nuclear weapon capability and greatly frustrated its leadership. For China, this is a very "unfriendly" act and is well-known as such to the United States. This explains the strong Chinese reaction.

The aftermath of the incident was initially rather frightening for US-China relations. US officials lodged formal protests with the Chinese Foreign Ministry and the Chinese Embassy in Washington. The protests were promptly rejected in no uncertain terms by the Chinese Foreign Ministry. "The US claims are gravely in contravention of the facts and confuse black and white, and they are totally unacceptable to China," said its spokesman Ma Zhaoxa.⁸ Adm. Timothy Keating, the commander in chief of the US Pacific Command, told the US Senate Armed Services Committee that the Chinese had "behaved in an aggressive and troublesome manner "and are not willing to abide by acceptable standards of behavior."⁹ He added that China's actions were unlawful and dangerous." US National Intelligence Director Dennis Blair told Congress that the incident was the "most serious in eight years."¹⁰ He went on to say "preparations for a Taiwan conflict" still drive the modernization goals of the Chinese military and that the recent naval incident was part of a plan by Beijing to expand its influence.¹¹ Conservatives used the occasion to re-emphasize the China threat. A study published by the American Enterprise Institute in January warned that "The minimal aim of American strategy must remain what it has been for the past century: to preclude the domination of Asia by any single power or coalition of hostile powers. This is necessary to prevent others from threatening our security and prosperity through any attempts to control the region's resources, form exclusive economic blocs, or deny our physical access to and through Asia." Adding fuel to the fire, the Pentagon released a report concluding that China is increasing its military power and developing new "disruptive" technologies that are shifting the military balance in the region.¹²

IMPECCABLE TIMING?

Some US officials apparently think the confrontation was authorized in Beijing and timed to test the new US president.¹³ President Barack Obama ordered a guided missile destroyer to escort the *Impeccable*. China appeared to respond in kind, but subsequently said its patrol boat was dispatched to protect Chinese fisheries vessels in the South China Sea in the wake of the Philippines passing its Baselines Law, which included part of the Spratlys as a "regime of islands." Nevertheless this set the stage for a worst scenario of confrontation between warships and the potential incalculable consequences. US officials, including White House Press Secretary Robert Gibbs, said publicly that the US Navy will continue to operate in the South China Sea

“and we expect the Chinese to observe international law around that.”¹⁴

However it appears that cooler heads have prevailed - at least for the moment - beginning with President Obama. He “stressed the importance of raising the level and frequency of the US-China military-to-military dialogue in order to avoid future incidents.”¹⁵ US Secretary of Defense Robert Gates said he did not think China was trying to prevent the US Navy from operating in the South China Sea and that he hoped armed escorts would not be needed in future.¹⁶ US Secretary of State Hillary Clinton told reporters after her meeting with Chinese Foreign Minister Yang Jiechi that “we both agreed that we should work to ensure that such incidents do not happen again.”¹⁷ For its part, China said that its top commanders do not have plans to increase the military presence in the South China Sea and that it considers the incident “closed.”¹⁸

The plain fact is now is not the time for either party to expand this incident. The United States and China are deeply interdependent in trade and financial flows and need to work together to mitigate the burgeoning economic crisis. China has not linked economic and military issues in its relations with the US - but it could. At the end of January, China held 740 billion in US Treasury securities, more than any other country.

China and the United States have a 1998 agreement regarding military consultations for the very purpose of avoiding misunderstandings and confrontations. However, China froze such exchanges last October in retaliation for a 6.5 billion US weapons sale to Taiwan. Even though they resumed in February 2009, the Chinese side was quoted as saying “contacts will remain tenuous unless the United States removes remaining obstacles to improvement.”¹⁹ Obviously these consultations urgently need to be reinvigorated and expanded to include such incidents and ways to avoid them.

There may be room for a tacit compromise. Perhaps the Obama administration would be willing to modify some of its procedures - particularly regarding the more aggressive tracking and targeting of China’s submarines. China might in turn tacitly allow by inaction some collection of information by US naval vessels in its EEZ, e.g., general hydrography rather than tracking of submarines. The latter could actually be in China’s interest because as its capabilities expand it will increasingly need to collect similar information in other countries EEZs, particularly that of Japan. Indeed it already does so. Perhaps an incident at sea agreement similar to that worked out with the Soviet Union at the height of the Cold War could mitigate actual confrontations.

But this would be only a stop-gap measure and useful only for China and the United States (and maybe Japan). Unfortunately as technology advances, the scale and scope of maritime and airborne intelligence collection activities are likely to expand rapidly over the next decade in many countries, involving levels and types of activities quite unprecedented in peacetime. They will not only become more intensive;

they will generally be more intrusive and include unmanned aerial and submerged vehicles. These intelligence gathering activities will generate tensions and more frequent crises; they will produce defensive reactions and escalatory dynamics; and they will lead to less stability in the most affected regions, especially in Asia.

Agreement is needed on a set of voluntary guidelines for military and intelligence-gathering activities in foreign EEZs. Such guidelines would provide indicators of friendly (and unfriendly) behavior and help parties avoid unnecessary incidents without banning any activities outright. Specific guidelines have been proposed by a group of international experts meeting in their personal capacities over several years with the support of the Ocean Policy Research Foundation of Japan.²⁰ The most relevant of these voluntary guidelines would be the obligation to use the ocean for peaceful purposes only, and to refrain from the threat or use of force, as well as provocative acts such as collecting information to support the use of force against the coastal state or interfering with electronic systems. Unfortunately, the United States rejected any and all such guidelines as unacceptable. It may be time for it to re-evaluate its position.

The bigger question is whether enforcing US interpretations of the finer points of a treaty it did not ratify is worth undermining US-China relations, particularly at this point in time? To some “cold warriors” of a bygone era, perhaps it is. But there is a new commander-in-chief in Washington. And his mantra is change - not only in foreign policy, but more importantly how it is conducted. President Obama seems to prefer an open-minded, reasonable, and conciliatory approach. But US government arguments and immediate follow-up actions regarding the incident seem to constitute a “might makes right” approach that only increases the damage being done to the US image in Asia. Real change is needed in US maritime diplomacy in Asia and elsewhere. ☹

NOTES

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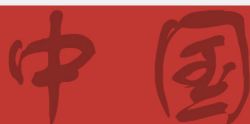
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China's Policy in the Wake of the Second DPRK Nuclear Test

Bonnie S. Glaser

North Korea's May 2009 nuclear test has infuriated Beijing. Signaling its extreme dissatisfaction with North Korea's unrelenting defiance of China's advice and interests, Beijing voted in favor of a new UN Security Council resolution that includes tougher sanctions than the resolution passed following North Korea's first nuclear test in 2006. China remains firmly committed to the goal of a denuclearized peninsula. At the same time, however, Beijing remains wary of both the direct and indirect potential consequences of pushing North Korea into a corner. The Chinese worry that exerting too much pressure could result in a loss of the limited leverage that they have over Pyongyang and a hostile relationship with a bordering country. China is also concerned that excessive pressure could provoke the North to take

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more dangerous actions rather than reverse course and resume its denuclearization commitments. It fears instigating instability in North Korea that could bring a flood of refugees into China's northeast provinces and set in motion a chaotic process that leads to the demise of the DPRK with no certainty that Chinese interests would be protected under a reunified Korean government. For these reasons, China is unlikely to work actively with the United States and other countries to exert the maximum possible pressure on the North through the implementation of UN sanctions and will eschew the even harsher unilateral actions that are being implemented by the United States and some other countries.

At the same time, however, North Korea's second nuclear test and other actions have triggered an intense debate over China's long-term interests on the Korean peninsula and how to best protect those interests. In a likely reflection of sharp differences among policy makers, the Chinese media has permitted, and perhaps even encouraged, discussion of the correctness of China's policy toward North Korea and the pros and cons of applying greater pressure on its neighbor. Although the debate is nowhere near closure, it is apparent that those who view North Korea as a strategic liability rather than a strategic asset have gained the upper hand. Yet it remains to be seen whether substantial adjustments will be made in China's policy toward North Korea.

THE OFFICIAL LINE

China's official response to North Korea's May 2009 nuclear test was issued in a Foreign Ministry statement, the same vehicle that was used following the October 2006 test. The Chinese government employs Foreign Ministry statements very rarely—it has issued such statements on only eight previous occasions since 1992, including in response to India's 1998 nuclear test and then-Taiwan President Li Teng-hui's 1995 visit to the United States—underscoring the gravity of China's concern. The statement responding to North Korea's second nuclear test reiterated the harsh language used to condemn the first test. Both statements expressed the Chinese government's "resolute opposition" to the nuclear tests and said that China "strongly demands" that the DPRK abide by its non-nuclearization commitments, "stop actions that may lead to a further deterioration of the situation," and "return to the track of the Six-Party Talks." The only significant difference between the two statements is that the 2009 statement omitted the word "flagrantly" in describing North Korea's conduct. This omission should not be construed as indicating a milder reaction compared to the 2006 nuclear test.¹ Indeed, Beijing did not object to the language used to condemn the North's action in UN Security Council Resolution 1874, which accused Pyongyang of acting in "violation and flagrant disregard" of Council resolutions.

At the same time, however, China sought to restrain the international community from reacting too strongly to the North Korean test, fearing that excessive punishment could set in motion an uncontrollable escalatory cycle. China's Foreign Min-

istry spokesman cautioned the UN Security Council, which convened in emergency session, to consider only actions “conducive to achieving the non-nuclearization of the Korean Peninsula,” and urged “all parties concerned to seek a calm and proper response and to pursue peaceful resolution of the issue through consultation and dialogue.”² Following the unanimous adoption on June 12 of UN Security Council resolution (UNSCR) 1874, China’s Foreign Ministry spokesman voiced the government’s firm opposition to the nuclear test, but emphasized that China supports sanctions not to punish Pyongyang, but to persuade it to reconsider its actions and return to negotiations. He asserted that, “Imposing sanctions is not the purpose of the UN Security Council’s move. . . . The resolution just adopted by the UN Security Council sends a positive signal to the DPRK, leaving room for all parties to peacefully settle the DPRK nuclear issue through dialogue.” China also insisted on including a clause in the resolution stating that sanctions could be suspended or lifted if North Korea comes into compliance with relevant provisions of resolutions 1718 and 1874.

China’s Foreign Ministry spokesman also stated that, “As a sovereign country and a member of the United Nations, the DPRK’s sovereignty, territorial integrity and reasonable security concerns and development interests should be respected.” Once North Korea rejoins the NPT, he maintained, it should “have the right to use nuclear energy for peaceful purposes.”³ Speaking at the UN, China’s Ambassador Zhang Yesui admonished that, “Under no circumstances should there be the use of force or the threat of the use of force.”⁴

In the deliberations at the United Nations, China used its influence to water down some of the sanctions that could hurt North Korea most, not because it opposed exerting pressure in principle, but because it feared specific measures could be counterproductive and increase the likelihood of greater tension and conflict. For example, the United States, Britain and France favored making it mandatory for all states to search North Korean ships suspected of carrying illicit cargo, but China and Russia opposed. The agreed upon language in the resolution only “calls on” states to conduct inspections to ensure that North Korea is in compliance with all UN Security Council resolutions. China’s Foreign Ministry spokesman indicated that China “understands the concerns of relevant nations participating in the Proliferation Security Initiative,” and “agrees with the nonproliferation objective” of PSI. However, he added that China, along with other members of the international community, continues to have concerns that PSI includes actions “outside the domain of international law.”⁵

After the 2006 nuclear test, Beijing relied on active diplomacy to manage the crisis. Special envoy Tang Jiaxuan visited Washington and Moscow immediately following the test. Tang was then dispatched to Pyongyang, where he met with Kim Jong Il and elicited the concession that, “I have no plans for additional nuclear-weapon tests.”

China fears that excessive punishment could set in motion an uncontrollable escalatory cycle.

China was able to bring North Korea and the United States back to the dialogue table within three weeks of the test. After the second nuclear test, Beijing not only refrained from sending a special envoy to get negotiations back on track, it canceled a visit by Vice Chairwoman of the National People's Congress Standing Committee Chen Zhili to Pyongyang.⁶ Plans to send State Councilor Dai Bingguo to North Korea were also scrapped.⁷ China may have deliberately intended to signal its intention to work more closely with the United States and other countries at the United Nations to curb North Korea's nuclear development efforts. The decision to send China's negotiator for the Six Party Talks, Wu Dawei, to Russia, Japan, the ROK and the United States in early July supports this proposition. Beijing may also have calculated that given North Korea's rejection of the Six Party Talks and its abandonment of its denuclearization commitments, there was little possibility for near-term compromise and therefore no point in dispatching an envoy to meet with Kim Jong Il.

WHY CHINA BACKED HARSHER MEASURES

In addition to condemning the May 25th nuclear test in the strongest terms, UNSCR 1874 tightened sanctions against North Korea by blocking funding for nuclear, missile and proliferation activities through targeted sanctions on additional goods, persons and entities, widening the ban on arms imports-exports and calling on member states to inspect and destroy all banned cargo to and from North Korea—on the high seas, at seaports and at airports—if they have reasonable grounds to suspect a violation.⁸ China's willingness to support tougher sanctions despite its concerns about the potential unintended consequences is largely a result of the circumstances surrounding the second nuclear test, which were significantly different from those that prevailed in 2006.

For one, the Obama administration had recently come to power and offered to extend its hand to countries that unclenched their fists. China welcomed the United States' firm commitment to achieving denuclearization of the Peninsula through the Six Party Talks and its willingness to build on the accomplishments of the latter years of the Bush administration. By contrast, in October 2006, the Bush administration was refusing to lift the financial sanctions it had imposed on North Korea and was perceived by the Chinese to be hampering a resumption of the Six Party Talks.

Furthermore, following its first nuclear test, North Korea did not declare its intention to withdraw from the Six Party Talks. Three weeks after the detonation, in part in response to China's urging, Pyongyang agreed to rejoin the talks. Following the April 13, 2009, UN Security Council presidential statement condemning North Korea's April 5th missile test, the North Koreans announced that they would "never participate in such Six Party Talks." This was undoubtedly viewed by China as a slap in the face since the Six Party Talks are widely considered to be one of China's major foreign policy achievements. Indeed, in the aftermath of the April 5th missile test, Pyongyang declared that it would no longer be bound by any agreement reached in the Six Party Talks. After the adoption of UNSC Resolution 1874 condemning the

test, the North Koreans asserted that, "It has become an absolutely impossible option for North Korea to even think about giving up its nuclear weapons." In 2006, North Korea had not renounced its pledge to denuclearize.

Moreover, the low yield of the October 2006 test raised doubts in some places about whether it was in fact a nuclear explosion. There was general agreement that the May 2009 nuclear test was successful, despite uncertainty of the exact yield and the failure of the Comprehensive Nuclear Test Ban Treaty Organization (CTBTO) to detect radionuclides.

CHINA'S INTERESTS ON THE PENINSULA

China's core interests on the peninsula are: peace, stability, no hostile foreign presence and no nuclear weapons. Maintaining peace is the highest priority. The Chinese fought a bloody war alongside North Korea in the early 1950s that resulted in high casualties and strategic losses for Beijing. Chinese leaders are determined to avoid getting embroiled in another military conflict on the peninsula that would set back China's economic development and spoil the relatively favorable strategic environment that the government has worked for decades to foster. Even if China excises the clause in the 1961 Sino-North Korea Treaty of Friendship, Cooperation and Mutual Assistance that obligates it to defend North Korea against unprovoked aggression, China would not be a bystander or passive observer if hostilities break out.

Beijing's second priority is preserving stability on the peninsula. Instability in North Korea, whether economic or political, could trigger a flood of refugees crossing the border into China creating a potential humanitarian crisis and threatening social stability in a volatile region of the country. In addition, the Chinese worry that instability in the North could prompt the South to seize the opportunity to achieve reunification, resulting in a possible military conflict.

China's third priority is to avoid the presence of a hostile foreign country close to its northeastern border. For decades the Chinese have viewed North Korea as a physical buffer against an American military presence on their northeastern border. The advent of long-range strike capabilities and China's development of normal and amicable relations with Seoul have reduced the salience of a "buffer state" in China's strategy and interests. Nonetheless, China remains wary of the presence and possible deployment of military forces by an antagonistic country along its border. Although Sino-US relations are improving and cooperation between the two countries is expanding, suspicion persists that the United States seeks to slow or inhibit China's reemergence as a great power.

Maintaining a nuclear-free Peninsula is important to Chinese interests, but, at least so far, has been deemed less critical than the three interests discussed above. The continued development of nuclear weapons by North Korea doesn't pose an existential threat to China, but it threatens to result in a significant deterioration in

China's strategic environment. In a worst-case scenario, Japan, South Korea and even Taiwan could feel compelled to develop nuclear capabilities. Even if decisions are not made to develop nuclear weapons, it is certain that if North Korea's weapons efforts

Failure could provide precedent for other states to pursue nuclear weapons.

persist and appear irreversible, South Korea and Japan will undertake enhanced defense efforts to protect their security interests, and could possibly develop additional missile defense or longer range strike assets. Such steps might be taken in conjunction with the United States or as part of efforts to build more autonomous military capabilities to respond to a potential crisis. Any of these developments—a nuclearized Northeast Asia, stronger defense integration among Japan, South Korea and the United States, or enhanced indigenous conventional programs in South Korea and Japan—would have a detrimental impact on China's security environment.

A nuclear-armed North Korea could also have profoundly destabilizing repercussions for the international non-proliferation regime. The failure to halt and reverse North Korea's nuclear program could provide precedent for other states to pursue nuclear weapons options or, as in the case of Iran, to decide to not give them up. The further weakening and even ultimate collapse of the NPT would have destabilizing consequences both regionally and globally, and would likely be of grave concern to Beijing.

Another danger posed by a nuclear North Korea is the possible sale or transfer of nuclear materials, technology or knowhow by Pyongyang to a third country or non-state actor. Such proliferation would affect China's interests in several ways. For one, the United States and other countries would undoubtedly adopt a much harsher policy toward North Korea, which could even include the possible use of force to stop further proliferation. Also, members of the United Nations, including China, would be expected to strengthen efforts to inspect, interdict or otherwise prevent such transfers. Heretofore, Beijing has been reluctant to join collective efforts to counter proliferation activities.

Finally, if instability should occur while North Korea remains in possession of nuclear weapons material and weapons, there would be a high likelihood that the United States would intervene to seize control over WMD assets. The possibility of US intervention in a denuclearized North Korea would be much lower. The risk also exists that the North's nuclear weapons could be inherited by Seoul as the result of a reunified Korean Peninsula.

In my view, the preservation of a divided Korea remains a Chinese preference, but is not a core interest. The status quo, even with its many dangers and liabilities is still judged by China to be better than the uncertainties that a united Korea would pose. Beijing worries that the process of transition during reunification could be very unstable and unpredictable. The Chinese are also not confident that their inter-

ests could be protected adequately if Korea were unified. However, faced with North Korea's unremitting destabilizing actions, a new consensus may be forming around the assessment that North Korea is a strategic liability for China.

Can China be persuaded that its interests can be protected in a united Korea? I believe this is more possible today than ever before. There is greater cooperation between the United States and China on important security issues than in the past. Relations between China and South Korea are solid and expanding in all realms. Although there is a pressing need for the United States, China and South Korea to engage in contingency planning talks aimed at coordinating their responses to instability in North Korea, these discussions should begin with our respective visions for the future of the Korean Peninsula. A key topic to be addressed is our respective core interests and what is necessary to protect them. This should include reassurances and guarantees that can be provided to ease concerns, such as a pledge to not deploy US troops north of the 38th parallel.

AN UNUSUALLY OPEN DEBATE

In the wake of Pyongyang's second nuclear test, there has been remarkably open discussion about North Korea in the Chinese media. In general, Chinese media coverage of North Korea has become more permissive in recent years. Only five years ago, the journal *Strategy and Management* was shut down because it published an article advocating an adjustment of Sino-DPRK relations and criticizing North Korea's leadership, evoking fierce protest from Pyongyang. Following North Korea's first nuclear test in 2006, many commentaries were published in the Chinese press, some of which disparaged North Korea and questioned the appropriateness of Chinese policy, but those that proposed taking harsh measures against North Korea only appeared in the PRC-controlled Hong Kong press or other media sources intended for foreign audiences.⁹

Following the May 2009 nuclear test, China's media coverage of North Korea broke new ground in its openness. The wide diversity of opinions covered is especially notable. Some voices cautioned against adjusting Beijing's policy toward Pyongyang, stressing North Korea's value to China as a strategic asset and even openly blaming the United States for the lack of progress in the Six Party Talks and the deterioration of the situation.¹⁰ One analyst warned that until the United States is willing to "give up containing China, the DPRK will still be an important link...This means that besides being China's strategic burden, the DPRK is at the same time an important strategic resource."¹¹ Another expert referred to the DPRK as a "natural screen and effective lever balancing the US-Japanese hegemonic strategic alliance."¹²

At the other end of the spectrum of opinion, Chinese analysts criticized Beijing for its failure to get tough with North Korea. A prominent Chinese North Korea expert wrote in a Foreign Ministry journal, that China "cannot tolerate or accommodate" North Korea's "extreme adventurist policy" because Beijing's "core interests" in

regional stability lie in “denuclearization of the peninsula.” The expert added that, if China wants to become a “world power,” it will have to “put its responsibilities and duties” to the international community above those to North Korea.¹³ The popular newspaper *Huanqiu Shibao* conducted a survey of 20 experts on international affairs and found them evenly divided between those that supported more severe sanctions on North Korea and those that opposed such actions. Six of the experts believed that the Six Party Talks had failed.¹⁴

Discussion of North Korea’s political situation was previously deemed too sensitive for publication in the Chinese domestic media, but in recent months numerous articles have appeared analyzing the leadership succession issue.¹⁵ Another surprising development is reporting characterizing the disapproving attitudes of the Chinese public. According to one article, “Chinese peoples’ attitudes toward North Korea have fallen to a historic low since the North’s latest nuclear moves. Confusion, anxiety and disappointment are common among ordinary Chinese. The emotional ties connecting them to North Korea are no longer secure. And this is definitely not good news for North Korea.”¹⁶ The role of public opinion in Chinese policy toward North Korea is becoming increasingly significant. After the second nuclear test, Chinese netizens living close to the Sino-DPRK border expressed fears that the test could cause an increase in disease from exposure to radiation and possible contamination of the water supply.¹⁷

The almost freewheeling debate in the Chinese media suggests that, at least for the time being, senior policy makers are encouraging commentators and analysts to voice their opinions and recommendations for Chinese policy. It is likely that government, party and military departments are holding internal meetings to assess the challenging situation that China faces and consider policy options. Some of the experts who are voicing opinions in the Chinese media are undoubtedly included in these policy consultation sessions.

It is possible, perhaps even likely, that the ongoing debate among experts reflects a sharp divergence of views among senior Chinese policy makers and leaders over policy toward North Korea. According to one source, there was a heated discussion of China’s North Korea policy at a meeting of the foreign affairs leading group convened in mid-June. Due to the lack of consensus, no adjustment in policy was made. Diverse opinions and perspectives can be expected to continue to appear in the media until a policy consensus is reached and guidelines are issued.

PREDICTING FUTURE POLICY

Whether China’s policy toward North Korea will change, in what direction and to what extent, is not yet settled. However, it is apparent that some of the assumptions and assessments that have underpinned China’s past policy toward the North Korea nuclear issue are being reexamined. Understanding the rethinking of prior assumptions may provide some insights into future Chinese policy.

Chinese officials admit privately that they now believe that their assessment that North Korea desired nuclear weapons primarily as a bargaining chip was wrong. Even prior to the inception of the Six Party Talks, Chinese policy was based on the judgment that Pyongyang was using its nuclear weapons program to gain security assurances, money, light water reactors and ultimately a normal diplomatic relationship with Washington. The Chinese now maintain that acquiring a nuclear deterrent and gaining recognition as a nuclear weapons state are important goals for North Korea. Now that Pyongyang has adamantly rejected the US demand that denuclearization precede normalization of relations, the Chinese no longer believe that North Korea's top priority is to normalize ties with the United States. The North Koreans may want a better relationship with the United States the Chinese say, but at least for the time being, they won't give up their nuclear weapons to obtain it.

A second assumption that the Chinese have reluctantly reconsidered is that the Six Party Talks are the best way to achieve denuclearization. Although Beijing continues to insist that diplomacy is the only path forward, there is now overwhelming pessimism in Beijing that the Six Party Talks can attain the desired goal. Recognizing that Pyongyang has rejected returning to the talks, China has played down their importance. Statements by China's foreign ministry spokesmen have shifted to an emphasis on peacefully resolving the issue through dialogue, with less attention paid to any specific mechanism.¹⁸ China has not abandoned hope that the Six Party Talks can serve in the future as a venue for dialogue among the various parties and play a role in managing the crisis, but they are dubious that the talks can resume anytime soon and that, by themselves, they can achieve a deal that eliminates all of North Korea's nuclear weapons.

A third issue that the Chinese have reexamined is the role of sanctions and pressure in policy toward North Korea. Although Beijing remains wary of putting excessive pressure on Pyongyang for the reasons discussed above, it recognizes that it is necessary to clearly signal to North Korea that its destabilizing behavior is unacceptable and views targeted sanctions as one of the ways to achieve that goal. Put differently, the Chinese have come to believe that sanctions and pressure must be part of, but not the sole focus of, a strategy to persuade North Korea to give up its nuclear weapons. This shift in China's assessment of the use of sanctions in handling the North Korea nuclear challenge was first evidenced in the wake of the 2006 nuclear test (China's attitude towards applying unilateral pressure may have changed as early as 2003, when it reportedly suspended oil deliveries to North Korea for a few days), but is even clearer today.

As it approaches the future handling of North Korea, China can be expected to cooperate with the international community to some extent in pressuring Pyongyang to abandon the path it is currently on, including the range of destabilizing actions that it has taken, and return to the commitments it agreed to in the Six Party Talks. Because China now accepts the indispensable role of pressure in dealing with North Korea, wants to be seen as a responsible member of the international community

and the United Nations, and has growing concerns about proliferation, it will likely cooperate to a significant extent in implementing UNSCR 1874 and 1718. Specifically, China will likely agree to inspect North Korean planes and ships in Chinese ports and airports that are suspected of carrying prohibited (i.e. WMD, missile-related, or heavy military) equipment and materiel, although there could be disagreement on what constitutes “reasonable grounds.”

As part of a broader message to North Korea that it should not take Chinese assistance for granted, Beijing could also take unilateral steps to squeeze the North.¹⁹ Chinese officials privately note that a large package of supplemental assistance was agreed upon during Vice President Xi Jinping’s visit to North Korea in June 2008, and suggest that delivery of elements of that package could be delayed or cancelled. China could also adopt strict customs and inspections procedures to slow transactions at border crossings. It could seek to crack down on North Korean companies engaged in illegal activities, such as currency counterfeiting and drug smuggling. Beijing could also take subtle measures aimed at making it difficult for North Korean banks to do business in China. Oil deliveries through pipelines could also be slowed or suspended, as many believe they have been in the past. China could also delay negotiations of the next aid package for North Korea, which is usually conducted every five years.

However, Beijing will remain cautious overall, as it continues to worry about the unpredictable consequences of a policy of disproportionate pressure, especially if it sees that pressure as not closely integrated into a diplomatic strategy. Even if Chinese leaders ultimately conclude that North Korea is a strategic liability for China, it is likely to have persisting concerns about risking instability in the North and provoking hostile responses from Pyongyang that could undermine peace and stability in the region. Thus, the bottom line is that if the United States leads with a strategy of strictly implementing its obligations under the relevant UN Security Council resolutions while remaining firmly opposed to nuclear weapons on the peninsula and open to negotiations with North Korea when it is ready to engage, China can be expected to contribute to and not undermine the effectiveness of such a strategy. However, Beijing’s willingness to squeeze Pyongyang will nevertheless continue to fall short of what many hope for. And in the absence of a relationship of greater strategic trust with the United States, reassurances that its interests would be protected and certainty that the process would be peaceful, Chinese support for “regime change” in North Korea is even less likely. 🇨🇳

NOTES

¹ My personal speculation is that the use of the term “flagrantly” in 2006 evoked harsh criticism domestically because many who strongly opposed the test did not support the use of that term, which had been used previously to condemn the actions of the imperialists and prior

adversaries, not to describe the actions of an ally. Beijing may have opted to not use the term after the second nuclear test so as to avoid the divisive domestic consequences.

² Xinhua in English, May 26, 2009. CPP20090526968214.

³ Xinhua, June 12, 2009, CPP20090612354001.

⁴ "Analysis" by Gu Zhenqiu, Bai Jie, and Wang Xiangjiang, Xinhua, June 13, 2009, CPP20090613968098.

⁵ Xinhua, June 2, 2009. CPP20090602172017.

⁶ China's foreign ministry spokesman said the postponement was due to "itinerary reasons." Transcript of Foreign Ministry News Conference, June 2, 2009, Open Source Center (OSC), CPP20090602038001.

⁷ "Beijing Calls Off Plans to Send Envoy to Pyongyang," Chosun Ilbo Online, June 18, 2009.

⁸ Security Council SC/9679, June 12, 2009. <http://www.un.org/News/Press/docs//2009/sc9679.doc.htm>

⁹ For example, an article by Huang Wanzhuan entitled "Rationally Deal with North Korea's Nuclear Test," stated that "if the North Korean government continues on its current dangerous policy, the Chinese people cannot but call on the Chinese government to resolutely cut off the supply of energy resources to North Korea so as to force this country to return to the six party talks..." Ta Kung Pao, October 11, 2006, OSC, CPP20061011718006. Another article posted on the People's Daily website in English only and carried by the overseas edition of the party daily Renmin Ribao reported that if the DPRK does not halt steps that "worsen the situation," China might stop oil and grain shipments to North Korea, October 17. Renmin Ribao, October 19, 2006, OSC, CPP20061019701005.

¹⁰ See, for example, Wang Linchang, "The Tone of China's Policy Toward North Korea Must Not Change Just Because it Conducted Another Nuclear Test," Huanqiu Shibao, June 12, 2009, OSC, CPP20090618710003.

¹¹ Zhan Debin, "Has the DPRK Become China's Strategic Burden?" Huanqiu Shibao Online, June 3, 2009, OSC, CPP20090603710011.

¹² Ren Weidong, "The DPRK-US Relationship is the Crucial Point in the Peninsula Issue," Liaowang, June 29, 2009, no. 26, p.58. OSC, CPP20090707710015.

¹³ Cai Jian, "How Should China Respond to the Resurgence of the North Korean Nuclear Issue," Shijie Zhishi, May 1, 2009, OSC, CPP20090514671009.

¹⁴ Tang Xiang, "Many Noted Chinese Scholars Support More Severe Sanctions To Be Imposed on DPRK," Huanqiu Shibao Online, May 26, 2009, OSC, CPP20090526710008.

¹⁵ See, for example, Qiao Kan, "General Secretary Kim Jong-il and His Children, Huanqiu Renwu, March 16, 2009, OSC, CPP20090515671001.

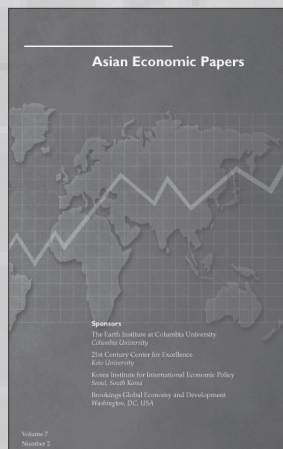
¹⁶ "Why Does North Korea Offend Chinese Folk With its 'Ingratitude?'" Huanqiu Shibao, June 5, 2009, OSC, CPP20090603786001.

¹⁷ Postings from Chinese website Yanbian Xinxi Gang on May 25, 2009. OSC, May 25, 2009, KPP20090527032004.

¹⁸ Answering a question in mid-June about whether Beijing has stopped using the phrase "Six-Party Talks," the spokesman omitted reference to the talks: "I want to stress that the Korean nuclear issue could only be solved peacefully through dialogue and consultations, among other political and diplomatic means. China is willing to work together with other parties so as to push the issue back to the track of peaceful resolution through dialogue and consultations, among other political and diplomatic means." Foreign Ministry Spokesperson Qin Gang's Regular Press Conference, June 16, 2009, <http://www.fmprc.gov.cn/eng/xwfw/s2510/t568094>.

htm.

¹⁹ At a press briefing in Seoul, a senior U.S. State Department official reported said that “China is in the process of developing its own implementation plan to impose sanctions on North Korea.” “China Preparing Its Own Sanctions on North Korea,” Chosun Ilbo Online, July 10, 2009, OSC, KPP20090710971061.



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Obama's Policy Option on North Korea

David Lai

The United States has some very troublesome business in Northeast Asia, namely its conflict-filled relationship with North Korea. This situation constitutes the longest-ever direct involvement of the United States in a conflict on foreign soil (beginning in 1950 when the United States entered the Korean War). Since the mid-1990s, North Korea's quest for nuclear status has complicated US foreign policy objectives in the region. Successive US leaders have tried different approaches, yet none has produced the desired results. The key problem is that the United States deals with North Korea under a certain set of assumptions including that: the North Korean regime will not last; it is developing nuclear power as a bargaining chip; it can be lured into US carrot-and-stick policy traps; and it will eventually yield to US pressure. These assumptions have turned out to be erroneous. President Obama needs

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to re-evaluate the nature of the United States' conflict with North Korea as well as the US role in Northeast Asia, and then develop a workable approach to pursuing US interests in the region.

A REALITY WE HATE TO ACCEPT

In its routinely erratic way, North Korea detonated a second underground nuclear device on May 25, 2009 (following the first in October 2006) and soon after test-fired several short-range missiles. Earlier, in April, North Korea had defiantly test-launched a long-range missile (North Korea claimed it was a satellite test-launch). Following these provocative acts, North Korea lashed out with a storm of bellicose statements directed at the United States as well as the international condemnation it faced. It also took the occasion to declare its withdrawal from the Six Party Talks (6-PT) and the Korean War Armistice Agreement, and threatened to conduct more nuclear and missile tests.

Speculations abound about the intent behind these belligerent acts. Some believed that the North Korean leadership was upset that the Obama Administration had put it on the backburner, and thus acted this way in order to regain the spotlight. Others ridiculed North Korea's acts as old tricks to be used once again as bargaining chips in the next round of negotiations. Many also speculated that North Korea was experiencing internal problems, and an ailing Kim Jung-Il was making efforts to consolidate internal support for the son who would succeed him.

We may never figure out what North Korea's true intents were, but regardless, the serious implications of these provocative acts should be seen in light of their great importance. First, after years of playing hide-and-seek with the United States and other powers in Northeast Asia, North Korea has shown that it has maintained a functioning nuclear weapons program and delivery capability. Second, North Korea's defiant acts have also exposed the problems with the 6-PT. Since the initiation of the 6-PT in 2003, the United States, China, South Korea, Japan and Russia have worked hard to get North Korea to agree to terms that would lead towards the disablement of its nuclear weapons program. Those agreements have turned out to be quite fragile, and the nations involved in the negotiation have not been able to hold North Korea accountable for its provocative behavior. With the putative success of its second nuclear test, North Korea has stepped up its demand for recognition as a nuclear power, and future talks on its nuclear weapons, if they take place, may be on nuclear arms control rather than on denuclearization.

The stark reality is that US policy toward North Korea and its quest to become a nuclear power is largely a failure. For too long, the United States has treated North Korea as a juvenile delinquent and responded to its provocative acts in a haphazard manner with a combination of threats and concessions. Time and again, the United States has dealt with North Korea, but with no vision for how to make progress. North Korea has been able to take advantage of these shortcomings while making steady advances on its nuclear weapons program and delivery capability.

MANDATE FOR CHANGE

Frustrated with these setbacks, the United States is now back to asking the same old question: what should be done about this defiant nation? President Obama came to office with a mandate to construct a foreign policy very different from the one pursued by his predecessor. He has taken the initiative with Cuba, reached out to Iran and extended olive branches to Muslim nations. Obama intended to do the same with North Korea and was willing to deal with Pyongyang directly. However, enraged at North Korea's provocative acts, President Obama has decided to once again "take a hard look" at US policy on North Korea.

Unlike the guessing game as to what North Korea will do, we know how this "hard look" will turn out. Living up to the old adage that "when all you have is a hammer, everything looks like a nail," in dealing with North Korea's provocations, the United States reaches for the same tool every time, no matter if it repeatedly failed to do the job in the past. Every time Pyongyang does something outrageous, all the United States can think of are measures for "getting tough", such as applying pressure, meting out punishment or putting North Korea back on the list of terrorist states. Indeed, President Obama is already talking in those terms and making it clear that there will be no rewards for North Korea's bad behavior.

Obviously, getting tough is not a new answer to this old question. It would just be another haphazard US reaction to North Korea's actions. We already know that sanctions, embargos and military posturing have a limited effect on the regime. Warning Obama not to go down this path, Mike Chinoy, a long-time Asia specialist for CNN, has noted the maxim that, "Insanity is doing the same thing over and over and expecting a different result."¹

This reminder has come a bit late. The United States has already gone to the UN Security Council and obtained a new resolution to toughen sanctions on North Korea. The defiant delinquent responded as expected. North Korea declared that it had been enriching uranium and would weaponize all of its reprocessed, weapons grade plutonium. In response, at a joint press conference with South Korean President Lee Myung-bak, President Obama vowed that, "We are going to break that pattern." Obama meant that he would stand firm this time and never yield again. The president's resolve will find its test when the United States takes measures to implement the sanctions and when it responds to future North Korean acts, such as missile launches and more nuclear tests.

Unfortunately, sanctions and tough measures will intensify confrontations, but will not change North Korea's behavior. President Obama would be better served by directing his attention to developing a truly workable agenda for the North Korean issue. And a good place to start would be to straighten out some of the United States' own views. First, what is our problem with North Korea? Is it a problem with North Korea's efforts to develop nuclear weapons? Or is it a problem with the North Korea

regime itself? The United States obviously has a problem with both, and there is no denying that many Americans believe that a change of the rogue regime in our favor would automatically resolve the nuclear issue (with the assumption that if North Korea turns democratic, it will not feel the need to develop nukes).

Ultimately, though the Kim regime is at the center of the problem, we cannot count on a toppling of the leadership to solve the present nuclear issue. For obvious reasons, a fast and forceful Iraq-like regime change in North Korea is practically out of the question unless North Korea launches an attack on the United States (on the American troops in Northeast Asia or an Al-Qaeda-like attack on the US homeland), which would force the United States to take military action. A second option would be to wait for Kim Jong-Il's demise and the collapse of his regime. But this option does not look promising because Kim is reportedly grooming his son Kim Jong-un to succeed him. If the young Kim carries on the family dynasty, we will have a long time to wait as he is only in his twenties.² The final option would be to promote gradual change in North Korea. There is really no telling how long and how much it would take to make such a change.

The second question the United States should ask itself is on how to deal with the North Korea nuclear issue. Given North Korea's advances in nuclear arms and its determination to further develop and maintain nuclear weapons, is it still feasible to insist on denuclearization as a pre-condition for talks and the improvement of US-DPRK relations? Or should the United States answer North Korea's repeated calls to replace the Armistice Agreement of the Korean War with a peace treaty and normalize relations with North Korea before settling the nuclear issue? These are the issues that stalemated the 6-PT.

In addition, should the United States continue to rely on the 6-PT or go one-on-one and deal with North Korea directly? It appears that in the face of the ongoing confrontation, the United States has no alternative but to ask China for help once again. In the past six years, China has brought the 6-PT back to life several times after they had been pronounced dead as a result of North Korea breaking them off. In the current situation, China could still resuscitate them one more time. Indeed, when the recent confrontation erupted, while China joined the world in condemning North Korea's second nuclear test, it also continued its call for calm, caution and restraint. At the same time, China reiterated its stance on a nuclear-free Korean Peninsula and kept the door open for the return of the 6-PT.

However, President Obama should be clear on what China's role is and the limitations of the 6-PT. In the United States, many pundits accuse China of trying to subvert US attempts to impose sanctions, arguing that Beijing has the most influence over Pyongyang yet refuses to use it. But such positions fail to grasp the geopolitical realities of the North Korean standoff. China is a broker, not a problem solver in this business. China knows its role and plays it carefully. North Korea and the United States are the principal parties in this quarrel. If the United States were willing and

able to deal with North Korea directly, China would not even be in this game in the first place. Indeed, North Korea always preferred to deal with the United States alone. It viewed the 6-PT as a US effort to get five great powers to “gang up” against it. Thus, every time North Korea could find an excuse, it broke away from the talks.

North Korea is actually more of a liability than leverage for China. Contrary to American perceptions, China cannot dictate how North Korea acts. China does not join the United States in “punishing” North Korea because the Chinese know that American attention comes and goes, while China and North Korea are neighbors. Thus, China has to live with North Korea, so why would it ruin its bilateral relationship for the sake of the United States’ problems?³

Many in the United States dismiss the 6-PT while forgetting why they came about in the first place. The primary reason was that President Bush refused to deal with a member of the “Axis of Evil” directly. Thus, China was asked to intervene when the North Korean nuclear crisis broke out in October 2002. The second reason, which the North Koreans themselves accurately identified, was the United States’ effort to put multilateral pressure on North Korea. Finally, the United States believed that the resolution of the North Korea nuclear issue could be costly, so it wanted other great powers to share the burden.

A PRAGMATIC APPROACH

President Obama should see that the shortest route to the solution of the North Korean nuclear issue is the direct one between Washington and Pyongyang. Yet given the unending confrontations with North Korea, the United States also has to make a stop in Beijing. In addition, Obama should see that the reasons for the 6-PT still hold, and it is necessary to get the 6-PT back to work. Finally, the president needs a realistic, workable approach to North Korea.

China and Russia have long maintained that the North Korea problem is a remnant of the Cold War. They claim that it is a result of North Korea and the United States failing to make timely adjustments in their relations after the fall of the USSR (Russia and China normalized their relations with their Cold War opponent South Korea in 1991 and 1992 respectively). Thus, it follows that North Korea’s quest for nuclear weapons is an answer to its perceived security threat from the United States. Washington holds the key to the North Korean issue, and it is time the United States stops letting emotions dictate its foreign policy and should deal with North Korea pragmatically. That being said, it is unrealistic to propose change to the US approach toward North Korea at the height of the current confrontation. But the time will come when the United States has to sit down with North Korea to find a way out.⁴ In the next round of negotiations, President Obama should offer North Korea a pragmatic approach to get the two nations out of this senseless agony. Here are the key elements of this new potential approach:

First, we know that North Korea wants to settle its problems with the United

States directly. However, North Korea's problems are ultimately Northeast Asian regional problems. Thus, the United States should deal with North Korea directly in the context of the 6-PT. That is, much like what former Assistant Secretary of State for East Asian and Pacific Affairs Christopher Hill did during the previous 6-PT, the United States can reach tentative agreements directly with North Korea in separate meetings and then bring in the other four parties to endorse these agreements and commit to their respective responsibilities. The United States should also take a new action-for-action approach with North Korea. Unlike the previous approach, which required North Korea to freeze its nuclear facilities first, the United States should take the initiative and ease North Korea's security concerns in return for North Korea freezing its nuclear weapons program. The US initiatives should include a peace treaty to conclude the Korean War, which would entail the withdrawal of US combat troops from South Korea and diplomatic recognition as part of normalizing relations with North Korea. Along with the normalization of relations, the United States should promote full-fledged exchanges with North Korea, most notably, economic trade and development, education and cultural exchanges.

These are not revolutionary ideas. The United States has reassured North Korea many times, verbally and in written form, in the Agreed Framework of 1994 and the 6-PT statements, that it respects North Korea's sovereignty, has no intention of invading North Korea and will normalize relations with North Korea when the time is right. All of these promises were made on the condition that North Korea abandoned its nuclear program first. The key this time is for the United States to be willing to make the first move.

The United States should make no secret about this pragmatic approach and what to expect from it. This would be an adjustment based on the reality that the United States has refused to face for a long time and not another concession. This new approach would fundamentally change the nature of the game and US-North Korea relations. By extricating itself from direct conflict in Northeast Asia, the United States would expect the nations in this region to take full responsibility in pursuing the goal of a nuclear-free Korean Peninsula. The United States would be declaring its commitment to this goal and working with the involved parties to bring the nuclear weapon issue to a satisfactory conclusion.

The United States came to the Korean Peninsula 60 years ago with the good intention of helping the Koreans; however, the situation has changed over time. The US military presence is now increasingly perceived as an obstacle to the Korean unification process. The withdrawal of US combat troops from South Korea is meant to remove this obstacle. Although the United States surely wishes the Koreans all the best in their unification efforts, at the same time, it wants to see this unification take place through peaceful means, not through war.

Peace, security and economic prosperity in Northeast Asia are vital interests of the United States. Thus, the United States would continue to maintain the capac-

ity to safeguard these interests and stay engaged in Northeast Asia, but in a different capacity—it could serve as an honest broker or a strategic “off-shore balancer.”⁵ The fundamental change brought about by this pragmatic approach would give the United States greater strategic flexibility to carry out its mission.

The United States is a moralistic and passionate nation. Americans define foreign policy issues in terms of good or bad and take action on this basis, rather than on the basis of what is necessary. Although North Korea currently has diplomatic relations with over 100 countries, including all of the European Union members (except France and Estonia), most Asia-Pacific countries, Australia, New Zealand, Canada, Mexico and many others, many Americans still find it immoral to deal with North Korea in the pragmatic ways proposed above. Americans need to remember President George Washington’s advice that, “Nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded... The nation which indulges toward another an habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest.”⁶ For President Obama, he should keep faith in his mandate for change and take this pragmatic approach to solve the North Korea issue for good. 🇺🇸

**The views expressed in this article are those of the author and do not necessarily reflect the official policy or position of the US Army War College, the US Army, the Department of Defense or the US government.*

NOTES

¹ Mike Chinoy, “Obama Must Leave Door Open to N. Korea,” Anderson Cooper 360° at CNN.com, June 8, 2009. The adage is a famous quote from Albert Einstein.

² Kim Jong-Il reportedly has two daughters and three sons (there is no official information about Kim’s personal life). The oldest son, Kim Jong-nam (b. 1971), gave a rare interview with the Japanese broadcaster NTV in Macau, China on June 7, 2009 and “confirmed” that his father likes his youngest brother Kim Jong-un, a succession is in the making and he is not interested in it. <http://news.bbc.co.uk/2/hi/asia-pacific/8087736.stm>, accessed July 15, 2009.

³ Living with North Korea is part of China’s overall strategy to create and maintain favorable border security (周边安全) for China’s modernization mission. China and North Korea are not as close as the outside world believes. The two nations have had ups and downs in their relations in the last 60 years. They formed a “lip-and-teeth” and “blood-bond” relationship through the Korean War of 1950-53. North Korea, however, stayed neutral during the China-Soviet split in the late 1950s and early 1960s, but tilted toward the Soviet Union in the mid-1960s. When Mao launched the disastrous “Cultural Revolution” in 1966, North Korea dismissed the Chinese political movement as too radical. But when Deng Xiaoping got China on its path of economic reforms in 1978, North Korea dismissed China’s move as a betrayal to communism. At the end of the Cold War, North Korea was upset with China when it established diplomatic relations

with South Korea (in 1992). In addition to these capricious contemporary relations, Chinese and Koreans, North and South, have unsettling historical issues over the ancient Goguryeo Kingdom (a large part of it is in China). Since the onset of the nuclear issue in the early 1990s, North Korea has taken many confrontational positions against the United States and the world community (the International Atomic Energy Agency and the United Nations Security Council in particular). China knows how uncontrollable its North Korean neighbor is and does not want to have an enemy like this on its border. Pang Zhen and Yang Xinyu [庞朕和杨鑫宇], "From Alliance to Partnership: the Evolution of China-North Korea Relations" [从同盟到伙伴：中朝关系的历史演变], *Journal of Chongqing Institute of Socialism* [重庆社会主义研究所学刊], No. 3, 2008.

⁴ In fact, China's Deputy Foreign Minister Wu Dawei, who was also China's chief negotiator at the Six-Party Talks, already made visits to Moscow, Washington, Tokyo, and Seoul in early July 2009. China's effort to resume the Six-Party Talks was already underway.

⁵ This term is from Christopher Layne. See his writings about this idea.

⁶ "Washington's Farewell Address," 106th Congress, 2nd Session, Senate Document No. 106-21, Washington, 2000.

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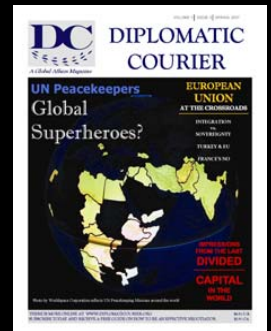
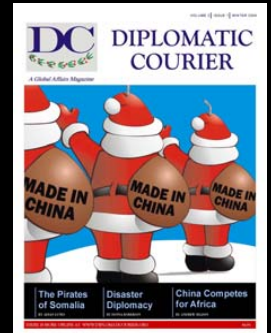
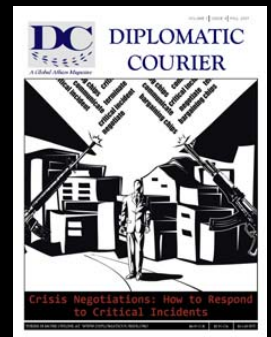
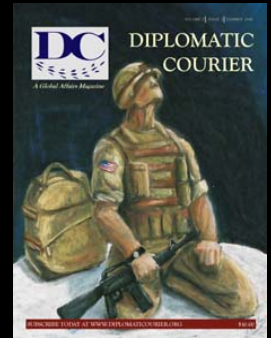


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Domestic Sources of China's Soft Power Approach

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The balance of domestic factors and international variables in shaping a state's external behavior is a perennial debate. Despite the need to bridge the gap between comparative politics and international relations, few serious efforts have been made to theorize the causal mechanisms between domestic politics and foreign policy.¹ This dichotomy is also reflected in the study of Chinese foreign policy.

During the Cold War, many scholars attempted to expound the impacts of the Chinese Communist Party's (CCP) ideology and political leadership struggles on Beijing's external behavior.² For instance, one writer argues that during the Mao era, China's hostility towards Western powers was largely a result of crises within the CCP regime and leadership.³ However, this domestic-oriented approach was seriously contested by adherents of the realist school, who focused on the triangular strategic ties between the United States, China and the former Soviet Union to ex-

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plain China's foreign policy strategy. In the post-Cold War era, the study of Chinese foreign policy has continued to be polarized by the debate over the relative weight of internal and external influences. Although many have explored the links between the two, no systematic investigation has been carried out, nor has a holistic framework been proposed to guide such research.

The relationship between China's domestic conditions and international behavior is clearest when viewed in the context of the transformation that the country has experienced since the late 1970s. Since the beginning of the reform era, China has evolved from a revolutionary state to a developmental state and from a planned economy that was mostly self-reliant to a trading state.⁴ Furthermore, it has undergone a limited political transition from an opaque Leninist party-state to an authoritarian regime, though one which is somewhat willing to be accountable and responsive to public demands. These internal transformations have been reflected in Beijing's relations with the outside world. As the demands of domestic legitimacy have required China's leaders to place a high priority on economic growth and trade, Beijing has adopted an accommodating strategy of engagement with its neighbors and other regional powers. This is particularly evident in its soft power strategy in East Asia, where China has consistently formed its foreign policy to support priorities at home.

BRINGING THE STATE BACK IN

Scholars have examined various domestic sources of China's foreign policy, including leadership division,⁵ political instability,⁶ perceptions of the elite,⁷ public opinion,⁸ Chinese culture⁹ and bureaucratic politics and pluralism.¹⁰ However, all these approaches are essentially micro-level perspectives on the relationship between domestic politics and foreign policy. These perspectives may be helpful in analyzing some small-scale changes in China's foreign and security policy and in illustrating some of the nuances in China's external behavior, but it becomes risky if these factors are generalized to explain other issues or to explore the larger trends in China's foreign policy. Micro-level analytical tools suffer from incomplete information, generalization and partial explanations.¹¹

Foreign policy in China is still largely a state affair under the tight control of political institutions and leaders at the top level. It is commonly believed that even the foreign minister has very little role to play in policy-making.¹² Despite reports of a growing military-political divide over security policy, there have been very few examples of the military playing the predominant role in specific policy initiatives. Instead, the decision-making process remains highly centralized, with major policies vetted by a select few senior party leaders at the politburo level. Other individuals and societal groups have a marginal influence on the process.¹³ The dominant position of top civilian leaders in policy-making is particularly notable when it comes to key issues with strategic implications.¹⁴ For instance, according to Long Yongtu, China's chief negotiator during China's World Trade Organization (WTO) member-

ship talks, Chinese leaders constantly intervened and kept a close watch on the entire negotiation process.¹⁵

Moreover, the limited impact of public opinion on policy-making is also evident. A telling example is the recent signing of a framework document with Japan on the joint development of resources in the East China Sea.¹⁶ Despite strong public opposition domestically, Beijing decided to push for joint development projects near the median line of the East China Sea, including permission to allow Japanese investment in the Chunxiao oil field that is actually on the Chinese side of the median line. The scholarly community in China similarly lacks influence in foreign policy and is still far from being able to freely make proposals. Instead, they help top decision makers on technical issues or by providing justifications for policy lines that political leaders have already decided. With regard to the influence of local governments on foreign relations, China has established “a set of effective institutions that ensure the dominance of the central government and inability of local governments to harm the foreign policy goals of the central government.”¹⁷

In short, to better understand Beijing’s changing postures on major international issues, we need a more holistic approach, specifically one that focuses on the attributes of the Chinese state when examining the impact of the domestic political economy on its foreign relations.¹⁸ The attributes and imperatives of the state shape national priorities, restricting their scope to the most feasible and least costly approaches. Individual leaders may have slightly different diplomatic styles, but they do not act in a political vacuum. Thus to a large extent, the domestic needs of the state define national interests and lay out the boundaries for potential policy choices. While political leaders play an important role in shaping the attributes of the state in the first place, once these characteristics of the state take shape, they tend to be stable and somewhat resistant to change. With the structural relations between the state and society as well as the state and other nation-states already formed, decision-makers have to design their foreign policy strategies within the existing domestic and international constraints.

CHINA IN TRANSITION

Since the initiation of reforms in the late 1970s, the functions, imperatives and interests of the Chinese state have changed as the country has experienced profound transformation. China has transitioned from a revolutionary state to a developmental state, from a planned economy to a trading state and from an extremely opaque Leninist party-state to an authoritarian state. Each of these domestic transitions has impacted China’s external relations.

FROM A REVOLUTIONARY STATE TO A DEVELOPMENTAL STATE

The primary goal of the reforms was to achieve continuous and relatively fast economic growth that would eventually ensure China’s rise. This was the heart of the new social, economic and political revolution fashioned by Deng Xiaoping. It was this grand initiative that also had the effect of completely overhauling China’s

foreign policy in the 1980s. "Peace and development" became both the justification for and the goal of a new Chinese foreign policy. This led to a reassessment of its political relations with neighboring states.

During the 1980s, ideology lost its potency as an influential element of foreign policy and was replaced by pragmatism. Reform and opening up was already a dramatic move away from traditional CCP doctrine. The reform process further eroded the appeal of ideology. Ruling elites eventually realized that their positions depended on economic performance. By the end of the 1980s, the reform program had taken on a political momentum of its own.

As reforms deepened, numerous socio-economic problems began to emerge which called on the state to deliver economic results. While political change remained stag-

The Soft Use of Power

The term soft power, coined by Joseph S. Nye, Jr. in the early 1990s, has become a very popular concept in international politics. However, the idea remains notoriously under-theorized, which leads to much confusion in the existing literature and in practical discussions on international relations. Few people would dispute the basic definition of soft power: the ability to get what you want through attraction rather than through coercion or payment.⁴⁸ However, it is still quite unclear what produces attraction. It is widely held that soft power comes primarily from a nation's culture, values and foreign policy.⁴⁹ In general, the existing literature stresses ideational elements as sources of soft power.

Due to its multifaceted nature, culture only becomes attractive when a society displays its positive aspects while doing its best to conceal or downplay those aspects that might be disagreeable to others. For instance, in official cultural exchanges with foreign countries, China would never exhibit those cultural elements that were lambasted by May Fourth cultural critics such as Lu Xun and his supporters. Recently, as more and more Chinese tourists visit foreign countries, Chinese officials and media commentators have frequently reminded them not to behave in ways that local people may feel uncomfortable with. In addition certain cultural habits, ideology and cultural tradi-

tions can also cause problems when used in a coercive or threatening fashion. This was precisely the case during the Cold War, when Mao's China was perceived as promoting Chinese culture and Chinese-style communism in Southeast Asia as a way of advancing its revolutionary ideological goals. A few Southeast Asian countries even responded by instituting measures restricting the influence of Chinese culture. In this case, culture was hardly a source of soft power for China. On the other hand, economic and military power, which are seen as basic sources of hard power, can also be sources of admiration and attraction. To people affected by the enormous tsunami in 2004, the foreign naval forces which came to their rescue were a source of soft, not hard power.

This leads us to conclude that there is no source of power that is solely soft or hard in nature. Culture and values are important variables that need to be considered because they contain certain principles or norms regarding how social relations should be dealt with. However, in essence, it is how an actor exercises its capability that is critical. Thus, the key to whether a certain power source becomes soft or hard is *how* a state (or any other actor) *uses* its power. Soft power originates in a state's considerate, prudent and cautious use of power, the provision of various forms of public goods for the interna-

tional community and the creation of win-win diplomatic solutions. These are precisely the features that have characterized China's diplomatic approach in East Asia over the past decade or so.

The popular method of separating sources of power as soft or hard is insufficient in explaining China's newly acquired soft power in East Asia.⁵⁰ It is claimed that Chinese culture, cuisine, calligraphy, cinema, curios, art, acupuncture, herbal medicine and fashion have played an important role in expanding China's soft power in Southeast Asia.⁵¹ However, culture has played a marginal role, at best, in increasing China's soft power both at the global level and in the region. According to official Chinese data, China's international cultural trade has experienced huge deficits. As many Chinese skeptics have pointed out, cultural iconoclasm over the past one-and-a-half centuries has left traditional Chinese culture in shambles. Although one can identify certain social norms as uniquely Chinese, overall,

Chinese society, especially the younger generation, has become westernized. Within Chinese culture, historical sites and cultural symbols do remain attractive to foreigners. However, even the "China threat" advocates and so-called "China-bashers" admire the Great Wall and the like, thus demonstrating the limited effectiveness of China's current cultural influence.

Similarly, it is doubtful that Chinese political values have contributed to the growth of China's soft power. The Chinese model of development, the so-called "Beijing consensus" (political authoritarianism plus a market economy), hardly appeals to the majority of political elites in East Asia. The deficiencies in China's system, i.e. appalling pollution, rampant corruption and a remarkable disparity between rich and poor, are becoming more, not less, apparent. Thus, it is doubtful that other developing countries in Asia would look to China for guidance for their own development.

nant, the ruling elites had to work even harder on economic performance to sustain their legitimacy to govern. This domestic socio-political reality, and the consequent demands on the state, almost single-handedly brought about an overhaul of China's foreign policy. Chinese leaders, from Deng Xiaoping to Hu Jintao, were forced to facilitate a peaceful external environment. This effort was particularly conspicuous in the wake of Tiananmen. Facing diplomatic isolation and comprehensive sanctions by various Western countries in the years following Tiananmen, the Chinese government went all out to rebuild relations with the world. This was partly a consequence of China's desire to regain its political standing in the world, but more importantly, it served to maintain a favorable external environment, a precondition for continued economic progress. The normalization of diplomatic ties with several Asian countries in the early 1990s (South Korea, Indonesia and Singapore) was testament to China's strenuous efforts.

The need for international and regional stability to prop up domestic economic development has been unequivocally articulated in many of China's most important political documents. At the 15th CCP Congress in 1997, top Chinese leaders cautioned that China was still in the primary stage of socialism, characterized by a low level of productivity, regional disparities, backwardness in education and technology and a huge gap with the developed world. They reaffirmed that economic development had to take center stage for the foreseeable future. Thus, the political report

at the Congress recommended that a good-neighbour policy should be China's long-term strategy, emphasizing that any contentious issues between China and neighbouring countries should be solved through peaceful means. The document also reiterated China's position of shelving problems that were too difficult to solve in the near term.¹⁹

Five years later, the 16th CCP Congress highlighted the idea that the first 20 years of the twenty-first century would be "an important period of strategic opportunity" for China's modernization drive. Beijing vowed to strengthen regional cooperation and further consolidate relations with regional states.²⁰ The rationale was that an "important period of strategic opportunity" necessitated creating a propitious external environment in order to ensure the achievement of China's domestic developmental goals. After Hu Jintao came to power, the strategic link between the domestic and international situations became even clearer. At a top-level foreign policy meeting, Hu initiated the "two grand contexts" (*liang ge daju*), namely the domestic and international levels, and exhorted his foreign policy team to work on international relations in the service of domestic political and economic interests.²¹ According to Wang Jisi, a well-known Chinese analyst, the criterion that China uses to judge whether its foreign policy is successful is to what extent it ensures the smooth implementation of various key domestic programs.²²

FROM A PLANNED ECONOMY TO A TRADING STATE

The inherent requirements for a developmental state to exist, peace and stability, have determined China's overall approach to its foreign policies. Since the reform era, a succession of Chinese leaders have assertively pursued steady, amicable relations with the world, and in particular, with the surrounding region. However, the intensity of China's engagement with the rest of the world cannot solely be explained by the nature of a developmental state. The extent to which China has reached out to almost all countries in the world and maintained a proactive posture in global and regional affairs is better understood in relation to the path chosen for its modernization, namely becoming a trading state.

China learned at the beginning of the reform era that the successes of the four Asian "little dragons" had much to do with their export-oriented growth. This was in sharp contrast to the failed experiment of the import-substitution approach that many Latin American countries had adopted. This "opening up" strategy better complemented China's need for foreign capital, technology, managerial expertise and energy resources.²³ The choice of trade as a defining strategy for China's modernization, instead of the alternative approach of primarily relying on the domestic market, has had profound implications for China's foreign policy.

China's status as a trading state can be observed from several angles, including foreign direct investment (FDI), international trade, Chinese tariffs and the emerging "going out" strategy of Chinese corporations. For many years, China has been the largest recipient of FDI in the world. In 2007, China absorbed \$84 billion of

FDI. Since the reforms of the late 1970s, China has utilized a total of over \$800 billion of international capital in its economic development.²⁴ FDI has played an enormous role in boosting the Chinese economy during the reform era. It has been the numerous foreign-invested companies that have increased China's trade and helped employ millions of Chinese laborers. Foreign capital accounted for 11.3 percent of China's gross fixed capital investment from 1990-2000, as compared to East Asia's average of 8.9 percent and a 9.3 percent average for all developing economies.²⁵ FDI has also contributed significantly to China's international trade. Since 2001, exports and imports by foreign-invested enterprises in China accounted for over 50 percent of China's total annual trade, reaching almost 60 percent by 2007.²⁶

In the past three decades, China's international trade has grown by 15 to 17 percent annually, much higher than the 7 percent world average in the same time-frame.²⁷ China now has become the third largest trading power in the world, with a total volume of international trade reaching over \$2 trillion in 2007.²⁸ In response to Western apprehension that China might become a revisionist state within the international system, Chinese officials and analysts frequently state that their country has been the largest beneficiary of the system, especially of the economic system. They also argue that China would have no incentive to challenge the status quo.²⁹ The share of exports in China's GDP growth has been quite significant, especially in recent years, as China's WTO membership began to bring substantial benefits to China's economy.

In the 1990s, China continually lowered its tariffs. As part of China's economic diplomacy, duty rates were frequently reduced, often just prior to Jiang Zemin's foreign trips. For the most part, Beijing did this to create a more favorable atmosphere in which Jiang could engage with Western leaders on political matters. Tariffs dipped as low as 6 percent during this time.³⁰ To become a WTO member, China made further concessions on tariffs and other foreign economic interests in China. Soon after it joined the WTO, the Chinese economy's openness exceeded that of South Korea and Japan.³¹ Maintaining low import taxes also helped Chinese businesses purchase the foreign equipment and resources necessary to sustain manufacturing capacity for exports.

We can also measure China's "going out" strategy in terms of China's outbound FDI. According to the 2007 World Investment Report (UNCTAD), China's overseas investment increased from US\$2.855 billion in 2003 to US\$16.13 billion in 2006. Although China's FDI is still relatively low as a share of its total national investment, the figure has increased from 1.0 percent in 2003 to 1.9 percent in 2006. Part of the rationale for much of China's overseas investment is to secure a stable supply of various energy resources and raw materials to sustain Chinese manufacturing. According to one estimate, the total Chinese consumption of aluminum, copper, nickel and iron ore accounted for 7 percent of the world total in 1990, 15 percent in 2000 and 20 percent in 2004. Chinese demand for these materials is likely to continue to increase at a phenomenal rate.³²

China has chosen a modernization approach that relies on economic cooperation, and has thus become interdependent with the other economies of the world.³³ The implications of this modernization approach for China's foreign policy are multifaceted and profound. On one hand, China is likely to be further constrained by this

It is hard to imagine how China could afford to adopt an aggressive approach with neighboring states.

still growing interdependence. On the other hand, the incentive is high for Chinese decision makers to guarantee foreign markets for Chinese manufactured goods and a stable supply of energy and other resources for sustainable economic growth domestically. It would be hard to imagine how China could adopt an aggressive stance in its relations with neighboring states while at the same time ensuring smooth, or even normal, trad-

ing relations that would sustain its economic growth. One may argue that China can re-orient its economic development approach by turning towards more domestic consumption, but in reality, the Chinese economy has become so structurally dependent on overseas markets that such a revision is barely conceivable. At present, there is little sign that China is moving away from this export-led growth model.

LIMITED POLITICAL TRANSITION

China's reform program was principally concentrated on the economic realm. The political reforms of the past three decades have focused on improving governance. The political system remains authoritarian in style, although in recent years numerous signs have demonstrated that the Chinese polity is increasingly moving towards accountability and responsiveness. Some of the moves in that direction include public participation in policy-making, the Hu-Wen regime's emphasis on people's livelihoods and growing discussions of institutionalizing intra-party democracy.

Political authoritarianism puts China squarely in the spotlight of political discourse among growing trends dominated by Western liberalism. As a result, even though the Chinese economy is fully integrated into the global economy, politically, it remains alienated within the international system. Largely as a result of differing political systems, the West has looked at China with suspicion and even apprehension. The "China threat" thesis largely stems from this ideological gap, though, of course, there are real strategic issues at play as well. In reality, it is difficult to distinguish the relative impact of ideological differences and strategic competition on China's relations with other major powers and regional states. However, one can get a clearer sense of the salience of this ideology by asking this question: why has there been no rhetoric over a "Japan threat" or an "India threat"? After all, these two countries are also experiencing a resurgence of strategic influence in Asia in the post-Cold War era.

As the only superpower in the post-Cold War era, the United States plays a key role in creating a strategic environment that constantly puts China on the defensive. One way it does this is by strengthening the "hub-spokes" security system. Despite frequent public pronouncements by American leaders that the United States wel-

comes a prosperous and strong China, the Chinese political elite continue to have a deep-rooted suspicion of the United States, and it is seen as looking for opportunities to contain or constrain China.³⁴ In an internal meeting, former President Jiang Zemin explicitly pointed out that the United States, although a country far away from China's neighborhood, was a crucial player that had a significant negative impact on China's security environment in the peripheral regions.³⁵

In light of Washington's regional leadership role and due to their own interests, other major powers in East Asia have either acquiesced to, or have been hesitant to challenge US strategic thinking on China. In the past few years, there have been proposals among major players in the region to constrain the growth of China's strategic weight or to hedge against the possibility that it may become more assertive. Notable examples include the increasingly warm relations between Japan and India, particularly during Junichiro Koizumi's term as Japanese Prime Minister. There was also the suggestion of a quadrilateral "arc of democracies" among the United States, Japan, India and Australia. Chinese analysts also perceived the deepening Japan-Australian defense ties as a check and a hedge against China. This was clearly demonstrated by China's vociferous opposition to the signing of the Japan-Australia defense agreement in March 2007.³⁶ The trilateral defense dialogue mechanism amongst the United States, Japan and Australia is a further testament to the fact that, though China is a rising power in East Asia, it remains politically and strategically isolated.

Although the apprehension of many other smaller powers in the region towards China has been mitigated to a large extent in the past decade and a half, their lingering strategic distrust toward China's intentions remains discernible. These misgivings originate from a number of sources, such as outstanding territorial disputes, the geopolitical reality of having a giant neighbor and the opacity of China's long term strategic intentions in the region. As such, many Southeast Asian states employ a China policy that contains a mixture of deference, hedging, balancing and enmeshment.³⁷

Even though China's strategic position in East Asia over the past decade has moved significantly in Beijing's favor, it is fair to say that China still stands as a lonely, albeit rising, power. In light of all these challenges, the Chinese political elite understand very well that maintaining a stable relationship with the United States, along with other major powers, is essential for the successful implementation of the reform program. Without this prerequisite, China simply cannot carry out the functions that would be necessary for a developmental and trading state. Moreover, China realizes that to forestall a potential US-led containment policy, it needs a soft power approach to its international politics. A confrontational or heavy-handed approach would only play into the hands of hard-liners in the United States and the other major powers. Instead, China's strategic response to US pressure has been one of reassurance to other countries in the region of its peaceful intentions, complemented by practicing self-restraint on contentious issues and a commitment to creating win-win situations.

CHINA'S SOFT POWER APPROACH IN EAST ASIA

China's increased influence in East Asia in the past decade is primarily attributable to its soft use of power in foreign policy.³⁸ This approach can be observed from several angles. These include conscious efforts to adapt to the existing regional system, a non-confrontational approach to its relations with other major powers in East Asia, reassuring neighboring states of its peaceful rise through both actions and rhetoric, solving border disputes with the vast majority of its neighbors and endeavoring to maintain a peaceful and stable environment in its neighborhood. Furthermore, China is actively participating in multilateralism, temporarily shelving disputes that are intractable and pursuing economic activities in the region that benefit all sides. Of course, one can easily find many instances of China being assertive, but overall, it is fair to say that it has exercised its power in a prudent and considerate way. This has been the most important source of its soft power.

China's posture on international relations in East Asia during the past two decades has effectively moved relations with almost all its neighbors in a constructive direction, including a number of previous Cold War adversaries such as South Korea, Vietnam and India.³⁹ The precarious relations Beijing had with Japan and Taiwan just a few years ago have now changed for the better, with a Sino-Japanese strategic partnership in the making and a warming of relations across the Taiwan Strait. With the exception of India, China currently claims no territorial border disputes with any neighboring country. The successful resolution of these border disputes has allowed China and its surrounding countries to demarcate over 20,000 kilometers of previously volatile borders. On some seemingly intractable hot security issues, China's behavior has been mostly moderate and cooperative. For instance, China has been playing an effective mediating role in solving the North Korean nuclear issue.⁴⁰ Beijing has also downplayed the disputes in the East China Sea, including the Diaoyu/Senkaku Islands dispute with Japan and the dispute in the South China Sea with some Southeast Asian states.⁴¹ The recent signing of the Sino-Japanese guidelines on joint development in the East China Sea, the Declaration on the Conduct of Parties in the South China Sea and the trilateral agreement (China, the Philippines and Vietnam) on resource exploration in the South China Sea are all testaments to China's intent to avoid conflicts in its neighborhood.

Active participation in multilateral endeavors has also helped reassure neighboring states of China's willingness to engage in regional affairs. This is most notable in China's involvement in various ASEAN-related forums and mechanisms since the mid-1990s. These include the ASEAN Regional Forum (ARF), ASEAN plus three (ASEAN and China, South Korea and Japan), ASEAN plus One (ASEAN and China), the free trade agreement with ASEAN, the Joint Declaration on Cooperation in the Field of Nontraditional Security Issues, the Joint Declaration on Strategic Partnership for Peace and Prosperity and China's accession to the ASEAN Treaty of Amity and Cooperation in 2003. In addition, China has participated in almost all non-official track-two security dialogues concerning East Asia.

The expansion of Chinese influence in East Asia has also been fueled by economic ties, a reflection of the nature of the Chinese trading state. China's decision not to devalue the RMB during the 1997-98 Asian financial crisis earned China much respect in the region. Trade between China and other Asian countries has played an instrumental role in cementing China's relations with its neighbors. In 2007, China's exports to other Asian trading partners accounted for 46.6 percent of China's total exports, and its imports from the rest of Asia accounted for 64.9 percent of the national total. Among mainland China's ten largest trading partners, six are located in Asia.⁴² China's participation in trade and investment in East Asia has contributed to economic interdependence and economic growth in the whole region. In recent years, China has emerged as one of the major suppliers of official development aid for several Southeast Asian countries. Although the true picture of China's aid programs in the region is not clear due to a lack of reliable statistics, there are several illustrative examples. In Cambodia, China provided at least US\$800 million in 2005 and 2006, with most of the money being used for infrastructure and hydropower projects.⁴³ China has also proffered US\$1.8 billion to the Philippines for various development projects and will provide US\$6 to 10 billion in loans over the next three to five years to finance infrastructure projects in the country.⁴⁴

China's proactive engagement in Asia has brought it a significant amount of soft power.

China's soft power engagement with its East Asian neighbors is a reflection of its evolution from a developmental state to a trading state, and its transition to a politically authoritarian state that intends to consolidate its legitimacy and international standing. Its domestic developmental mission has necessitated its foreign policy in its neighboring regions to aim at creating a peaceful and stable environment. Its economic modernization strategy of taking advantage of the international market has further required its foreign policy to be about comprehensive engagement. Facing constant US strategic pressure in East Asia, Beijing realizes that it has to pursue a soft power approach towards its regional neighbors to forestall the possibility of any encirclement led by Washington. Far into the future, Beijing will continue to be aware of its limited capability to challenge US predominance in East Asia. Meanwhile, China will continue to use cooperative means to compete for strategic, political and economic influence in the region.

It is China's proactive engagement in Asia that has brought it a significant amount of soft power in the region. The essence of China's new regional posture is a set of strategies and tactics to reassure regional states of China's peaceful intentions during its rise. China is now seen in almost all East Asian nations as largely an opportunity for further economic development. The popularity of the "China threat" theory has dwindled, and political elites in neighboring countries are more inclined to believe that China is likely to be a benevolent power.

AN UNFINISHED TRANSFORMATION

Many people now acknowledge that domestic politics are crucial in shaping China's international strategy, and useful scholarly efforts have been made to identify various domestic political factors, as outlined in this paper. However, these extant approaches are mostly confined to micro-level factors and are not sophisticated enough to explain the larger picture of China's foreign and security policy. Some of these approaches tend to describe China in a static manner and may not be useful in explaining or predicting the general trends in Beijing's international strategy. For instance, a 1995 Rand study predicted that in a 10 to 15 year timeframe, China was likely to experience less co-operation with various international regimes, higher levels of military spending, a reduction in economic interdependence with the rest of the world, a more heavy-handed approach to territorial disputes and even an attempt to search for allies against the United States and other Western powers.⁴⁵ With the exception of military spending, so far, these predictions have not been supported by the facts. The general trend in Chinese foreign policy has been moving in exactly the opposite direction. Even on the most sensitive issue - national security - there is now much more interaction with foreign counterparts than many analysts might have expected. China now holds regular dialogue and consultations on security issues with Australia, India, Japan, Kazakhstan, Uzbekistan, Mongolia, Pakistan, Russia and Thailand. China has also participated in various multilateral military exercises.⁴⁶

China's transitions are far from complete, particularly regarding the political system, and there is abundant evidence to show that this process is likely to continue for the foreseeable future. The continuation of this evolution is embodied in President Hu's notion of "the important period of strategic opportunity." According to his vision, the next twenty years will be crucially important for China and the rise of the Chinese nation. Thus, Hu has called on his foreign policy team to do everything possible in foreign affairs to meet the needs of the domestic political economy.⁴⁷

To meet these goals, China will have to place a high priority on its foreign policy in neighboring regions. This is because any significant change in the international structure in East Asia would have a profound impact on China's international standing in the world, and other regional countries are the most likely to be sensitive to its rise. For the foreseeable future, China will continue to further integrate its economy with other East Asian nations. Its political system, although resilient in some aspects and precarious in other areas, is likely to be maintained as an authoritarian one, with minor transitional measures towards more accountability and responsiveness. In other words, various domestic imperatives, largely a result of China's continuing transitions, will continue to dictate China's soft power, or soft *use* of power to be exact, in East Asia.

The goal of China's foreign policy in East Asia is still far from the pursuit of regional leadership. Part of the reason is that in this region the United States is still

widely believed and trusted to be the de facto and de jure regional hegemon. In fact, US bilateral alliances with a number of East Asian states and close strategic ties with others, are a result of both Washington's policy choices as well as regional states' preference to hedge against a potentially more assertive China. In past years, Beijing has clearly been aware of these structural constraints in its attempt to gain a regional leadership position. Instead, it has adopted a soft power approach to consolidate its strategic foothold in East Asia, rather than directly challenging US supremacy. Economic liberalization in China, which has significantly transformed the nature of the Chinese state, has indeed made China's international relations in East Asia more cooperative and engaging. 🌐

NOTES

¹ One exception is Robert Putnam's two-level game analytical framework. See Robert Putnam, "Diplomacy and Domestic Politics: The Logic of Two-level Games," *International Organization*, No. 42, Summer 1988, pp. 427-601.

² Peter Van Ness, *Revolution and Chinese Foreign Policy: Peking's Support for Wars of National Liberation* (Berkeley: University of California Press, 1970); James David Armstrong, *Revolutionary Diplomacy: Chinese Foreign Policy and the United Front Doctrine* (Berkeley: University of California Press, 1977).

³ Kuang-sheng Liao, *Antiforeignism and Modernization in China: 1860-1980* (Hong Kong: Chinese University Press, 1984).

⁴ Although all states in the world are engaged in international trade, the term "trading state" has particular significance in China's case. First, it highlights the dramatic comparison between China's past national policies and the increasingly important role China plays in the international economy. Second, it characterizes the unmistakable prominence of an export-oriented approach in China's reform and opening. David Zweig, "China and the World Economy: The Rise of a New Trading Nation," paper presented at the Second Global International Studies Conference in Ljubljana, July 24, 2008.

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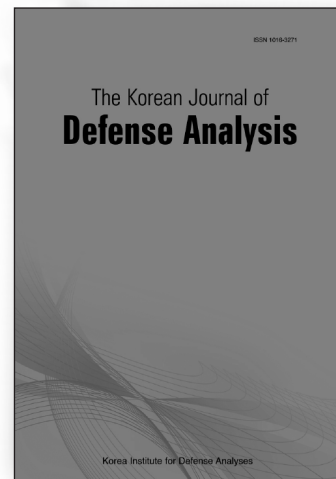
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Mongolia's Delicate Balancing Act

Wang Peiran

As Mongolia has realigned its foreign policy in the past few years, its relationship with the United States has developed rapidly. The emphasis placed on this growing alliance is best evidenced by the recent string of high-level US visitors Mongolia has received. In 2005, US Speaker of the House Dennis Hastert, President George Bush accompanied by Secretary of Defense Donald Rumsfeld, and Secretary of State Condoleezza Rice visited Mongolia in succession in August, October and November. While meeting with Bush, Mongolia's Prime Minister stated that, "Mongolia considers the United States its third neighbor."

Along with the general warming in relations between the two countries, there has been a marked increase in military cooperation. When high-level American officials visit Mongolia, they almost always bring with them a great deal of military aid. In the 2001 fiscal year, the United States provided \$2 million in aid in the form of communications equipment for the Mongolian border patrol. At the time, this

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amount accounted for half of all American funds for military aid in Asia.¹ Through joint military exercises by the two countries, personnel training and military aid, the Mongolian military has improved its rapid response and joint operation abilities. The Mongolian army is also currently helping to train the Afghan militia's artillery units. In October of 2007, Mongolia deployed troops and engineers to Iraq for the eighth time and stated that they would "persist until the end alongside" the American military in Iraq.² This is in stark contrast to other US allies who have reduced troop numbers or have completely withdrawn soldiers from Iraq.

Following the deepening of US-Mongolian relations, Mongolia's international standing has increased correspondingly. Recently, the scales seem to have been tipped in favor of Mongolia's membership in the Council for Security Cooperation in the Asia Pacific (CSCAP). Also, at the beginning of 2005, Mongolia formally applied for membership in NATO's Partnership for Peace Program. Great Britain, France, Germany and other European countries have also actively cooperated with Mongolia on security matters.³

China has always regarded a stable border environment as an important condition for the nation's economic development. Therefore, anything that touches on security cooperation with Mongolia will inevitably be followed closely by China, regardless of whether it involves the United States or Russia. With the historical lessons from the Cold War era in mind, Beijing will not tolerate Mongolia once again becoming a "military base" used for threatening the security of the "three Norths" (North China, Northeast China and Northwest China). On this point, China and Russia's goals happen to be the same. Due to regional geo-strategic factors, Russia is also endlessly striving to get Mongolia to cast off the United States and its military influence.

CHINA'S STAKE IN MONGOLIA

China's 4,677 km border with Mongolia is a critical geo-strategic intersection. Towards the end of the Qing dynasty, the high-ranking official Zuo Zongtang once remarked that, "The integration of the Northwest links the arm with the fingers. Due to the importance of Xinjiang, protect Mongolia. Protect Mongolia to defend the capital."⁴ Indeed, even today a westward march from Mongolia could sever the connection between Xinjiang and China's interior; an eastward offensive could cut transportation between China's Northeast and the interior; and an overland assault on Beijing would be a straight shot of only 560 km. The terrain along this route is level and expansive, and thus convenient for a large attacking force. This path was used during the War of Resistance Against Japan by the Soviet-Mongolian joint forces as they entered China. It was also the main route for the former Soviet Union every time they undertook large-scale military maneuvers directed at China.

In addition to security considerations, resources and economic interests have also determined the important role that Mongolia plays in China's regional strategy. Mongolia has abundant natural resources, with coal reserves estimated at between 50 and 152 billion tons, as well as one of the ten largest copper molybdenum mines

in the world, the Erdenet mine. Currently, Sino-Mongolian bilateral ties are mostly concentrated in economic areas. China has invested more in Mongolia than any other nation each of the past ten years, and for the past nine years has been Mongolia's number one trading partner.⁵ The major recipients of China's investments have been the mining and energy industries. Following President Hu Jintao's visit to Mongolia in 2003, \$73.89 million (65.6 percent of China's investment in Mongolia in 2004) was concentrated on exploring and developing mineral deposits, replacing the food and beverage industry as the number one destination for Chinese investments. In 2005, Chinese investments in exploring and developing Mongolian mineral deposits increased to \$173 million, an increase of 134 percent over the previous year. This represented 74 percent of China's \$236 million of investments in Mongolia in 2005.⁶

The fact that China is a great consumer of resources and heavily reliant on imports plays a large role in its relationship with Mongolia. According to estimates, in 2020, if China does not strengthen its prospecting and change its mode of economic development, it will face a varying degree of shortages of 19 of its 45 most important mineral resources, 11 of those 19 being pillars of the national economy. Moreover, China will be reliant on external sources for 60 percent of its oil and 40 percent of its iron ore, while copper and potassium will remain at about 70 percent import dependent.⁷ This degree of reliance on foreign sources is quite high, and there is really only one geographical source for these energy resources. Looking at regional distribution, China's supply of energy resources is highly reliant on channels within the Indian Ocean. Presupposing that China's navy still will not completely possess operational abilities on the high seas, developing supplies of energy sources from neighboring countries is an important element of China's energy security strategy. Thanks to Mongolia's advantages of abundant mineral resources and convenient transport, it will undoubtedly play an important role in supplying China with energy resources. For example, oil exports from Russia's Siberian region could pass through Mongolia and enter China directly, and Mongolia's estimated 1.3 million tons of uranium reserves could be the solution to the bottleneck China is facing in its ambitious plans for increasing its nuclear power.

CHINESE NATIONALISM AND PAN-MONGOLISM

Despite the increased cooperation between Mongolia and China thus far, there are lingering mutual suspicions that could impede the building of deeper ties. The unique historical relationship between China and Mongolia has brought about a "fearful" mentality in Mongolia regarding being reunified with China. Some sectors of Mongolian officialdom even go so far as to postulate that, "After China brings about unification with Taiwan, it's very possible that taking Mongolia back will be seen as the next step in the task of unifying the nation."⁸ Gao Shumao, formerly stationed at the Chinese embassy in Mongolia, stated that, "Chinggis Khan is yours and is also ours. Since we are all descendants of Chinggis Khan, we should develop

together.”⁹ Even though his comments stemmed from considerations regarding the attenuation of history, putting aside disputes and mutual development, they still resulted in the Mongolian media classifying him as a most unwelcome foreigner and his comments as expressing great-nation chauvinism.¹⁰ Meanwhile, some Chinese websites circulated the completely groundless “news” that “Mongolia demands to come back.” The appearance of this kind of news not only reflected feelings of Chinese nationalism, but also the general psyche of the Chinese people. Chinese culture is filled with some classic tenets of the thinking of an agricultural people, including the idea that land is the basis for the survival and development of the people. Therefore, the most difficult thing for Chinese people to accept is the break-up of their national territory. Thus, it is not difficult to understand their feelings of “longing” for the return of Mongolia after the return of Hong Kong and Macau.

On the Mongolian side of the border, the influence of “pan-Mongolism” – the desire to reunite with ethnic Mongolian areas of China and Russia – further complicates security relations with China. For Mongolians, the advent of the Cold War signified the division of their people by national boundaries. In the post-World War

The influence of pan-Mongolianism further complicates security relations with China.

II era, the Soviet Union used Mongolia as a buffer against China and restrained its pan-Mongolism tendencies.¹¹ With the conclusion of the Cold War, external constraints on extra-territorial ambitions faded, and the rise of a national consciousness added fuel to the flames. In 1990, the Mongolia Democracy Party proposed the “unification of the three Mongolia’s” and appealed to the “descendants of Chinggis Khan” to strive for the establishment of “a greater Mongolian nation.” The scope of this “greater Mongolian nation” would include three republics of the Russian Federation, and in China, Inner Mongolia and the Autonomous Prefectures of Bortala and Bayingolin.¹² Those who ascribe to pan-Mongolism claim that, “No matter how many countries they live in, as long as there is a unified religion and unified written language, a people can naturally be linked together.”¹³

The nationalist movement in Mongolia relies mostly on the return of traditional culture, namely the worship of Chinggis Khan and religion. In the 1990’s, Mongolia went back to once again using Chinggis Khan’s nine white banners, and also fixed the date for the holding of the Chinggis Khan memorial ceremony, which the president, speaker, prime minister and others would attend. Thus, the religious worship of Chinggis Khan in Mongolia has once again been reestablished and put into practice, especially by the Mongolian military.¹⁴

Though Lamaism is the national religion of Mongolia, the collective memory of the Mongolian people is also based on the worship of Chinggis Khan. Within the nationalist movement to bring back traditional culture and religion in Mongolia, there are two key symbolic features: the worship of Chinggis Khan as an ancestral god and deified hero and his role as a protector of Buddhism.¹⁵ Thus, there are countless links between the world of Mongolian Buddhism, the Dalai Lama and the Tibetan

independence movement. In Central Asia, the worship of Chinggis Khan is a kind of spiritual belief that is not bound by nations, languages or religions, and covers all levels from the political domain to folk culture.¹⁶ All these factors combine to push forward the concept of a “great Mongolian nation.”

Pan-Mongolism will make the situation involving the trends of separatism that already exist in Xinjiang and Tibet even more complex. This is the most severe challenge that the pan-Mongolism movement presents to China's future national security. Facing such a challenge, China has maintained a tough position from the start. During the 16th National Congress of the Communist Party of China (CPC) in 2002, the Dalai Lama visited Mongolia. In response, China not only put forth a diplomatic protest, it also suspended the Ulan Bator-Erlian Haote railway and issued a warning.¹⁷

POST-COLD WAR MONGOLIAN SECURITY STRATEGY

After the conclusion of the Cold War, Mongolia abandoned its foreign policy of “leaning” towards the Soviet Union, and instead established equidistant, friendly relations with Russia and China, and at the same time, strengthened its relations with the United States, Japan, the EU and other “third neighbors”. It thus began pursuing an equidistant, nonaligned foreign policy.¹⁸ Having said this, in the readjustment of its security strategy, Mongolia's relations with the United States have developed the most rapidly.

Mongolia's strengthening of its military cooperation with the United States was necessitated by the realities of its national security. During the Cold War, Mongolia was an “outpost” in the confrontation between the Soviet Union and China, and directly bore the brunt of security pressures from both the north and south. As Mongolia's strength was no match for China or Russia, it pursued a “multi-pillared” foreign policy after the Cold War ended. The essence of this policy was striving to form a balance between China and Russia while drawing in the United States, Japan and the EU in order to contain China and Russia and guarantee Mongolia's independence and security.

In addition to the generous amounts of equipment and funding Mongolia has received from the United States, the US military has also supplied aid in the form of personnel training. The US military has opened the Army War College and many other military schools and training organizations to the Mongolian military. Of all the military cooperation between Mongolia and the United States, the most eye-catching is the bilateral and multilateral joint military maneuvers co-organized by the two nations. As early as 1994, Mongolia and the United States began holding joint maneuvers. Over the next dozen years, the two countries held more than ten joint military maneuvers. In 2001, they held a humanitarian rescue exercise code-named “Balance Magic”. In 2003, Mongolia and the United States broke with their previous practice of small-scale military maneuvers, which had been limited in scope to rescue missions and mostly made up of civil defense troops, and agreed to hold

large-scale “Kahn Quest” military maneuvers every summer in Mongolia. In 2006, the “Kahn Quest” maneuvers were expanded into a multinational joint military exercise. More than a thousand soldiers from the seven nations of Mongolia, the United States, Bangladesh, India, Thailand, Tonga and Fiji participated. Compared to the previous maneuvers, other than the expanded scale, what merits attention is that the content was changed to coordinated warfare by regular army troops.¹⁹

Due to the limits of the Mongolian military’s linguistic abilities and weaponry systems, many problems still exist concerning their desire to achieve complete coordination with the US military when undertaking joint actions.²⁰ In terms of equipment, the Mongolian military is almost entirely dependent on Soviet arms.²¹ Their current drive to transform their military into an American-style force in a short period of time could not possibly succeed on the first try, regardless of whether referring to expenditures, personnel training or ideas and conceptions. However, the Mongolian military’s equipment system has already begun to change, and this will inevitably bring about the transformation of its construction, ideas on warfare and even military strategies.

Of course, US-Mongolian military cooperation is also constrained by China and Russia. Since Mongolia is completely encircled by China and Russia, its traffic and communication with the outside world must pass through one of the two countries. If China or Russia refuses to open up airspace or seaports to Mongolia, then its multinational joint exercises with other countries and the successful arrival of the related personnel and equipment would be cut off. The main foundation of Mongolia’s external economy also lies in good relations with China and Russia because the trade costs associated with Mongolia’s use of Chinese and Russian railways and highways depend on the corresponding preferential rights bestowed by these two great powers. Thus, due to its geo-strategic importance, Mongolia has already become the object of a multinational power struggle between the United States, Russia, China, Japan, Korea, the EU and others. In addition to striving to merge with the West, Mongolia currently still has two possible choices: first, relying once again on its traditional ally, Russia; second, strengthening its strategic links with China.

A “WEDGE” BETWEEN CHINA AND RUSSIA

The continuously deepening military cooperation between the United States and Mongolia has already drawn China’s attention. Within Chinese academic circles, it is universally believed that the strengthening military cooperation between the United States and Mongolia is due to the value the United States places on the natural advantages of Mongolia’s regional location, and its intention to drive a “wedge” between China and Russia. The strengthening of America’s military presence in Mongolia constitutes both a real and latent challenge to China’s national security.²² This is partly due to the fact that with Mongolia as a base, the United States has taken a step forward in exporting “democratic values” to Asia.²³

Meanwhile, Russia has taken the initiative in restoring relations with Mongolia, strengthening cooperation in the political and security realms. Moscow's goal is quite clear: to persuade Mongolia to cast off America's military influence in order to guarantee both the Siberian region's security and Russia's influence on Central Asian countries. Russia's return to Mongolia is also, to a great extent, due to geo-strategic considerations. With the eastward expansion of the EU and NATO, Russia's strategic space in Central Asia is continuously being nibbled away. If Mongolia falls completely under the influence of the United States or China, the strategic situation for Russia on the Eurasian continent would present a dilemma with no easy solutions. According to one Russian media source, "With China developing so fast, Russia, which formerly had a special relationship with Mongolia, should not lose out on this protective screen and former ally which can be used as a card in containing China."²⁴

Mongolia's heavy reliance on the Soviet Union during the Cold war and the historical memories it produced will naturally be advantageous as Russia returns to Mongolia. In November of 2000, President Putin visited Mongolia and agreed to provide aid for the training of Mongolian military specialists in addition to launching military cooperation in other areas. At the same time, an agreement to help build a Mongolian nuclear power plant was signed. In April of the following year, Russian Defense Minister Sergei Ivanov declared that Moscow was preparing to help Mongolia upgrade their defense systems and troop training. In 2006, while the two sides were restoring and developing their conventional bilateral ties in the economic realm, they were also working hard to expand their cooperation into new territory.²⁶ In 2008, Mongolian President Enkhbayar visited Russia and expressed his hope for Mongolia to cooperate with Russia on uranium production and enrichment as well as on the construction of small-scale nuclear plants. He also pointed out that Russia was not a competitive adversary in those areas.²⁶ In November of that year, Russia and Mongolia held their first joint military maneuvers since the fall of the Soviet Union. Russia took on the entire cost of the maneuvers, and also provided 3 billion Tugriks (about \$26 million) in funds in order to supply the Mongolian army with replacement parts for weapons and military repair facilities.

Against the backdrop of the United States and Russia's unresolved chess game over the deployment of anti-missile systems in Eastern Europe, it is very possible that Mongolia will become a new regional battlefield in the political wrestling between the two. Since its independence, Mongolia has had little experience with multilateral diplomacy, let alone a tradition of multilateral diplomacy. Thus, there are reasons to doubt whether it possesses the diplomatic wisdom necessary to maneuver among various great powers. If Mongolia fails to balance its multiple foreign relations appropriately, its security environment will be even worse than during the Cold War. Mongolia will become a pile-up at the intersection of three unequal trilateral relationships. The wrestling between the United States and Russia in Mongolia will imperceptibly put pressure directly on China's national security. At the same time, it

will have a negative effect on the stability and security throughout the region.

TOO CLOSE TO HOME

A neutral Mongolia is in the best interests of China and the future security situation in East Asia. Beijing will definitely not tolerate Mongolia once again becoming a “military base” used to threaten the security of the “three Norths”. Its sensitivity to foreign influence in Mongolia is particularly acute because it could potentially relate to China’s core national interest, Taiwan. During a Taiwan-related crisis, if by “coincidence” there was a challenge or friction from the direction of Mongolia, this would undoubtedly limit Beijing’s strategic options. Moreover, the security interests of the United States and China are already in close contact on the Pacific’s western coast. If the American military presence in Mongolia becomes too influential, from China’s point of view, it essentially means being encircled by the United States. Although Beijing has not directly publicized its stance on military cooperation between Mongolia and the United States, Russia and other countries, there still exists a relatively clear “red line”, namely that the current composition of Northeast Asian security cannot be dismantled, and even more, the situation cannot take a turn in a direction that is detrimental to China.

A neutral Mongolia is in the best interests of China.

Mongolia seems to be sensitive to Beijing’s concerns, and as a result, after the US president visited Mongolia, the Mongolian president immediately paid a visit to China. During the trip, a joint communiqué was released stating that both sides agreed not to enter into any military or political alliances directed at the other.²⁷ The two nations’ cooperation and exchange on security and defense are also progressing step by step. Since 2004, China and Mongolia have conducted three consultations on security and defense.²⁸ These exchanges have been helpful in increasing understanding between the two sides, raising the level of trust and at the same time strengthening China’s influence in Mongolia. A neutral Mongolia truly fits with China’s security interests. First, if Mongolia were to choose between China, Russia and the United States, it would definitely create security pressures on the other two nations. A neutral Mongolia is undoubtedly beneficial to the stability of China’s peripheral security environment, especially in the “three Norths” region and the capital. Furthermore, friendly and stable relations between China and Mongolia would benefit the security of China’s supply of energy resources and also be beneficial in handling the domestic issue of ethnic separatism.

POTENTIAL PROGRESS, PITFALLS

The rapid development of Sino-Mongolian economic ties in recent years does not mean that bilateral relations are free of troubles, as many unfavorable factors exist. If they are handled incorrectly, it could lead to a chain reaction that would affect the stability and security of the region. Thus, great attention should be paid to the fact that the prospects for Sino-Mongolian relations depend to a large degree on the two

countries' perceptions and positioning regarding the other.

Referring to historical cultural traditions, the Mongolian and Chinese nations are classic examples of a nomadic people and an agricultural people. Throughout history, economically unstable nomadic peoples survived by launching wars against agricultural peoples. Thus, war was the basis of their historical contact, and nomadic peoples' hostility towards peasant peoples is rooted in long-standing cultural traditions. With this in mind, it is not difficult for us to understand the Mongolian people's apprehension and antipathy towards China's economic investments in Mongolia in recent years.

Although historically nomadic, Mongolia is now a democratic nation, and the interactions between the political elite and the masses in the political realm follow the traditional democratic model. Thus, if the people of Mongolia view China with universal hostility, it could be taken advantage of by politicians in Mongolia as personal capital in their political maneuvering and campaigning. In office, these politicians would undoubtedly influence bilateral relations at the official level. As the scope of Sino-Mongolian trade continuously expands to an ever-deepening level, it will undoubtedly not only deepen the level of this official contact, but also the level of mutual reliance. However, the degree of asymmetry in that mutual reliance may be one source of Mongolia's negative perceptions of China. Therefore, if China can focus on the principle of mutual benefit and allow the Mongolian government and people to enjoy the results of the development of Sino-Mongolian trade in an equitable manner, it would be beneficial in bringing about an overall improvement of Mongolia's perception of China at all levels of society.

In addition, China must place great importance on its public diplomacy towards Mongolia in order to further change Mongolia's perception of China. Altering negative perceptions, while also acknowledging and respecting cultural differences, should be the main diplomatic goal that guides China in its dealings with Mongolia. A Chinese foreign policy with this principle at its core would not only be beneficial for the development of bilateral relations and the promotion of China's economic interests in Mongolia, but would also be beneficial in collapsing the social base upon which pan-Mongolism rests.

It should also be noted that the Chinese nation is characterized by its "state of being a diversified whole" and is widely known for its pluralism and inclusiveness. Thus, in its Mongolia policy, China should actively employ its cultural advantages and win the Mongolian people's respect and understanding through its cultural pluralism and inclusiveness. In one example of effective cultural diplomacy, while developing the mining industry in Mongolia, Chinese firms have taken the initiative in becoming part of local society. They have participated in and strengthened environmental protection as well as post-development environmental restoration. This has certainly helped improve the image of Chinese companies and even the image of China as a nation.

In dealing with Mongolia, Chinese leaders should remember that, “All wars are started by nations, but the origins ferment within the masses.”²⁹ In responding to the factors in the return of Mongolian nationalism and its melding with calls for ethnic division, if China stubbornly responds in an unyielding manner, it will be treating the symptoms and not the disease and will be counterproductive. If, while maintaining a principled stance, China uses more flexible methods, increases the power of its cultural diplomacy, changes Mongolia’s perception of China and causes the Mongolian people’s suspicion towards China to disappear, then it will not be difficult to reduce the influence of pan-Mongolism among the masses and make the challenges to China’s national security melt away. This will be the important content of the task ahead for China’s cultural diplomacy toward Mongolia.

In view of Mongolia’s “omni-directional, equidistant, multi-pillared” diplomatic principles as well as the reality that the United States, Japan, Russia and many other countries are all actively developing their relations with Mongolia, if China is too eager to establish itself as the dominant figure in Mongolia in the short-term, it will likely lead to suspicion and fear from Mongolians and will fundamentally endanger the diplomatic principles of dispelling doubt and increasing trust and cause unnecessary diplomatic friction with other nations. Thus, China’s thinking should be based on long-term principles involving the improvement of China’s image in Mongolia as well as coordination with other great powers to stabilize the regional structure of Northeast Asia.

THE COOPERATION OF GREAT POWERS

While “pan-Mongolism” brings with it a threat to China’s national security, it also provides an opportunity for cooperation between China and Russia. Both nations have concerns related to ethnic separatist movements, have a common understanding regarding striking against these forces and are members of the Shanghai Cooperation Organization (SCO), which is aimed at, “Working together to strike against all forms of terrorism, separatism, and extremism.” Thus, when faced with issues related to the terrorist and ethnic separatist movements that pan-Mongolism has given rise to, there is more than enough subject matter for a cooperative platform. Also, Mongolia has observer status within the SCO, so China and Russia can use the organization to increase their influence over it.

Efforts to establish a nuclear-free zone in Mongolia have provided a platform for greater cooperation and dialogue between the United States, China and Russia. In September 1992, Mongolian President Ochirbat declared Mongolia to be a nuclear free zone (the first country to ever do so) at the 47th UN General Assembly, and this pledge was guaranteed by the great powers. After a series of difficult negotiations, during a meeting of the first committee of the 55th UN General Assembly in November of 2000, the five great nuclear powers of China, France, Russia, the United Kingdom and the United States released a joint statement reaffirming their cooperation with Mongolia on the implementation of the UN resolution. The statement

reiterated that the five countries would not use or threaten to use nuclear weapons against Mongolia. The status of Mongolia's nuclear-free zone and its institutionalization still have a long ways to go, but in regard to Northeast Asian security, it is a significant positive development and relevant to the resolution of the North Korea nuclear issue.

The establishment of Mongolia's status as a nuclear-free zone has led to some positives which can be utilized in the Six Party Talks. Although the security environment and national conditions of Mongolia and North Korea are very different, how to uphold their sovereignty and security in an environment made up of great powers is a pursuit common to both. North Korea continues to pursue nuclear weapons and a delivery system with the basic goal of defending its national security. Mongolia has gone down the opposite path by taking the initiative in renouncing nuclear weapons, and thus has similarly achieved the goal of safeguarding its national security. If China, the United States and Russia cooperate on this issue by promptly establishing the lawful status and institutionalization of Mongolia's nuclear-free zone and support its peaceful use of nuclear energy, they could provide a model for North Korea to ultimately "abandon nukes".

If handled properly, Mongolia can serve as an important strategic buffer for China in its dealings with the United States and Russia, much as North Korea has done in the past. However, only when a buffer state maintains its "elasticity" can it play a positive role in great power competition as it "stretches" in different directions to accommodate competing interests. Therefore, in the interest of its peripheral security environment, China should seize opportunities to keep Mongolia in play by mitigating great power competition. Cooperative initiatives such as the nuclear-free zone will help diffuse rivalry between the great powers. Meanwhile, a dialog with Mongolia based on cultural pluralism and respect will help to dispel mutual suspicions and will promote stability and trust between the two neighbors. All of this will not only improve China's national security in coming years, but will also enhance its status as a responsible and trustworthy power in East Asia. ☞

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NOTES

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¹⁸ 1994年6月30日, 蒙古大呼拉尔 (议会) 通过《蒙古国对外政策构想》和《蒙古国家安全战略构想》, 指出“蒙古将实行开放的、不结盟、多支点的和平外交政策”, “吸引具有影响力的国家对蒙古在战略上的关注”, “提高本国的战略地位”, 提出“将主要依靠政治和外交手段来保障国家安全”的基本方针。蒙古对外政策的明确目标是: “均衡地同俄、中两大邻国发展睦邻友好关系, 并把同这两个国家发展互信、互利的友好合作关系作为外交的首要方针; 同时加强与美、日、欧盟等西方国家与国际组织的关系” [On June 30th, 1994, through “Conceptualizing Mongolia’s Foreign Policy” and “Conceptualizing Mongolia’s security strategy”, the Mongolian parliament pointed out that, “Mongolia would implement an open, non-aligned, multi-pillared peaceful foreign policy,” “attract the strategic

attention of influential great powers,” “improve the country’s strategic positioning” and the basic policy of “mostly relying on political and diplomatic measures to ensure national security.” Clearly, the goals of Mongolia’s foreign policy are: “In a balanced manner, develop friendly relations with its two great neighbors, China and Russia, and make the development of mutual trust and mutual benefit in these friendly relations the guiding principle in foreign relations; at the same time, strengthen relations with the US, Japan, the EU, and other Western countries and international organizations], Mongolia Ministry of Foreign Affairs, “Concept of Mongolia’s Foreign Policy”, http://www.mfa.gov.mn/index.php?option=com_content&task=view&id=35&Itemid=46&lang=en.

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²² “颜色革命”之后, 中亚国家的执政力量对美国持保留态度, 因而美国在中亚的存在受到影响。蒙古的民主成果相对比中亚国家稳定, 这也成为吸引美国关注的一个因素。[After the “color revolutions”, those in power in Central Asia had reservations about the US, and thus, this influenced the state of the US presence in Central Asia. The results of Mongolia’s democracy have been more stable than other Central Asian countries, and this has been a factor in drawing the attention of the US.]

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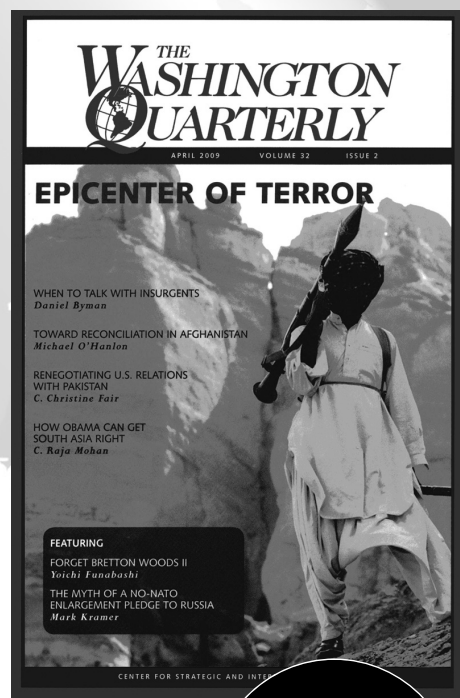
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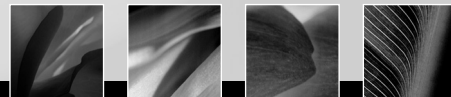
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