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Uncomfortable Truths: Breaking the Impasse in the South China Sea

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The impasse over territorial sovereignty and control of natural resources in the South China Sea represents an increasingly serious challenge to regional security. The situation demonstrates the need for more effective regional leadership than currently exists. The United States must seek to fill this leadership role not only to protect its own interests but also those of all the countries in the region. As the inability to reach even the most basic agreement on a Code of Conduct (COC) during the ASEAN Ministerial Meeting in July demonstrates, allowing the status quo to continue is not a pathway to success. Breaking this impasse will require that each of the countries involved make difficult choices based upon several hard and sometimes uncomfortable truths.

Marquis Clayton, Research Assistant at the East-West Center in Washington, explains that “The first uncomfortable truth that countries in the region must face is that continuing with their current approaches will result in developments they most fear and claim to be seeking to avoid.”

The first uncomfortable truth that countries in the region must face is that continuing with their current approaches will result in developments they most fear and claim to be seeking to avoid. For ASEAN, continuing to negotiate over a COC without an effective enforcement mechanism that is not substantively different from their 1992 Declaration on the South China Sea and 2002 Declaration of Conduct of Parties in the South China Sea will only yield the same lack of results as those previous documents. It will be ignored as countries in the region continue to arm themselves and assertively press their claims while publicly paying lip service to principles of peace and international law. For countries like Vietnam and the Philippines, continuing to aggressively challenge a stronger China over maritime sovereignty, energy development and enforcement of fishing rights without having the strength to independently back their claims will only result in China more aggressively challenging them in kind. Trying to forcefully press their claims will almost certainly result in failure as neither country is capable of winning a military confrontation or arms race with China. Additionally, the Philippines runs the risk of finding that the United States has a different interpretation of whether or not their 1951 Mutual Defense Treaty applies to its claims in the South China Sea.

For China, continuing to assert maximalist claims based on ambiguous legal foundations while insisting on bilateral settlement of the disputes will only raise fears in the region about its growing economic and military power. This will lead China's smaller and weaker neighbors to continue seeking support not only from each other through institutions like ASEAN, but also from outside powers such as Japan, South Korea, Australia, India, Russia and, more disconcertingly, the United States, which China fears is seeking to encircle and contain its growing influence. For the United States, continuing to insist that the disputes be resolved according to international law, primarily the United Nations Convention on the Law of the Sea (UNCLOS), while not ratifying and being a party to that law is untenable and undercuts the strength of its arguments. Allowing China to successfully establish economic, military and diplomatic coercion as an effective method of achieving its aspirations will harm US interests in the

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region as its allies will increasingly question whether or not the United States is capable of protecting them from such pressure.

Some observers have suggested the need for an increase in confidence building measures (CBMs) as a means of increasing dialogue and mutual understanding amongst the various claimants while also reducing tensions in the region. Considering the potential for conflict inherent in the disputes, this is certainly a laudable approach. However, such measures raise the second uncomfortable truth: the fact that the countries of the region increasingly view the disputes in zero-sum terms. In theory, CBMs like cooperative energy development and joint patrols to enforce fishing regulations will reduce the potential for conflict over these issues. In practice, however, countries in the region have been reluctant to share control over what they view as their sovereign territory. This reluctance is particularly acute for countries like Vietnam and the Philippines since they feel China is bullying them into sharing what is theirs.

The final uncomfortable truth is that historical animosities and increasingly emotional resource nationalism are likely to make the situation worse, possibly much worse, before it gets better. The primary reason is that political leaders in the claimant countries have little incentive or capability to undertake the types of compromise which would be required to resolve the disputes. In the Philippines, President Benigno Aquino has staked out a much tougher stance on South China Sea issues than his predecessor's policies which he saw as weak and encouraging Chinese aggression. In the aftermath of the incidents last year at Reed Bank and this year at both Scarborough and Half Moon Shoals, he is unlikely to begin promoting a more conciliatory approach.

In Vietnam, public protests and opposition to concessions on territorial and sovereignty disputes with China leave its leaders very little room to maneuver. Considering the history of conflict between the two nations and recent disputes over arrests and detentions of fishermen as well as drilling rights in contested areas, it is unlikely that such public sentiment will be easy to reduce.

In China, the national leadership will be undergoing a major change for the first time in a decade. The new incoming party secretary and president, Xi Jinping, will seek to consolidate his power and is unlikely to make one of his first foreign policy initiatives a weakening of China's claims of sovereignty in the South China Sea, a move which would face stiff opposition from the military and public. In short, without substantial outside pressure to do so, claimant countries are not likely to soften their stances or undertake major initiatives to improve the situation.

The United States is the only country with the ability to break this impasse. It is the only party with the diplomatic, economic and military influence in the region to alter the status quo in a positive manner as ASEAN has proven incapable of doing so, while China has shown itself unwilling to do so. This means the United States must go even further than it already has in laying out its interests in the future regional order and guiding the various claimants through facing these uncomfortable truths and modifying their current approaches to resolving the disputes. Other specific measures will include increasing efforts to improve the capabilities of the Filipino and Vietnamese armed forces to patrol and monitor their maritime peripheries.

Additionally, the United States should increase its naval presence near strategic waterways in the region to ensure that tensions arising from these disputes do not threaten the shipping lanes that are so vital to the global economy. Finally, the United States must make clear to China that its current “divide and conquer” approach to maritime disputes in the South China Sea is untenable and only going to result in a greater potential for conflict in the region. The statement released in August on this topic by the US Department of State was a good step in this direction but sustained dialogue at a much higher diplomatic level is required if the effort is to gain any traction.