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South China Sea: Not Just About “Free Navigation”

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The South China Sea territorial dispute increasingly looks like a point of strategic friction between the United States and China after a nasty exchange between the two governments earlier this month. The US Department of State criticized China for its plan to base a new military garrison in the Paracel Islands, saying this would increase international tensions. Beijing shot back that the United States should mind its own business. Many observers wonder why Washington and Beijing are allowing a new irritant to emerge in the incalculably important US-China relationship. Unfortunately, there is widespread misunderstanding about the US rationale for America's diplomatic intervention in a territorial dispute to which the United States is not a party. Although US officials have named several specific US concerns about China's policies and activities in the South China Sea, the US concern most widely understood and repeated is the potential threat to “freedom of navigation”: the PRC might be moving toward imposing restrictions on foreign ships sailing in the South China Sea. This, however, is not the real issue. It is really about bullying.

Denny Roy, Senior Research Fellow at the East-West Center, explains that “China is trying to implement a might-makes-right order, while the United States is trying to ensure that smaller countries do not get steamrolled. This is the real issue, and US officials should make it clear.”

To be sure, the United States is a strong proponent of freedom of navigation in international waters. This stance reflects not only America's commitment to the general principle of liberty but also the interests of a trading nation with the world's most capable navy. There should be no doubt that *if* freedom of navigation was in jeopardy in the South China Sea, the United States would spring to its defense. At present, however, freedom of navigation is not at issue.

The Chinese say they do not interfere with international navigation in the South China Sea and do not intend to in the future. Their position has some merit. China has a particular beef with surveillance by US ships and aircraft near the Chinese coast. This has resulted in Chinese harassment, with several incidents reported in the press. The UN Law of the Sea Treaty allows for spying in the region between a country's internal waters limit—12 nautical miles—and its exclusive economic zone limit which is usually 200 nm. The Chinese argue that spying is not “innocent passage” and should not be allowed within the EEZ. It is not an unreasonable argument. So this situation has resulted in some interference with the “free navigation” of the US Navy, but this is a very limited and special case. The other circumstance in which Chinese vessels have interfered with non-Chinese ships is when the latter are engaged in activities that involve taking resources—fishing or preparing to drill for hydrocarbons—or when foreigners are attempting to arrest Chinese fishermen. These, as well, are special cases. Otherwise, the Chinese have not interfered with the passage of cargo ships of any flag or of US Navy vessels passing through the waterway.

Consequently, the Chinese assert that the freedom of navigation argument is bogus, and the assertion is persuasive to many neutral onlookers. From here the Chinese charge that



the Americans are using freedom of the seas as a pretext to extend the alleged “containment” strategy to Southeast Asia, limiting Chinese influence and recruiting new allies to join in the military encirclement of China.

Instead of providing fodder for Chinese rhetoric, the freedom of navigation argument should remain in the background. Rather, what the US government should be talking about is making the world safe from unlawful international coercion. Ironically, the Chinese have begun practicing what Beijing’s diplomats have for decades condemned as “hegemonism” or “power politics”—strong countries forcing their self-interested preferences onto smaller countries.

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Six governments claim ownership of parts of the South China Sea. None has a slam-dunk case. China is not the only claimant that has moved unilaterally to strengthen its control over South China Sea territory and resources in recent years. China, however, has distinguished itself in two important and negative ways. First, China’s claims are both unusually expansive and intentionally vague. Beijing has stubbornly refused to clarify its claims based on the guidelines in the international Law of the Sea treaty, to which the PRC is a signatory. This is part of a strategy of ambiguity by which the PRC tries to minimize global concern and to avoid being constrained by the Law of the Sea guidelines while taking actions aimed at intimidating individual rival claimants.

Second, the actions China has taken to assert ownership over the South China Sea and its tiny “islands” are stronger than those taken by the other claimants. These acts include threatening and damaging foreign ships, declaring a fishing ban for part of the year in half of the South China Sea and arresting foreign fisherman who do not comply. There is also the recent announcement of increased Chinese militarization of the region—not only the new garrison, but the statement by PLA spokesman Geng Yansheng in June that China has begun “regular, combat-ready patrols” in the South China Sea.

China’s actions are threatening because China is big. No other state in Southeast Asia can match the military power China is able to project into the South China Sea. China’s massive economic weight, rapid growth rate, and commitment to strengthening its military forces ensure that the gap will only grow larger in the future. To make the contest even more lopsided, the Chinese government recently announced plans to greatly increase the number of quasi-military patrol ships—operated by the PRC Coast Guard and other agencies—it will deploy in the South China Sea.

In effect, this is a struggle between two visions of international order for Asia. The US vision includes a system of norms and international laws that ensure, among other things, that small states are protected from predation by larger states and that dispute resolution procedures should be fair.

China, on the other hand, appears to favor restoring a Chinese sphere of influence in East and Southeast Asia such as the Middle Kingdom enjoyed anciently. Under this arrangement, the rules of international interaction would reflect basic Chinese interests. Beijing would expect regional governments not to take major decisions that run contrary to Chinese preferences. Beijing’s current unwillingness to base Chinese claims in the Law of the Sea treaty may reflect the sentiment that this mostly Western-written body of law will not be needed when China resumes its historical position of regional dominance.

Some observers see the China-US contention over the South China Sea as simply a squabble between two great powers that are both seeking regional domination. Each is acting in its respective hegemonic self-interest rather than in defense of some higher principle. In this case, however, US intervention is clearly aligned with the interests of the Southeast Asian countries, which seek to avoid domination by China or any other great power. China is trying to implement a might-makes-right order, while the United States is trying to ensure that smaller countries do not get steamrolled. This is the real issue, and US officials should make it clear.

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