

# ChinaSecurity

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A Journal of China's Strategic Choices

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# Chinese Military Going Global

*David Lai*

**I**t is no longer speculation. The Chinese People's Liberation Army (PLA) made its debut in the world arena on Dec. 26, 2008. On this day, the PLA dispatched two navy battleships and a supply vessel to protect Chinese merchant vessels from Somali pirate attacks in the Gulf of Aden. This contingency fleet is a small addition to the multinational naval forces already in the pirate-infested waters. However, it is a significant step in the PLA's new mission in the 21<sup>st</sup> century and China's march to become a "fully-functional" world power in international security affairs.

## A MISSION FOR THE NEW CENTURY

The PLA's move to go global is a natural outgrowth of China's expanding power. In the early decades of the People's Republic, domestic national security concerns overshadowed any economic interests China may have had abroad. With China at odds with the United States, the Soviet Union and many of its neighbors in the heyday of the Cold War, the PLA's sole mission was to protect China on the home front.

In the past, Chinese leaders argued that using military force abroad was imperial conduct. They criticized the United States' military presence in many parts of the world and the force it projected in international affairs, meanwhile proudly proclaiming that China did not have a single soldier deployed on foreign soil. These views, however, started to change when China's national interests expanded and became

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closely tied to events beyond its borders. Indeed, China is now the world's third largest economy (trailing the United States and Japan) and third largest trading nation (behind the United States and about to surpass Germany); its products are reaching every corner of the world. At the same time, China has also become heavily reliant on the outside world for much of its natural resources and energy supply. The flow of these vital commodities or "life supplies of China," mostly comes by sea, with over 90 percent of China's trade and energy supply delivered by sea transport. However, this dependency on ocean-borne commerce comes with increased vulnerabilities to pirate attacks, blockades from hostile nations and even natural disasters. Moreover, from the outset of this century, Chinese business has moved aggressively overseas to invest in and explore foreign markets. Some of the Chinese overseas investments and projects are in conflict-laden regions. Increasingly, Beijing has felt that it must take measures to protect these expanding national interests. On Dec. 24, 2004, Chinese President Hu Jintao took the occasion of his inauguration as head of China's Central Military Commission (CMC) to address senior PLA officials on China's concerns and put forward a new vision for China's defense policy. Hu's call was later codified in China's 2006 National Defense White Paper (NDWP), reaffirmed in the Chinese Communist Party's constitution in November 2007 and reissued in the 2008 NDWP. Specifically, Hu tasks the PLA to do the following:

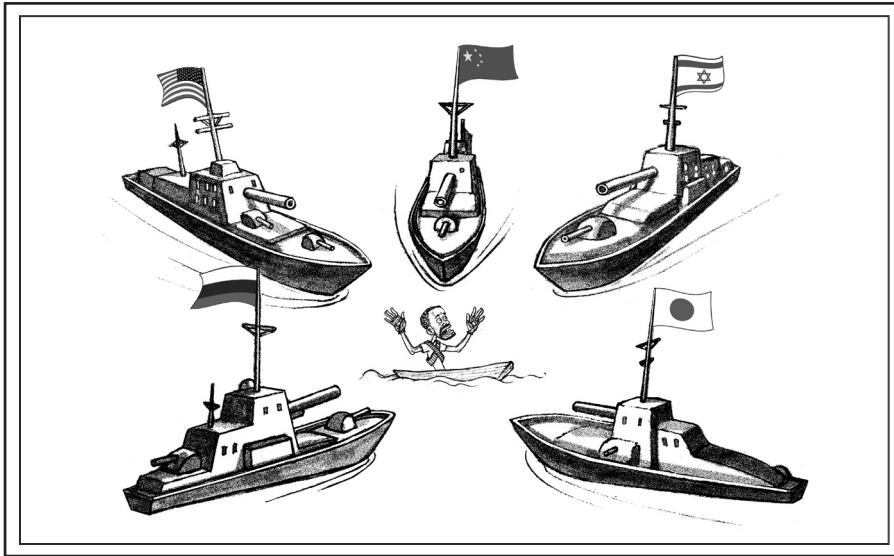
Provide a solid security guarantee for sustaining the important period of strategic opportunity for national development, provide a strong strategic support for safeguarding national interests, and play a major role in maintaining world peace and promoting common development.<sup>2</sup>

This mission statement reflects several developments in Chinese leaders' conception of China's national interests and the principles upon which they expect the PLA to protect these interests. First, Chinese leaders have long defined China's national interests in the order of survival, security and development. Having experienced phenomenal economic growth in the last 30 years and made much improvement in homeland security (including mending fences with its neighbors), China now places more emphasis on development.

Second, it takes note of China's expanding national interests beyond its geographic borders. In the words of an important *PLA Daily* editorial, China's national interests are spreading everywhere in the world, into the open seas, outer space and even into cyberspace.<sup>3</sup> Today, China not only has a territorial frontier, but also an "interest frontier" that has no national boundaries.

Third, Chinese leaders claim that the 20<sup>th</sup> century was one characterized by war and confrontation, whereas the 21<sup>st</sup> century will be one of competition and marginalization. All nations, especially world powers, must therefore seize strategic opportunities and make development their top national priority or face marginalization. Chinese leaders want the PLA to ensure that China's pursuit of such opportunities not be compromised by internal or external interference.<sup>4</sup>

Finally, Chinese leaders accept that their country's expanding global interests will



by Dong Junwei

eventually come into conflict with those of other nations, and that the PLA must be prepared to defend these expanding national interests.<sup>5</sup> To accomplish this objective, they believe that China's military force must be commensurate with its rising international status, and the PLA's mission will naturally follow China's interests, wherever they lead.<sup>6</sup> This new, broader mission is revolutionary for the PLA. However, it leaves many unanswered questions. How will China's use of military force overseas be different from past and current great powers? What kind of a force structure and military presence will China eventually have beyond its territorial boundary? In addition, how will China balance its military relations with other great powers (especially the United States)?

#### AN OPPORTUNITY TOO GOOD TO MISS

China could not have wished for a better opportunity to put the PLA's new mission to a test. The anti-piracy operation in the Gulf of Aden allows the PLA to do so without generating another round of the "China threat" debate in the outside world, which has overshadowed China's rise since the early 1990s. On the one hand, this military mission is limited. China's navy is there to escort Chinese merchant vessels (Hong Kong and Taiwan ships upon request), but not to wage a war against another country or challenge another global power. At a time when China still does not have long-range power projection capabilities, this limited navy escort operation also has the benefit of being manageable for the PLA's naval forces.

More importantly, the PLA's first overseas operation comes under the good cover of a United Nations mandate. Somali pirates have generated such an international outcry that the UN Security Council has passed several resolutions calling for the international community to take all necessary actions, including the deployment of naval and air capabilities to protect merchant vessels in the Gulf of Aden, as well as approval for ground troops to pursue the Somali brigands ashore. China answered

the call for action. This act accomplishes two goals. The PLA's first overseas combat mission bears legitimacy, and China earned praise as a responsible great power. China will use this example to show that China is not just another global player coming to flex its military muscle on the world stage, but one that will act to promote peace in the world.<sup>7</sup>

Interestingly, the other blessing for China's overseas military operation came from the United States. Since the United States has the most powerful military force and views its role as maintaining security in the world, the PLA's move could have been perceived as an intrusion into US turf. However, several years ago, the United States made a strategic adjustment in its policy toward China's involvement in world politics. After decades of conflict over differences in political ideology, human rights conduct, trade, and, above all, the struggle for Taiwan, China and the United States sought to improve their volatile and sometimes confrontational relations through a series of goodwill exchanges. Complicating this reconciliation were US concerns about the challenges China's rise posed to US interests in Asia and the US-led international order worldwide. In an attempt to reduce bilateral tensions and escape the "tragedy of great power politics,"<sup>8</sup> Chinese leaders began outlining the contours of a "peaceful rise" strategy (later modified to "peaceful development") in 2003.<sup>9</sup> Two years later, the United States responded to China's call and urged China to become a "responsible stakeholder" of the international system. In the words of then Deputy Secretary of State Robert B. Zoellick, the architect of this strategic adjustment, the United States had worked to integrate China into the international system for over 30 years, efforts without which the country's economic development would have been impossible. With China's wealth and influence having grown tremendously, Zoellick argued that Beijing needed to assume great power responsibilities, noting that "as a responsible stakeholder, China would be more than just a member - it would work with us to sustain the international system that has enabled its success."<sup>10</sup> With this change of policy, the United States was able to get China involved in the North Korean nuclear issue and later on the Darfur crisis. More recently, the United States also welcomed the PLA to join hands with the United States and other military forces to fight against Somali pirates in the Gulf of Aden.<sup>11</sup>

#### TARGETS OVER THE HORIZON

The PLA has much to celebrate for getting its first overseas combat mission off to a good start.<sup>12</sup> The leadership, however, faces a difficult road ahead. To sustain the PLA's future missions, China needs to develop long-range power projection capabilities. China's newly released 2008 National Defense White Paper has come in time to spell out a three-step development strategy for the nation's defense modernization:

Taking informationization as the goal of defense modernization and in light of its national and military conditions, China will complete laying a solid foundation for the long-term development by 2010, complete the mechanization of China's armed forces and make major progress in informationization by 2020, and by and large reach the goal of modernization of national defense and armed forces by the mid-21<sup>st</sup> century.



While this plan may be too long range for American leaders, whose visions hardly go beyond their four-year terms, China is determined and well positioned to pursue these goals. China's economic and technological development of the last 30 years has laid the material foundation for its defense modernization. Chinese leaders' new vision for the PLA in the 21<sup>st</sup> century provides policy guidance to the development plan.

In the coming decades, we will see China commit resources to improve its traditional ground, air and naval forces while extending its new nuclear, space and cyber technologies. The most controversial of the above will be China's efforts to develop its naval strength. Unlike the PLA army and its nuclear forces, which are mostly stationed inside China and not likely to attract much international attention, or outer space and cyber technologies which are covered by their dual-use nature, naval force is an overt military machine that bears significant international implications.

Developing a navy commensurate with China's expanding interest will be a major undertaking. Since the mid-1990s there has been a national debate in China about how the country should pursue its sea power. Such discussions typically refer back to China's historical neglect of sea power, the humiliation China suffered from foreign invasions from the sea in contemporary times, the need to keep Taiwan in the fold, the heavy pressure from the United States and its allies in Asia and, more recently, China's need to protect and develop its interests at sea. Advocates of a strong navy take Alfred T. Mahan's teaching to heart, believing that a strong navy is a precondition for the rise of a great nation with global reach. They see that China has the capacity to become a global power. However, China cannot reach its potential without a strong navy, or put more bluntly, China's development will have no future without a strong navy.<sup>13</sup>

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*A naval force is an overt military machine that bears significant international implications.*

In practical terms, proponents of a strong navy urge China to build aircraft carrier battle groups. They argue that without carriers, China cannot bring a graceful closure to the Taiwan issue, and as a result, will have to confront the United States for as long as the Taiwanese question remains unresolved. Moreover, without aircraft carrier battle groups, China cannot safeguard its faraway ocean territory and sea lane transportation.

Advocates of a naval buildup point to the fact that China is the only UN Security Council permanent member without aircraft carrier capability, despite the fact that it has one of the world's longest coastlines, extending out onto over 3 million square kilometers of sea territory.<sup>14</sup> Moreover, they note that China's neighbors Japan, India and Thailand have aircraft carriers. Finally, China's sea power advocates argue that if China has a strong navy, it will strengthen China's position to share ocean interests with the United States. In the words of a leading advocate of greater Chi-

nese sea power, “in the long run, China and United States will be friends; however, Americans will always make friends with unbeatable opponents; no defeated nation can ever be a friend of the United States on an equal footing.”<sup>15</sup>

Other analysts have adopted a more level-headed view. They point out that blindly following Mahan’s teaching to develop China’s naval power will drive China along the road of hegemonic competition, bringing with it the potential for disaster. Instead, it should develop naval power to protect its interests, but avoid challenging the United States. Some also argue that aircraft carriers represent outdated technology, whereas investing in outer space and cyberspace is an investment for the future. In a forward-looking way, China should actively engage in improving the international laws and regulations governing the proper use of oceans, since the world is moving in this direction rather than continuing to rely on the self-help type of sea power.<sup>16</sup>

While the debate will continue in China, there is good reason to believe that China will expand its naval forces. As a PLA spokesman stated at the press conference on China’s decision to dispatch naval forces to the Gulf of Aden, “China has the right and capacity to develop aircraft carriers. It should not come as a surprise if one day China decides to do so.”<sup>17</sup> The spokesman also reiterated China’s position that it would develop naval forces to protect China’s interests, not seek world dominance.

For now, China can expect smooth sailing as its navy sets off on the historical anti-piracy mission amid international goodwill. The real test will come when China has to defend interests not covered by the United Nations or is in conflict with the United States. What will China do under these circumstances? The PLA’s global mission has a long way ahead. ☪

## NOTES

<sup>1</sup> 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.

<sup>2</sup> From China’s 2008 National Defense White Paper. China’s 2006 NDWP also has the provision of “providing an important source of strength for consolidating the ruling position of the Communist Party of China,” but it was removed from the 2008 NDWP.

<sup>3</sup> “On the PLA’s Historical Mission in the New Stage of the New Century,” *Jiefangjun Bao* (PLA newspaper), January 9, 2006.

<sup>4</sup> Ibid.

<sup>5</sup> See the article by Luo Yabo, director of Theoretical Studies Group, Political Propaganda Department, Guangzhou Military Region, “A Scientific Understanding of the PLA Historical Mission in the New Century,” *Theoretical Studies on PLA Political Work* 6, no. 3 (2005).

<sup>6</sup> Numerous publications by PLA writers celebrate this new mission. The previously mentioned editorial by the PLA mouthpiece newspaper, *Jiefangjun Bao*, provides perhaps the most authoritative expansion of the thoughts behind the new mission. See also the article by

Huang Kunlun, "Watching PLA Fulfill its New Mission from the Gulf of Aden: PLA's Mission Will Extend to Wherever National Interests Expand," *Jiefangjun Bao Online*, January 4, 2009.

<sup>7</sup> PLA Maj. Gen. Peng Guangqian, "PLA Navy Escort Mission to Protect Chinese Human Rights," *Xinhua News Agency*, January 4, 2009.

<sup>8</sup> This term is from John J. Mearsheimer, *The Tragedy of Great Power Politics* (New York: Norton, 2001).

<sup>9</sup> The first official call came from Zheng Bijian in his speech at the 2003 Boao Forum in southern China, "A New Path for China's Peaceful Rise and the Future of Asia," on November 3, 2003. In the following month, Chinese Premier Wen Jiabao took this call to the United States in his speech at Harvard University, "Remarks of Chinese Premier Wen Jiabao: 'Turning Your Eyes to China,'" December 10, 2003.

<sup>10</sup> Robert B. Zoellick, "Wither China: From Membership to Responsibility?" Remarks to the National Committee on US-China Relations, New York, NY, Sept. 21, 2005.

<sup>11</sup> Donna Miles, "US Welcomes Chinese PLANs to Fight Piracy, Admiral (Timothy J. Keating) Says," *American Forces Press Service*, December 18, 2008. The US Navy's 5th Fleet also tried to get the PLAN in the multilateral coalition to fight against Somali pirates in the Gulf of Aden. See report by Mark McDonald, "China Sends Naval Task-Force on Anti-pirate Mission," *International Herald Tribune*, December 26, 2008.

<sup>12</sup> Huang Kunlun, "Watching PLA Fulfill Its New Mission from the Gulf of Aden—PLA's Mission Will Extend to Wherever National Interests Expand," *PLA Daily*, January 4, 2009.

<sup>13</sup> Zhang Wenmu, "Economic Globalization and China's Sea Power," *Zhanlue yu Guanli (Strategy and Management)*, no. 1, 2003; Zhang Shiping, *China's Sea Power* (Beijing: Renmin Ribao Chubanshe, 1998); and You Ziping, "On Sea Power," *Xiandai Jian Chuan (Contemporary Ships)*, no. 12, 2001.

<sup>14</sup> This is according to the UN Law of the Sea.

<sup>15</sup> Zhang Wenmu, "Economic Globalization and China's Sea Power," *Zhanlue yu Guanli (Strategy and Management)*, no. 1, 2003.

<sup>16</sup> Xu Qiyu, a PLA researcher at the PLA National Defense University Strategic Studies Institute, published an influential article to question the calls by the advocates of a strong navy, "Reflection on the Blind Spots of Strong Sea Power Thinking," *Zhanlue yu Guanli (Strategy and Management)*, no. 5, 2003. Liu Zhongmin, a professor at China's University of Maritime Sciences, has provided well-balanced analyses on China's sea power. See Liu Zhongmin, "On Sea Power and the Rise of Great Powers," *Shijie Jingji yu Zhengzhi (World Economy and Politics)*, no. 12, 2007. Liu Zhongmin and Zhao Chengguo, "On the Debate about China's Strategy on Sea Power Development," *Journal of Guangdong University of Foreign Studies* 16, no. 1, 2005. See also Ye Zicheng, a Beijing University professor, who argues that it is China's comprehensive national power, especially China's land power that is crucial to China's security; naval power should play a subordinate role. "Zhongguo Haiquan xu Chongshu yu Luquan" (China's Sea Power Must be Subordinate to It's Land Power), *Guoji Xianqu Daobao*, March 2, 2007; Ye Zicheng and Mu Xinhai, "Some Thoughts on China's Sea Power Development Strategy," *Studies of International Politics*, no. 3, 2005. For the last point, see Li Yamin, "On the Role and Impact of Ocean Order on the Changing International System" (PhD. diss., Strategic Studies Institute, Chinese Communist Party Central Cadre School, Beijing, 2007).

<sup>17</sup> Chinese Defense Ministry Press Conference, December 25, 2008.

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# Charting a Course: US-China Cooperation at Sea

*Peter A. Dutton*

**I**n December 2008, Chinese leaders announced that the People's Liberation Army Navy (PLAN) would join the anti-piracy efforts off the Horn of Africa.<sup>1</sup> This decision reflects China's increasing global interests and the threat posed to them by non-traditional security concerns, particularly the rise in piracy that has disrupted shipping traffic in the critical sea lanes that run through the Gulf of Aden.<sup>2</sup> The international community has been battling such threats in the region for many years, but until recently China has avoided cooperative maritime security efforts with other countries, including the United States. Thus, the decision may also reflect a move by China to assume more influence over international security affairs. Since Sep. 11, 2001, leadership to combat non-traditional security threats has been filled almost entirely by the United States, but differences in legal and political perspectives have kept China from contributing to such US-led international maritime security activities as the Proliferation Security Initiative and Combined Task Force 150. Indeed,

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Chinese officials and scholars have publicly questioned the legal rationales behind them. On the other hand, China has been more supportive of state-to-state cooperative efforts, including on the United States Container Security Initiative (CSI). An examination of China's decisions to opt in or out of specific international efforts, in light of China's perspectives on international law of the sea, will offer insights into pathways of future cooperation. It may also portend the ways in which China will attempt to shape the future of global maritime governance.

### GOVERNANCE AND SECURITY AT SEA

Historically, coastal states exercised little authority at sea beyond the narrow territorial margin that could be easily controlled from the shore. The vast oceanic expanses remained available for the free and equal use of all states to pursue economic, security and defense activities. The lack of maritime governance had its benefits to be sure. It fostered free commercial communication, allowed effective use of marine resources by those best positioned to exploit them and enabled great maritime powers to create a global trading system by pacifying the seas without offending the sovereignty of littoral states. However, piracy and raiding were at least as persistent a problem then as they are today.<sup>3</sup> As a result, two particular legal constructs developed out of early state practice that enabled sovereign states to assert extraterritorial policing authority to keep order on the high seas.

Addressing the problem of jurisdiction aboard ships at sea, all vessels were required to carry the flag of the state from which they emanated. Flag state jurisdiction carries with it the state's exclusive authority to regulate the activities on board while at sea and remains the primary basis of jurisdiction over vessels.<sup>4</sup> However, flag state authority is supplemented with international law that enables states to police the global maritime commons and provide order where coastal states have no authority or ability to do so. This premise forms the basis of the cooperative international anti-piracy activities off the Horn of Africa.

The legal construct of universal jurisdiction is the most well developed of these international law tools, providing the authority for states to confront piracy and statelessness at sea. Universal jurisdiction allows all states to use their naval forces to capture offending vessels, assert prosecutorial authority over pirate crews and try them according to the captor's domestic law.<sup>5</sup> Similarly, vessels at sea without nationality<sup>6</sup> are subject to the authority of any state. In order to enforce their universal jurisdiction authority, the naval forces of any state may approach civilian vessels of concern and determine whether reasonable grounds exist to suspect piracy or statelessness. If reasonable grounds develop, an officer and boarding party may visit the vessel to inquire further and, if necessary, seize it without regard for the interests of the vessel's flag state.<sup>7</sup> Thus, for a very few crimes at sea - including piracy and statelessness - the paradigm of the primacy of flag state jurisdiction is turned on its head and all states have equal law enforcement authority over the vessel.<sup>8</sup> This unusual degree of extraterritorial jurisdiction is based on the idea that some crimes are so

disruptive that the entire community of states has an interest in suppressing them. This traditional framework is preserved in the United Nations Convention on the Law of the Sea (UNCLOS). It reflects the long history of overlapping national and international law to balance coastal state and international interests while maintaining security at sea.<sup>9</sup>

In addition to traditional international law authorities, several international conventions also provide a framework for cooperation on matters of policing powers at sea. Each of these conventions preserves the authority of the flag state to enforce its law on its vessels, but also contains mechanisms to gain case-by-case consent for a foreign naval vessel to enforce law on the flag state's behalf. These conventions cover three additional law enforcement areas that are critical to maritime security: drug trafficking, human trafficking and international terrorism.<sup>10</sup> The 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its 2005 Protocols, for instance, are perhaps the most important tools in the fight against terrorism at sea.<sup>11</sup> The convention calls upon states to cooperate at sea through strenuous enforcement of national and international law authorities. The protocols address the use of vessels to carry out terrorist attacks, transport terrorists or transport cargo destined to aid the development of unlawful programs of weapons of mass destruction. However, to date international law does not recognize these crimes as subject to universal jurisdiction. Accordingly, law enforcement at sea for these types of crimes remains limited to direct flag state enforcement or to enforcement by a foreign naval vessel upon the specific request of the flag state.<sup>12</sup> Fundamentally, this combination of national and international law allows maritime states to effectively safeguard commerce and generally ensure the stability of the global maritime system.

### A COMPLICATING FACTOR

Alongside the development of jurisdictional authority over vessels arose the development of coastal state jurisdiction over zones at sea. Coastal states once had only one zone of jurisdiction, the territorial sea. During the 20th century, however, three new zones of special coastal state jurisdiction beyond the territorial sea were added: the contiguous zone, the exclusive economic zone and the continental shelf. Now, in addition to flag states and maritime powers, coastal states also have a law enforcement interest at sea. The development of overlapping jurisdictional bases inevitably led to conflicts over what states have authority to enforce what law and where. UNCLOS clearly resolved many of these issues, but others are open to different interpretations or to future legal development.

For instance, although the substantial majority of states accept the right of all states to apply universal jurisdiction in the exclusive economic zone of other states, China's perspective on the right balance of legal authorities in this zone is weighted in favor of the coastal state. China's reluctance to participate directly with a number of US-led maritime security operations stems from this divergence. The Chinese po-

sition appears to be that when operating in the exclusive economic zone of another state, naval vessels must gain coastal state consent to undertake any activities other than those necessary for passage. Chinese scholars have offered the perspective that conducting other military activities without coastal state consent constitutes an abuse of “freedom of navigation,” and that it “undermines the peace, tranquility and good legal order in their exclusive economic zones, and thus violates [the coastal state’s] sovereign rights and exclusive jurisdiction.”<sup>13</sup>

At international conferences, Chinese scholars and officials argue that use of the exclusive economic zone for military purposes represents a “frozen agenda” set by major maritime powers and enforced for too long without consultation with weaker coastal states.<sup>14</sup> Coastal states, they argue, should seek to establish a “new balance”

that protects the unique role of the exclusive economic zone in protecting national sovereignty and security when dealing with nontraditional threats. Specifically, Chinese scholars seek to define as “hostile,” any “...action that would infringe upon the national security interests of coastal countries ... [including] carrying out military activities or employing forces in a foreign EEZ.”<sup>15</sup> Chinese scholars

also argue that although UNCLOS Article 56 requires that “in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other states,” Article 58 requires that the international community “have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations of the coastal State.” The Chinese further point out that Article 59 requires that “conflict [between these two ‘due regards’] should be resolved ... taking into account the respective importance of the interests involved to the parties.”<sup>16</sup>

In prioritizing coastal state interests in the EEZ over those of the international community, Chinese scholars argue that UNCLOS affords the coastal state sovereign rights over resources,<sup>17</sup> jurisdiction to manage them<sup>18</sup> and responsibility to protect and preserve the environment.<sup>19</sup> Since coastal states have additional security interests near their shores, it is self-evident to Chinese scholars that in the balance of “due regards” there is no room for international military activities in the exclusive economic zone without the coastal state’s express consent.<sup>20</sup> As a result, the Chinese authorities have so far declined to accept the automatic enforcement of international law by navy ships in the 40 percent of the world’s oceans that comprise the exclusive economic zones of other states - even for the important purpose of preventing the spread of weapons of mass destruction.<sup>21</sup>

Despite its current views, China is increasingly becoming a global maritime user state with strategic concerns increasingly similar to those of other major maritime powers. As some observers have noted, China’s harbors import and export more than any in the world, which connects the Chinese to all the regions and seas of the

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*China has so far declined to accept the automatic enforcement of international law in 40 percent of the world’s oceans.*

world.<sup>22</sup> Accordingly, China's views on its maritime interests have broadened to include concerns about international terrorist organizations, disruptions to the global economy, protection of the oceans as a "vehicle for mutual commerce," protection of China's enterprises overseas, and its dependence on distant supplies of raw materials.<sup>23</sup> China and the United States now share many security considerations. Both, for instance, want to preserve a peaceful international environment and agree that the further spread of nuclear weapons would be a grave danger.<sup>24</sup> Unfortunately, China's perspectives on international law of the sea have the collateral effect of limiting its own growing naval power to provide order and security where the vast majority of disruptive, nontraditional threats occur, in the exclusive economic zones of other states. Consequently, comprehensive US-Chinese naval cooperation to provide maritime security remains elusive, although a few notable successes have nonetheless been achieved.

### COMPARATIVE CHINESE MARITIME SECURITY DECISIONS

#### *THE UNITED STATES CONTAINER SECURITY INITIATIVE—OPTING IN*

CSI enhances maritime and port safety by enforcing port state regulatory and security standards over the 108 million cargo containers carrying the vast majority of seaborne trade each year.<sup>25</sup> The enormous volume of trade between China and the United States makes container security a mutual interest. In 2006, 21 percent of all Chinese exports went to the United States with a total value of approximately \$250 billion, which perhaps accounts for China's decision to participate in the program.<sup>26</sup> Under the auspices of CSI, unarmed officers of the US Customs and Border Protection Service are stationed in key ports around the world to work with host nation counterparts to administer nonintrusive inspections and radiation screening of all containers bound for the United States that pose a potential threat. It is a truly bilateral program. Port states have a reciprocal right to send their customs officers to major American ports should they choose, and the US Customs and Border Protection Service shares relevant information with partner states. Additionally, although US customs agents stationed at the overseas port have the right to reject the shipment of any particular container to the United States, only the customs law of the exporting state governs whether its customs laws have been violated. Accordingly, law enforcement remains fully in the hands of and under the control of the port state and therefore fully respects the sovereignty of the port state. Currently, two mainland Chinese cities - Shanghai and Shenzhen - are full participants, which may provide some competitive advantage to trade since prescreened cargo receives expedited acceptance at US ports.<sup>27</sup>

Similarly, successful cooperation also exists between the coast guards of the United States and the People's Republic of China. Together, they enforce the national fishery laws of both countries through joint patrols against illegal driftnet fishing under the North Pacific Coast Guard Forum.<sup>28</sup> Under this program, Chinese officers have sailed aboard US Coast Guard cutters to enforce Chinese domestic fisheries law

against Chinese fishing vessels on the high seas. Chinese officers have also studied at the US Coast Guard Academy. In addition, China has allowed US Coast Guard inspectors access to Chinese ports to inspect US flagged vessels and to inspect port security requirements for nearly three decades.<sup>29</sup> This program entails the reciprocal enforcement of each state's domestic law, which is the key to its success. It is free of the barriers posed by differing interpretation of international law authority, which unfortunately plagues wider US-Chinese cooperation.

*UNITED NATIONS SPONSORED ANTI-PIRACY ACTIVITIES—OPTING IN*

At the UN Security Council, China voted in favor of international military action in the territorial waters of Somalia, as officials acknowledged that Somalia has insufficient capacity to prevent piracy against international shipping in its waters. However, China's statement of support for Resolution 1816 clearly underscores the importance of Somalia's consent for assistance. International assistance, it states, "should be based on the wishes of the [Somali] Government and be applied only to the ... waters of Somalia."<sup>30</sup> Given China's restrictive views on the authority of the international community to operate in the exclusive economic zones of other states, the Somali request to the United Nations was crucial because it specifically invited the international community to help fight piracy in Somalia's territory and waters under Somalia's jurisdiction.<sup>31</sup>

In deciding to send its own naval forces to help maintain maritime security, China made clear it has specific national interests in sending naval forces abroad for operations for the first time since the voyages of Zheng He. Chinese strategic rationales behind the decision began with a statement that China has a duty to protect ships that sail under its flag, and that it would also protect vessels sailing under the flags of Hong Kong, Macau and Taiwan if requested. Additionally, officials noted that six Chinese-flagged vessels were attacked in the region during 2008 and 17 crewmembers of a captured Chinese fishing vessel remain in captivity.

Despite these interests, Chinese policy-makers had to strike a delicate balance in order to avoid offending its policy of nonintervention in what China characterizes as the domestic affairs of other states. It has repeatedly criticized "hegemons," who use power to "bully" less powerful countries. This was another key reason why it was important to China that the Somali government requested the Security Council's assistance and the council unanimously decided to provide it.<sup>32</sup> The request is therefore critical both to China's perception of the efforts as politically legitimate and to its view that they comport with international law. Therefore, in sum the Chinese government's legal and political approach to the problem of piracy in the waters off the Somali coast is consistent with its perspective that the international community does not have the right to undertake military activities in the exclusive economic zone of another state without that state's consent.

To add its own emphasis to the point, the Legal Affairs Bureau of the Central Military Commission officially opined that the lawfulness of the PLAN anti-piracy op-



erations in the Gulf of Aden rests on three pillars: the relevant UN Security Council Resolutions authorize it; the government of Somalia requested international support and consented to naval operations by the international community in its territorial sea and exclusive economic zone; and the United Nations Convention on the Law of the Sea, to which China is a signatory, allows anti-piracy operations “in sea areas beyond territorial waters... [and] which have been authorized by that government.”<sup>33</sup>

Strategically, the decision by China’s leaders to send a small flotilla of ships to join the anti-piracy efforts has been described as an “adjustment” in China’s maritime strategy. Given China’s historically defensive maritime posture, this is an accurate assessment even though prominent Chinese analysts insist that China’s “naval strategy will still focus on off-shore defense.”<sup>34</sup> Nonetheless, this is a change long presaged by the architects of China’s Peaceful Rise and Peaceful Development policies, who called for a greater role for China as a permanent member of the United Nations Security Council in multilateral operations to enhance international security.<sup>35</sup> These thinkers have attempted to articulate a “new security concept” based on “mutual trust, mutual benefit, equality and cooperation.”<sup>36</sup>

Even given these expressions of the political and legal legitimacy of the operations, China’s leaders are walking a narrow line. In undertaking anti-piracy activities, the Chinese navy must be perceived as contributing to global governance without threatening status quo powers in order to avoid a possible backlash of balancing behavior from other Asian states concerned about China’s growing military prowess.<sup>37</sup> Accordingly, Chinese leaders have prescribed a narrow set of missions for the deployed naval forces: to deter piracy; safeguard vessels carrying humanitarian supplies for the people of Somalia; escort Chinese-flagged merchant vessels (including from Hong Kong, Macau and Taiwan, upon request); provide information to other merchant vessels about potentially dangerous areas; and to provide “necessary rescue services” to merchant ships that find themselves under attack.<sup>38</sup> Notably, the Chinese admiral in command of the PLAN flotilla specifically ruled out disembarking and going ashore.<sup>39</sup>

Senior US Navy leaders welcomed China’s decision to participate in counter-piracy operations in the Gulf of Aden and pledged to work closely together with Chinese forces in the region, including sharing relevant intelligence and establishing lines of communication.<sup>40</sup> This is a good omen, since it reflects American respect for China’s interests and a willingness to accept a role for China in providing regional stability beyond East Asia. As one senior Chinese official put it,

No country, not even a powerful country like the United States, can tackle all the challenges and problems alone. ...Our countries have common views on more and more strategic issues. ... [But to] realize greater growth of US-China relations, it is essential for China and the United States to show mutual support [and to] treat each other as equals.<sup>41</sup>

This statement provides some insights into the unique opportunity presented for China-US cooperation by this operation off the coast of Somalia. First, they can work together in mutual support. That is, their activities can be independent, but coor-

minated. This allows each the freedom to define the scope of its action according to its capacities, and each is likewise free to define the scope of authorities it views as legitimate to employ. Thus, China can freely pursue its own interests alongside the United States and other members of the international community without having to compromise its perspectives on the limits of international law. Additionally, since the Somali operations were debated and directed from the UN Security Council, China as a permanent member is ensured an equal voice in framing the issue.

*COMBINED TASK FORCE 150—OPTING OUT*

Even before piracy from Somalia became a serious international concern in 2008, the waters off the coast of the Horn of Africa were some of the most dangerous in the world. In these critical sea lanes fishing vessels, chemical tankers, cargo ships, cruise liners and other vessels have all been targets of attacks in recent years. Human trafficking and smuggling were also a concern. These have caused serious disruption to free navigation in this major international sea lane.<sup>42</sup>

To address these sources of instability, a coalition of willing countries with capable naval forces established CTF 150.<sup>43</sup> Although the primary mission of the task force is to “deny the use of the sea by terrorists,” the coalition also works to “prevent piracy, [and] reduce illegal trafficking of people and drugs.”

*CTF 150 reflects an evolution in maritime governance from international competition to coordinated action.*

<sup>44</sup> To do this the task force employs the full range of international law policing authorities to suppress piracy and stateless vessels, but also operates under post-Sept. 11 national and collective self-defense authorities.<sup>45</sup> To accomplish these objectives, the navies of CTF 150 have combined their capacities to enhance international security for civilian vessels in these troubled waters, assisting ships flagged by Panama, Japan, South Korea, Taiwan, the Comoros Islands and North Korea in the month of November 2007 alone.<sup>46</sup> Contrary to China’s current decision to send forces to Somalia, it never provided direct support for similar long-standing operations carried out by CTF 150.

The activities of CTF 150 reflect an evolution of maritime governance from its history of international competition to a much more robust model based on coordinated action. Yet, these operations make full use of the available legitimate international law authorities to use force over crimes of universal jurisdiction and to achieve national and collective self-defense. Contrary to the Chinese position, CTF 150 member states accept these legal authorities as a matter of sovereign right, without need for recourse to the United Nations or for coastal state consent. These premises are fundamentally unacceptable to China, which has never participated in the activities of CTF 150 despite the fact the task force has long been operating to protect many of the same interests that China is currently safeguarding with its own flotilla in the Gulf of Aden.

Another sticking point for China is the chain of command under which CTF 150

operates. CTF 150 was established shortly after the initiation of Operation Enduring Freedom (Afghanistan), and like this operation, is based on national and collective self-defense. In addition, CTF 150 involved a large area of operations - the Gulf of Aden, Gulf of Oman, Arabian Sea, Red Sea and Indian Ocean. Most critical is the fact that although CTF 150 has been commanded by British, Canadian, Danish, Dutch, French, German and Pakistani naval officers, the task force commander reports directly to the US admiral in charge of the 5th Fleet.<sup>47</sup> These factors are obviously incompatible with China's perspective on the political and legal legitimacy of maritime security operations and run counter to its insistence that China must operate fully as an equal to all other participating states in any international effort.

#### *THE PROLIFERATION SECURITY INITIATIVE—OPTING OUT*

Despite China's port-security cooperation under CSI, it remains reluctant to join more informal international efforts. The Proliferation Security Initiative (PSI) is a case in point. This initiative is described by the US government as "a global effort that aims to stop trafficking of weapons of mass destruction (WMD), their delivery systems and related materials to and from states and nonstate actors of proliferation concern."<sup>48</sup> It is not a treaty organization. Rather, PSI is simply a loose affiliation of like-minded states that agree on a basic set of principles, articulated in a document known as the Statement of Interdiction Principles.<sup>49</sup> Currently, 91 countries have publicly expressed support for the Statement of Interdiction Principles.<sup>50</sup> China is not among them.

In addition to employing national and international law to interdict and seize proliferation cargoes, PSI calls on participant states to facilitate rapid exchange of information and to strengthen national legal authorities and relevant international law frameworks. Nine states have chosen to cooperate with US nonproliferation efforts by entering into ship boarding agreements. These facilitate a process by which the flag state can consent to a boarding of its vessel by other parties for the purpose of enforcing nonproliferation laws.<sup>51</sup> Other than this, PSI intentionally lacks a well-defined organizational structure, which allows it the widest latitude for international cooperation by enabling each state to participate as it sees fit. When a case of suspected proliferation is identified, PSI seeks to maximize flexibility by allowing for the coordination of an ad hoc response by states with the will and the capacity to intervene.

Chinese scholars lodge three basic objections to PSI. First, they view the interdiction principles as lacking a "solid basis in international law" and perhaps even in violation of "existing international legal instruments." Second, they object to the lack of a direct role in PSI activities for the UN Security Council. Lastly, they question whether "interdiction operations [will be] conducted based on accurate, unbiased and non-politicized intelligence."<sup>52</sup> The first objection reflects a consistent Chinese preference for narrow interpretations of international law authorities that make it difficult for strong maritime powers to overcome flag state and coastal state jurisdictional authorities. The second objection reflects China's preference for international

cooperation through the Security Council, where China has a voice and vote equal to each of the other major powers. The third objection, like the first, reflects Chinese mistrust of broad international law authorities that might enable states to act on inaccurate or inconclusive evidence of proliferation activity - as occurred in the 1993 Yin He incident.<sup>53</sup> This incident deepened China's suspicion of the US approach to enforcement of international nonproliferation norms and resulted in a renewed Chinese commitment to protect the sovereign interests of flag states against what it perceived as "abusive" American practices.<sup>54</sup>

Nonetheless, many Chinese officials and scholars recognize the pressing need for cooperative action. As one researcher at the PLA Naval Military Academic Institute recently put it, "[m]aritime security represents both the common interest of the concerned nations and the common responsibility of the international community... [and] the involvement of military strength becomes inevitable and the cooperation on international maritime security becomes very necessary."<sup>55</sup> He believes it wise to focus cooperative efforts on the high seas beyond the exclusive economic zone or other non-sensitive areas in order to avoid offending the sovereign sensibilities of some coastal states. This approach could facilitate information sharing, especially in cases involving long transit times that allow for the communication, diplomatic coordination and preparation of a naval response. However, this approach avoids whole categories of proven effective measures that enable more timely and efficient responses, such as those based on principles of universal jurisdiction, national self-defense and ship boarding agreements.

In sum, China's responses to these four opportunities for US-China maritime cooperation reveal that the two successful avenues for future cooperative action are mutual state-to-state enforcement of sovereign law (as with CSI and the North Pacific Coast Guard Forum), and operations with Security Council oversight at the receiving state's request (as in recent anti-piracy operations in Somalia). These may provide some very real reason to hope for a future of broader cooperation between the United States and China - even under the rubric of the PSI, since time and experience have taught cooperating states that the most effective and efficient means of counter-proliferation is through strict enforcement of domestic customs laws, import-export licensing laws, immigration laws, and other national authorities that prohibit transportation of materials that are ultimately intended to be used to create weapons of mass destruction.

### THE HORN OF AFRICA AND BEYOND

Restraint has been clearly expressed by US and Chinese leaders concerning the potential for increased maritime cooperation. While common interests exist, the capability to provide governance on the oceans is more than simply a function of bringing together physical capacity - ships, aircraft, trained personnel, communications and information systems, etc. It also requires at least a fundamental level of agreement over the authority on which to employ that capability. In other words, a com-

mon basis for action is requisite for joining forces in the service of policing.<sup>56</sup> Despite difficulties, however, coordinated independent national actions, based on national perspectives of international law authorities, can still be an effective mechanism to achieve maritime security.

The current operations in the Gulf of Aden demonstrate the critical role still available for a mix of national and international maritime arrangements. Indeed, the international will for cooperation, even through loosely coordinated, independent activities, has never been higher. But it is increasingly evident that maritime security requires far more than the sum total of national capacities alone. Even as the drive toward maximum participation will require states that favor strong international powers to act at sea to find avenues for collective action that accommodate less expansive views of the law, the availability of the full measure of traditional international law authorities must be preserved for states willing to create order at sea in those cases where the political will to cooperate is slow to develop or in fact never develops at all. These authorities allow for a rapid international response to destabilizing activity in coastal zones in which some states have insufficient capacity to provide order. In short, they are critical to preventing the development of ungoverned spaces at sea. However, as China accepts a maritime leadership role it will be increasingly difficult to lead from outside the legal fold. China will be faced with the imperative of either aligning its perspectives on international law to prevailing interpretations, or articulating a new vision of maritime security that is both effective and supports its perspectives on international law of the sea.

In the meantime, three broad areas of agreement between the United States and China chart a clear course toward greater maritime security cooperation. First, both countries seem to agree that they should work together to prevent the expansion of ungoverned maritime space. Additionally, since operations in the Horn of Africa today are necessary due to the implosion of Somali governance nearly two decades ago, coordinated action at the Security Council will need to address the root problem early on by strengthening failing states, both at sea and on land. Building on the broad cooperation achieved by the Security Council in 2008, this work should continue and expand to other regions of maritime instability. Strengthening governance in maritime spaces where current capacity is weak, such as in some areas of the South China Sea, can be an area of focus in the future.

Second, while international authorities must always remain strong for possible contingencies, the most effective and legitimate means of building maritime governance is to strengthen the sovereign forces of the coastal states so they can effectively police their own waters. Global and regional capacity-building is critical in such areas as maritime Southeast Asia, where the Indonesian and Philippine archipelagoes form two of the four longest coastlines of any coastal state.<sup>57</sup> US-China cooperation in providing economic support, training, information-sharing and, when asked, direct operational support, could be critical to ensuring future maritime stability in the sea lanes of the South China Sea.



Finally, the United States and China should work to strengthen communication at all levels. An open exchange of information and views between the government, military, commercial and academic communities by both sides is essential to developing a productive partnership. Too often, the result of disagreement has been to shut off communication. Such behavior stunts progress in mutual understanding, which comes at the cost of cooperative solutions toward better maritime governance. China and the United States may never converge in their perspectives concerning international law, but with coordinated actions that respect each other's sovereignty and are based on mutual interest and a relationship between equals, the two nations can work together toward the common goal of stability at sea. ☪

## NOTES

<sup>1</sup> A more thorough treatment of this article will appear as a chapter in the forthcoming volume, Andrew S. Erickson, Lyle J. Goldstein, and Nan Li (eds.), *Defining a Maritime Security Partnership with China* (Annapolis, MD: Naval Institute Press).

<sup>2</sup> "Sailing to Strengthen Global Security," *China Daily*, December 26, 2008, [www.chinadaily.com.cn/china/2008-12/26/content\\_7342612.htm](http://www.chinadaily.com.cn/china/2008-12/26/content_7342612.htm).

<sup>3</sup> See, e.g., *The Mariana Flora*, 24 United States Reports 1, March 26, 1826.

<sup>4</sup> This history is reflected in United Nations Convention on the Law of the Sea (UNCLOS) Articles 91, 92 and 94.

<sup>5</sup> Alfred P. Rubin, *The Law of Piracy* (Newport, RI: Naval War College Press, 1988), 144. Rubin discusses the US Congressional decision in 1819 to assert jurisdiction over any person who, having committed a crime of piracy on the high seas, was later brought within US territorial jurisdiction. Modern law, as reflected by the terms of UNCLOS, holds that sovereign waters include internal waters (Articles 10(4), 35(a) and 50), the territorial sea (Articles 2 and 3) and archipelagic waters (Article 49). Outside sovereign waters, high seas freedoms apply (Articles 58(1) and 87), including international policing power to impose minimum order and security, such as the right of approach and visit to suppress piracy, sailing without nationality, engaging in slave trade, and a relative newcomer, engaging in unlawful broadcasting. (Article 110). See also Mackenzie M. Eaglen, James Dolbow, Martin Edwin Anderson and James Jay Carofano, "Securing the High Seas: America's Global Maritime Constabulary Power," *Special Report SR-20*, The Heritage Foundation, March 12, 2008, 3.

<sup>6</sup> Vessels without nationality, or "stateless vessels," are those that sail without sufficient jurisdictional connection to a sovereign state.

<sup>7</sup> UNCLOS Article 111; A.R. Thomas and James C. Duncan, *Annotated Supplement to the Commander's Handbook on the Law of Naval Operations, International Law Studies* 73 (Newport, RI: Naval War College Press, 1999), 221.

<sup>8</sup> UNCLOS Article 110 includes slave trade as an additional crime of universal jurisdiction.

<sup>9</sup> Chinese maritime theorists are giving considerable attention to the nature of international and coastal state interests in the maritime domain and providing a Chinese perspective on how international and sovereign law should be balanced to meet the interest of both. See, for example, Senior Col. Zhang Wei, "Exploring National Sea Security Theories," *Zhongguo Junshi Kexue*, January 1, 2007, 84; and Dr. Ren Xiaofeng and Senior Col. Cheng Xizhong, "A Chinese Perspective," *Marine Policy* 29 (2005): 139.

<sup>10</sup> UNCLOS Article 108 encourages cooperation to suppress drug crimes at sea. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, December 20, 1988, entered into force November 11, 1990, available at [http://www.unodc.org/pdf/convention\\_1988\\_en.pdf](http://www.unodc.org/pdf/convention_1988_en.pdf). The UN Convention against Transnational Organized Crime and its related Protocols entered into force in September 2003 and as of June 2008 had 147 signatories and 144 states parties. The convention and its protocols are available at <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>. Thirteen major conventions and protocols dealing with terrorism were developed under the auspices of the United Nations For a comprehensive list of UN treaties and protocols related to terrorism, see <http://www.un.org/terrorism/instruments.html>.

<sup>11</sup> Available at <http://untreaty.un.org/English/Terrorism/Conv8.pdf>, and United Nations Treaty Series, Vol. 1678, I-29004, 223.

<sup>12</sup> Although the protocols have not yet entered into force, eighteen states, including the United States, have signed the protocols and two have ratified; they will come into force when twelve states have completed ratification. For the provisions of the 2005 protocols, see [www.imo.org](http://www.imo.org).

<sup>13</sup> Dr. Ren Xiaofeng and Senior Col. Cheng Xizhong, "A Chinese Perspective," *Marine Policy* 29, (2005), 139.

<sup>14</sup> See, for example, Cheng Xizhong, "A Chinese perspective on 'Operational Modalities,'" *Marine Policy* 28 (2004), 25-26.

<sup>15</sup> Cheng Xizhong, "A Chinese perspective on 'Operational Modalities,'" *Marine Policy* 28 (2004), 25-26.

<sup>16</sup> It should be noted that this legal interpretation diverges from the perspective of the substantial majority of member states and from the US position. Additionally, Tommy T.B. Koh, who represented Singapore and served as the president of the Third United Nations Conference on the Law of the Sea, said, "Nowhere is it clearly stated [in the 1982 Convention] whether a third state may or may not conduct military activities in the exclusive economic zone of a coastal state. But, it was the general understanding that the text we negotiated and agreed upon would permit such activities to be conducted." Jon M. Van Dyke (ed.), *Consensus and Confrontation: The United States and the Law of the Sea Convention* (Honolulu: Law of the Sea Institute, 1985), 303-304.

<sup>17</sup> Article 56(1)(a)

<sup>18</sup> Article 56(1)(b)

<sup>19</sup> Article 56(1)(b)(iii)

<sup>20</sup> For a good detailed articulation of these arguments by Chinese scholars, see, e.g., Dr. Ren Xiaofeng and Senior Col. Cheng Xizhong, "A Chinese Perspective," *Marine Policy* 29 (2005), 139-146. Dr. Ren, it should be noted, is in the faculty of the China Institute for International Strategic Studies in Beijing.

<sup>21</sup> The Chinese legal argument concerning the primacy of coastal state security interests in the exclusive economic zone over international navigational freedoms - including military freedoms - is based on a clever, though erroneous, intellectual sleight of hand. It takes the language of Article 58 regarding the responsibility of the international community to give "due regard to the rights of ... the coastal state" in the exclusive economic zone and inserts a coastal *interest* in its place. The *rights* referred to, of course, are those enumerated in Article 56 and elsewhere in UNCLOS concerning sovereign coastal state rights to the resources. What has been substituted in the Chinese argument is the state's security *interest* - not protected in the exclusive economic zone by UNCLOS, but by international law related to national self-defense.

<sup>22</sup> Senior Col. Feng Liang and Lieutenant Col. Duan Tingzhi, "Characteristics of China's Sea Geostrategic Security and Sea Security Strategy in the New Century," *Zhongguo Junshi Kexue*,

January 1, 2007, 22.

<sup>23</sup> Ibid.

<sup>24</sup> See, e.g., Speech by Hu Jintao at the United Nations 60th Anniversary Session, available at <http://www.fmprc.gov.cn/ce/cehu/hu/xwdt/t213375.htm>, and Chas W. Freeman Jr., *The Promise of Sino-American Relations, Barnett-Oksenberg Lecture*, February 21, 2008, reprinted in *Notes: National Committee on United States-China Relations* 38, no. 1, Winter-Spring 2009, 21.

<sup>25</sup> Andrew Erickson, et al, "The Container Security Initiative and U.S.-China Relations," *Defining a Maritime Security Partnership with China* (Annapolis, MD: US Naval Institute Press).

<sup>26</sup> CIA World Factbook, [www.cia.gov](http://www.cia.gov).

<sup>27</sup> US Customs and Border Protection Service Fact Sheet, October 2, 2007, available at [www.cbp.gov](http://www.cbp.gov).

<sup>28</sup> Li Mingjiang, "China's Gulf of Aden Expedition and Maritime Cooperation in East Asia," *China Brief* 9, no. 1, January 12, 2009, 3.

<sup>29</sup> Lyle J. Goldstein, "China: A New Maritime Partner?" *U.S. Naval Institute Proceedings*, August 2007, 26, 30.

<sup>30</sup> When Somalia's Transitional Federal Government sent a letter requesting Security Council assistance in fighting pirates sheltered inside Somalia's territorial sea, China voted in favor of Resolution 1816 authorizing members of the international community to "enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea." See *Report of Security Council 5902nd Meeting (PM) of June 2, 2008*, <http://www.un.org/News/Press/docs/2008/sc9344.doc.htm>.

<sup>31</sup> See, e.g., Zhang Zhingwei, "China Adjusts Its Maritime Power Strategy at the Right Moment," *Hong Kong Ta Kung Pao*, December 29, 2008; Li Ta-kuang, "Chinese Navy Has Capacity to Fight Against Piracy," *Wen Wei Po*, December 25, 2008; "Discreet Naval Development Proves Shared Responsibility of World Peace (Commentary)," *Xinhua Economic News Service*, December 29, 2008.

<sup>32</sup> See e.g., "Faced With Myanmar Protests, China Reaffirms Nonintervention," *Associated Press*, September 25, 2007.

<sup>33</sup> Bai Ruixue and Zhu Hongliang, "Central Military Commission Legal Affairs Bureau Official Says for Chinese Warships to Protect Ships in Somalian Waters is Entirely Legal," *Xinhua*, December 20, 2008.

<sup>34</sup> Zhang Zhingwei, "China Adjusts Its Maritime Power Strategy at the Right Moment," *Hong Kong Ta Kung Pao*, 29 December 29, 2008. The quote reflects the words of Beijing defense analyst Peng Guangqian published in, "Sailing to Strengthen Global Security," *China Daily*, December 26, 2008.

<sup>35</sup> See generally the comments on China's global role as a "major country," China's interest in suppressing nontraditional security threats, pacification of "hot spots," and participation in joint efforts to maintain international order found in *China's Peaceful Rise: Speeches of Zheng Bijian, 1997-2005* (Brookings Institution Press: Washington, D.C.: 2005); Tao Shelan, "Rear Admiral: Chinese Navy Provides 'Public Good' to International Community with its Fight against Pirates," *Beijing Zhongguo Xinwen She*, December 24, 2008; "China to Bolster Image as Responsible Big Nation," *People's Daily*, December 24, 2008.

<sup>36</sup> *China's Peaceful Rise: Speeches of Zheng Bijian, 1997-2005* (Brookings Institution Press: Washington, 2005), 35.

<sup>37</sup> It is worth noting that after the Chinese began seriously discussing sending a group of navy ships to the Gulf of Aden, East Asian rival Japan began public discussions about reinterpreting constitutional restrictions on expeditionary operations in order to potentially allow a JMSDF

vessel also to proceed to the Gulf of Aden to escort Japanese-flagged vessels. "MSDF May Get Antipiracy Duty Off Somalia," *Kyodo News*, December 26, 2008.

<sup>38</sup> "Naval Escort Fleet To Protect 15 Chinese Merchant Vessels From Pirates," *Xinhua*, January 6, 2008.

<sup>39</sup> He stated that his authority does not include undertaking missions requiring his personnel to disembark or go ashore, even though United Nations Security Council Resolution 1851 permits it. See "PRC Fleet Commander Rear-Admiral Du Jingcheng on escort tasks off Somalia," *Xinhua*, December 26, 2008; Margaret Besheer, "UN Security Council Approves Anti-Piracy Measure," *Voice of America*, December 16, 2008, <http://www.voanews.com/english/2008-12-16-voa62.cfm>.

<sup>40</sup> Donna Miles, "U.S. Welcomes Chinese Plans to Fight Piracy, Admiral Says," *American Forces Press Service*, December 18, 2008. In response, a spokesman for the Chinese Ministry of National Defense stated that China is "willing to cooperate with ... other countries, including the U.S., in strengthening informational and intelligence sharing." Cary Huang, "Warships Will Also Protect Taiwanese Vessels, Crews; Navy Fleet Sent to Somalia to Cooperate with US, Says Beijing," *South China Morning Post*, December 24, 2008.

<sup>41</sup> Dai Bingguo, State Councilor of the People's Republic of China, *Address at the Dinner Marking the 30th Anniversary of the Establishment of China-US Diplomatic Relations Hosted By the Brookings Institution*, Washington, D.C., December 11, 2008, translation available at [www.brookings.edu/events/2008/1211\\_china.aspx](http://www.brookings.edu/events/2008/1211_china.aspx).

<sup>42</sup> See, e.g., United Nations Security Council Resolution 1816 (2008), which expresses "grave concern" for the safety of commercial vessels in the waters off the coast of Somalia and for vessels bringing humanitarian aid to Somalia. See also, "Cruise ship repels Somali pirates," *BBC News*, November 5, 2005, <http://news.bbc.co.uk/2/hi/africa/4409662.stm>, "Chinese Fishing Boat Hijacked by Somali Pirates," *Xinhua*, November 14, 2008,

[http://news.xinhuanet.com/english/2008-11/14/content\\_10359203.htm](http://news.xinhuanet.com/english/2008-11/14/content_10359203.htm); "Pirates capture Saudi oil tanker," *BBC News*, November 18, 2008, <http://news.bbc.co.uk/2/hi/africa/7733482.stm>.

<sup>43</sup> <http://www.cusnc.navy.mil/command/ctf150.html>. CTF 150 has been commanded variously by naval officers from the United Kingdom, the Netherlands, Pakistan, Germany and France.

<sup>44</sup> "CTF 150: Maintaining a Lawful Maritime Order," *U.S. Naval Forces Central Command Public Affairs Press Release*, May 31, 2008.

<sup>45</sup> "Pakistan to assume anti-terror coalition naval task force command," *Deutsche-Presse-Agentur*, August 1, 2007. The task force was established in December 2001 in response to the attacks of September 11, 2001 and pursuant to UNSC Resolution 1373, which calls upon states to cooperate in the suppression of international terrorist activities.

<sup>46</sup> Andrew Scutro, "Pirates!," *Navy Times*, November 12, 2007, 8; Katherine Houreld, "Pirates Terrorize Ships Off Somali Coast," *Washington Times*, December 6, 2007, 13.

<sup>47</sup> In his capacity as Commander, Combined Maritime Forces. Photographer's Mate 2nd Class Carolla Bennett, "Pakistani Admiral Becomes First Regional Commander of Maritime Task Force," *Commander, U.S. Naval Forces Central Command Press Release*, April 24, 2006. For description of the relevant chain of command, see <http://www.cusnc.navy.mil/mission/rhumblines.html>.

<sup>48</sup> US Department of State Fact Sheet, <http://www.state.gov/t/isn/c10390.htm>.

<sup>49</sup> According to the Statement, PSI is in order to, "involve in some capacity all states that have a stake in nonproliferation and the ability and willingness to stop the flow of such items at sea, in the air, or on land. The PSI also seeks cooperation from any state whose vessels, flags, ports, territorial waters, airspace, or land might be used for proliferation purposes by states and non-state actors of proliferation concern." See Fact Sheet, The White House, Office of the Press Secretary, Washington, D.C., September 4, 2003, <http://www.state.gov/t/isn/rls/fs/23764.htm>.

<sup>50</sup> <http://www.state.gov/t/isn/c19310.htm>. Data current as of October 10, 2008, and accessed on January 15, 2009.

<sup>51</sup> <http://www.state.gov/t/isn/c12386.htm>.

<sup>52</sup> Ye Ru'an and Zhao Qinghai, "The PSI: Chinese Thinking and Concern," *The Monitor, University of Georgia Center for International Trade and Security* 10, no. 1 (Spring 2004): 22-24, [www.uda.edu/cits/TheMonitor](http://www.uda.edu/cits/TheMonitor).

<sup>53</sup> *Statement by the Ministry of Foreign Affairs of the People's Republic of China on the 'Yin He' Incident, Dated 4 September 1993*, <http://www.nti.org/db/china/engdocs/ynhe0993.htm>; "China Says Cargo Ship Will Anchor Off Oman," *The New York Times*, August 15, 1993; "Saudis Board a Chinese Ship in Search for Chemical Arms," *New York Times*, August 28, 1993. Acting on intelligence reports that apparently turned out to be erroneous, the US government accused the Chinese vessel Yin He (Milky Way), bound for Iran, of carrying thiodiglycol and thionyl chloride, two chemicals agents used in chemical warfare. The Chinese government provided assurances to the United States that the vessel was not carrying such materials, but the US insisted that the vessel submit to inspection. An inspection was arranged in a Saudi port by Saudi officials in the presence of Chinese officials and American observers. No chemicals were located.

<sup>54</sup> Li Mingjiang, "China's Gulf of Aden Expedition and Maritime Cooperation in East Asia," *China Brief* 9, no. 1, January 12, 2009, 4.

<sup>55</sup> "PRC Military Expert on International Maritime Security Cooperation," *Zhongguo Xinwen She*, July 3, 2007. (In Chinese, OSC translation provided).

<sup>56</sup> See, e.g., Li Mingjiang, "China's Gulf of Aden Expedition and Maritime Cooperation in East Asia," *China Brief* 9, no. 1, January 12, 2009, 4, in which the author describes Chinese skepticism of PSI and the Global Maritime Partnership as American "grand schemes" as "aggressive" and "coercive" mechanisms tied to the US "pre-emptive strategy" and "unilateralism."

<sup>57</sup> The Philippines has the fourth longest coastline of any state at 36,289 kilometers and Indonesia's is second at 54,716 kilometers. Canada's, at 202,080 kilometers, is the longest and Russia's, at 37,653, ranks third. Comparatively, the length of the US coastline is 19,924 kilometers. *The World Factbook*, Central Intelligence Agency, available at [www.cia.gov/library/publications/the-world-factbook](http://www.cia.gov/library/publications/the-world-factbook).

# Operation Somalia: China's First Expeditionary Force?

*Richard Weitz*

On Jan. 6, 2009, two destroyers and a supply ship of the People's Liberation Army Navy (PLAN) began counter-piracy operations in the Gulf of Aden and off Somalia's coast. On that day, the Chinese Ministry of Transport began accepting escort requests from Chinese vessels for protection. The stated mission of the flotilla is to inspect suspected pirate ships, assist vessels that come under pirate assault, and defend themselves if threatened.<sup>1</sup>

The PLAN task force is unprecedented but should not be unexpected. The modern Chinese Navy has traditionally concentrated on defending Chinese coastal waters and on impeding US military intervention in any Taiwan scenario. Although the PLAN has engaged in port visits and unsophisticated exercises with foreign navies, the current mission represents the first potential combat operation for the fleet

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outside the Pacific. Despite this departure from tradition, the Chinese deployment decision can best be seen as an evolution in Beijing's activities and thinking about the proper role of the Chinese armed forces in contributing to international security issues rather than a revolutionary break with previous policies.

### EVOLUTION, NOT REVOLUTION

At the ceremony marking the flotilla's departure from Sanya, Wu Shengli, commander of the Chinese Navy, observed that "It's the first time we go abroad to protect our strategic interests armed with military force."<sup>2</sup> Li Wei of the China Institute of Contemporary International Relations characterized the deployment decision as "a huge breakthrough in China's concepts about security."<sup>3</sup>

Li's assessment exaggerates the degree of discontinuity in China's policies. During the past two decades, the Chinese armed forces have expanded their level of external engagement considerably. For example, the government of the People's Republic of China (PRC) has emerged as one of the leading troop contributors to UN-backed peacekeeping operations. China has also participated in several multinational counter-narcotics and counter-terrorism operations, such as with Russia in Central Asia. In terms of defense diplomacy, the People's Liberation Army (PLA) has engaged in a variety of joint exercises, international visits, and other military-to-military exchanges that contribute to several goals, which include learning from foreign militaries and dispelling perceptions of a "China threat."<sup>4</sup>

Changes in both Chinese capabilities and interests account for the increasing global presence of the Chinese military. The PRC's rising economic, diplomatic and military power has given Beijing greater tools to influence international affairs. China's increasing integration in the global economy has also heightened Chinese interest in influencing developments that could affect the PRC's international ties. In the case of the Somali pirates, Chinese policy makers now have both a stake in limiting their disruptive activities and the military assets to contribute to realizing that objective.

Changes in Beijing's approach to international peacekeeping illustrate Beijing's modified approach to transnational security. Chinese foreign policy doctrine now considers peacekeeping operations legitimate if they are supported by the host governments and approved by the UN Security Council (UNSC). In this case and others, however, it is important not to exaggerate the extent of the transformation in China's global role. Chinese officials normally oppose the use of military force, including in "peace enforcement" operations, or coercive sanctions to induce other governments to change their behavior. Chinese diplomatic statements still affirm a commitment to upholding traditional interpretations of national sovereignty, which severely limit the right of external actors to challenge a state's internal policies.

In this regard, Chinese leaders regularly express a desire to strengthen the role of multilateral organizations, especially the United Nations, in international security. Due to the PRC's status as a permanent UNSC member, Chinese officials can use

their right to veto actions to prevent the United States and its allies from obtaining formal UN endorsement of any military operations Beijing opposes. The Chinese government has readily supported international institutions that constrain Washington's ability to pursue unilateral actions that might harm China's security interests. After the United States invaded Iraq, the Chinese government took the lead in organizing a regional forum, the Six-Party Talks, which helped avert a similar unilateral US strike against North Korea by providing all parties with multilateral diplomatic options. Through the Six-Party Talks, Beijing has worked closely with Washington to persuade the Kim Jong-Il regime to abandon its weapons program. The value of a regional forum like the Six-Party Talks, from Beijing's perspective, was that the mechanism allowed Chinese leaders to exercise a degree of control over Washington's decisions, providing a marked contrast to the lack of cooperation between the United States and China prior to the invasion of Iraq.

Chinese diplomacy has used a similar strategy with the Shanghai Cooperation Organization (SCO) to constrain Russian influence in Central Asia while Beijing and Moscow support their common security interests in Eurasia. Since its founding in 2001, the SCO has essentially functioned as a Chinese-Russian condominium, providing Beijing and Moscow with a convenient multilateral framework to manage their interests in the newly independent countries of Central Asia. The SCO helps China compensate for certain asymmetries that tend to enhance Moscow's influence in the region. Unlike Russia, Beijing lacks permanent bases in Central Asia outside Chinese territory. In addition, the main regional military institutions active in the region, NATO and the Moscow-led Collective Security Treaty Organization (CSTO), exclude China from their membership roster. By working through the SCO, China can enjoy equal status with Moscow, which must adopt policies acceptable to Beijing to secure the organization's endorsement. Central Asian governments also favor the SCO in part because it helps them dilute what otherwise would be Moscow's overwhelming influence in the region. In the words of one anonymous Central Asian diplomat, "With the Chinese in the room, the Russians can't resort to their usual tricks."<sup>5</sup>

The degree of Chinese commitment to upholding a strong role for international security institutions and traditional interpretations of international law based on the principle of state sovereignty became apparent last year. To support both principles, Beijing departed from the Russian position at the SCO and the UNSC, which sought a blanket approval for Moscow's decision to intervene militarily in the separatist regions of Abkhazia and South Ossetia and recognize the enclaves as independent states. In addition to the SCO events discussed above, Chinese Foreign Ministry spokesperson Jiang Yu unexpectedly proposed in early September that the United Nations could help resolve the Georgia crisis, telling reporters in Beijing that the United Nations might, "through dialogue and consultations... help achieve re-

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*Despite the break with tradition, China's deployment is best seen as an evolution, not a revolution in policy.*

gional peace and stability and should embody the common ground of all the various parties.”<sup>6</sup> In previous UNSC sessions, the Chinese representative has adopted an unobtrusive position, while Russian and Western diplomats argued over the war and deadlocked over proposed UNSC resolutions addressing the topic.<sup>7</sup> Chinese officials apparently worried that the continued Russian-Western dispute over Georgia risked weakening the UNSC, where China is only one of five permanent members. Beijing also sought to overcome conflicts among UNSC members over how to manage Iraq a few years earlier.<sup>8</sup> Chinese policy makers want to avoid any development that might weaken this major cornerstone of the PRC’s global influence and status.

### SUBTLE CALCULATIONS

The Chinese decision to dispatch ships to participate in the anti-piracy maritime security operation off Somalia results from a pragmatic weighing of the possible advantages and disadvantages of participating in this specific operation, rather than a revolutionary transformation in Beijing’s definition of its appropriate global security role. From the vantage point of the Chinese leadership, the conditions of the deployment, although not without risks, appear to be unusually favorable, entailing low probable costs and many likely benefits for China.

The Beijing government can cite a patent economic interest in providing security for Chinese nationals and Chinese-flagged ships in the Gulf of Aden. According to Foreign Ministry spokesman Liu Jianchao, of the 1,265 Chinese commercial vessels that had traversed the Gulf this year, seven had been attacked.<sup>9</sup> In mid-November, pirates seized the Tianyu No. 8 and held its crewmembers hostage.<sup>10</sup> The Piracy Reporting Center in Kuala Lumpur recorded over 100 pirate assaults against vessels in the Gulf of Aden in 2008.<sup>11</sup> The actual figures for these categories may be higher since shippers have financial incentives not to advertise their vulnerability to piracy. In any case, the approximately 2,000 sea pirates active around Somalia, with their estimated 60 boats, present a serious threat to Chinese and foreign shipping in this area.<sup>12</sup> The PRC possesses one of the world’s largest commercial shipping fleets and is heavily dependent on international maritime commerce.<sup>13</sup>

One reason the Chinese military has been expanding its power projection capabilities, and will likely continue to do so, is to enhance its capacity to protect critical maritime lines of communication and transportation that connect Chinese goods and services with essential foreign markets. The pirate-infested waters of the Gulf of Aden lay athwart the Suez Canal route as well as a major shipping zone for crude oil from the Persian Gulf, a fact highlighted when the pirates seized a Saudi-owned supertanker carrying two million barrels of oil.<sup>14</sup> Of particular importance to Beijing, more than half of China’s imported oil originates from the Middle East. In early February 2009, President Hu Jintao made yet another visit to Saudi Arabia, which supplied 36 million tons of oil to China last year, to discuss further energy deals.<sup>15</sup> Most of China’s Middle East oil imports, along with large deliveries of commodities from Africa, pass through the pirate-infested waters of the Gulf of Aden.<sup>16</sup> The

commander of the PLAN task force, Rear Admiral Du Jingcheng, highlighted that his ships will “protect and escort Chinese ships carrying strategic cargos, such as crude oil.”<sup>17</sup> The leadership of the People’s Liberation Army (PLA) can also cite these economic considerations to Chinese civilian leaders, who may have become more interested in curtailing defense spending since the global economic crisis began to affect China.

The evident threat has contributed to another factor making it easier for Beijing to send its flotilla to Somalia. Since June 2008, the UNSC has adopted four resolutions supporting measures to curb piracy in the region around Somalia. In December, UNSC Resolution 1851 authorized a one-year mandate during which states could extend these counter-piracy operations within Somali territory, including on its coast as well as offshore. According to China’s delegation to the United Nations, both UN Secretary-General Ban Ki-moon and the rotating president of the UNSC, Neven Jurica of Croatia, welcomed Beijing’s decision to dispatch Chinese naval ships for combating piracy around Somalia.<sup>18</sup> In arguing for the deployment on Chinese state radio, Major General Jin Yinian, vice research director at the National Defense University, observed that, “We are a permanent member of the United Nations Security Council and these are the duties of [a] major nation.”<sup>19</sup>

In addition, the support of the internationally recognized Transitional Federal Government of Somalia for the UN’s action, and its explicit invitation for foreign intervention to curtail piracy and other lawlessness, mean that Chinese leaders can participate in the military operations off Somalia’s coast - even if such maneuvers involve activities within Somalia’s territorial waters as well as in international seas in the Gulf of Aden - without compromising their doctrine of non-interference in other countries’ affairs. When the Chinese Foreign Ministry announced the deployment, it stressed that the PRC would observe all relevant UNSC resolutions and international laws in conducting the mission.<sup>20</sup>

Chinese supporters of the deployment decision can also point to the presence of many other foreign navies in the region engaged in the same counter-piracy escort missions endorsed by the UN and the Somali government. Warships from India, Iran, and other countries have begun independently escorting merchant ships in the Gulf of Aden.<sup>21</sup> Analysts note that the Somali campaign marks the first widespread naval deployment by the world’s rising powers, likely foreshadowing a more prominent maritime presence for India, China, and other ascending states on the world’s oceans.<sup>22</sup>

In December 2008, the European Union launched its first collective maritime operation outside of the Mediterranean and the North Atlantic, “Operation Atalanta,” under EU command. The dozen ships belonging to the preexisting multinational Combined Task Force 150 (CTF-150) has added counter-piracy to the original counter-terrorism mission off the Horn of Africa.<sup>23</sup> In January 2009, the Pentagon established a new task force, CTF-151, dedicated primarily to combating pirates,

to supplement the American contribution to CTF-150. Initially consisting of three US Navy ships under the command of Vice-Admiral William Gortney, chief of the US Fifth Fleet based in Bahrain, CTF-151 is open to foreign participation.<sup>24</sup> In the case of China, Gortney's statements to the press suggest he does not envision the PLAN joining the group anytime soon. Noting that China and Russia are primarily escorting their own national flag vessels, the Admiral observed, "That allows us to go focus elsewhere with the rest of the ships that are down there."<sup>25</sup> Although the PLAN flotilla is likely to remain formally separate from these other task forces, the Chinese ships have abundant opportunities for ad hoc tactical collaboration. In early February, US Navy Admiral Timothy Keating, commander of US Pacific Command, confirmed that, "There is ongoing dialogue at the tactical level so we are encouraged by that."<sup>26</sup>

Although the PLAN has limited its operational integration with these other navies - and unlike the EU, has not embedded liaison officers in the Fifth Fleet headquarters staff in Bahrain - PRC representatives did participate in the founding meeting of the Contact Group on Somalia Piracy on Jan. 14, 2009, giving Beijing a leading role in this institution. The body has established four working groups, a secretariat, and other mechanisms through which its members pursue six objectives: "improving operational and information support to counter-piracy operations, establishing a counter-piracy coordination mechanism, strengthening judicial frameworks for arrest, prosecution and detention of pirates, strengthening commercial shipping self-awareness and other capabilities, pursuing improved diplomatic and public information efforts, and tracking financial flows related to piracy."<sup>27</sup>

By joining the Contact Group, China should enhance its ability to influence Somalia-related events as the campaign unfolds. Membership also provides opportunities to monitor the behavior of the other members as well as to engage in a sustained dialogue with them. The Secretary-General of NATO, which also belongs to the Contact Group, has described the PLAN's participation in the Somali operation as an opportunity to deepen mutual ties within a UN-sponsored framework.<sup>28</sup> Chinese leaders have regularly evinced more enthusiasm about institutions such as the SCO and the Global Initiative to Combat Nuclear Terrorism in which the PRC assumes a leadership role early in the organization's development, thereby giving Beijing considerable influence in setting the rules.

Besides their stated objective of protecting Chinese shipping, PLA commanders might hope to realize other benefits from the deployment. For example, the mission, well-covered in the Chinese media, showcases the PRC's growing military capabilities to domestic and foreign audiences. Admiral Wu emphasized both these points in his speech: "The expedition will show China's active attitude in maintaining the world's peace and safety. It could also embody the Navy's resolution and capacity to accomplish diversified military missions to deal with multiple threats to national security."<sup>29</sup> The doctrine of new "historic missions" for the PLA, introduced by Hu



Jintao in late 2004, has helped validate continued increases in military spending despite the decline in cross-Strait tensions and the weakening of other traditional justifications for China's surging defense budget.<sup>30</sup> China's most recent defense white paper, issued in early 2009, observes that since 2000 "the Navy has been striving...to gradually develop its capabilities of conducting cooperation in distant waters and countering non-traditional security threats, so as to push forward the overall transformation of the service."<sup>31</sup> By engaging in the high-profile Gulf of Aden operation, the PLA leadership demonstrates that it is fulfilling its new transnational duties.

The composition of the Somali flotilla will depict the PLAN in a favorable light. The task force, led by Rear Admiral Du Jingchen, chief of staff of the Navy's South China Sea Fleet, totals approximately 800 crew members, including 70 Special Forces personnel, equipped and trained to board and inspect vessels and, if required, fight any pirates they encounter. The two multi-purpose Type 052B missile destroyers, DDG-171 Haikou and DDG-169 Wuhan, are among the Chinese Navy's most advanced warships. The Weishanhu supply ship, which also entered service this decade as one of the PLAN's largest ships, has participated in foreign goodwill visits in South Asia and Europe.<sup>32</sup> As a result, its crew probably has more experience with international missions than most Chinese sailors.

From the perspective of highlighting China's growing military, another advantage of sending these three ships is that they are all designed and manufactured by Chinese shipbuilders.<sup>33</sup> Until recently, China acquired its most sophisticated warships from Russia, but this maritime dependency appears to be ending. In 2007, unlike in previous years, Russia did not deliver any warships or submarines to China.<sup>34</sup> Overall, the share of Russia's arms exports to China declined from 40 percent of all Russian sales in 2006 to less than 20 percent in 2007.<sup>35</sup> The PLA has taken care not to highlight that the Ka-28 helicopter on each ship is Russian-built.<sup>36</sup>

Conversely, the deployment decision underscores the dependency on Chinese military protection of ships from Hong Kong and Macau. In its announcement of the mission, the PLA indicated its task force was prepared to defend ships from those territories.<sup>37</sup> Chinese officials have also affirmed their intent to protect Taiwanese



*A carrier-based PLA Navy helicopter conducts landing training off the coast of Qingdao. Source: CNSImages.*



ships from Somali-based pirates.<sup>38</sup> The PRC's stance placed the Taiwanese authorities in a difficult situation. After it became known that the Chinese flotilla had escorted a Taiwanese vessel, the Yu Shan, the opposition Democratic Progressive Party criticized the government for allowing Beijing to strengthen its sovereignty claims over Taiwan.<sup>39</sup> The ruling Nationalist Party responded that the Yu Shan was not really a Taiwanese ship since, though owned by the Formosa Plastics Group, it was registered in Liberia and operated by a South Korean company.<sup>40</sup> The Taiwanese government also declared they would study the possibility of dispatching Taiwanese warships to help protect their fellow co-nationals, but noted that Taiwan's peculiar diplomatic status (i.e., the fact that so few governments recognize the Taipei government) would make it difficult for Taiwanese vessels to operate so far from home since other navies and nations might shun their fleet.

Chinese authorities have also indicated that the task force is prepared, upon request and without charge, to assist ships from other nations as well as those carrying humanitarian cargo for international organizations, such as the UN World

Food Program.<sup>41</sup> A Ministry of National Defense spokesman, Senior Colonel Huang Xueping, observed that, "Chinese ships are ready and willing to strengthen information and intelligence sharing as well as humanitarian rescue operations with vessels of relevant countries according to the situation on the ground."<sup>42</sup> Another sign of Beijing's

interest in expanding its humanitarian missions was the PLAN's recent acquisition of Ship 866, a 10,000-ton hospital ship. Over the years, the US Navy has sent its two hospital ships on a variety of global goodwill missions, and now the PRC can also benefit from deploying one on high-profile disaster relief and humanitarian missions.<sup>43</sup>

Another benefit for China is that the Somali mission should provide the PLAN with opportunities to improve its tactics, techniques and procedures by operating in close proximity with several more experienced navies. Major-General Jin Yinan, head of a strategy institute at China's National Defense University, wrote that, "For a military, the results of participating in this kind of action are not just about gaining experience at combating pirates. It is even more about raising the ability to perform missions on seas far away."<sup>44</sup> One reason the Chinese ground forces have become so eager to participate in peacekeeping operations is that they can study and learn operational lessons from observing firsthand the other national military contingents involved in the mission. The PLA units also gain experience from practicing their skills in foreign deployments and knowledge about the prevailing operating conditions in those environments. In the case of the Somali operation, valuable lessons could include improving the fleet's interoperability with foreign navies, communicating with other ships in crowded international waters, and sustaining a maritime mission through underway replenishment at a great distance from China's tradition-

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*The Somalia mission could help China determine whether or not to invest in an aircraft carrier force.*

al logistics bases. By engaging in its first extended transcontinental operation, the PLAN will have an opportunity to refine its doctrine and practices for “blue-water” missions. These developments in turn will enhance the Chinese Navy’s ability to perform other power projection tasks in the future.

The Somali deployment could also give Chinese decision makers additional data to determine whether to make the massive investments required to develop an aircraft carrier force. Not only will the Somali expedition allow Beijing to assess the operational capabilities of the PLAN better, but Chinese leaders can also gauge the reaction of the international community to the fleet’s first operational deployment outside the Pacific. At the same news conference where he described the deployment, Colonel Huang confirmed that the Chinese Navy was considering acquiring an aircraft carrier, which he described as “a symbol of overall national strength and a symbol of the competitiveness of the nation’s naval force.”<sup>45</sup> In addition to its symbolic value, Huang argued that a carrier would help defend China’s coast and “ensure the country’s maritime security...and maritime rights and interests.”<sup>46</sup>

Finally, sending the task force to contribute to security of an international commons like the Gulf of Aden also helps justify China’s continuing defense buildup to external audiences, which other governments have criticized. The authors of China’s recent defense white paper, well aware of such negative perceptions, strove to demonstrate that the PRC’s aggregate annual defense spending “has always been kept at a reasonable and appropriate level.”<sup>47</sup> According to these calculations, the share of China’s annual defense spending relative to the country’s GDP and yearly governmental financial expenditures has generally fallen since 1978, though since 1998 the proportion has increased slightly more than the growth in the country’s GDP. Foreign analysts note that the official Chinese budget figure excludes spending on nuclear weapons, purchases of foreign weapons, and military research and development. For this reason, experts generally augment the Chinese government figure, sometimes doubling or even tripling the total, yielding a 2007 defense budget of well over \$100 billion. With the Somali deployment, Beijing can now also claim that its growing military power, including China’s acquisition of a blue-water navy, helps manage common security challenges, as the PRC assumes the role of a responsible global stakeholder.

With its growing naval capacity, China now can participate positively in addressing a major global problem, piracy in the Gulf of Aden. Its convenient location also allows Beijing to explain why it seeks important logistics support facilities—for fueling and supplying Chinese military forces—throughout the Indian Ocean region (e.g., Gwadar port on Pakistan’s Arabian Sea coast). This acquisition is sometimes described as a “string of pearls” strategy, with each major facility representing a pearl in the network.<sup>48</sup> Director Wei said that the Somali mission “sends a strong political message to the international community that China with its improved economic and military strength is willing to play a larger role in maintaining world peace and security.”<sup>49</sup>

## ACCEPTABLE RISKS

China's Somali operation does entail several challenges, but the risks of setbacks are low in what is generally a favorable operating environment. The mission will prove logistically demanding due to the PRC's longstanding policy of eschewing foreign bases or formal military alliances, which means that the PLAN's lines of communication and supply will extend all the way back to China.<sup>50</sup> Even so, the countries whose navies theoretically could disrupt these connections - such as India and the United States - are also participating in the counter-piracy mission. In the absence of an improbable armed confrontation with China, their navies would presumably not directly challenge the PLAN's logistics lifeline.

Another uncertainty is how the Chinese people might respond to civilian or Chinese casualties from the operation. Commander Xie Zengling, chief of the Special Forces unit aboard the destroyers, told the Xinhua news service that his troops expected to engage in direct combat with pirates.<sup>51</sup> The loss of 18 American soldiers, combined with hundreds of civilian casualties, during the October 1993 Black Hawk Down incident - which also occurred in Somalia - constrained subsequent US military support for humanitarian operations during the 1990s. A comparable military setback, or even a messy land engagement with many civilian casualties featured in the international news media, might discourage further Chinese military forays in distant seas for some time.

The Chinese authorities seem aware of this problem and have stressed their desire to disperse rather than fight the pirates. They also have declined to use force to retake the seized Chinese fishing vessel, the Tianyu No. 8, noting that the Chinese government is still negotiating with its captors.<sup>52</sup> Rear-Admiral Du Jingchen, commander

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*Most Chinese analysts have made clear the undesirability of remaining militarily inferior to the United States.*

of the PLAN task force, who also serves as chief of staff of the South China Sea Fleet, said upon departure that the expedition had not been given any landing plans. He added that the warships, while offering to provide assistance on a case-by-case basis to foreign ships at the discretion of the Chinese government, would not accept assignments from other countries or multinational organizations. The Chinese Defense Ministry confirmed that the mission has no plans to carry out ground operations in Somalia.<sup>53</sup> The composition of the expeditionary force also implies the absence of preparations to engage in a land war in Africa. The three ships lack sufficient Special Forces personnel and air power to engage in lengthy or contested operations ashore.

Perhaps the greatest risk is that the deployment might alarm some of China's neighbors. Japan, South Korea and Vietnam have long-standing maritime disputes with the PRC. The Taiwanese must also worry about the PLAN's growing power projection capacity since the Taiwan Strait is the island's main natural barrier against Chinese invasion. Foreign governments have also regularly expressed concern about

the PLA's build-up and its lack of transparency.<sup>54</sup> The manner in which Beijing committed to deploying the fleet to Somalia signifies awareness of these concerns. Chinese strategists first raised the idea of a possible deployment in the media to gauge the international reaction. It was only after this trial balloon elicited favorable foreign comments that the government formally announced the deployment.

The Chinese declaration spurred the Japanese to consider a similar deployment. Prime Minister Taro Aso ordered Defense Minister Yasukazu Hamada to begin preparations to participate in the counter-piracy patrol. While Japan has a qualitatively superior navy to China, the Japanese government has traditionally found it difficult to deploy its armed forces in potential combat operations. Still, the UN endorsement of the Somali mission could help overcome some possible left-wing domestic opposition to using Japan's armed forces overseas, while China's involvement should help secure support for the Japanese deployment among right-wing nationalists seeking to match Beijing.<sup>55</sup>

#### IMPLICATIONS FOR THE UNITED STATES AND GLOBAL SECURITY

From the perspective of the United States, China's newfound naval activism offers both challenges and opportunities. Perhaps the immediate test will be operational. The American and Chinese navies have yet to demonstrate that they can cooperate effectively on a common mission that, as in this case, could potentially involve the use of force. Although the two countries' navies have engaged in bilateral exercises for years, these drills have tested fairly rudimentary skills - mutual communications and proximity maneuvering rather than live fire exercises against small boats armed with rocket-propelled grenades.

A related complication is that the January 1998 US-China Military Maritime Consultative Agreement (MMCA) lacks the detailed "rules of the road" provisions found in the 1972 US-Soviet Incidents at Sea Agreement or the 1989 US-Soviet Prevention of Dangerous Military Incidents Agreement.<sup>56</sup> The MMCA failed to prevent or help resolve the crisis that arose in 2001 when a Chinese fighter jet crashed into a US Navy surveillance plane, which forced the American crew to crash land at a Chinese military base on Hainan Island.<sup>57</sup> In addition, while China has recently opened a military hotline with Russia, the February 2008 agreement to establish a direct hotline between the Pentagon and the Chinese Defense Ministry has apparently yet to become operational, increasing the risk of an accidental clash between the two fleets.<sup>58</sup> Since the 1989 Tiananmen crackdown, recurring impediments have disrupted efforts to improve bilateral military relations between the PRC and the United States, though perhaps some of these barriers have atrophied by now.<sup>59</sup>

One mitigating factor in this case is that the PLAN flotilla off Somalia has largely operated independently of foreign navies. The three PLA Navy warships have escorted select Chinese commercial ships through pirate-infested waters, but declined to conduct joint patrols with Western or other foreign navies. The PLAN commanders evidently are being cautious in their first potential combat operation, seeking to con-

tribute, but in a parallel rather than integrated manner. Other non-NATO navies, such as those of Russia and Iran, have adopted a similar approach.

Over the long term, the main disadvantage from Washington's perspective could be that, should Chinese leaders consider the Somali mission a success, they would likely prove more willing to promote the continued growth of China's maritime power projection capacity. Most Chinese national security analysts have made clear the undesirability of remaining militarily inferior to the United States. They have expressed particular unease regarding the vulnerability of their crucial Persian Gulf energy supplies and other foreign imports to maritime interruption by the US Navy.<sup>60</sup> A well-executed Somali operation might tip the balance in favor of those Chinese strategists who want their country to acquire aircraft carriers, large amphibious ships, more effective attack submarines, many more replenishment and refueling vessels, and other naval instruments to defend Beijing's overseas interests. These objectives include protecting Chinese nationals and companies operating abroad, supporting any PLA contributions to distant peacekeeping and stability operations, as well as defending China's maritime imports against pirates and other threats.

The continued growth of China's military potential could threaten American interests and allies in the Pacific if Beijing, perhaps due to increased confidence in the PLAN's military capabilities, became more willing to employ force to promote what it considered the PRC's security interests in Asia. US officials have long expressed concern about both the scale of the Chinese defense buildup and the PLA's lack of transparency. Conversely, if the United States could partner with a more powerful Chinese Navy on certain security issues, then important American friends and allies, such as India, Japan, and Taiwan, could become alarmed about potentially losing Washington's support in any conflict with China.

Yet, the Somali mission, if it is successful, might also prompt the Chinese government and armed forces to pursue a maritime security policy that is more transparent and supportive of global public goods, such as freedom of the seas and protection against piracy, decreasing the prospect that Beijing might become a revisionist power, seeking to disrupt the existing global order. Even if the PLAN commanders do not deliberately aim to do so, working in partnership for many months with the American, Japanese, and other foreign navies will invariably deepen mutual understanding of the parties' modes of operation. In addition, countering piracy, like humanitarian assistance, would appear to present a relatively benign subject for further Sino-American security cooperation.

On balance, the Pentagon appropriately welcomed the Chinese decision to send a few ships to join the current maritime security mission off Somalia. After the Chinese foreign ministry indicated it was considering deploying warships to fight pirates in the Gulf Aden, Admiral Keating expressed hope that the PLAN would join the counter-piracy coalition, and pledged to "work closely with them." Revealingly, Keating added that Chinese naval participation in the multinational maritime opera-



tion “could be a springboard for the resumption of dialog between the PLA forces and US Pacific Command forces.”<sup>61</sup> Despite the presidential transition in Washington, the PRC has refused to resume the high-level Sino-American military dialogue that Beijing suspended after the Bush administration announced its planned \$6.5 billion arms sale to Taiwan in October 2008.<sup>62</sup>

Following the Chinese deployment announcement, a spokesman for the US Fifth Fleet based in Bahrain stated that the maritime coalition operating in the Gulf of Aden would consider a Chinese naval contribution a positive development. Lieutenant Nathan Christensen explained that, “We absolutely welcome all nations, because as we’ve said all along, piracy is an international problem that requires an international solution.”<sup>63</sup> The lieutenant and his superiors must have also considered the potential value of having a few more ships to help patrol over one million square miles of water.<sup>64</sup>

The US Navy’s current maritime strategy, with its concept of a “Thousand-Ship Navy,” envisages such a network under the rubric of the Global Maritime Partnership Initiative. Its basic premise is that pooling together the naval capabilities of many national fleets, with a suitable division of labor that reflects their distinct concerns and capabilities, can best enhance the security of the international seas against transnational threats.<sup>65</sup> The US Navy can and should devote only a small proportion of its extensive but inherently limited assets to countering piracy, a relatively minor threat to American security.<sup>66</sup> It is more important for the US armed forces to hedge against the possible emergence of new global threats, including a rising China that seeks to apply its growing military capacity in ways adverse to American interests. US Navy leaders hold appropriately modest expectations regarding the potential for near-term Sino-American security ties. In mid-December, before Beijing had made the decision to send its fleet to Somalia, Admiral Keating evinced recognition of the present limits regarding bilateral naval collaboration. “I think it’s a giant leap of faith to think that in the near to mid-term, we as a nation and the policy makers in particular would regard China as a partner, particularly on a [military-to-military] basis.”<sup>67</sup>

The Pentagon’s appropriately cautious stance regarding China’s expanding global security role is reassuring. Coming at a time when Chinese political and military leaders are still conceptualizing the appropriate role for their emerging blue-water navy, the PLAN’s Somali operation provides a relatively low-risk environment within which to try to shape China’s global security evolution in mutually beneficial directions. ●



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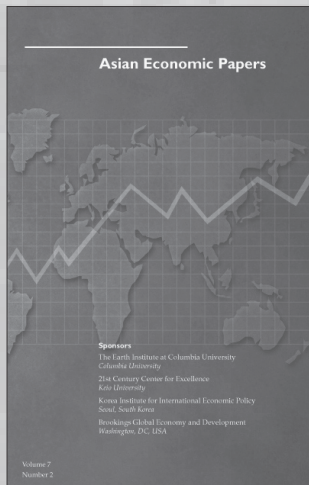
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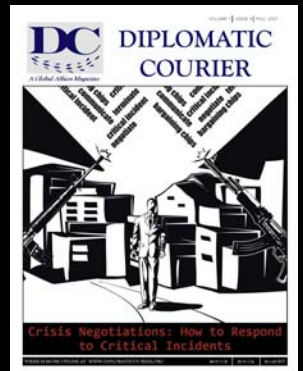
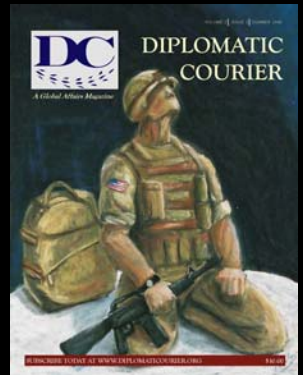


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# Legality and Legitimacy: China's ASAT Test

*Li Juqian*

**T**wo years have passed since China's anti-satellite (ASAT) test. Yet, the reverberations from that event continue to be felt. The shooting down of spy satellite USA-193 by the United States in early 2008, an action surmised by many as a reactionary show of force, has only heightened the sense of alarm for space security. Certainly, every nation takes such actions for a purpose. However, if we look at those events from a factual and legal standpoint, eliminating any guesswork about intent and purpose, they are both legal and legitimate. In short, they are not extraordinary.

International law has been the principle mechanism by which to regulate the relationship between countries. The legal standard of international law - which should be respected by national behavior - is mainly represented by international treaties and customs. There is a subtle but important difference between the two. International treaties have a binding force only to States Parties (signatory states), while having no benefits or liabilities to non-States Parties. International custom, on the other hand, binds all nations unless it clearly expresses an objection to the norm.

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### What is and What Should Be

In legal theory, there is a clear distinction between *lex lata* (what the law is) as opposed to *lex ferenda* (what the law ought to be). *Lex lata* is the basis to determine the legality of an action. *Lex ferenda* is the basis to determine whether there should be more rational rule to further regulate an action. It recognizes that existing law contains many loopholes and incongruities and offers what might become “existing law” in the future. The two should not be mixed up. An action can be judged according to *lex ferenda*, but it should not be the basis of whether it is actually “legal” or “illegal.”

Therefore, the legality of one nation's action is judged principally according to international treaties and customs. Those nations' actions not violating the existing international treaty and customs are not illegal.

As we know, international space law was initiated in the 1950s, developed quickly in the 1960s and 1970s, and took shape in complete form by the end of the 1970s. This set of laws, including the Outer Space Treaty (1967), the Rescue Agreement (1968), the Space Liability Convention (1972), the Registration Convention (1975), and the Moon Treaty (1979), governed major space activities and had legal force.<sup>1</sup> There were some additional principles and declarations, but none with legal force.

These treaties established the principles, rules and system for space activity, encompassing the legal definition of outer space, the liabilities for those acting in space, the registration of space objects, the rescue of astronauts, and activities on the moon. These treaties have powerful effect within the international community based on their broad participation.<sup>2</sup> All the main countries engaged in space activity have signed up to most of these treaties, with the possible exception of the Moon Treaty, whose participation remains low at only 13 countries to date.<sup>3</sup> The wide international acceptance of these treaties also serves as the evidence for customary law - to a degree - which gives force to the legal principles reflected even over non-States Parties.

As a major actor in space, China has acceded to all of the above treaties except for the Moon Treaty. That is consistent with all other dominant players in outer space, all of which have so far opted out of the Moon Treaty, including the United States - the only country that has landed on the moon to date.

Of the five treaties, the Outer Space Treaty (OST) is the oldest. The OST oversees the general principles and rules of the whole space legal system and plays a key role in judging whether the action of one country in outer space conforms to international law. According to the OST, China has the right to conduct an ASAT test and take out its own registered satellite in outer space.<sup>4</sup> This right applies not only to China, but any other state under the same conditions.

### THE RIGHT OF DISPOSAL

According to Article VIII of the OST, a state registering the launch of an outer space object “retains jurisdiction and control” over such object whether it is located in outer space or on a celestial body.<sup>5</sup> The ownership of the space object is not af-

fectured by its presence in outer space or on a celestial body, or by its return to the earth. The ownership includes the space object as well as the component parts of the object. Furthermore, ownership remains unchanged for any object and its component parts which are landed or constructed on a celestial body.<sup>6</sup>

If a state has ownership of a space object, that state undoubtedly can exert its full rights on the object. Rights of ownership generally include possession, use, profits and disposal. The latter entails the legal right to dispose of the object as well as transfer ownership to another. The right of disposal has always been taken to be the fundamental symbol of ownership. In addition, the nature of ownership is a real right - a right attached to movable property - that nobody can harm the rights on the object of the owner.<sup>7</sup> Hence all states can retain the right of disposal, including the destruction of the space object it owns and using means not excluding the method of ASAT test.

Thus, regarding China's decision to destroy one of its own satellites, a space object that was China's property, it had every right to dispose of it. China was merely exercising its right of disposal, and no other state, organization or individual should intervene and obstruct China's actions. Moreover, China's action did not infringe on anyone's rights and interests and caused no material damage or personal injury to any other state, organization or individual. Therefore, the opposition to that action has no legal basis.

#### NO BANS IN SPACE

To just vaguely state that space law prohibits weapons testing, without a detailed analysis of the rules on weapon testing is not only imprecise, but also a serious misreading of the existing treaty regulations. In fact, the relevant regulations in space law do not ban all the weapon tests.

According to Article IV of the OST, which discusses the issue of weapons, "State Parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner" and that "the establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on celestial bodies shall be forbidden." It is explicitly mentioned that the forbidden area for weapons testing is "on celestial bodies" rather than in orbit around the earth. The weapons not allowed "in orbit around the Earth" are "any objects carrying nuclear weapons or any other kinds of weapons of mass destruction."<sup>8</sup> This shows that a missile launch to destroy one's own object in space is not forbidden by international space law.

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*The forbidden area for weapons testing is "on celestial bodies," not in orbit around the Earth.*

The ASAT tests carried out by China and the United States, respectively in Janu-

ary 2007 and February 2008, were both attacks on satellites in orbit, not weapons tests on the moon or other celestial bodies. They did not violate the relative regulations of the international space law.

### FREEDOM TO EXPLORE AND UTILIZE OUTER SPACE

Article I of the OST made clear that the exploration and use of outer space, including the Moon and other celestial bodies, “shall be carried out for the benefit, and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.” Second, “there shall be free access to all areas of celestial bodies.”<sup>9</sup> In other words, space is not only open to utilize, but available to anyone, without discrimination. The exploration and use of outer space is not the right of any one country but the province of all mankind. China has a right to space equal to that of the United States. Developing countries have the right as well as developed countries; the East as well as the West. Naturally, the exploration and use of outer space should be for the sake of the welfare and interests of all the states, irrespective of their degree of economic or scientific development.<sup>10</sup>

The exploration and use of outer space certainly includes various tests that are permitted, providing they are in accordance with international law.<sup>11</sup> Certainly, a state should bear international liability if its act causes injury to another state, even if the act is not prohibited by international law. The injured party can claim its own right to seek remedy according to international law.

Article IX of the OST also mentions the issue of testing in space. It stipulates that the State Party states shall undertake appropriate international consultations before proceeding with any “activity or experiment planned by it or its nationals” in outer space if a state has reason to believe that such activity or test would cause potentially harmful interference with the activities of other states.<sup>12</sup> From this article, we can see that even outer space activity or a test by one State Party might cause harmful

intervention to the peaceful exploration and use of outer space. OST does not prohibit such activity, but allows the related State Party the right to put forward a request for consultation. The result of the consultation is not stipulated in the article. OST proclaims in the article that the State Party should avoid the “harmful contamination and also adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter” and, where necessary, shall adopt “appropriate measures for this purpose” in their pursuit of the study of outer space, including the Moon and other celestial bodies.<sup>13</sup>

From Article IX, some will naturally take the position that in the case of an ASAT test, “appropriate consultation” with others is required before proceeding since it may cause “harmful contamination” of the space environment and, hence, “harmful interference” with activities of other State Parties. This is reasonable, but in international law to date, “harmful contamination” has no explicit definition. The concept

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*In international law to date,  
“harmful interference” has no  
explicit definition.*



needs to be clarified by State Parties. There is not even a proposal in the UN Assembly to do so. It is a matter that is currently decided only by practice. An interpretation of what “harmful contamination” means in the abstract may very well lead to different conclusions by different people, all of which may be reasonable. Within such interpretations, the scope of “harmful contamination” may only include the testing of weapons of mass destruction, or it may cover a long list of items including a discarded component of a space object. Strictly speaking, we may not be able to precisely determine which human activities in space constitute “harmful contamination.” Thus, to categorize ASAT and related activities, the international community must specifically define this term.

Furthermore, the right to judge whether a country’s space activity constitutes “harmful interference” as described in Article IX is granted to the State Party engaged in the activity. Only if that state considers its space activity may entail “harmful interference” is it required to consult with others “before proceeding with any such activity or experiment.” Of course, if another State Party believes an activity in space “would cause potentially harmful interference with activities in the peaceful exploration and use of outer space,” it is free to request consultation.

#### THE LEGITIMACY OF THE ASAT TEST

China’s ASAT test did not violate international law. In fact, the test was not only legitimate but rational. As to the first point, the basic foundation of legitimacy is the principle of national sovereignty. National sovereignty means that each state has the right to constitute its own space policy and conduct itself by that set of policies (including aspects of national defense), as long as it does not violate international law. National sovereignty is a fundamental principle clearly recognized by international law and is the basic code of conduct for international relations. International law acknowledges the sovereignty of each state, which means that one’s own conduct is decided independently, and shall not be subject to the command or control of another state unless the sovereign state agrees to submit itself to another.

Regarding space, a state can independently decide whether or not to launch a space object, what its function will be, the timing of the launch and the disposal of the space object, among other factors. Any intervention in these matters that fall under the scope of national sovereignty is a violation of the principle of non-interference of internal affairs.<sup>14</sup>

As regulated by international law, the exploration and use of outer space shall be carried out for the benefit of, and in the interest of, all countries.<sup>15</sup> This includes the benefits and interests of the country engaged in that space activity. In other words, a country that carries out a space activity with the consideration of its own interests, and without damage to other countries, does not violate the spirit of international space law, as long as its benefits and interests do not conflict with the benefits and interests of all other countries.

Therefore, a nation’s space policies and pursuits are done in the interest of all



countries but are necessarily also conducted out of national self-interest. A state's interests inevitably entail national defense. In fact, national defense considerations are often a priority. US behavior is a prime example. President George W. Bush signed the new "US National Space Policy" in 2006, which stated that the United States will "deny, if necessary, adversaries the use of space capabilities hostile to US national interests."

Secondly, the principle of sovereign equality means that each country has an equal right to exercise its sovereignty, to protect its own interests, and to explore and exploit outer space. Factors such as the size, power and economic development of a country have no bearing on a nation's rights. The principle of sovereign equality is completely non-discriminatory and simply calls for equal status in the international community. How can one country forbid another its right to protect its own national interests? If one state - even one with a developed economy and great military power - claims its right to conduct ASAT tests and has been doing so for a long time, for what reason or excuse can it forbid a developing country to do the same?

The United States was both the first country to test an ASAT weapon and the country that has done it the most times. In fact, the control of space was established as US policy long ago. Furthermore, America's activity in space also supports this goal.

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*Size, power and economic development have no bearing on a nation's rights.*

In the last century, President Johnson stated in public, "Control of space means control of the world."<sup>16</sup> From the 1950s through the mid-1970s, a key US program was the anti-ballistic missile defense system, which was used to develop and test anti-satellite technology with roughly 40 ASAT technical tests carried out.<sup>17</sup> Then, in June 2002, the United States formally quit the Anti-Ballistic Missile (ABM) treaty, which relieved it of remaining restrictions on further testing and deployment of space weapons.

On the other hand, China has made only one such test. Therefore, an interesting conclusion can be drawn if one compares the loud denunciation of China's single test by the country that has conducted many such tests. Those that test much are not condemned, while those that occasionally test are condemned. This contradiction has the negative consequence that countries with the ability to test an ASAT will execute many as soon as possible. Sure enough, soon after the USA-193 ASAT test, the former Indian President Dr. Avul Pakir Jainulabdeen Abdul Kalam declared that India had the capacity to hit an object in outer space.<sup>18</sup>

From another perspective, one can even see that China's ASAT test was rational and there was no alternative for the Chinese government. China has long attempted to avoid an arms race in outer space. The international community has vociferously called for the restriction of outer space arms development. At the Conference on Disarmament in 2000 and 2001, Russia and China put forward a draft plan for the prevention of an outer space arms race, which was opposed by the United States.<sup>19</sup>

Following repeated US refusals to consider such an international treaty for over a dozen years and under the grave circumstances of continuing US arms sales to Taiwan over the same period, it is not surprising that Chinese analysts have concluded that China was forced to develop the ASAT test to strengthen its national security and break US hegemony in space.<sup>20</sup>

### NOT ONE, BUT TWO, THREE...?

It follows, then, that one ASAT test may not have been sufficient to affirm China's right to take out its own registered satellite. If necessary, China may need to do so two or three times. In fact, this is very possible. If no one can be sure that the hit against the USA-193 satellite in 2008 was the last US ASAT test, then there is no reason to believe that China's test was its last either. The only question is the choice of method. Judging by the current development of US ASAT weapons, missiles, high energy laser weapons, particle beam weapons, microwave weapons and microsattelites are all effective ways to destroy a satellite.<sup>21</sup> They might also be the methods that China adopts.

In international law, a country's "practice" is the premise that forms international custom, which has legal binding force. National practice and *opinion juris* (opinion of law) are the two components of international custom. Only with the existence of national practice can the legal force (*opinion juris*), which is reflected in the practice, be affirmed. At the present time, there is no prohibition regarding ASAT tests in the body of space law. Thus, if a country makes clear its position, repeatedly expressed through its behavior, a rule may be established or affirmed in this way. Such as, it is legal for a country to actively destroy its own space object. Of course, this would not be a new rule, rather just a clear confirmation of an existing practice.

Affirming an existing rule in this way (through one's own practice and behavior) is not unique in the history of international law. In the 1940s, the International Court of Justice (ICJ) heard the Corfu Channel case, where a British warship claimed its right of innocent passage through the Corfu Channel and confirmed the rule through its activity of doing so. The ICJ confirmed the right of the British warship in the judgment even though Albania opposed that right. Later, in 1982, the United Nations Convention on the Law of the Sea clearly stipulated the right of passage in the language of treaty regulations.<sup>22</sup> As with this example, once a rule is established or expressly confirmed, there is no more room for further comment. Even if there was criticism, it would be meaningless in a legal sense.

Throughout the evolution of international law, there was no obstacle to countries who chose to oppose certain decisions through their behavior in order to establish a contradictory international custom. Alternatively, a country can also choose not to object to the action in principle, but rather make detailed, restrictive rules on how to carry out such activity. For example, it was stated in the UN Space Debris Mitigation Guidelines that "when intentional break-ups are necessary, they should be conduct-

ed at sufficiently low altitudes to limit the orbital lifetime of resulting fragments.”<sup>23</sup>

### *LEX FERENDA: NORMS ON SPACE DEBRIS*

Could China's ASAT test cause any international liability problems? At present, the answer is no. The issue of liability resulting from space activity is regulated under the Liability Convention. Accordingly, liability only applies when the space object causes damage to any person or object on the surface of the Earth, or any object or person in space of another country. If China's ASAT test caused any damage to another country, for instance, if a debris fragment damages the space object of another country, such as a satellite, then China should bear the appropriate liability. China's ASAT test, however, has caused no such damage and hence bears no direct liability.

What if a piece of debris resulting from the ASAT test causes damage in the future? Again, the above applies: 1) whether persons or property on the surface of the Earth (or aircraft in flight) are damaged, or 2) whether the space object or persons aboard the space object of another country are damaged. According to the Liability Convention, “strict liability” should be applied to the former and “fault liability” to the latter.<sup>24</sup> Taking fault liability as an example, since this is most relevant to the subject at hand, even if a debris fragment harms the space object of another country, liability depends completely on whether the defendant was negligent (at fault). With negligence, the plaintiff has to prove that the defendant knew, or should have known, its actions would lead to harm. In other words, the harm may have also been caused by the plaintiff if it incorrectly operated or failed to control its space object, resulting in a collision with the fragment. In this case, the damage is caused by the operator of the satellite and the defendant bears no liability. In fact, the liability for damage by collision lies both with the owner of the space object and the space debris, and the owner of either may bear strict liability or fault liability. Thus, a functional space object that collided with a piece of debris may in fact also be found liable itself.

Regarding debris produced by an active strike against a satellite, a space debris mitigation guideline was established some time ago, and was resubmitted in the report by the Outer Space Committee in 2007. It proposed the avoidance of intentional self-destruction. However, the guideline has no legal binding force and constitutes no legal obligation.<sup>25</sup> Actually, debris mitigation is not a real solution to the problem. Only debris elimination will be effective. Currently, some countries have completed the conceptual design of capturing debris in space.<sup>26</sup> But there is no effective way to remove debris due to the high cost of working in space.

Space debris will increase concurrently with the rise of activity in space. Left unattended, the possible result may be that no country can launch a single object into space. What is the best solution? One possible way is to set up a common fund with the investment of all countries to offset the enormous cost of cleaning up space, and allotting the resulting freed up orbits to participating countries. However, this idea can only be realized when the value of using the orbit exceeds the cost of space debris clean up, which is not a likely prospect for some time to come.

By way of sober conclusion, ASAT tests are legal according to current international law. Therefore, the global community should focus on how to further standardize the detailed rules on space debris and ASAT testing. These measures are very feasible. The concern over the threat of one ASAT test by China by other countries not only exaggerates unnecessarily the impact of the test, but also moves the solution in the wrong direction. ☹️

## NOTES

<sup>1</sup> The Outer Space Treaty, formally known as the “Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.” “The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space,” also referred to as the Rescue Agreement. The “Convention on International Liability for Damage Caused by Space Objects,” also known as the Space Liability Convention. The “Convention on Registration of Launched Objects into Outer Space,” also known as the Registration Convention. “The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies,” better known as the Moon Treaty or Moon Agreement.

<sup>2</sup> By the beginning of 2008, signatories to the OST reached 98, with 27 new states signing on; the Rescue Agreement reached 90, with 24 new signatories; the Liability Treaty reached 86, with 24 new; and the Registration Convention reached 51, with four new signatories.

<sup>3</sup> Refer to UN document A/AC.105/917.

<sup>4</sup> Refer to Article VIII of the Outer Space Treaty, <http://www.unoosa.org/oosa/SpaceLaw/outerspt.html>.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Real rights are rights that include ownership, use, pledge, usufruct, mortgage and predial servitude.

<sup>8</sup> Refer to Article IV of the Treaty.

<sup>9</sup> Refer to Article I of the Treaty.

<sup>10</sup> See Article I of the Treaty: “...shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development...”

<sup>11</sup> Ibid, “... shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law...”

<sup>12</sup> The article regulates: “...a State Party to the Treaty which has reason to believe that an activity or experiment planned by another State Party in outer space, including the Moon and other celestial bodies, would cause potentially harmful interference with activities in the peaceful exploration and use of outer space, including the Moon and other celestial bodies, may request consultation concerning the activity or experiment.”

<sup>13</sup> Refer to Article IX of the Treaty: “...States Parties to the Treaty shall pursue studies of outer space, including the moon and other celestial bodies, and conduct exploration of them so as to avoid their harmful contamination and also adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter and, where necessary, shall adopt

appropriate measures for this purpose....”

<sup>14</sup> Of course the selection of the exact time is based on scientific calculation.

<sup>15</sup> Article I of the OST.

<sup>16</sup> Alan Wasser, “LBJ’s Space Race: What We Didn’t Know Then,” *The Space Review*, June 20, 2005, <http://www.thespacereview.com/article/396/1>.

<sup>17</sup> Yuan Lin, “Uncover the Secret of ASAT Weapon,” *China News Weekly* 5, 2007, 63. “In 1976, the US Air Force began to develop a direct-ascend kinetic energy anti-satellite weapon system launched from space. On Sep. 13, 1985, the first flight test of a satellite interception was carried out, which successfully intercepted a discarded P78-1 test satellite on the 550 kilometer orbit. The campaign height of the interceptor is below 1,000 kilometers. The comparative speed to approach the target is 10-14 km/s.”

<sup>18</sup> See <http://news.cctv.com/world/20080225/104518.shtml> (in Chinese).

<sup>19</sup> Yuan Lin, “Uncover the Secret of ASAT Weapon,” *China News Weekly* 5, 2007, 62.

<sup>20</sup> Shen Dingli, “Expert: China was forced to do ASAT test purely for the breaking of the US space hegemony,” May 30, 2007, [www.renmin.com](http://www.renmin.com).

<sup>21</sup> Wu Qin and Gao Yanling, “New Development of US ASAT Weapon,” *International Space* 4, 2007, 22-23. Jin Xin, Bi Yiming and Fang Qin, “Studies of Relative Issues of ASAT Weapon Development,” *Astronautic Electronic Confront* 24, no. 3, 13-15.

<sup>22</sup> Refer to the judgment of the Corfu Channel Case by the International Court of Justice, 27-33. See UN Convention on the Law of Sea.

<sup>23</sup> Refer to UN document A/AC.105/890.

<sup>24</sup> These terms are referred to in Article II and III of the Liability Convention.

Article II, “A launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth or to aircraft flight.”

Article III, “In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.”

“Strict liability, sometimes called absolute liability, is the legal responsibility for damages, or injury, even if the person found strictly liable was not at fault or negligent.” Fault liability is based on negligence and applies to harms occurring in outer space. In strict liability, fault is irrelevant and applies to aircraft in flight and on Earth. With negligence the plaintiff has to prove that the defendant knew, or should have known his/her/its actions would lead to harm. With strict liability, the plaintiff only has to prove that he/she/it was injured and that it was the defendant’s object that caused the harm. Strict liability is a lower standard of proof and even if the defendant did nothing wrong, and did everything perfectly, he/she/it will still be held responsible for the harm.

<sup>25</sup> See UN document A/AC.105/720 in 1999, A/AC.105/C.1/L.260 in 2002 and A/AC.105/890 in 2007.

<sup>26</sup> Refer to UN document A/AC.105/888.



# Mainland China's Taiwan Policy Adjustments

*Xin Qiang*

**A**s four generations of Chinese leadership have grappled with the Taiwan issue, the mainland has employed an evolving framework to deal with the ever-changing cross-Strait situation. This progression can be seen in changes from the “Nine Principles” advocated by Ye Jianying in 1981, to the “Eight Points” by Jiang Zeming in 1995, and then to the “Four Opinions” by People’s Republic of China President Hu Jintao in 2005. The Kuomintang’s (KMT) victory in the last presidential election and Ma Ying-jeou’s acceptance of the “1992 consensus” have created good conditions for the warming of cross-Strait relations. After many years of difficult wear and tear, facing the changing political and social situation on Taiwan Island, mainland China has started a wave of policy adjustments which provide a powerful dynamic for the improvement of cross-Strait relations.

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Starting from the five-point program issued in the Hu Jintao-Lien Chan 2005 press statement, to the new concept of “Common Destiny Community” (Mingyun Gongtongti) advocated in the report to the 17th National Congress of the Communist Party of China (CPC) on Oct. 24, 2007, then to the 16-character guideline proposed by President Hu on April 29, 2008, we can see the emergence of new, more flexible thought in mainland policy towards Taiwan.<sup>1</sup> As a result, authorities and civilians on the Chinese mainland and Taiwan have witnessed increasing progress in cross-Strait relations. For example, the Association for Relations Across the Taiwan Strait (ARATS) and Taiwan's Strait Exchange Foundation (SEF) resumed talks in Beijing last year after a nine-year suspension and weekend charter flights began, carrying the first mainland tourist group to Taiwan since 1949. From November 3 to 7, ARATS president Chen Yunlin paid a visit to the island at the invitation of SEF chairman Chiang Pin-kung and held the two organizations' first meeting in Taiwan. It also marked the first visit of an ARATS president to Taiwan. On December 15, direct shipping, air transport and postal services were formally launched according to the agreements signed in the Chen-Chiang meeting.<sup>2</sup>

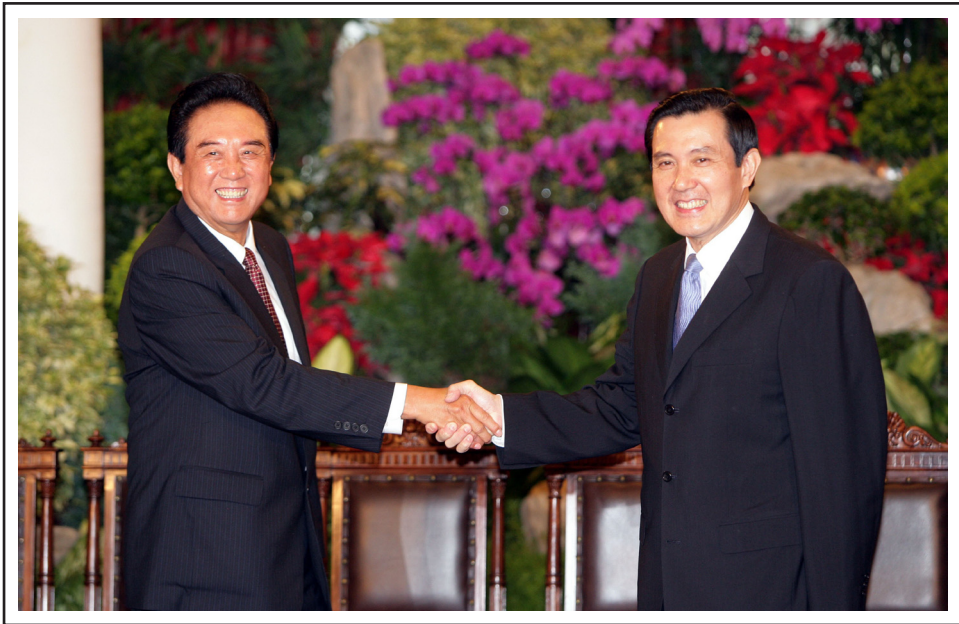
In late December, encouraged by all of the progress achieved in the past several months, President Hu offered six proposals – each a logical extension of the former rhetoric – for future cross-Strait relations development and outlined a more rational and practical roadmap for China's Taiwan policy in the new era.<sup>3</sup>

#### NEW THINKING ON TAIWAN

Inferring from a series of recent policy declarations and speeches, the present framework of mainland China's cross-Strait policy could be summed up as following: take the “one China” principle as the policy basis, follow the “people first” idea as the guideline, and advocate peaceful unification through the path of “peaceful development.”

Since the establishment of the PRC in 1949, the “one China” principle has always been the core element of mainland China's cross-Strait policy. Since 1949, the acceptance or refusal of the “one China” principle has become the key variable in cross-Strait relations. The disputes between the two sides over the connotation of “one China” have developed in stages. At first, it was a legitimacy dispute between the CPC and KMT governments within “One China” framework over who was the legitimate authority in China. But neither side suggested that there was more than “one China” in the world. Based on this consensus, mainland China changed its policy from “liberating Taiwan by force,” to “liberating Taiwan by peaceful ways,” then to “unify by peaceful ways,” and finally to the thesis of “one country, two systems.” On the other hand, Taiwan began to lift the curfew and allow the Taiwanese to visit and invest in Mainland. Cross-Strait interactions began to boom.

However, Lee Teng-hui's “two states remark” in 1999 changed it into a dispute between “one China” and “two Chinas.” The “one side, one country” assertion and a series of pro-independence policies put forward by the Chen Shuibian adminis-



*Taiwan president Ma Ying-jeou (right) greets visiting Chinese envoy and ARATS president Chen Yunlin during the Nov. 6, 2008 meeting in Taipei. Source: CNSImages.*

tration changed it further into a dispute between “one China” and “one China, one Taiwan,” or a struggle between national unification and “legitimate independence.” From then on, the mutual trust and understanding weakened and political stalemate and the potential for military conflict followed.

The mainland’s prerequisite of the “one China” principle as the basis for any possible negotiations has never changed. As President Hu has reiterated, “Once the two sides reach a common understanding and accordant stance on the principle of one China, the foundation of political mutual trust will be laid and anything can be talked about between the two sides.”<sup>4</sup> However, facing the changes of political reality in Taiwan, the mainland has refrained from repeatedly asserting the “one country, two systems” thesis, and has begun to gradually embrace the ambiguous definition of the “one China” principle, exemplified by the so called “1992 consensus” in dealing with Taiwan administration.<sup>5</sup> On March 3, 2008, for the first time, Hu Jintao told US President George W. Bush that the mainland looked forward to restoring consultation and talks on the basis of the “1992 consensus,” which sees both sides recognize there is only one China, but agree to differ on its definition.<sup>6</sup> Although such an expression only appeared in the English version by Xinhua Agency, it reflects the mainland’s flexibility toward this basic principle. The Ma administration’s acceptance of the “1992 consensus” and its declaration that cross-Strait relations are “not State-to-State relations” provided the necessary basis for further cooperation.<sup>7</sup> It seems now both sides have returned to the framework of “one China,” however, the two sides actually each have a different focus in this so-called consensus. The mainland focuses first on “one China,” then “respective interpretation,” which is in

accordance with its final goal of fulfilling national reunification. But Taiwan focuses first on “respective interpretation,” then “one China,” which hints towards the dangerous potential of “two Chinas.”

Since the KMT victory, the mainland has come to realize that no politician in Taiwan can dare to accept unification before the majority of the population embraces the idea. Undoubtedly, the mainland was relieved when the KMT won the election; however, Ma's declaration of the “Three No's” in his inauguration speech (no unification, no independence, and no use of force)<sup>8</sup> and the severe protests towards Chen

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*The mainland must change from a “government first” mentality to a “people first” approach.*

Yunlin's first visit to Taiwan have made the mainland recognize the power of mainstream public opinion in an electoral political system. Mainland China must change from a traditional “government first” (or actually “KMT first”) mentality to a “people first” approach. “Placing hopes on the people in Taiwan” can no longer be just an empty political slogan. After a long learning process, the PRC leadership has realized it must do some practical things in order to foster empathy and faith among the Taiwanese population through mutual prosperity and economic integration. Without the support of the common people, unification will be a mission impossible.

Therefore it is not surprising that Hu Jintao's report to the 17th CPC National Congress included a new concept of “common destiny community” that recognizes that the 1.3 billion people on the mainland and the 23 million people in Taiwan “are of the same blood and share a common destiny.”<sup>9</sup> This new concept not only adheres to the “people first” guideline, but implies a reorientation of the political status of the mainland and Taiwan: “one China” does not mean the “PRC's China,” but a win-win “common homeland” for the people across the Strait.

The mainland has tried to display its goodwill to all Taiwanese, regardless of their political affiliation. First, making full use of every quasi-official platform, CPC leaders received various high level Pan-Blue Coalition officials and tried to establish mutual trust and positive dealing with them. Secondly, the mainland has also publicly extended friendly gestures towards the Pan-Green camp, including prominent Democratic Progressive Party (DPP) figures. This included inviting some DPP government leaders to attend the opening ceremony of the Beijing Olympic Games.<sup>10</sup> As President Hu has said, “If the DPP could change its ‘Taiwan independence’ stance, we would make a positive response to them.”<sup>11</sup> Third, cooperating closely with Taiwan's schedule, the mainland has also implemented a series of preferential policies that will serve and protect Taiwanese legitimate rights and interests, support their economic development, and practically benefit common Taiwanese students, farmers, workers and businessmen.<sup>12</sup>

From the early 1990s, the mainland's cross-Strait policy has witnessed several transitions. At first, the rapid growth of cross-Strait trade and people exchanges

made the mainland optimistic about the prospect of unification, and Beijing thus placed “promoting unification” as the top priority. The strategy of this era can be summarized as “advocating unification plus economic and social interchanges.” However, this optimism was demolished by the Lee Teng-hui and Chen Shuibian administrations, and the mainland policy shifted into “opposing independence plus economic and social interchanges.” Demoralized by the difficult cross-Strait situation in the past dozen years, the mainland realized that hasty unification is unrealistic. The most efficient way, maybe the only way, is to create a peaceful and stable situation and construct a new framework for peaceful development. This includes establishing a set of institutions covering security, political, economic and social affairs; promoting the “Three Links” of trade, transportation and mail services; forming special trade and investment agreements; and reaching a peace agreement through consultation to formally end the hostility. As President Hu put it, “With a firm grasp of the theme of peaceful development of cross-Strait relations, we will sincerely work for the well-being of our compatriots on both sides of the Strait and for peace in the Taiwan Strait region.”<sup>13</sup>

Looking beyond the rhetoric, the policy of peaceful development also implies a profound policy consideration; although it is very hard for the mainland to admit publicly, it prefers to accept and maintain the status quo across the Taiwan Strait. In other words, mainland policy in the foreseeable future will be “no independence, no immediate unification, but develop together peacefully.” Given the great gap between the two sides in political, economic and social dimensions, peaceful development has been regarded as the smoothest and most efficient path to final unification. It is also a necessity for the mainland, which is struggling to achieve full-scale modernization in an age of globalization.

### DIFFICULTIES AHEAD

Following the progression of “easy issues before difficult issues” and “economy before politics” policies put forward by the mainland government, the two sides have made meaningful improvement in some less sensitive fields, such as financial cooperation, fulfillment of “Three Links” and the encouragement of mutual investment. However, a series of knotty problems still lie ahead, which will probably constrain the positive trends.

The status of the Republic of China is the biggest problem facing the mainland in the international arena. Domestically, it is very difficult for mainland government and public opinion to admit and accept the legitimate existence of the ROC. Therefore, although the mainland’s support for the “1992 consensus” ambiguously hints at its acceptance of the ROC as an existing political entity, only unofficial and quasi-official channels can be accepted while official exchanges are still prohibited.<sup>14</sup> That’s why Beijing paid so much attention to the resumption of the nominally unofficial exchanges between ARATS and SEF, as well the “CPC-KMT Forum.” Of course, such a mutual understanding only can be applied when the mainland is dealing with bi-



lateral issues involving Taiwan. Internationally, it is even harder for the mainland to make such a concession since it would destroy the "one China" policy framework implemented over the past 60 years by presenting to the world an image of "two Chinas." At present, the status of the ROC is directly connected with a lot of eminent problems lying before the two sides, such as Taiwan's desire for greater international space. Unfortunately, the standpoints of the two sides about this issue are too far to find an overlap easily.

Satisfying Taiwan's desire for a "dignified international profile" and greater international space is another hard job.<sup>15</sup> Taiwan's international aspirations can be classified into two categories: its bids to join international organizations and its maintenance of diplomatic relations with the two dozens countries that still recognize it. Taiwan wants the mainland to exhibit its wishes for friendly relations and "goodwill" by showing flexibility on these points; however, from the mainland's point of view, there are two reasons to handle these issues with great care. First, although the Ma administration declared that it would not pursue independence, under the electoral system in Taiwan, no one knows when the KMT will lose the presidency again. Once that happens, the international space spared for Ma Ying-jeou may be used by pro-independence parties for possible legitimate independence. Second, even though the mainland will no longer actively encourage Taiwan's diplomatic allies to switch their positions, what should it do when those countries want to change their diplomatic positions and establish formal diplomatic relations with an ever-rising mainland China?

As the most sensitive issue in international relations, mutual security confidence is the hardest to establish and easiest to destroy. In mainland China, there is always a deep concern about the possibility of Taiwan's independence and its continuous military buildup. The United States' support of Taiwan's defense and massive US arms sales are seen as threatening and provocative acts to China's sovereignty and territorial integrity, thus making policy changes even more difficult. For years, the mutual insecurity has led the two sides to adopt policies "based on fears." For Beijing, it has built up its military to deter what it believes are Taiwan's separatist schemes. On the other hand, Taipei intensified claims of sovereignty as a defense against looming domination by Beijing. As a result, each side's moves intensified the other's defense mechanisms.<sup>16</sup> Therefore, although the United States and Taiwan have frequently asked the mainland to withdraw the short-range ballistic missiles (SRBM) deployed in coastal provinces, and Ma Ying-jeou warned that the immediate removal of missiles is a precondition for any peace accord,<sup>17</sup> the PLA has not been swayed. From the mainland's perspective, it is the PRC's sovereign right to deploy weapons on its own soil and the missiles are targeting "Taiwan independence," not Taiwan's people. So if Taiwan's leaders do not want to declare independence, why should they be afraid of the missiles? Furthermore, since Taiwan continues to procure advanced weap-

ons from the states, why should the mainland stop counteracting military preparations?

### ADJUSTMENTS FOR BETTER PROSPECTS

The emergence of new strategic thought has brought some profound changes in the mainland's policy towards Taiwan. While trying to go beyond the traditional zero-sum mentality, the mainland is endeavoring to foster a more constructive and friendly cross-Strait atmosphere by exhibiting more flexibility and goodwill to Taiwan's authorities and civilians. As a result, the prospects for cross-Strait relations are more promising.

After 30 years of development, the economic/social interchanges, which are the easiest and least sensitive issues, function as reliable ballast for cross-Strait relations. Despite all the disagreements and wrangling, there is little opposition to the enhancement of economic and social interchanges between the two sides. As of October 2008, more than 7 million Taiwanese have visited the mainland, accounting for a total of 50.7 million trips. As of the end of October, the mainland had approved more than 77,000 projects of Taiwan investors and the value of trade between the two sides totaled US\$840 billion. In 2002, the mainland became Taiwan's biggest export market. Both sides have witnessed great development in interchanges covering culture, education, technology and social spheres.<sup>18</sup>

It is true that cross-Strait relations are in a honeymoon period. The 16-character guideline for future cross-Strait relations President Hu proposed on April 29, 2008, which is very much in line with Taiwan's appeal,<sup>19</sup> embodies the precondition, methods and goal of the mainland's cross-Strait policy. "Building mutual trust" is the necessary precondition for full scale cross-Strait exchanges and cooperation, while "laying aside differences" and "seeking consensus while shelving differences" are the methods for trust building, and "creating a win-win situation" is the goal the mainland wants to achieve.

In the 4<sup>th</sup> Cross-Straits Economic, Trade and Cultural Forum held on Dec. 20, 2008, Jia Qinglin, chairman of the National Committee of the Chinese People's Political Consultative Conference, also extended the mainland's intention to expand and normalize cross-Strait economic cooperation and social exchanges. In accordance with President Hu's declaration, Jia called on the two sides to follow the principle of "people first" and start to discuss a cross-Strait economic cooperation mechanism as soon as possible in order to fulfill long-term "peaceful development." Echoing Taiwan's request for reaching a Comprehensive Economic Cooperation Agreement,<sup>20</sup> a sort of regularized economic accord, Jia announced that, "We have paid great attention to the proposal raised by the Taiwan side to discuss and sign an agreement on cross-Straits comprehensive economic cooperation, and we will take serious account of it." This is the first time the mainland has made such a positive response to this topic.<sup>21</sup>

Nowadays, it is widely recognized by the mainland leadership that institutionalized economic and social exchanges are the engines for stable and healthy cross-Strait relations. It is also believed that enhancement of economic/social exchanges, which would tie the future of Taiwan closely with that of the mainland, can be helpful in reducing the political opposition and addressing security concern. That is why President Hu repeatedly called on both sides to increase communication and exchange in all circles, and solemnly promised the mainland will actively respond to any constructive proposals from the island which will boost peaceful development of cross-Strait relations.<sup>22</sup> Therefore, in the foreseeable future, the mainland and Taiwan could continue the present dynamic for exchanges and cooperation which are in the interest of both sides.

The status of the ROC and the issue of its international space are two imminent problems that cannot be avoided. Since both of them are closely connected with state sovereignty, mainland leaders need political assurance that any compromises they make will somehow lead toward progress on the long-term goal of unification. Given that Ma Ying-jeou has said publicly that unification is not on his administration's agenda,<sup>23</sup> it is hard to imagine that the two sides can quickly and easily find a practical resolution in dealing with these issues. Both sides have to keep the old proverb of "haste makes waste" in their minds. Without a profound mutual trust, the earlier these issues will be aroused, and the easier the cross-Strait relations fall into a stalemate. Ambiguity is still the best choice.

In order to sustain the positive discourse between the two sides, the mainland has extended some olive branches to Taiwan which touched upon these sensitive issues. On Dec. 31, 2008, President Hu opened the opportunity to "start discussion about political relations under the special condition before reunification in a pragmatic manner."<sup>24</sup> That is a milestone adjustment in 60 years of mainland policy, which implies that the mainland would negotiate with its counterpart about the ROC's political status, an issue that has been intentionally ignored for dozens of years. In practice, the mainland began to try to accommodate Taiwan's concerns about "sovereignty issues." For example, given Taiwan's strong opposition towards the precondition of "one China," which they suspect hints to a lesser stature of Taiwan's "sovereignty," the mainland is becoming more self-constrained. After President Hu's meeting with Taiwan's "Vice President-elect," Vincent Siew, in April 2008, the PRC Commerce Ministry instantly reported that both sides looked forward to resuming dialogue "under the one China principle." When Siew protested this inaccurate report, the Commerce Ministry retracted it and reissued the report without the reference. From this case, we can see Beijing's flexibility to suspend sensitive disputes and its determination to establish positive dealing with Taiwan administration.<sup>25</sup>

Concerning the so-called "international space" issue, the mainland has expressed several times that it has noticed the strong feeling of the Taiwanese for a "more dignified international profile." For the diplomatic relations aspect, the mainland realized that it is not an opportune moment to continue to encourage Taipei's re-

maintaining diplomatic allies to switch relations, which would only foster hostility on the island. For instance, Beijing has suspended the request from Paraguay, one of Taiwan's allies, for establishing formal diplomatic relations. The mainland, echoing Ma's call for a "diplomatic truce," is trying to adopt a more flexible and self-contained foreign policy. The appointment of Wang Yi, former deputy foreign minister, as the director of Taiwan Affairs Office (TAO) also can be seen as a signal of the mainland's endeavor to enhance the interdepartmental cooperation and coordination between the Foreign Ministry and TAO.

Compared with the more reversible arrangement for a "diplomatic truce," the participation of Taiwan in international organizations of highly politically symbolic meaning is a much more difficult issue and needs to be handled with prudence. However, from the mainland's declaration, we can find some very delicate policy adjustments which can be divided into two stages.

First, allow Taiwan to "take larger part in international activities." As early as Hu-Lien 2005 press statement, the proposed five-point program indicated that the CPC has acknowledged and understood the importance of international space to Taiwan. On April 29, 2008, Hu declared that larger "international activities" for Taiwan could be discussed. In November, Lien Chan, the former "Vice President" of Taiwan, was chosen as Ma's special representative to attend the APEC unofficial summit with the mainland's acquiescence. One month later, the PRC Taiwan Affairs Office reiterated that the mainland would like to "create conditions" and "find a resolution" for "Taiwan's participation in the WHO's relevant activities."<sup>26</sup>

Second, allow Taiwan to participate in "international organizations." For years, Taiwan's applications for membership in international organizations, such as the UN and World Health Organization, always aroused severe turbulence across the strait. The primary reason for the mainland's opposition originated from the worry that Taiwan would take advantage of the compromises for the purpose of implementing some form of "two Chinas" or "one China, one Taiwan" in the international arena. Another important reason is that such a concession could be "irreversible," as it would be very difficult to deprive Taiwan of membership once it was conferred. Therefore, it is surprising to hear President Hu state that "the mainland is willing to discuss with Taiwan proper and reasonable arrangements for Taiwan's participation in international organizations," with the prerequisite that it "does not create a scenario of 'two Chinas' or 'one China, one Taiwan.'" This means that the Taiwan administration must constrain itself, publicly or secretly, from provoking the mainland by applying for a membership with the name of "ROC" or "Taiwan."<sup>27</sup> Following this brand-new guideline, if Taiwan can adopt a practical policy this year and bid with the name of "Chinese Taipei" for observer status in the World Health Assembly (WHA), instead of the WHO or other international organizations only for sovereign countries, it is very likely to achieve a historic breakthrough in cross-Strait relations and lay down the first cornerstone for greater participation in international organizations.

After almost 40 years of military confrontation, the two sides have witnessed ever-growing civilian exchanges since November 1987. However, the security trust remains fragile mainly because of two interconnected dynamics: Taipei's persistent procurement of advanced weapons from the United States for defense; and Beijing's consistent refusal to give up the use of force as the last resort to unification. The mainland's increasing deployment of short-range ballistic missiles along the Taiwan Strait after Lee Teng-hui's visit to the United States has gradually become a focus of attention and target of criticism from both Taiwan and the United States. On the other hand, the provocative policies of the Taiwanese administrations and the staunch US support of arms sales strengthened Beijing's determination of military deterrence. All of these entangled interactions have caused in-depth enmity between the two sides.<sup>28</sup>

The security dilemma has become a great barrier for the development of cross-Strait relations that both sides are trying to overcome. For example, after President Hu proposed to "end hostility and reach peaceful agreements under the one China principle" in his report to the 17<sup>th</sup> National Congress of CPC, Ma also responded that consultation would be held on a peace accord. But Ma has said that such a talk will not be started while more than 1,000 missiles aimed at Taiwan remain in place.<sup>29</sup> Still, it is progress for both sides to raise the issue of peace agreement negotiation, which requires a fundamental security mutual trust be established first.

In his December 31 speech, President Hu called on the two sides to step up contacts and exchanges on military issues "at an appropriate time" and talk about a military security mechanism of mutual trust, in a bid to stabilize cross-Strait relations and ease concerns about military security.<sup>30</sup> This is the first time the mainland has sent out a clear message on the issue. In order to break through the security dilemma, it seems the mainland is mulling taking the first step. Sources from Hong Kong and Taipei both indicate that the mainland is considering the possible redeployment of missiles and planning to gradually decrease the number of SRBMs targeting Taiwan.<sup>31</sup> However, it is believed that the decision is hard to make and consensus hard to reach, especially against the background of contrary gestures from Taiwan. For example, Ma has repeated several times that he will invest in Taiwan's defense and continue with reasonable arms procurements. In May 2008, Chen Chao-min, Taipei's new defense minister, urged the United States to sell F-16C/D fighters and then declared publicly that Taiwan would continue to develop Hsiung Feng II E surface-to-surface cruise missiles, which can attack Shanghai and Hong Kong.<sup>32</sup> Even in response to the news about the possible redeployment of missiles, the spokeswoman of Taiwan's "Ministry of National Defense" said that removing missiles would be purely symbol-



ic, therefore Taiwan would not let down its guard or cut back on its defense.<sup>33</sup> At the same time, after the Bush administration approved an arms package worth as much as US\$6.4 billion last October, Taiwan has continued to ask for more advanced weapons. If President Obama agrees to sell Taiwan sensitive weapons, such as submarines and high-tech aircraft, it will strengthen the hawkish voices on the mainland, and thus make it harder for PRC leaders to adjust cross-Strait policy further. The coming arms sale may become a brake for the growth of mutual military trust. However, so long as the mainland can stick to the “people first” guideline and follow the path of peaceful development, all of the thorny challenges could be resolved by the mutual effort and further policy adjustments from both sides across the Strait. 🌐

## NOTES

<sup>1</sup> The 16-characters guideline for cross-Strait relations is the two sides should “build mutual trust, lay aside differences, seek consensus while shelving differences, and create a win-win situation”.

<sup>2</sup> “Backgrounder: Milestones in cross-Straits relations over 30 years,” 31 Dec. 2008, *Xinhua*, [http://news.xinhuanet.com/english/2008-12/31/content\\_10587408.htm](http://news.xinhuanet.com/english/2008-12/31/content_10587408.htm)

<sup>3</sup> “President Hu offers six proposals for peaceful development of cross-Strait relationship,” *Xinhua*, Dec.31, 2008, [http://news.xinhuanet.com/english/2008-12/31/content\\_10585635.htm](http://news.xinhuanet.com/english/2008-12/31/content_10585635.htm)

<sup>4</sup> “President Hu offers six proposals.”

<sup>5</sup> The “1992 consensus” is that “both sides of the (Taiwan) Strait adhere to the ‘one China’ principle” and orally explain the principle respectively, that is, “One China, Respective Interpretation”. See: “Backgrounder: 1992 Consensus on one-China principle,” *Xinhua*, Oct. 13, 2004, [http://news.xinhuanet.com/english/2005-03/04/content\\_2650049.htm](http://news.xinhuanet.com/english/2005-03/04/content_2650049.htm)

<sup>6</sup> “Chinese, US Presidents Hold Telephone Talks on Taiwan, Tibet,” *Xinhua*, Mar. 26. 2008.

<sup>7</sup> Mainland Affairs Office Press Release, “President Ma Received the Interview of Organización Editorial Mexicana Chairman Mr. Mario Vázquez Raña,” Sept. 3, 2008, <http://www.mac.gov.tw/gb/index1.htm>

<sup>8</sup> Ma Ying-jeou, “Taiwan’s Renaissance,” *The China Post*, May 21, 2008, <http://www.chinapost.com.tw/taiwan/national/national%20news/2008/05/21/157332/Full-text.htm>

<sup>9</sup> Hu Jintao, “The 17<sup>th</sup> Party Congress Political Report,” *Xinhua*, Oct. 24, 2007, [http://www.china.com.cn/17da/2007-10/24/content\\_9119449.htm](http://www.china.com.cn/17da/2007-10/24/content_9119449.htm)

<sup>10</sup> Unfortunately, no DPP leaders came to the ceremony because of their political and ideological stands. Such a visit will make them be criticized as “pro-China” and put them in a very embarrassing situation in domestic politics.

<sup>11</sup> “President Hu offers six proposals.”

<sup>12</sup> “Wang Yi Declared 10 Preferential Policy towards Taiwan Facing International Financial Crisis,” [http://www.gwytb.gov.cn/gzyw/gzyw1.asp?gzyw\\_m\\_id=1806](http://www.gwytb.gov.cn/gzyw/gzyw1.asp?gzyw_m_id=1806)

<sup>13</sup> “The 17<sup>th</sup> Party Congress Political Report.”

<sup>14</sup> Ibid.

<sup>15</sup> Huang Qinglong, “Richard Bush’s View: Economic Exchanges Are Not Enough, Real Problems Ahead,” *China Times*, Dec. 8, 2008.

<sup>16</sup> Richard Bush, “The Balancing Act Across the Strait,” *PacNet*, No. 34, June 20, 2008, p.1.

<sup>17</sup> Mainland Affairs Council Press Release, “President Ma Received the Interview of Yomiuri,” June 4, 2008, <http://www.mac.gov.tw/gb/index1.htm>

<sup>18</sup> Wang Yi, "Prospects of Peaceful Development in Cross-Strait Relations," Dec. 31, 2008, [http://www.gwywb.gov.cn/gzyw/gzyw1.asp?gzyw\\_m\\_id=1834](http://www.gwywb.gov.cn/gzyw/gzyw1.asp?gzyw_m_id=1834)

<sup>19</sup> In Boao Forum 2008, Vincent Siew, representing Ma Ying-jeou, also advocated a 16-character guideline for cross-Strait relations, that is, "look reality in the face, open a new epoch, lay down difference, strive for win-win situation.

<sup>20</sup> CECA is a kind of economic cooperation model situated between the state-to-state Free Trade Agreement and the Closer Economic Partnership Agreement reached by mainland China with Hong Kong and Macau.

<sup>21</sup> "Mainland, Taiwan Hold Economic, Cultural Forum," *Xinhua*, Dec.20, 2008, [http://news.xinhuanet.com/english/2008-12/20/content\\_10529915.htm](http://news.xinhuanet.com/english/2008-12/20/content_10529915.htm)

<sup>22</sup> "President Hu offers six proposals."

<sup>23</sup> Ma's interview by Associated Press on May 15, 2008. Quoted "The Balancing Act Across the Strait."

<sup>24</sup> "President Hu offers six proposals."

<sup>25</sup> David Brown, "Dialogue Resumes in Relaxed Atmosphere," *Comparative Connections*, July, 2008, p.1.

<sup>26</sup> "Taiwan Affairs Office: Find a Resolution for Taiwan's Participation of WHO through Cross-Strait Negotiation," Dec. 17, 2008, See: [http://www.chinataiwan.org/wxzl/gtbwx/200812/t20081218\\_800397.htm](http://www.chinataiwan.org/wxzl/gtbwx/200812/t20081218_800397.htm)

<sup>27</sup> "The 17<sup>th</sup> Party Congress Political Report."

<sup>28</sup> Bonnie Glaser and Brad Glosserman, "Promoting Confidence Building Across the Taiwan Strait," See: [http://www.csis.org/media/csis/pubs/080910\\_glaser\\_promotingconfidence\\_web.pdf](http://www.csis.org/media/csis/pubs/080910_glaser_promotingconfidence_web.pdf)

<sup>29</sup> Bonnie Glaser, "If Not Now, When? Will China Seize the Opportunity to Improve Cross-Strait Relations?" *PacNet*, No. 24, p.2.

<sup>30</sup> "President Hu offers six proposals."

<sup>31</sup> "Taipei Said Mainland May Decrease Missiles Targeting Taiwan," *Cankao Xiaoxi*, Jan.5, 2009, p.8.

<sup>32</sup> On Sept.1, 2008, Taipei changed its position by declaring it will "stop to develop" the Hsiung Feng missile, but will continue the production.

<sup>33</sup> Rich Chang, "MND unmoved by PRC Missile Report," Jan 04, 2009, *Taipei Times*, p.1.

# China and Taiwan: Signs of Change in Cross- Strait Relations

*Steven M. Goldstein*

**H**u Jintao's Dec. 31, 2008 speech is a major document with potentially very important policy consequences. During recent discussions in Beijing one prominent observer of cross-Strait relations referred to it as an "action oriented" and "forward looking" document, while another noted that it was an approach that required "jiefang sixiang" ("liberated thinking"). Although, especially in the first part of the speech, there is the usual obeisance to contributions of past leaders and expressions of determination to hold on to the principled policies of the past, there are also tantalizing hints of a more flexible stance on cross-Strait issues that make this speech worthy of closer scrutiny.

In his discussion, Professor Xin captures much of the spirit as well as the policy specifics of what he refers to as "new thought." However, there are also places where one could draw important distinctions or elaborate further on potentially significant initiatives contained in the speech; some of which were highlighted in discussions focusing on this document in Beijing and Taipei.

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At the beginning of the essay, Xin Qiang notes that the mainland precondition that had stalled cross-Strait talks since the mid-1990s was met when President Ma Ying-jeou's acknowledged the existence of one China including Taiwan by his "acceptance of the 1992 consensus" - the formula that made possible the historic Singapore talks of 1993 and, apparently, has once again broken the deadlock on cross-Strait talks that existed since the mid-1990s.

However, this is not quite the case. The obstacle to renewing talks was not the Kuomintang (KMT)'s "acceptance" of the concept; it was that the previous Democratic Progressive Party (DPP) administration had denied its existence. The KMT had long accepted the idea of a 1992 consensus as it defined it. What has become apparent in the past year has been the willingness of both sides to ignore or finesse basic differences regarding the definition of this consensus and its relationship to the "one China issue" that, if articulated, might well have made renewed talks less likely.

Unfortunately, in his essay Xin misses the subtlety of this implicit and silent compromise. In a footnote he writes: "The '1992 consensus' is that 'both sides of the (Taiwan) Strait adhere to the 'one China principle' and orally explain the principle respectively, that is, '*One China Respective Interpretation*'" (emphasis added).

In fact, with the addition of the italicized phrase, this statement reflects the Taiwanese - and specifically the KMT - definition of the substance of the 1992 consensus and does not appear in the news report Xin cites. The phrase *gezi biaoshu* (different interpretations) is the gloss that President Ma has insisted was the essence of the 1992 agreement. It is a vital part of his administration's position because, when fully elaborated, it holds to the view that the "Republic of China" and not "The People's Republic of China" is the "one China" to which reference is made by the Taiwan side.

This, of course, is impossible for Beijing to accept. In the past, Chinese President Hu Jintao has spoken of the possibility of renewing cross-Strait talks on the basis of the 1992 consensus. However, this has been within the context of the mainland's own definition that omitted the phrase while insisting that both sides only agreed to the "one China principle" to be expressed orally - but not to be defined separately.

However, as Professor Xin notes, in March of 2008, there was an English language report by the official news agency, *Xinhua*, that Hu, in a phone conversation with former President George W. Bush, added the phrase that elicits different interpretations (only for it to be subsequently omitted in a later Chinese version). Still, President Ma has chosen to cite the English version, which is closer to KMT thinking, as his justification for the talks. The mainland has neither contradicted Ma, nor used the phrase that is acceptable to Taiwan again.

All of this suggests an unstated, yet important, compromise on the issue that has made possible the renewed talks (and is validated in Hu's Dec. 31, 2008 speech) that both sides will simply refer to the "92 consensus" ("jiu erh gongshi") with no elaboration and consider that as sufficient to get cross-Strait talks started again. Both

realize that to elaborate would simply divide the two sides once again. As in 1993, the eagerness of each side to get on with the business of talks between designated organizations has momentarily trumped any further bickering over the central issue that divides them, i.e., the question of how to define sovereignty. Interestingly, the same mainland official who noted the importance of Ma's use of the term for restarting talks also recognized that it could not be the basis for a final solution of the "one China" issue; that would be a problem to be negotiated in the future.

How might the issue of sovereignty finally be resolved? There is one suggestion of flexibility in this speech when President Hu mentions the need to reach a "common understanding and united position on safeguarding the one China framework ('kuangjia') - which is an issue of principle." Hu does not say the "one China Principle" ("yige zhongguo yuanze") as translated in Xin's article.

This is a potentially very important distinction that is missed by such a mistranslation. As one informed commentator in Beijing suggested when asked about the difference in phraseology, the latter term is the Chinese position. By speaking of a "one China framework," Hu was perhaps hinting that a "consensual definition of one China" could be discussed at some future date. It was additionally characterized by interlocutors in Beijing as a "flexible and practical" approach to reaching a final resolution on the issue of sovereignty, which might presumably provide the basis for unification. Yet it should be noted that later on in the speech, Hu does speak of negotiations based on the "one China principle" and there can be no doubt that the ultimate aim of reunification remains a prominent theme in his speech.

In short, in respect to the two ends of Beijing's timeline for resolving the Taiwan issue - the present restarting of talks and Taiwan's eventual return to the mainland in the future - this speech suggests some flexibility regarding the resolution of the core sovereignty issue. In the former instance, the mainland has been willing to accept ambiguity for the sake of resuming dialogue. In the latter case, it has signaled that when, in the distant future, a final resolution is worked out, there must be agreement on "one China," but what the definition of that "one China" will be is left open to be negotiated by the two sides at that time.

Nonetheless, despite the possible elasticity of the concept of a "one China framework," it is hard to imagine how, in the foreseeable future, both sides would be willing or politically able to work toward the kind of compromise on this latter issue that would be mutually acceptable. Thus, if progress is to be made in stabilizing cross-Strait relations short of unification, which could be argued as being the true focus of Hu's speech, it will have to be based on the current status quo of disputed sovereignty. This is a situation with which, as professor Xin notes, Hu clearly seems willing to live with.

Thus, Hu's reference in the security section of the speech to holding "practical exploratory discussions regarding the political relationship (between both sides) in the special circumstances" before reunification clearly suggests the willingness to ac-



cept the establishment of an intermediate relationship short of reunification where relations might move beyond the current indirect management by “unofficial organizations” designated by both sides. Moreover, in the course of this speech he suggests several areas where progress could be made - some of which appear to be direct responses to issues raised by Taipei.

For example, Hu speaks of enhancing economic relations through the negotiation of a “comprehensive economic cooperation agreement” and of exploring “practical ways in which the common development of the economies on the two sides of the strait can be linked with *xianjie* - the economic cooperation mechanisms of the Asia-Pacific area.” Similarly, responding to an issue raised by Ma in his inaugural address, Hu reiterated his earlier offer to negotiate a “peace agreement” (*xieyi*) and the possibility that the two sides might begin talks “to discuss the issue of establishing a mechanism of mutual trust regarding military security.”

Finally, there is the matter of international space, which is an issue that Ma Ying-jeou has put at the top of his agenda for cross-Strait relations. Hu does recognize its “importance” to the Taiwan people and speaks of “fair and reasonable arrangements” regarding “Taiwan’s participation in the activities of international organizations” that can be arrived at by “pragmatic consultation between the two sides of the strait” as long as it is “not under the premise of ‘two Chinas’ or ‘one China and one Taiwan’” - a standard that mainland interlocutors suggested provided wider latitude for participation by Taiwan.

Thus far, the discussion has emphasized elements of possible “new thinking” and subsequently the potential for improving cross-Strait relations within the current status quo that are contained in Hu Jintao’s speech of Dec. 31, 2008. However, it should also be noted that there is much in the speech - especially in the first half - that repeats the jargon and the tone of past statements. While one can argue that this is intended for a domestic audience, cloaking it in orthodoxy in order to legitimize a new initiative, it must also be acknowledged that it suggests the realistic political limits on the initiative.

Thus, it is not surprising that the Ma Ying-jeou administration has responded to this initiative with great caution, seeking elaborations on issues such as the economic agreement or the proposal for confidence building measures. While acknowledging the positive tone of the speech, those who manage cross-Strait relations in Taipei were cautious in overestimating the potential for change in the speech and, most of all, were looking for actions that would give substance to the conciliatory words, which is ironically the mirror image of the stance that Beijing took in regard to the Chen Shuibian administration.

And here is where the World Health Assembly issue has taken on great significance. As an international body that can invite nonstate actors to take part in its proceedings, it has become, in Taipei’s view, a logical place where China can show its goodwill by not obstructing the island’s participation. Officials in Taiwan have called

Beijing's actions on this issue the "test" of its intentions and an implicit first indication of the actual flexibility present in the new stance by Hu.

As Professor Xin notes in his essay, while Hu speaks of flexibility on the international space issue, the Chinese position is one of extreme caution. The concern that Xin mentions, and which is most frequently heard on the mainland, is that concessions given to the present KMT might well be used to promote even greater international space should the DPP return to power and to the promotion of their independence agenda. At the time of this writing, it is unclear how this issue will be resolved. However, how it is resolved will be important for what it demonstrates about the political complexities of cross-strait relations in the environment created by the Hu initiative and Ma's election.

Since 2005, Hu Jintao has taken the initiative in seeking to move cross-strait relations forward. Although there are no outward signs of opposition to this speech, the concerns regarding the future ramifications of conciliatory steps at the present time suggest the political risks involved in moving too quickly in respect to Taiwan policy. Yet, if Hu is too restrained in giving substance to the more innovative parts of his speech, he runs the danger of creating a self-fulfilling prophecy as lack of progress in Ma's mainland policy brings voter disillusionment in Taiwan and the return of the DPP.

Beijing must also recognize the limits to the kinds of initiatives that Ma can pursue. Despite his determination to improve cross-strait relations in his first term, Ma suffers from low favorability ratings and, more significantly, even though the cross-strait agreements reached thus far have proven highly popular in Taiwan, a significant portion of the population suspects Ma has a commitment to maintaining Taiwan's separate identity.

Beijing thus cannot demand too much of the Ma administration. If it does, it will be rebuffed - with consequences for the stability of cross-strait relations and possibly Hu's political standing. One example of such a set of circumstances is the issue of American arms sales. Professor Xin suggests at the end of his essay that this issue could significantly slow the improvement of relations advocated in Hu's speech. Doubtless some in the PRC view it that way. Yet, the maintenance of the relationship with the United States and the purchase of arms are essential factors that make it politically possible for the Ma administration to make any response to mainland initiatives.

In sum, it seems obvious that Hu Jintao's speech is an indication of the fact that a window of opportunity has opened that makes possible new initiatives to improve cross-strait relations. One indication of this, reflected in the speech, is that both sides have used the "1992 consensus" to finesse the issue of defining "one China" for at least the purposes of resuming stalled talks. Moreover, although the speech suggests that Hu has not abandoned the ultimate goal of reunification, as Professor Xin notes, he does seem prepared not only to accept, but also to expand upon, an interim

stage of status quo characterized by “neither independence nor reunification.”

However, the precise contours of this changed relationship suggested in Hu Jintao’s “six points” certainly cannot be predicted at this point. They will only become apparent when they are fleshed out and ambiguities are clarified through what will surely be difficult cross-strait negotiations on the specifics of such issues as economic cooperation, international space and confidence-building measures. These negotiations will be made even more difficult by the continued differences between the two sides on fundamental issues, as well as the domestic political context of the talks on both sides. Yet they are necessary if this moment for defusing a half-century of conflict is not to be lost. ☪

# Old Thinking Dominates “New Thinking”

*Alan M. Wachman*

**T**he promise of improvements in the cross-Taiwan Strait relationship heralded by Hu Jintao’s speech of Dec. 31, 2008 is most welcome. After all, any diminishment in cross-Strait friction is preferable to the frosty stand-off, threats and jingoism that have prevailed since 1995. However, before one concludes that Hu Jintao’s speech offers “new thinking” that signals a substantial step towards the resolution of the cross-Strait controversy, it is worth considering the persistence of old thinking that remains an obstacle to any comprehensive settlement.

One does not wish to throw the diplomatic baby out with the rhetorical bathwater by denying the possibilities proposed in President Hu Jintao’s speech. After all, the “peaceful development” of cross-Taiwan Strait relations may, indeed, be an improve-

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ment over the policy of "peaceful reunification" that has been Beijing's stated ambition since 1979. However, looking back over the past 30 years, even though no blood was spilled between Beijing and Taipei, the strategy of "peaceful unification" has been undermined by a sequence of less-than-peaceful tactics and threats. Although kindly intentions are fine, they should not be seen as predictors of state action.

One can certainly hope that Beijing will act on Hu's ambition to embark on a process of truly peaceful development across the Strait. The cumulative effect of a new, non-threatening, mutually beneficial approach to Taiwan will certainly help to overcome the cumulative effect of the competitive and often bellicose posture of the past three decades. As any observer of protracted negotiations will note, concessions that address sources of friction can have highly salutary effects on how contending parties view each other. Concessions can establish or enhance a sense of trust, and help clear the way to address core problems. Perhaps Hu Jintao's "Six Points" will accomplish this.

That said, the notion that his speech reveals some essential "new thinking" about Taiwan overlooks the persistence of some rather "old thinking" that stands in the way of any real progress toward a resolution of the outstanding issues between Beijing and Taipei.

The initiative that Hu may have intended to reveal is undermined in the opening paragraphs of the speech. That is, the prologue articulates certain premises - or principles - on which rest the "Six Points" and which are threaded throughout the speech. However, these premises compete with and threaten to negate the very "news" that the PRC leadership may have believed would be welcome as "new thinking."

First, there is the persistence of Beijing's habitual patronizing of Taiwan, revealed by a tone of authoritarian paternalism. Continuing to employ the term "compatriots" with reference to the people of Taiwan may play well within China, but it conveys the same condescension that Beijing visits on other national minorities - many of whom are cast as costumed exotica, smiling while suppressing grievances, and supposedly providing testimony to the apparent magnanimity of the PRC and the absence of Han chauvinism. It appears Beijing believes that by addressing the people of Taiwan as compatriots (*tongbao*) it can will them to feel as if they are, indeed, brethren born of the same forebears or citizens of the same state. Thus far, precious few people of Taiwan have expressed any sense of society with an entity that Beijing dubs "one China," to say nothing of the PRC, itself.

Secondly, Hu reiterates an intention to "respect the status quo of Taiwan and the opinions of people in all walks of life there and adopt fair and reasonable policies and measures, so as not to cause the people of Taiwan any losses," an assertion first articulated in the 1979 "Message to Compatriots on Taiwan." The problem, though, is that Beijing views the "status quo of Taiwan" as part of China. Whatever the case may have been in 1949, people in Taiwan today regard the island as an autonomous state. While many are agnostic about its long-term relationship to China, nearly



none wish to see it as part of the PRC. Moreover, pleasant though the thought is that the PRC will respect the “opinions of people in all walks of life” on Taiwan, Beijing has been blatant in its determination to respect only opinions that are favorable and with which it agrees. It has vilified individuals and groups with which it disagrees - those Beijing disparages as “separatists.” If Beijing were genuinely to respect the status quo of Taiwan, these people would more properly be seen as “opponents of unification,” not separatists, because they seek to preserve indefinitely the condition of autonomy that Taiwan has enjoyed since 1949.

By underscoring Beijing’s commitment to the “30-year practice” of managing relations with Taiwan according to the postulates of Deng Xiaoping and Jiang Zemin, President Hu presents the six points he intends as progress in terminology that people in Taiwan are likely to view as toxic.

Chief among the verbal cues that “old thinking” prevails is the litany of principles that Hu states must be preserved to “advance the development of cross-Strait relations.” The list begins with the crowd-displeaser, “what counts the most is to adhere to the guiding principle of ‘peaceful reunification; one country, two systems.’” If Beijing should have learned anything at all from the past 30 years, it is that the “one country, two systems” formula has little currency in Taiwan.

Perhaps, Beijing is so accustomed to its rhetorical legerdemain being endorsed at home that it is unaware of how its words are perceived abroad. For instance, what is one to make of the statement that “[a]lthough the mainland and Taiwan have not yet been reunified since 1949, it is not a state of division of the Chinese territory and sovereignty”? Beijing would have people believe that the territory and sovereignty of “one China” has existed and does exist, despite the failure to establish a single political entity that governs it.

Unification, then, is not a territorial ambition or one that impinges on sovereignty, but a political one. If that were the case, one is inclined to ask: Why does Beijing consistently reject comparisons of China’s case to that of other divided states, such as Korea and, earlier, Germany? Indeed, if China is not divided, why does Beijing continue to seek unification? If the sovereignty and territorial integrity of China is not affected by the political entities that govern there, why not just continue asserting the existence of “one China” and desist in efforts to impel, or compel, Taiwan to acquiesce to Beijing’s wishes? Indeed, if “one China” exists despite divisions, why has Beijing labored so to ensure that Tibet and Xinjiang remain within the fold?

The effort to hold up “one China” as an entity that has not been divided in the period since 1949 reveals either exceptional self-delusion on the part of the PRC leadership, or potentially catastrophic cynicism. It is as if the PRC believes that it can make true what it wishes to be true simply by stating it.

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*Beijing seems to believe it can wordsmith its way to peaceful unification.*

Consider Hu's assertion that the condition inhering since 1949 should not be seen as "division" but as a "state of political antagonism that is a legacy of the Chinese civil war." Thus stated, one would have to imagine that Chiang Kai-shek and his minions were still alive and ruling from Taipei. One would have to overlook the sentiments of attachment to the island that Chiang's authoritarianism spurred among the people of Taiwan, resulting in their identification with the island itself as their national home, not some entity Beijing conceives of as "one China." The "old thinking" in this "new thinking" is that one can per force of political rhetoric will away the past 60 years.

Hu states, "[f]or the two sides of the Strait to return to unity will not be the recreation of sovereignty and territory, but an end to political antagonism." In other words, "one China" has always existed. Only "antagonism" impedes the establishment of a unified political entity to govern it.

This is folly. Most people on Taiwan bear no antagonism toward China or to amicable interaction with the mainland. Rather, they resist Beijing's determination to undermine Taiwan's autonomy. If Beijing was genuinely prepared for "new thinking" about cross-Taiwan Strait relations, one can easily imagine how it could gradually engineer a mutually secure and collaborative relationship with the island that would have the character of the US relationship to Canada.

Some may dismiss the prologue in Hu Jintao's speech as obligatory boilerplate verbiage - a ritual paean to past leaders and a reassuring nod to the so-called "hardliners" that Hu is not changing anything that really matters. To make substantial progress toward a peaceful settlement of the cross-Strait controversy, though, "hardliners" on both sides must be challenged by more forward-thinking statesmen. Moreover, populaces on both sides of the Strait must be prepared for compromises on those elements that have been enshrined as core principles. Leaders will have to propose, and persuade their populace to accept, unpopular compromise in the interest of avoiding worse: the consequences of conflict. Unfortunately, the speech by Hu begins by placating those invested in "old thinking."

Hu is not alone in preserving "old thinking." Across the Taiwan Strait, President Ma Ying-jeou has repeatedly asserted the sovereignty of the ROC and expressed continued interest in greater "international space" - read, acceptance - of Taiwan. Although Chen Shui-bian has been brought low, it is not because of his beliefs that Taiwan is a separate state. Some may judge his methods as crude, but his views about the status of Taiwan have not been disparaged. After all, Ma, in his new year's address, said "[a]s we deepen our ties with the mainland, we will aggressively seek to maintain our sovereignty and dignity."<sup>1</sup> He has affirmed a policy of "no unification, no independence, no use of force." This amounts to a genteel assertion that Taiwan is a sovereign and autonomous state that has no intention to adjust its status, even while it hopes for greater comity with the PRC. Yet, instead of just comity and security, an adjustment of status is precisely what Beijing's "one China" policy seeks.

To achieve that end, Beijing seems to believe it can wordsmith its way to peaceful unification. If the right people on Taiwan spout the right words with the right degree of sincerity, the obstacles can be overcome. Whether it is “one China” or the “1992 consensus,” this is an illusion.

The alternation in power by parties on Taiwan that have rather different styles is now a fixture in the island’s political landscape. As such, one would think that Beijing would focus more on evidence of popular sentiment that manifests itself at election time than the differences between the parties. PRC leaders will have to contend with the fact that on matters of autonomy, sovereignty and international space, there may be greater commonality than differences between those who vote “green” and those who vote “blue.”

Hu Jintao’s “Six Points” are not without merit. Resolution to long-standing problems can emerge through incremental steps where the disputing parties find matters on which they can agree, prune the issues about which they disagree and, in the process, build confidence, trust and constituencies for deeper compromise. One would like to believe that Hu’s speech marks the unveiling of such a process.

A comprehensive resolution, however, is not the only outcome that results from incremental efforts to establish common ground. Sometimes, disputants “pocket” gains made in compromises on peripheral matters of disagreement but have no intention of budging on the core issues that lay at the foundation of their controversy. In protracted disputes, the passage from leadership of one generation may bring with it a new cadre of leaders with greater flexibility and interest in settlement. The compromises of the past may clear out the underbrush, eliminating proximate causes for hostility with the adversary and offering new leaders a foundation on which to build toward an acceptable resolution.

However, the passage of time may also bring to power leaders with new reasons to cling to “old thinking.” Sometimes, parties to disputes adhere to narratives founded on conditions that may no longer pertain. Hence, the PRC states that China is not divided and reiterates endlessly the view that Taiwan is part of China. Popular expectations in the PRC have been conditioned for so long on these assertions that Beijing may believe that any effort to alter its stance would smack into a buzz-saw of nationalistic opprobrium.

So, Hu Jintao offers nothing new on the issue that matters most: sovereignty. The longer the two sides avoid addressing this, the greater the likelihood that animosities and grievances will continue to accumulate on both sides of the Taiwan Strait, reinforcing intransigence on what are seen as inviolable principles. Even now, Ma Ying-jeou confronts a daily barrage of brickbats lobbed by opponents who fear his openness to compromise with Beijing may one day be viewed as the ill-conceived blunder of a weak and naïve leader.

Pandas, postal links, direct shipping and flights, as well as salvos of encouraging words are all welcome alternatives to sharp-elbowed diplomacy, denunciations

of national leaders, and the persistent menace of missiles. The question is whether a better atmosphere can overcome attachment to principles. It is the rigid embrace of those very principles - unity, as conceived by Beijing, and autonomy, as viewed in Taipei - that will have to loosen for a peaceful resolution to emerge. The PRC will have to redefine its concept of unity and Taiwan will have to rethink autonomy for a durable and peaceful solution to rise from the words of Hu's speech. Simply put, a failure of either side to reconsider what is seen as inviolable will doom any prospect of peaceful resolution. To be sure, a forced or coerced resolution is easily imagined, but both sides claim the desire to avoid that contingency.

There is a determination in Beijing to cast Hu Jintao's speech - and the change in posture that it is said to reflect - as groundbreaking, as something momentous. The Cross-Strait Relations Research Centre of the CCP Central Committee Taiwan Affairs Office and the All-China Taiwan Affairs Research Association held a seminar to discuss the speech. The fact that the study session was held may indicate that Hu's speech has been classified as establishing policy and rhetorical guidelines. One reads that participants "unanimously said that the important speech ... bears major guiding significance on doing a good job in our work towards Taiwan in the new situation and opening up a new feature for the peaceful development of Cross-Strait relations."<sup>2</sup> Wang Yi, current director of the Taiwan Affairs Office, credited the speech with "theoretical significance," labeling it an "important speech" that expresses "the central authorities' scientific judgment on the development and changes in Taiwan's situation."<sup>3</sup>

Invoking the term "scientific judgment" with respect to the adjusted official stance toward Taiwan is noteworthy. It is reminiscent of the language used to extol the insights of Mao Zedong, Deng Xiaoping and Jiang Zemin - placing their judgment beyond dispute. It implies that the conclusions reached were not simply the outgrowth of sentiment or parochialism, but of the application of rigorous discernment. Before one accepts that characterization, or the idea that Hu's speech will hasten a resolution of the cross-Taiwan Strait controversy, it would be prudent to look not only at what Hu's speech does seek to change, but at what the speech reveals about those attitudes and habits that do not appear to have changed at all. ☹

### Notes

<sup>1</sup> Associated Press, "Leader says Taiwan hopes to bring changes in China," *Worldstream*, January 1, 2009, <http://www.lexis-nexis.com/>.

<sup>2</sup> Chen Binhua and Li Hanfang, "Wang Yi Says That There Is a Need To Comprehensively Implement the Spirit of General Secretary Hu Jintao's Important Speech in the Work Towards Taiwan," reproduced as "China's Taiwan Affairs Office director on importance of Hu Jintao's speech," BBC Monitoring Asia Pacific – Political, BBC Worldwide Monitoring January 3, 2009, <http://www.lexis-nexis.com/>.

<sup>3</sup> Wang Pan, "Chen Yunlin Meets With the SEF Group Led by Chiang Pin-kung To Inspect Taiwan-Funded Enterprises," reproduced as "Chinese negotiator meets Taiwan counterpart in Shenzhen," January 7, 2009, BBC Monitoring Asia Pacific, January 8, 2009; "Thoroughly Study and Implement the Spirit of General Secretary Hu Jintao's Important Speech, Strive To Create a New Situation in the Peaceful Development of Cross-Strait Relations; Forum on Taiwan-Related Work Held in Beijing," reproduced as "China's Jia Qinglin urges implementing Hu Jintao's speech on cross-strait ties," Xinhua, BBC Monitoring Asia Pacific, February 8, 2009, <http://www.lexis-nexis.com/>.





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# Nuclear No-First-Use Revisited

*Rong Yu & Peng Guangqian*

The year 1950 witnessed the first popular outcry against the use of nuclear weapons with the meeting of the World Council of Peace in Stockholm. The famous Stockholm Appeal proclaimed that any government which was the first to use atomic weapons against any other country would be committing a crime against humanity and should be regarded as a war criminal.<sup>1</sup> Over 500 million signatures were eventually gathered in support of the appeal.<sup>2</sup> Since then, demand for criminalization of the use of nuclear weapons has been repeatedly voiced in various forms by world peace movements and anti-nuclear campaigns alike. A declaratory no-first-use (NFU) of nuclear weapons policy has been considered to be an important first step towards a comprehensive ban and complete elimination of nuclear weapons.<sup>3</sup>

To date, China alone of the five declared nuclear powers holds to an unconditional NFU policy. The former Soviet Union declared such a policy in 1982, but its successor, the Russian Federation, rescinded it in 1995. India has also committed to NFU. However, it is not recognized as a legitimate nuclear weapons state. The Democratic People's Republic of Korea (DPRK) also announced an unconditional NFU policy immediately after their alleged nuclear test, despite the fact that the success of the test remains in question.

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China has actively pushed for a multilateral NFU treaty among all nuclear weapons states. In 1994, at the 49th General Assembly of the United Nations, China officially briefed the United States, Russia, the United Kingdom and France on the draft “Mutual No-First-Use of Nuclear Weapons Treaty,” while strongly urging the five states to negotiate this issue.<sup>4</sup> China’s diplomatic efforts have proven to be futile, however, with the only tangible fruit being a joint Russia-China pledge not to target or use nuclear weapons first against each other.<sup>5</sup>

After almost 60 years since the first call for NFU, little progress has been made. A universal international regime remains elusive. Why is a simple pledge so hard to realize even when the whole world wishes it? Where do the impediments lie? Is there any hope at all of overcoming these problems? Historical factors as well as current obstacles shed light on the failures to date and the prospects ahead.

### BARRIERS TO CHANGE

First, some nuclear weapons states with relatively weaker conventional power are unwilling to adopt the NFU policy. For nuclear states that are at a disadvantage in traditional warfare, adopting an NFU policy means accepting certain security risks. There is the possibility that the adversary may eliminate the weaker state’s nuclear arsenal with a disarming first strike. Moreover, in the case of conflict, the weaker side would be forfeiting the use of nuclear weapons as a “force multiplier” to make up for its deficiency in conventional forces. Thus, an NFU pledge could make a country look more vulnerable to adversaries.

During the Cold War, both sides rejected adopting an NFU policy based upon the above rationale. At the onset of the Cold War, when the Soviet bloc and Western countries faced each other in Europe, Soviet conventional power far exceeded that of NATO. Therefore, in MC 14/2, the strategic concept approved by the North Atlantic Council in 1957, the NATO allies explicitly promoted taking “the initiative” in employing nuclear arms in case of a Soviet invasion:

Since NATO would be unable to prevent the rapid overrunning of Europe unless NATO immediately employed nuclear weapons both strategically and tactically, we must be prepared to take the initiative in their use... In case of general war, therefore, NATO defense depends upon an immediate exploitation of our nuclear capability, whether or not the Soviets employ nuclear weapons.<sup>6</sup>

In the early 1980s, the Soviet Union not only kept its conventional superiority in Europe, but also gained the advantage with its nuclear arsenal. As a result, the Soviets made a dramatic about-face in policy and proclaimed an NFU pledge in 1982.<sup>7</sup> The pledge was never taken seriously by the West. However, Russia took the promise seriously enough to formally revoke it in 1995. By that time, after the collapse of the Soviet Union and the end of the Cold War, Russia was mired in economic, political and social turmoil. The Western world was not as economically generous as the Russians expected, nor did they count Russia as a geopolitical equal anymore. In the meantime, Russia’s political transformation resulted in the drastic decline of its military power in terms of equipment, morale, discipline

and management. Its conventional force declined to such an extent that it was no longer superior to that of NATO. Its nuclear force, though also suffering from underfunding, mismanagement and high personnel turnover, was the only reliable pillar for its major power status. The expansion of NATO squeezed Russia's strategic buffer zone and its national interests. To alleviate the growing pressure on its military, Russia declared in 1995 that it would revoke its NFU pledge and rely more heavily on its nuclear forces for its security imperatives and major power status.<sup>8</sup> This was a savage blow to the nuclear disarmament movement. But, despite thinking to the contrary, it was also a setback to some of the Western countries who stress their unilateral absolute security.

Other countries have refused to curb their threatening nuclear dominance out of arrogance and self-centeredness. By the early 1990s, the United States had won the Cold War and become the only remaining superpower by all measurements: economy, ideology and military power. No other country could pose a major threat to its security and interests any longer. At the same time, the arms control and disarmament movement saw major breakthroughs with the signing of a series of nuclear arms control accords, including the Strategic Arms Reduction Treaty (START I). For the first time, the dawn of a nuclear-free world seemed within reach, and voices for an NFU treaty increased. However, the United States refused to put any limit on its military capability. Not only did it adamantly refuse to adopt NFU, it expanded the role of nuclear weapons in its defense policy. In addition to their traditional roles, Washington now employs nuclear weapons to deter attacks from other weapons of mass destruction, as well as terrorist attacks and threats from the so-called "rogue states."<sup>9</sup> This has, in effect, lowered the threshold for the use of nuclear weapons and dealt a blow to the international nuclear arms disarmament movement. NATO's disposition towards an NFU policy followed closely to that of the United States. Though Germany raised the idea of altering nuclear policy, it was rejected repeatedly by the other NATO countries.<sup>10</sup> Thus, the window of opportunity was missed. This attitude prompted many countries at odds with American hegemony to seek weapons of mass destruction out of fear of US intentions, as seen in the cases of North Korea and Iran.

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*Instead of diminishing the role of nuclear weapons, some countries have sought to increase their role in conflicts.*

Another challenge to the NFU movement is that some nuclear powers have invested so heavily in the first-use option that the sunk cost has become a barrier to changing course. In fact, instead of diminishing the role of nuclear weapons, some nuclear countries have sought to increase their role in conflicts. The United States, for instance, added the role of deterring terrorist attacks and other weapons of mass destruction for its nuclear weapons.<sup>11</sup> For these purposes, it is conceivable that tactical nuclear weapons would be the nuclear weapons of choice. Tactical nuclear weapons are usually of shorter range and smaller tonnage, deployed as artillery, landmin-

es, short-range nuclear and penetration nuclear bombs. These weapons are closely related to first-use policy, as they are designed for field use, and would be deployed close to front lines of conflict. Due to the uncertainty and risks facing the forward-deployed nuclear weapons, the authority to employ nuclear weapons will be commissioned to lower-level field commanders instead of being centrally controlled. Even if the authority still rests with high-level leaders, in time of crisis, the risk of error launch or unauthorized launch cannot be ruled out.<sup>12</sup>

In addition, the US Ballistic Missile Defense (BMD) system also makes it easier for the United States to use nuclear weapons first. In 2001, as a prelude to deploying the BMD system, Washington backed out of the Anti-Ballistic Missile (ABM) Treaty. This ironically reminded us of President Richard Nixon's words in 1972. When justifying the need to sign the ABM treaty, Nixon said that "If you have a shield, it is easier to use the sword."<sup>13</sup> Back then, in order to secure "mutually assured destruction" and establish a "balance of terror," the Soviet Union and the United States agreed to refrain from building a "shield" so that neither side could easily "use the sword." Today, with the gradual shaping of the American shield, offensive action is far easier. The rationale is simple. If the United States does not have foolproof confidence to erase the adversary's nuclear arsenal in a first strike, it will have to deliberate on the possibility of a counterattack. However, should the United States possess the strategic defense capabilities, its first strike would leave only a few nuclear weapons available for the adversary to launch a retaliatory counterattack, which would be within the capacity of its missile defense system to intercept; a second strike would then eliminate the remainder of the adversary's nuclear force. It is apparent that, with the BMD system, US decision-makers would be greatly emboldened when facing the choice of launching a pre-emptive or even preventative nuclear attack.

Therefore, for states that possess large numbers of tactical nuclear weapons and have established nuclear doctrines and postures tailored for first use of nuclear weapons, the cost invested may be highly prohibitive to considering alternative policies. A credible NFU pledge would require such states to make substantial changes to their first-use oriented arsenals, delegation of authority and force deployment. As a domestic player, the military-industrial complex involved in the development and production of nuclear weapons would be opposed to any decline in the role of nuclear weapons in national security strategy and would form an obstacle to NFU policy.

Although an NFU treaty is the hope of peace-loving people worldwide, no country would be willing to sacrifice its core security interests for moral high ground. At a time when most of the nuclear weapons states are pursuing first-use nuclear policies, the effectiveness of a unilateral NFU policy in safeguarding the state security is under increasing doubt. The gap between the need of safeguarding a credible level of state security and the reliable retaliatory capability of NFU policy is growing. For an NFU policy to take effect, a credible second-strike capability is a key condition. This means a state must have enough nuclear assets left to stage an effective retaliation after an adversary's first-use attack, discouraging impulsive, pre-emptive acts by its enemies.



For the nuclear force to survive an enemy's first strike, it must have a certain scale in quantity. However, in the contemporary nuclear situation, the states pledging NFU have very limited nuclear capability, while those retaining the first-use option enjoy indisputable nuclear superiority. In March 2006, a Foreign Affairs article, titled "The Rise of American Nuclear Supremacy," claimed that the nuclear impasse which lasted through the Cold War is now completely broken by American nuclear supremacy. The authors argued that the era of mutually assured destruction is coming to an end and the United States has the ability to eliminate the Russian nuclear arsenal in a single surprise first strike.<sup>14</sup> Although the argument in the article has been heavily disputed, especially by Chinese and Russian scholars, it nonetheless sounded the alarm for the other nuclear weapons states.

### DIFFICULT CHOICES

There are also uncertainties that plague states pledging NFU. Modern warfare is conducted amid an increasingly complicated environment, and definitively establishing whether the adversary has broken the nuclear threshold is not necessarily a straightforward issue. For instance, if the nuclear weapons of one warring party are attacked by the adversary's conventional weapons, resulting in nuclear radiation, nuclear contamination or even a nuclear explosion, could this be viewed as a nuclear first use? On the surface, this is merely a conventional attack, but in effect, its impact is little different than suffering a nuclear strike and incurring similarly heavy losses. In this case, conventional attack might also be seen as breaking the nuclear threshold, and the attacked party will find it difficult to refrain from a nuclear counterattack, which, in turn, will greatly increase the risks that either side launches a nuclear attack first.

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*NFU policy may conform to the rule of morality, but it does not necessarily conform to the law of survival.*

Alternatively, what if one state uses conventional weapons to attack the civilian nuclear facilities, also resulting in nuclear contamination, nuclear leakage, etc.? Though similar to the case discussed above, this issue is another step removed from the traditional concept of a nuclear attack. Due to the dual-use nature of nuclear technologies, nuclear safety is becoming more complicated. The world is increasingly faced with questions of whether to interpret the nuclear attack in a broader sense, perhaps expanding its hitherto narrower definition of nuclear attack to a more inclusive definition, including attack resulting in nuclear pollution or contamination.

Yet another ambiguous situation arises if an NFU state has reason to fear that an invading enemy will seize its nuclear arsenal. Under these circumstances, should a state adhere to its NFU pledge? Although not likely for big powers, this is not an implausible scenario for less powerful states. In modern local warfare and limited warfare, there are cases in which one state is invaded or occupied by another. In these situations, what is the wisest choice for the invaded party? Should it abandon its nuclear weapons to its adversary or abandon NFU?

What if there is an unintentional nuclear launch due to technical error? Should this also be considered a nuclear attack despite its inadvertent nature? This could arise from technical accidents, mistakes by personnel and misinformation. Although in terms of criminal law, there is a clear distinction in the penalties between intentional and unintentional acts, it is likely impossible to discern which type of act is the cause for nuclear attack. Rather, the logical reaction would be to assume intentional attack and respond accordingly. While this would trigger an escalation of crisis, even nuclear war, indecision in the face of impending nuclear attack would mean heavy losses. It could also be used as a stratagem by the adversary that uses “accidental launch” as a pretext to launch an intentional nuclear attack. Deciphering adversary intention would be fraught with difficulty and risk.

In case of a nuclear attack by new generation nuclear or conventional weapons, is it justified to stage a nuclear counterattack? This is an issue that has become urgent with the advent of new technologies such as neutron bombs, along with the miniaturization of strategic nuclear weapons, which are more accurate and easier to use in battlefield and thereby lower the nuclear threshold.

Conversely, in recent years, with the wider application of high-technology weaponry in the military sphere, the modern battlefield is undergoing an important and profound transformation. Some high-tech conventional weapons, when employed in the battlefield, will achieve a destructive power comparable to that of nuclear weapons, while avoiding the nuclear taboo and associated political risks of using nuclear weapons. There is a visible and growing asymmetry between a party armed with high-tech conventional weapons and the one who has a small number of nuclear weapons but suffers from an overall military inferiority. If the latter state abjures from using its limited nuclear force and its conventional force is not strong enough to deny the devastating attack, the only outcome is defeat and annihilation. If, on the other hand, the state uses its limited nuclear weapons as the last resort, there might be a chance for the state to survive. Although either path could lead to the annihilation of the state, at least theoretically, a first-use policy gives the state more choice in the outcome. NFU policy may conform to the rule of morality, but it does not necessarily conform to the law of survival. This is perhaps the most serious paradox facing an NFU policy.

Even after the above questions are answered satisfactorily, a state pursuing a unilateral NFU policy still needs to answer the following question. Having suffered a first strike from an adversary’s nuclear weapons, what is the appropriate time, method and scale of a nuclear counterattack? In selecting the timing for nuclear retaliation, is it better to launch on warning (LOW) or to launch under attack (LUA)? In general, the LOW option would be faster and more assured of a successful attack, but also more prone to launch errors caused by false alarms. In addition, as LOW requires the nuclear weapons to be on alert, the safety of nuclear weapons themselves would also be adversely affected. However, the LUA option would increase the risk of a devas-

tating first strike by the adversary, in which the attacked party might lose all of its nuclear weapons, denying it the capacity to strike back. Currently, the United States and Russia both have a LOW policy. With the development of modern technology, an advanced, reliable and precise long-range strategic warning system might be within reach for all nuclear weapons states. In that case, the choice between LOW and LUA will also be a dilemma facing NFU policy.

Whether the decision to launch is made on warning or on evidence of attack, the final factor that NFU states must calculate is the appropriate scale of counterattack. Is the objective to stage an equally damaging attack, a scaled escalation or jump right to maximum, indiscriminate vengeance? Which is more credible? This also presents a problem that is hard to resolve, the answer to which, however, would determine the size of the nuclear arsenal, nuclear doctrine and the nuclear posture, and hence, the credibility of the NFU policy.

#### FIRST-USE IS NO EASIER

The questions facing a unilateral NFU policy are tough ones and are hard to resolve satisfactorily, at least for the time being. First-use policy, however, is also at least equally, if not more unrealistic. For a nuclear state that also enjoys a clear conventional superiority over a non-nuclear state, using nuclear weapons on the latter in a time of a conflict would incur a formidable political toll. Indeed, after the first nuclear bombardment over Japan, nuclear weapons have never actually been put to use. It is conceivable that when a nuclear weapons state suffers unacceptable losses, it can draw on Article 51 of the UN Charter and opt to use nuclear weapons on a non-nuclear weapons state as an act of self-defense. However, it is hardly conceivable that a non-nuclear weapons state, even when enjoying a conventional superiority, will boldly challenge a nuclear weapons state to the extent that the latter has to use nuclear weapons in self-defense. The deterrent power of nuclear weapons will enable the involved parties to moderate their decisions and pause before the possibility of a nuclear attack.

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*Nuclear weapons cannot address nontraditional security threats like terrorism.*

Similarly, in the case of two nuclear weapons states, the weight of grave consequences will be on the shoulders of the one who made the decision to escalate the conflict from conventional war to nuclear war, or even from small-scale conventional war to large-scale conventional war. When the two nuclear weapons states possess comparable nuclear capabilities, each side will refrain from escalation, as they both fear the other side might be irrational enough to be the first to resort to nuclear weapons. Even when one side is more risk prone, or has more confidence in its strategic defense capability and second strike capability, crossing the nuclear threshold will still pose a formidable challenge. For one thing, the first use of nuclear weapons will be universally lamented and denounced. For another, one can never tell if the other party's revenge will be completely neutralized, and whatever the scale of the

retaliation, the damage to life, property and collective psychology will be immense. Therefore, to any political leader, the decision to use nuclear weapons first will require great resolution, only imaginable if core national interests are in peril, such as the survival of the state or nation. The fact that the United States and the Soviet Union engaged in highly intensive competition while refraining from initiating a nuclear war proves the strength of the nuclear taboo.<sup>15</sup>

It would be suicidal for an inferior nuclear weapons state to first use nuclear weapons on the superior. As for the superior state, the first use of nuclear weapons would also pose a profound dilemma: that is, no matter how weak a nuclear weapons state is in comparison to another, the latter can never be certain the weaker state does not retain even a minimum counterattack capability.

Furthermore, nuclear weapons cannot address nontraditional security threats like terrorism. Terrorists are not state actors, and cannot be dealt with like a state. A group of terrorists may obtain weapons of mass destruction and stage a terrorist attack, subsequently disappearing into the crowd. It would be irrational for any state leader to consider using nuclear weapons on them, as there is virtually no target to strike at.

Any use of nuclear weapons will have consequences beyond the borders of one region, much less one state. Nuclear war will sabotage the environment and endanger the existence of human beings. In the age of economic globalization when the interdependence of states is increasing, collective security is more important than individual security. Even if a nuclear power can win a nuclear war by using nuclear weapons, this irresponsible behavior will not only cause irretrievable damage to the environment, but also endanger the survival of human beings, including its own people.

The world today is a much different place than that of World War II. The binding forces of ethical norms, human rights and humanitarianism are much stronger. It is eminently foreseeable that using nuclear weapons first will have grave consequences, whose cost will far outweigh its benefits.

### THE WAY FORWARD

In crisis situations, both first-use and NFU policies are highly problematic. However, NFU policy is more responsible, as it is conducive to escalation control. When both sides suffer from imbalance of information and mutual distrust, the natural tendency would be to assume the worst—the first use of nuclear weapons. In this case, when one side has a declared first-use policy, the other side would be more prone to launch pre-emptive attacks in an effort to destroy or at least alleviate the former's destructive power. If one party has an NFU policy, to which the other party does not give credit, the situation is not much improved. However, if one side believes that the NFU-pledging party would be more moderate for the sake of its own pledge, a pre-emptive nuclear attack launched out of panic would be less likely. Thus,

the risk of conflict escalation is much smaller and the destructive power of wars will be under control.

In addition, at least for now, the declaratory NFU policy, even a unilateral one, is proven to have immense binding power on the states pursuing it. Although some people believe China's NFU policy is not credible, China has never wavered from its promise during the past 40 years. China had an inferior nuclear arsenal and conventional force when it was on poor terms with the Soviet Union and the United States during the Cold War. Today, China's international environment has greatly improved, its economy has strengthened, and its technology capabilities have grown. Yet, China has not moved toward a change in its nuclear policy. Even today, when a possible cross-strait crisis initiated by Taiwanese secessionist activists might involve the nuclear superior United States, China still exerts great restraint in its response and has not wavered in its unilateral NFU policy.

This clearly illustrates that the NFU policy is more of a choice than a logical necessity. The issue at hand is whether or not leaders of a state are willing to shoulder the moral obligations of world peace and curb their own narrow national interests for collective security. However, a unilateral pledge of NFU puts a state's own national security at a certain degree of risk and requires a high degree of courage by a nation's leaders. It is not a commitment every state can enter into. As such, a multilateral agreement would provide far greater confidence and much stronger binding power than a unilateral pledge. As the 1995 Nobel Peace Laureate, Sir Joseph Rotblat, has argued, a treaty committing nuclear weapons states to no-first-use "would open the way to the gradual, mutual reductions of nuclear arsenals, down to zero."<sup>16</sup>

## NOTES

<sup>1</sup> Goldsmith, Maurice. *Frédéric Joliot-Curie: A Biography*. London: Lawrence and Wishart, 1976, pp. 189-90.

<sup>2</sup> Ibid.

<sup>3</sup> For example, the Pugwash Movement, which was initiated in 1955 by a group of leading scientists and scholars including Albert Einstein and Bertrand Russell, held a special conference on NFU of nuclear weapons in 2002.

<sup>4</sup> "China's Endeavors for Arms Control, Disarmament and Non-Proliferation," Information Office of the State Council of the People's Republic of China, Sep. 2005, <http://www.china.org.cn/english/features/book/140320.htm>.

<sup>5</sup> Due to diplomatic efforts, China and the United States declared they would not target nuclear weapons at each other in June 1998; In April 2000, the five nuclear weapons states issued a joint statement that they would not target any country with their nuclear weapons. These gestures, however, are only symbolic and hardly have any realistic significance.

<sup>6</sup> MC 14/2 (revised final decision), "Overall strategic concept for the defense of the North Atlantic Treaty Organization area," approved by the North Atlantic Council on May 9, 1957. NATO Strategy Documents 1949-1969, pp. 277-313 (paragraphs 13c, 14) in David S. Yost, "NATO and the Anticipatory Use of Force," *International Affairs*, 83, no. 1 (2007), p. 45.

<sup>7</sup> Steven E. Miller, "No First Use of Nuclear Weapons", Pugwash Meeting No. 279, Nov. 15-17,

2002, <http://www.pugwash.org/reports/nw/miller.htm>.

<sup>8</sup> Sverre Lodgaard, "Obstacles to No-First-Use," Pugwash Meeting No. 279 and "No First Use of Nuclear Weapons," Nov. 15-17, 2002, <http://www.pugwash.org/reports/nw/lodgaard.htm>.

<sup>9</sup> "Nuclear Posture Review Report," United States Department of Defense, Jan. 9, 2002, <http://www.fas.org/sgp/news/2002/01/npr-foreword.html>.

<sup>10</sup> Wolfgang Liebert, Jürgen Scheffran, and Martin Kalinowski, "Scientists Demand NATO: No First Use of Nuclear Weapons as an Essential First Step Towards a Nuclear-Weapon-Free World," The Nuclear Age Peace Foundation, Nov. 27, 1998, [http://www.wagingpeace.org/articles/1998/11/27\\_scientists-demand.htm](http://www.wagingpeace.org/articles/1998/11/27_scientists-demand.htm).

<sup>11</sup> "Nuclear Posture Review Report," United States Department of Defense.

<sup>12</sup> Lodgaard, "Obstacles to No-First-Use" and "No First Use of Nuclear Weapons."

<sup>13</sup> Ibid.

<sup>14</sup> Keir A. Lieber and Daryl G. Press, "The Rise of US Nuclear Primacy" *Foreign Affairs*, March-April 2006, <http://foreignaffairs.org/20060301faessay85204-p10/keir-a-lieber-daryl-g-press/the-rise-of-u-s-nuclear-primacy.html>

<sup>15</sup> The Cuban missile crisis in 1962 was the closest the United States and the Soviet Union ever came to nuclear war. The Kennedy administration was prepared to stage a nuclear war, but the Soviet leaders backed away at the critical moment. Although this crisis has been cited as the most dangerous moment in the Cold War, the fact that it did not end in a nuclear war illustrated the prohibitive force of the nuclear weapons on the decision-makers.

<sup>16</sup> David Krieger and Carah Ong, "No First Use," Nuclear Age Peace Foundation, Apr. 2002, [http://www.wagingpeace.org/articles/2002/04/00\\_krieger\\_no-first-use.htm](http://www.wagingpeace.org/articles/2002/04/00_krieger_no-first-use.htm).



# Getting Out of the Shade: Solar Energy as a National Security Strategy

*Julian L. Wong*

**I**n recent years, China has emerged as the world's largest manufacturer of solar photovoltaic (PV) panels. Driven largely by strong demand in Europe, almost all of the solar panels manufactured in China have been exported to overseas markets. However, the current global financial crisis, coupled with recently dampened financial incentives for solar power in some parts of Europe, has significantly contracted overseas markets. The solar manufacturing industry in China is, as a result, under intense pressure to fend off what appears to be a bursting "bubble." By promoting China's domestic solar market, however, the Chinese government is presented with a unique opportunity to sustain the domestic solar industry, create more jobs, and enhance energy and environmental security. To be spurred into action, however, China's planners must appreciate the true value proposition of solar, understand the present bottlenecks limiting solar deployment, and respond with appropriate policy actions to overcome these hurdles so as to create a vibrant domestic solar market

Few issues keep China's national planners awake more than energy and environmental security. China obtained 80 percent of its electricity generation from coal in 2007.<sup>1</sup> As the strains of a coal-based energy structure are being felt, China faces an enormous economic, environmental and social balancing act. China's planners feel

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the necessity to take advantage of China's plentiful coal resources to ensure a supply of affordable and reliable power for its citizens, so as to maintain economic and social order. However, the geographic mismatch between China's coal resources concentrated in the central and western regions, and where power is most used along the eastern coast creates long, unwieldy supply chains that are susceptible to disruptions, such as natural disasters. Logistical challenges posed by finite rail capacity mean that China relies heavily on coal imports to supply coal to certain parts of the country, particularly the southeast. Although China boasts a third of the world's coal reserves, it became a net importer of coal for the first time in 2007.<sup>2</sup>

The use of coal is plagued with unaccounted social costs and fuel price volatility. The health and environmental impacts of coal use are significant. In 2007 alone, some 3,786 coal miners died in mining accidents.<sup>3</sup> The extraction, processing, transportation and combustion of coal produces significant water, air and solid residue pollution with all its public health implications. With China soon, if not already, surpassing the United States as the largest emitter of greenhouse gases, and with the Kyoto climate treaty up for renegotiation, there is strong international pressure on China to actively reduce its emissions, to which coal-fired power is a major contributor. The proposition of coal as a cheap and reliable source of power is quickly losing cache, undermined by the combined economic risks from rising social costs and unpredictable coal prices, which have nearly halved since peaking about ¥1,000 in mid-2008.<sup>4</sup>

The need to diversify and clean up China's power sources is not lost on the central government. It has undertaken a variety of measures, from the prioritization of energy efficiency to the promotion of clean alternative energy development through the passage of the Renewable Energy Law in 2006. Solar energy represents a promising energy alternative that directly addresses many of the shortcomings of coal-fired power. China's solar resources are abundant, averaging 4 kWh/m<sup>2</sup> of radiation in most areas and representing a similar resource level to that of the United States, and much more than that of Japan and Europe.<sup>5</sup> However, while there has been enormous global investment interest in developing solar technologies over the past three years, limited government support and the recent sharp financial downturn has created uncertainties in the prospects for the mass deployment of solar energy systems in China. Yet, there may be a silver lining.

### THE SOLAR OPPORTUNITY

Amidst the global financial downturn, three trends are causing solar PV module prices to decline steeply, leaving an opening for aggressive government action to promote the deployment of solar domestically.

First, the price of polysilicon feedstock, which is the key raw material in the predominant type of solar panels in the PV market, has declined significantly from a high of over \$400 per kilogram in mid-2008 to about \$100 per kilogram by the end of the same year.<sup>6</sup> The increased supply from newly completed polysilicon produc-

tion plants planned for in the solar boom years of 2006 and 2007, together with the softening of overseas demand for solar panels and the expanding market share of non-silicon-based PV material, are expected to keep polysilicon prices depressed in 2009.<sup>7</sup> Second, there has been a sharp decrease in solar module demand in Western markets due to the global recession and a reduction in incentives for solar energy in key markets such as Germany and, especially, Spain.<sup>8</sup> Worldwide revenue from the shipment of solar PV panels is projected to decrease by 20 percent in 2009 compared to the year before.<sup>9</sup> Third, until the recent crimping of overseas markets, solar manufacturers were on a trajectory to expand production capacity and improve economies of scale.<sup>10</sup> With the combined effect of reduced input costs, weakened demand and increased supply, solar module manufacturers are already reportedly slashing module prices by 30 to 40 percent.<sup>11</sup> Meanwhile, facing a growing oversupply, many smaller Chinese solar manufacturers are struggling to remain in business.<sup>12</sup>

In these uncertain times, government support is vital for the development and deployment of solar power. Currently, the domestic solar PV market is essentially non-existent. In 2007, more than 95 percent of the solar modules manufactured in China were exported.<sup>13</sup> At the end of the same year, a mere 100 megawatts (MW) of solar power was installed (of which only 5 MW were of the distributed, roof-top sort), compared to about 6,000 MW of wind and 513,000 MW of coal.<sup>14</sup> The root of government inaction in China and internationally is that when viewed in narrow economic terms, solar energy seems much more expensive than coal. In the face of China's enormous environmental, energy and climate change challenges, solar energy's advantage as a clean and abundant energy source is widely recognized, but far less discussed are the efficiencies and other benefits over centralized coal power generation that solar can bring if used as a distributed energy resource. None of the foregoing "positive externalities" are currently valued into the price of solar.

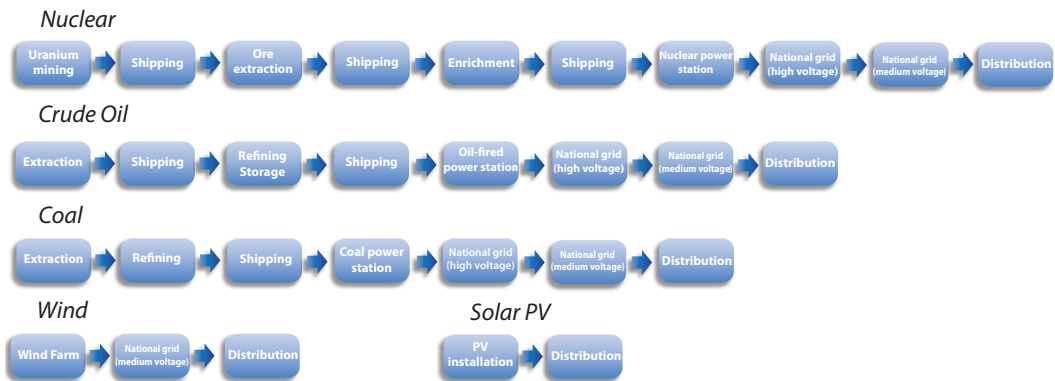
Given the entrenched nature of China's fossil fuel infrastructure, it is unrealistic for solar energy to significantly displace coal as the dominant electricity fuel source in the near or medium term, but the government can take advantage of the current unique financial situation to adopt measures that will significantly accelerate the utilization of domestic solar resources. There is a compelling national security case for developing China's domestic solar market, but reaching this conclusion requires a better understanding of the true value of solar energy, economic or otherwise, of what makes it competitive or even superior to its fossil fuel counterparts.

### REDEFINING NATIONAL SECURITY

Framing the case for solar in terms of national security will create a stronger impetus for government action in promoting solar energy. In making this case, conventional notions of national security need to be broadened to encompass energy security, economic security, social security and environmental security.

Although there are various sorts of commercially available solar technologies, this article will focus on distributed solar PV systems that are typically associated with roof-top installations, rather than large utility scale solar farms because of the former's unique supply chain advantages. The abundant nature of solar resources means that distributed solar PV systems have a significantly shorter supply chain than fossil energy systems. Short supply chains are advantageous because they translate to reduced transportation and infrastructure build outs, which directly improve environmental and economic performance, and maximize benefits to the local economy.<sup>15</sup> With distributed solar, the supply chain is virtually nonexistent; solar power is converted by the solar panel into electricity that is fed through just a few meters of cable before being used.<sup>16</sup>

### Comparison of Supply Chains for Electricity Generation



Source: Hermann Scheer, *The Solar Economy: Renewable Energy for a Sustainable Global Future* (2002).

A distributed energy system, such as a network of rooftop PV, is a more resilient energy system than a centralized one because it consists of numerous, relatively small modules, each able to function independently of each other and each with a low individual cost of failure – meaning the disruption of one or few nodes within the network of the distributed renewable energy system will not bring down the entire system.<sup>17</sup> Centralized energy systems, such as coal-fired power plants, are the opposite, consisting of one or few large centralized units that are more vulnerable to high-cost failure.<sup>18</sup> As the ice storms of early 2008 in southern China demonstrated, centralized coal-fired plants are highly vulnerable to bottlenecks along their long supply chains; the high-cost failure manifested itself in 17 provinces, municipalities or autonomous regions that experienced power failures or reduced power supply as a result.<sup>19</sup> Distributed solar energy systems, on the other hand, are placed very close to the end-use, thereby dramatically reducing the supply chain and potential points of vulnerability.<sup>20</sup> Where solar systems are grid-connected and feed in excess energy generation to the grid, solar systems can also enhance the resilience of the grid.

Another aspect of security is reliability. While renewable energy resources have been dismissed for intermittency, the causes of variations in solar resources (e.g. diurnal cycles, cloudiness, etc.) are well understood and fairly predictable.<sup>21</sup> Centralized large-scale power, on the other hand, is intermittent for reasons that are far less predictable. Occurrences such as extreme weather conditions or terrorist strikes are more likely to disrupt entire energy systems based on centralized production than distributed production, as it is less likely all the nodes of a distributed network will be impacted.<sup>22</sup> Moreover, technological advances in energy storage, sun tracking and shade mitigation are extending the use of solar power throughout the day. The result is that the lifecycle costs for solar power are more certain than for centralized fossil fuel plants, whose fuel costs remain subject to volatile market forces.

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*The social advantages of solar should not be underestimated.*

In the wake of the global financial downturn, developing new energy sources domestically offers compelling economic security propositions in diversifying economies that have been heavily dependent on low value-added exports. The rapid emergence of China as the world's leading manufacturer of solar PV panels has made meaningful contributions to China's economy, providing 10,000 jobs as of 2007 that are expected to increase tenfold to 100,000 by 2020.<sup>23</sup> However, since over 95 percent of domestically produced solar panels are exported, the multiplier effects of building a robust domestic solar PV market, which would create a hitherto nonexistent ecosystem of parts manufacturing and installation expertise, have not been realized. If China wants to head off a steep decline in economic growth in these turbulent times, developing a domestic solar market provides some interesting possibilities.

Finally, the social and environmental advantages of solar should not be underestimated, especially for a government whose legitimacy rests heavily on maintaining the social fabric. At the end of 2006, some 11 million rural dwellers lacked access to any electricity.<sup>24</sup> Off-grid solar panels represents the most practical and economic choice for the reduction of the energy poverty gap in many remote rural areas that are currently off-grid and the focus of rural electrification, one of the government's most important social programs.<sup>25</sup> Policymakers must also recognize the public health costs that the entire supply chain of coal power production imposes, including the health and lives threatened in coal mining, as well as the harmful emissions of sulfur dioxide and nitrous oxide emissions. A recent study concluded that the negative environmental, public health and other social costs of China's coal industry (excluding climate change impacts) add up to ¥1.7 trillion per year.<sup>26</sup>

### RECONSIDERING SOLAR ECONOMICS

Even with a 40 percent drop in solar module prices, and assuming installation costs remain roughly unchanged, installed solar PV power would cost, on a per kWh basis, some eight times as much as coal-fired electricity. Framed in such narrow economic terms, this gap is a mental barrier for policymakers to create robust financial

incentives for the adoption of solar power. It has been suggested that the central government should wait for the expected demand from the United States, which has recently passed strong financial incentives to promote solar adoption, to further scale up solar module production in China and further drive down module prices.<sup>27</sup> Indeed, it seems that China's current policy for solar, as outlined in the 11th Five-Year Plan for Renewable Energy, adopts this wait-and-see approach in the form of cautiously modest targets for installed solar capacity by 2010. The 2010 target of 300 MW of total installed solar capacity, which includes non-distributed and non-PV (i.e. STEG plants) solar, pales in comparison to the 874 MW of PV installed in the United States by the end of 2007,<sup>28</sup> or the 12,300 MW of wind installed in China by the end of 2008. But such a cautious approach, which reflects a psychological hang up on the price disparity between solar and fossil fuels, misses entirely the aforementioned national security proposition of solar.

Installed Solar Capacity at 2007 Compared to 2010 Targets under the 11<sup>th</sup> Five-Year Plan for Renewable Energy

Application	2007 Installed Capacity (MW)	2010 Target (MW)	Main Development Regions
Applications in remote areas	55	150	Tibet, Qinghai, Gansu, Xinjiang, Yunnan, Sichuan
Buildings	4.8	50	Beijing, Shanghai, Shandong, Jiangsu, Guangdong
Grid-connected PV power stations	0.2	50	Lhasa of Tibet, Dunhuang of Gansu, Ordos of Inner Mongolia
Solar Thermal Electricity Generation (STEG) plants	0	50	Inner Mongolia
Other commercial applications, e.g. street lamps	40	N/A	N/A
<b>Total</b>	100	300	N/A

Source: Julia Wu, et al., "China's 11th Five-Year Plan: Wind and Utility-Scale PV Targets are Up, but RPS is Gone," *New Energy Finance*, April 11, 2008.

More crucially, the true cost of deferring the replacement of coal power with clean solar power is often missed by policymakers, and certainly by the private sector. Such cost cannot be measured solely in economic terms, but must also include the increased difficulty in mitigating greenhouse gas emissions. Experts are in general agreement that a 60 to 80 percent reduction in greenhouse gas emissions is needed by 2050 compared to 1990 levels in order to stabilize climate change.<sup>29</sup> Because coal



power infrastructure has a lifecycle of 40 to 50 years, we are really talking about energy investment decisions that have to be made today. Each megawatt of solar power deferred today is an additional megawatt of coal power that will spew greenhouse gases for the next 40 or 50 years.

Even if the aforementioned benefits seem too intangible to value, there are three additional economic considerations. First, solar PV power, while not generally cost competitive with “base load” grid-based electricity, is in many regions cost competitive with “peak load” power, which is turned on when power demand reaches the highest point during the day.<sup>30</sup> Peak load power is the most expensive type of power for utilities to produce and usually occurs at, or overlaps partially with, the hottest time of the day when the sun shines brightest and power consumption is at its highest. Solar power is the ideal strategy for “peak shaving.”

Second, decentralized energy systems eliminate the need for expensive, inefficient and resource-intensive transmission and distribution (T&D) infrastructure. The State Grid of China, which is already under financial pressure after an 80 percent drop in profits in 2008,<sup>31</sup> plans to spend a whopping ¥1.16 trillion over the next two years on grid construction.<sup>32</sup> **Not only are network losses experienced in T&D estimated to range between 8 and 9 percent,<sup>33</sup> but the construction of every 100 km of power lines of a 500-kV grid project reportedly requires 5,000 tons of steel, 2,000 tons of aluminum and 7,000 cubic meters of cement.<sup>34</sup>** While the need for expensive T&D capital outlays cannot be eliminated in each and every case, stand-alone distributed PV systems are a highly economical choice in remote rural areas that lack grid access. The recently announced utility-scale solar farms in Qinghai’s Qaidam Basin (1 gigawatt (GW) installed capacity) and Yunnan’s Kunming city (166 MW) are a step in the right direction towards a low carbon economy, but the reliance of these projects on T&D infrastructure means that they are clearly not the final destination that distributed energy solutions such as PV represent.

Third, the simultaneous use of solar panels for applications other than power generation can improve its economics. For instance, the installation of rooftop solar panels can reduce a building's air conditioning load by shading the roof. There are also so-called building-integrated photovoltaic (BIPV) applications, where the PV panels are not installed on top of the facade of a building, but *as* the facade of the building, eliminating the need for conventional building materials.<sup>35</sup> Furthermore, when such BIPV installation is wrapped into the mortgage of a new building, additional financing becomes unnecessary and the PV system can be financed using some of the cheapest available forms of long-term finance. BIPV’s improved economics represents a major opportunity for China, where McKinsey projects that some 40 billion square meters of floor space in five million buildings will be built by 2025.<sup>36</sup>

Finally, the modular nature of solar PV means that it can be installed in stages, panel by panel, or solar farm by solar farm, allowing electricity production to be-

gin shortly after construction commences but before it is finished, thus greatly enhancing the economics of solar power. This is in contrast to large centralized power plants, which take years to build and cannot generate power until construction is completed. The opportunity cost associated with the lag time of planning to construction in large-scale fossil fuel plants is rarely taken into account in the economic analysis when comparing relative costs of different energy options. When coupled with decentralization, modularity also means that the generation capacity of solar systems is scalable and more likely to match demand, reducing instances of overcapacity and hence inefficiency that is now being experienced in China's coal power sector.<sup>37</sup>

While it is beyond the scope of this article to quantify to what extent the foregoing considerations reduce the cost of solar PV power over coal-fired power through an “apples-to-apples” comparison, one authoritative study estimates that the financial benefits of employing a distributed energy system can exceed those of a centralized system by as much as a factor of ten.<sup>38</sup> If accurate, this would offset the cost difference between solar and coal-fired power.

### RECOGNIZING SOLAR'S OWN BOTTLENECKS

There will certainly be challenges to deploying a scaled-up solar program. The true value economics of solar may be difficult to convey to the average end-user. While PV installations offer the advantage of upfront cost certainty due to zero fuel costs and minimal operating and maintenance costs, it is also true that the upfront costs are significant. Given the choice between heavily subsidized retail rates of electricity and making a hefty upfront investment in a solar installation that will only pay itself back in 20 years or more, it is easy to guess which option usually wins out.

Reorienting China's solar industry towards the domestic market will require broadened competencies across the solar value chain compared to one geared towards exports. Solar panels are just one of various components that make up an installed solar PV system. Non-panel components, also called “balance of system” (BOS) components, include devices such as batteries, controllers, inverters and monitoring devices. Due to the export focus of the Chinese solar industry, there has been far less emphasis on building production capacity on BOS components. For instance, it is reported that at current rates of solar PV use, most of the controllers and inverters needed for stand-alone and medium-scale grid-connected solar systems are domestically sourced, while a larger portion of controllers and inverters for larger-scale grid-connected solar systems are imported.<sup>39</sup> Should the domestic solar market be significantly expanded, current domestic BOS production capacity will not be sufficient.

Deploying distributed solar PV will also require a skilled workforce to market, sell, install and maintain PV installations. A warning shot has been sounded by China's wind power industry, where a boom in wind farm development domestically has led to a shortage of skilled labor to maintain the wind facilities.<sup>40</sup> Similarly, the instal-

lation of PV, especially of the distributed sort, is a relatively labor-intensive process which requires technical competence. All the financial incentives and appropriate technologies will be of little use if there is no one to physically deploy the solar systems. That said, there are measures that the government can take to address these concerns as it seeks to promote the domestic solar market.

#### GETTING OUT OF THE SHADE

The time to jump-start China's domestic solar market is now. Given the financial malaise in the United States, it is by no means certain that US demand will pick up soon despite its recent enactment of financial incentives for solar. Rather than depending on foreign markets to drive down the production costs of solar, China can do it by itself. A coordinated scaled-up investment program in developing solar resources at this time is not only consistent with the public government statements that environmental protection and new energy technologies should be a focus of the recently announced ¥4 trillion economic stimulus package,<sup>41</sup> but would also take advantage of the current historically-low prices of solar PV panels. Such a program would involve a mixture of internalizing the externalities of fossil-based power, providing financial incentives to recognize the non financial benefits of clean, distributed solar power, and the development of technical capacity to create a domestic solar market.

One of the more direct ways for solar energy to move towards "grid parity" is to accelerate retail electricity price reform. The recent massive infusion of funds by the government into the "big five" power generation companies to stem their record losses in 2008 reflect the fact that retail power, which is fixed by the government, is priced below its cost of production.<sup>42</sup> The reforming of energy prices towards more market-based mechanisms has become a theme in recent energy policy documents,<sup>43</sup> and has already made its effect felt with the upward adjustment of retail electricity rates last July, and reports that further increases may be imminent.<sup>44</sup> The sooner prices are made to reflect even just their current costs of production (let alone negative externalities), the quicker solar power can compete with coal-fired power on a level playing field. As a longer term goal, the complex task of varying electricity rates throughout the day according to demand levels should be undertaken so as to more effectively harness the "peak shaving" value of solar power.

The government should also implement comprehensive feed-in tariffs, which would require grid companies to purchase solar power at preferential tariff rates and which have been proven in Germany and elsewhere in Europe to be the most effective policy instruments in promoting renewable energy utilization.<sup>45</sup> The premium that these tariff rates represent over the tariff of conventional fossil fuel electricity should be fixed, but also gradually decreased over a period of 10 or 20 years. These premiums should be paid by the grid company to the solar power producers and

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*Rather than depending on foreign markets to drive down the costs of solar, China can do it by itself.*

are passed down and shared across all end-users, in accordance with the landmark Renewable Energy Law that was enacted in 2006 but has hitherto received selective implementation. Such a system also directly rewards production of solar power rather than merely installed capacity, which says nothing about how much electricity is actually generated.<sup>46</sup> A related mechanism, net-metering, should be implemented to allow smaller scale users to offset their electricity bills by feeding back any excess solar power not used back into the grid.

Another way to ramp up demand for solar is through government procurement. The initiation of mass deployment of solar panels in central and provincial government facilities and commercial facilities of large state-owned enterprises creates a strong market signal for the scaling up of PV deployment and subsequent lowering of costs. The government can also act as a lever for demand by accelerating its rural electrification program through the purchase and deployment of solar systems where they are feasible, and require its state-owned utility companies to take advantage of their relationships with end-users to roll out distributed solar programs.<sup>47</sup>

With respect to end-users, financial innovation can positively alter the cost perceptions of solar. Third-party financing arrangements – whereby a third-party financier purchases, installs and continues to own the solar panels, but sells the solar-generated electricity to the facility owner just like a utility – relieves the facility owner of prohibitive upfront costs of installing and owning the solar panels. Due to the nascent development of consumer credit, such third-party financing institutions should target commercial and industrial entities, rather than the residential sector, and perhaps with the support of provincial and municipal governments, which have energy efficiency and renewable energy goals to meet.

Meanwhile, policies should be made to develop the necessary capacity and technical expertise for all steps of the PV value chain, especially the manufacturing of peripheral components, and for downstream solar activities such as systems integration, installation and after-sales services, such as performance monitoring, system repairs and upgrades. Another area of attention is the upgrading of the electrical grid so that it can accept interconnections from distributed solar systems. This will require significant investments in education and infrastructure, but also lead to significant positive externalities such as job creation and spill-over benefits to other electrical engineering sectors.

A group of major Chinese PV manufacturers recently submitted an industry white paper to the government expressing optimism that solar power can achieve price parity with conventional fossil fuel power as early as 2012.<sup>48</sup> This will not happen, however, without the weight of more aggressive government policies, which China's planners should adopt in order to seize current opportunities and enhance national security. The national security proposition of solar energy is rooted in the unique economic and noneconomic benefits of its distributed nature and shorter supply chain. Clean, distributed solar power can enhance the resilience of China's power

supply, produce clean power in urban and rural areas alike, and provide high-skilled jobs. Instead of shipping China-made solar modules to distant western markets, deploying them domestically would further enhance the benefits of shorter supply chains. The unique confluence of lower production costs and decreased overseas demand means the cost of going solar is lower than ever and makes it an opportune time to make a policy push for domestic solar deployment. ☺

## NOTES

- <sup>1</sup> Cambridge Energy Research Associates, *Feeding the Dragon*, 2008.
- <sup>2</sup> "China Becomes Net Importer of Coal," *People's Daily* online, May 18, 2007, [http://english.peopledaily.com.cn/200705/18/eng20070518\\_375859.html](http://english.peopledaily.com.cn/200705/18/eng20070518_375859.html).
- <sup>3</sup> "Chinese coal mine deaths down 20% in 2007," *Xinhua News*, January 12, 2008, [http://www.chinadaily.com.cn/china/2008-01/12/content\\_6389679.htm](http://www.chinadaily.com.cn/china/2008-01/12/content_6389679.htm).
- <sup>4</sup> The price of coal dropped from ¥1,000 per ton in mid-2008 to half that now. Si Tingting, "Coal Price Drops Sharply at Qinhuandao," *China Daily*, at [http://www.chinadaily.com.cn/bizchina/2009-02/18/content\\_7489094.htm](http://www.chinadaily.com.cn/bizchina/2009-02/18/content_7489094.htm)
- <sup>5</sup> Li Junfeng, et al., *China Solar PV Report 2007*, p. 6.
- <sup>6</sup> Liang Zhongrong, "guangfu fadian jia chengben dafu xiajiang: 1 yuan/du guangfu fadian fang'an shangjiao kejibu" (光伏发电成本大幅下降: 1元/度光伏发电方案上交科技部), *21st Century Business Herald*, February 6, 2009, at [http://www.21cbh.com/HTML/2009/2/6/HTML\\_J6PBFB1A0D14.html](http://www.21cbh.com/HTML/2009/2/6/HTML_J6PBFB1A0D14.html).
- <sup>7</sup> See, e.g., "PV Costs set to plunge for 2009/10," *Renewable Energy World*, December 23, 2008, <http://www.renewableenergyworld.com/rea/news/story?id=54380&src=rss>.
- <sup>8</sup> Ucilla Wang, "Solar Prices Set in Germany," *Greentech Media*, June 6, 2008, <http://www.greentechmedia.com/articles/solar-prices-set-in-germany-980.html> and Martin Roberts, "Spain Ratifies New Solar Subsidy Cap," *Reuters*, Sept. 26, 2008, <http://www.reuters.com/article/GCA-GreenBusiness/idUSTRE48P7JW20080926?sp=true>.
- <sup>9</sup> Zhang Qi, "Sun is Setting on China's Solar Industry," *China Daily*, January 19, 2009, p. 5.
- <sup>10</sup> *Ibid.*
- <sup>11</sup> Personal communication with Julia Wu, solar analyst at New Energy Finance, Dec. 10, 2008. See also Josie Garthwaite, "Suntech CEO: Solar Panel Glut to Slash Prices by 30% in 2009," *Earth2Tech*, December 8, 2008, <http://earth2tech.com/2008/12/08/suntech-ceo-solar-panel-glut-to-slash-prices-by-30-in-2009/>.
- <sup>12</sup> See, Nuying Huang, "China PV module sector sees departure of 70% of makers," *Digitimes*, January 15, 2009, <http://www.digitimes.com/news/a20090115PD210.html>.
- <sup>13</sup> Zhao Yuwen, *wo guo guang fu chan ye fa zhan gai kuang ji si kao* (我国光伏产业发展概况及思考), 10th China Solar Conference and Exhibition in Changzhou, Jiangsu Province, September 19, 2008.
- <sup>14</sup> Cambridge Energy Research Associates, *Feeding the Dragon*.
- <sup>15</sup> Hermann Scheer, *The Solar Economy: Renewable Energy for a Sustainable Global Future* (2002), pp. 76-82.
- <sup>16</sup> While it is true that the manufacture of PV panels have their own supply chain with processes involving the purification and fabrication of silicon raw material; manufacture, assembly and installation of PV modules and peripheral components; a similar level of scrutiny of the lifecycle



costs of building, operating and maintaining power plants. Associated transportation systems for fossil fuel power will make the supply chain comparison weigh even more heavily in favor of distributed PV. Ibid, pp. 74-75.

<sup>17</sup> Amory B. Lovins and L. Hunter Lovins, *Brittle Power, Energy Strategy for National Security* (1982, new ed., 2001), pp. 264-266.

<sup>18</sup> Ibid.

<sup>19</sup> “China suffers power shortage as winter storm brings chaos,” *Xinhua News*, January 30, 2008, <http://www.china.org.cn/english/China/241362.htm>.

<sup>20</sup> Lovins and Lovins, *Brittle Power*, pp. 264-266.

<sup>21</sup> Lovins and Lovins, “The Fragility of Domestic Energy,” *The Atlantic Monthly*, November 1983, pp. 118.

<sup>22</sup> Ibid.

<sup>23</sup> Li Junfeng, et al., *China Solar PV Report 2007*, p. 6. Li and the other authors estimate that a total of 47 to 49 jobs per MW of installed solar power capacity are created in the manufacturing, wholesaling, installation and research activities associated with the solar value chain.

<sup>24</sup> Ibid.

<sup>25</sup> National Renewable Energy Laboratory, “Renewable Energy in China: Township Electrification Program,” April 2004, <http://www.nrel.gov/docs/fy04osti/35788.pdf>.

<sup>26</sup> Mao Yushi, Sheng Hong and Yang Fuqian, *The True Cost of Coal* (2008), <http://act.greenpeace.org.cn/coal/report/TCOC-Final-EN.pdf>.

<sup>27</sup> Presentation by Thomas J. Toy, US-China Green Energy Conference, Beijing, November 17, 2008. As part of the United States’ financial stimulus package passed in October 2008 (H.R. 1424, the Emergency Economic Stabilization Act of 2008), incentives for renewable energy were included, including an eight-year extension of the investment tax credits for solar and the raising of the cap on tax credits that owners can claim on the cost of installing their solar system.

<sup>28</sup> US Department of Energy, *Renewable Energy Databook*, Sep 2008, available at [http://www1.eere.energy.gov/maps\\_data/pdfs/eere\\_databook\\_091208.pdf](http://www1.eere.energy.gov/maps_data/pdfs/eere_databook_091208.pdf).

<sup>29</sup> See Nicholas Stern, *The Economics of Climate Change* (2006), p. 197. (“To stabilise concentrations of carbon dioxide in the long run, emissions will need to be cut by more than 80% from 2000 levels.”)

<sup>30</sup> Travis Bradford, *The Solar Revolution* (2006).

<sup>31</sup> “China’s State Grid profits down 80% in 2008,” *Xinhua News*, January 18, 2009, [http://news.xinhuanet.com/english/2009-01/18/content\\_10678968.htm](http://news.xinhuanet.com/english/2009-01/18/content_10678968.htm).

<sup>32</sup> “China to invest \$169.9b in grid construction,” *Xinhua News*, November 17, 2008, [http://www.chinadaily.com.cn/bizchina/2008-11/17/content\\_7211671.htm](http://www.chinadaily.com.cn/bizchina/2008-11/17/content_7211671.htm).

<sup>33</sup> See Wu Jian Dong, aobama nengyuan xinzheng po ke zhongguo jiang yinglai lishi tiaozhan (奥巴马能源新政破壳 中国将迎来历史挑战), Dong Fang ZHao Bao, January 21, 2009, [http://www.wefweb.com/news/2009121/0846416834\\_1.shtml](http://www.wefweb.com/news/2009121/0846416834_1.shtml) (in Chinese).

<sup>34</sup> “China to invest \$169.9b in grid construction,” *Xinhua News*, November 17, 2008, [http://www.chinadaily.com.cn/bizchina/2008-11/17/content\\_7211671.htm](http://www.chinadaily.com.cn/bizchina/2008-11/17/content_7211671.htm).

<sup>35</sup> BIPV typically relies on “thin film” PV technologies that are non-silicon based, and thus will not benefit directly from the decline in polysilicon prices. However, BIPV will benefit from the projected long-term trend of increasing market expansion of thin-film relative to silicon-based PV.

<sup>36</sup> McKinsey Global Institute, *Preparing for China’s Urban Billion*, March 2008.

<sup>37</sup> “Official: “Relative overcapacity” in energy likely to persist,” *Xinhua News*, December 15,



2008.

<sup>38</sup> Amory Lovins, et al., *Small is Profitable* (2002), p. 3.

<sup>39</sup> Zhao Yuwen, "Chapter 7: 2008 Report on Photovoltaic Industry Development in China," Li Hejin and Zeng Shaojin, eds., *Annual Report on China's New Energy Industry*, 47-67, p. 63.

<sup>40</sup> Personal communication with Justin Wu, a wind industry analyst at New Energy Finance, February 5, 2009. According to Mr. Wu, there have been reports that some wind developers in China have had to hire foreign technicians for operations and maintenance work due to a shortage of local engineers.

<sup>41</sup> Li Jing, "Environment: 350b yuan to pour into environmental industry," *China Daily*, November 27, 2008, [http://www.chinadaily.com.cn/bizchina/2008-11/27/content\\_7262855.htm](http://www.chinadaily.com.cn/bizchina/2008-11/27/content_7262855.htm).

<sup>42</sup> See Xiao Wan, "Govt offers 10b yuan in subsidies for power sector," *China Daily*, January 20, 2009, [http://www.chinadaily.com.cn/china/2009-01/20/content\\_7411396.htm](http://www.chinadaily.com.cn/china/2009-01/20/content_7411396.htm).

<sup>43</sup> See State Council Information Office, *China's Energy Conditions and Policies*, December 2007 ("The price mechanism is the core of the market mechanism...It has propelled electricity tariff reform to ensure that electricity generation and selling prices are eventually formed by market competition, with the electricity transmission and distribution prices being supervised and controlled by the state.") and the Energy Law of the People's Republic of China (Draft for Public Comments), Article 87 - The Price Formation Mechanism ("The State establishes the energy price formation mechanism that combines market regulation and government control but is led by market regulation, according to a formula that best indicates the supply-and-demand situation, the scarcity of resources, and the cost of environment damage.").

<sup>44</sup> Zhang Qi, "Govt may raise power rates soon," *China Daily*, September 13, 2008, p. 10.

<sup>45</sup> For a good survey on renewable energy feed-in tariffs as applied broadly in Europe and to a more limited extent in the United States, see Wilson Rickerson and Robert C. Grace, "The Debate over Fixed Price Incentives for Renewable Electricity in Europe and the United States: Fallout and Future Directions," February 2007.

<sup>46</sup> See, David Cyranoski, "Beijing's Windy Bet," *Nature* 457, no. 22 (January 2009): pp. 372-74. Cyranoski describes how the rosy annual growth in installed capacity in China's wind sector belies what are fairly disappointing wind power generation figures cause by various factors, including poor quality of domestically manufactured wind turbines.

<sup>47</sup> The Medium-to Long-Term Renewable Energy Development Plan released in September 2007 required grid companies and certain power companies to source fixed amounts of renewable energy power by 2010 and 2020. These so-called Market Mandated Share (MMS) requirements were absent in a subsequent and presumably superceding document, the 11th Five-Year Plan for Renewable Energy Plan, released in March 2008. The fate of the MMS remains unclear

<sup>48</sup> Liang, "guangfu fadian jia chengben dafu xiajiang."

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# China's "Realpolitik" Engagement with Myanmar

*Pak K. Lee, Gerald Chan & Lai-Ha Chan*

Conventional wisdom has it that the pursuit of energy resources is a primary driving force behind China's foreign policy. One can attribute this claim to China's growing ties with African countries in recent years, which hold approximately 10 percent of the world's total oil reserves.<sup>1</sup> First, China began to make inroads into the oil sector of Sudan in the mid-1990s, transforming the African country into an oil exporter since the end of the decade. An overwhelming majority (81 percent) of the total African output of Chinese national oil companies in 2006 came from Sudan.<sup>2</sup> African oil-producing countries are now supplying about one-third of China's crude imports. Second, China's extensive oil interests in Sudan are widely believed to be the predominant factor that led China to thwart until July 2007 the United States

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and European countries from imposing United Nations sanctions on Khartoum and intervening into the infamous Darfur humanitarian crisis, which began in early 2003.<sup>3</sup> Third, led by the then Chinese President Jiang Zemin in April 2000, Chinese senior leaders, including Hu Jintao, Li Peng, Wen Jiabao and Zhu Rongji, frequently visited the continent in recent years.<sup>4</sup> Three ministerial conferences of the Forum on China-Africa Cooperation have been held since October 2000. Peter Brookes of The Heritage Foundation has therefore asserted that "... nothing is driving China into Africa more than its quest to satisfy its insatiable appetite for oil and gas."<sup>5</sup>

As a corollary, many have viewed Beijing's attempts to court other energy-producing, unsavoury governments through the lens of energy security. David Lampton argues that "... [Beijing] make friends with every regime that has energy in the ground (whether or not the partner regime observes internationally recognized human rights, and whether or not new relationships intrude into sensitive regions)."<sup>6</sup> In particular, this rationale has become a popular explanation of China's close ties to Myanmar and its resistance to the imposition of sanctions there. Indeed, since the military junta, the State Law and Order Restoration Council (SLORC), took power in a 1988 coup, China has remained one of the regime's few public supporters, shielding it from United Nations Security Council (UNSC) action and other foreign sanctions.<sup>7</sup> China (and Russia and South Africa) defeated a draft resolution set forth at the UNSC in January 2007 by both the United Kingdom and the United States calling on the Myanmar government to cease military attacks against the ethnic minorities in the country and take steps to advance into a genuine democracy (discussed in detail below). However, the reasons for Beijing's protection of Myanmar's sovereignty are more complex than a single-minded pursuit of energy.<sup>8</sup> Moreover, although the bulk of international opprobrium is focused on China's role, Beijing's approach towards Myanmar is consistent with that of other regional governments.

While Myanmar has effectively become isolated from Western countries, China has maintained good relations with it. During the last decade, China sent high-level dignitaries such as the former Chinese Communist Party general secretary and president of the state, Jiang Zemin, and his successor, Hu Jintao, to Myanmar while the latter dispatched top leaders, Than Shwe and Maung Aye, the chair and vice chair of the ruling SLORC/SPDC respectively, to Beijing. Bilateral contacts have included the sale of Chinese armaments and machinery to the military junta, joint efforts to combat cross-border trafficking of narcotics, border trade of consumer goods, and Myanmar's exports of timber (largely through illicit smuggling) and precious stones to Yunnan, China's south-western province. China has meanwhile shielded the Myanmar regime from Western and United Nations opprobrium and sanctions.<sup>9</sup>

More important to critics of China's role in Myanmar are Beijing's manoeuvres aimed at increasing its energy security. Currently, China is considering building oil and gas pipelines from the Myanmar south-western port of Sittwe (also known as Akyab) to the Yunnan capital, Kunming.<sup>10</sup> With depleted oil resources, Myanmar is not likely to be a supplier of crude oil to China; instead the oil pipeline would carry

### **A Brief History of Myanmar Sanctions**

Most external assistance to Myanmar came to a halt after the junta, the State Law and Order Restoration Council (SLORC), assumed power as a result of a military coup in September 1988. The coup aimed to bring a countrywide protest against the Burma Socialist Programme Party to an end. The junta annulled the results of the May 1990 legislative elections, which brought a sweeping victory to the National League for Democracy (NLD). The NLD was led by Aung San Suu Kyi, a pro-democracy activist, the 1991 Nobel Peace Prize laureate and the daughter of Aung San, the late Burmese nationalist leader who is considered as the father of modern-day Burma. She was placed under

house arrest by the junta in July 1989 before the general election which in effect prevented her from assuming office as Prime Minister of Myanmar. In the wake of the regime's alleged attack on her and her entourage in May 2003 (known as the Depayin Incident) and the subsequent house arrest of her, the United States imposed new economic sanctions in August 2003, including a ban on imports of Myanmar products and a ban on provision of financial services by US persons. As a result of the violent crackdown on anti-government protestors in Yangon in September 2007, the United States tightened its sanction.

oil from the Middle East and Africa, bypassing the bottlenecked sea lane of the Malacca Strait, which currently delivers 80 percent of China's oil imports.<sup>11</sup> According to Chinese analysts, an over-reliance on the strait poses two threats to China's energy security: the threats of piracy and maritime terrorism in the region and the attempts of the powerful states, notably the United States, to exert dominance over the strait through joint naval exercises with India and Japan and through such programmes as the Container Security Initiative, the Proliferation Security Initiative and the Regional Maritime Security Initiative.<sup>12</sup> Proponents of the pipeline argue that it would reduce China's reliance on the Malacca Strait for oil transportation by at least one-third.<sup>13</sup>

In 2001, China also began joint natural gas explorations with Myanmar. Four years later Myanmar allowed China to explore in the areas off its western coast in the Bay of Bengal.<sup>14</sup> As soon as India suffered a setback in reaching an agreement with Bangladesh about delivering gas from Myanmar to India via Bangladeshi territory, Myanmar swiftly decided in December 2005 to sell its gas to China through the overland pipeline to Kunming. Myanmar leaders were not willing to change the direction of gas sale even when New Delhi was allegedly prepared to construct a much more costly overland pipeline bypassing Bangladesh.<sup>15</sup> More recently, in January 2008, Myanmar's Ministry of Energy inked a contract with China National Petroleum Corporation (CNPC) to explore natural gas in three deep-sea gas blocks off western Myanmar.<sup>16</sup> In the following May and June, Daewoo International of South Korea signed an agreement with CNPC to jointly explore a block in the Shwe field, off Sittwe in western Myanmar, estimated to hold 4.5 trillion cubic feet (or 127.4 billion cubic metres) of natural gas, and to sell gas from the field to China.<sup>17</sup> As a result, China is often portrayed by security analysts and journalists to be supportive of the reclusive regime out of a strategic consideration of its own energy security.<sup>18</sup>

While there are some elements of truth in these arguments, they overestimate the role of Myanmar oil and gas in China's grand foreign policy and fail to address a couple of puzzles regarding the importance of oil and gas to China. As commonly stated, China has been an ally of the military regime since 1988, but China did not perceive the danger of oil insecurity at that time. Until 1993 China was self-sufficient in oil, and thus paid relatively little attention to energy security.<sup>19</sup> Yunnan province has been more active than the central government in forging diplomacy with the military regime.<sup>20</sup> Growing economic engagement with Myanmar is believed to be conducive to the economic development of China's landlocked south-western region, helping to narrow the income gap between it and the more prosperous coastal provinces.<sup>21</sup>

Despite China's penchant for overland oil and gas pipelines, Myanmar's material value to China is not a straightforward calculus. There are controversies over the viability of the pipelines due to several reasons. The primary one is that Myanmar possesses and produces little oil (see Table below) and the gas pipeline will be costly

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*Until 1993 China was self-sufficient in oil and paid little attention to energy security.*

to construct.<sup>22</sup> The Rakhine state in western Myanmar, where Sittwe is located, is also plagued by Islamic radicalism, as the military regime has used Theravada Buddhism to suppress Rohingya Muslims in the country.<sup>23</sup> Tension between Bangladesh and Myanmar has flared up over contested territorial borders between the two countries, particularly when Daewoo International attempted to extend offshore exploration into Block AD-7 in the Bay of Bengal, about 93 km southwest of St. Martin's island of Bangladesh.<sup>24</sup> To bypass the choke point of the Malacca Strait, China has the option of using the Gwadar port in Pakistan, which China helped to construct, although the route has to pass through the politically volatile Kashmir area. Myanmar's material value to China is therefore open to dispute.

Furthermore, if this energy-security argument were to hold true, then one would expect China to engage equally wholeheartedly with other energy-rich states marked as pariahs in and alienated by the West, namely Libya and Iran. But the correlation remains unclear. Among the four "pariah" states (Iran, Libya, Myanmar and Sudan), Iran and Libya hold the largest oil and gas reserves and the longest projected production lifespan (see Table below). But, first, China did not develop cordial ties with Libya when the Gaddafi regime was ostracised until 2003 by the West.<sup>25</sup> Furthermore, when the West takes steps to impose United Nations sanctions on three of them, China is less cooperative in the cases of Myanmar and Sudan than in the case of Iran. Were oil to be so important to China, why would China not engage the countries that have the most promising energy assets, regardless of the effect on its international image?<sup>26</sup> Bowing to intense pressure from the United States, China began in 1997 to dissociate itself from Iran's nuclear programme. Nonetheless, even after 1997 China frequently came to Iran's defence by claiming that as a signatory state of the Nuclear Non-Proliferation Treaty (NPT), Iran has the right to develop nuclear energy programmes for civilian use. China was loath to cooperate with the



United States in 2004 in referring the nuclear issue to the United Nations Security Council. To secure China's support in the Security Council, Iran allegedly offered Chinese corporations precedence in more than 100 economic projects, which included China Petroleum and Chemical Corporation (Sinopec)'s investment in the Yadavaran oilfield, close to the Iran-Iraq border. But Beijing still voted in the Security Council in 2006-2008 in favour of imposing punitive sanctions against Tehran and reportedly shared intelligence about Iran's nuclear programme with the International Atomic Energy Agency (IAEA).<sup>27</sup> Although Chinese oil officials emphasised that the negotiations with their Iranian counterparts over Sinopec's development of the Yadavaran oilfield were stymied by disagreements over commercial terms rather than politics, one cannot rule out the possibility that the lack of any progress on the investment for three years until late 2007 was partly due to Iran's displeasure at China's increasingly pro-Western posture with regard to its nuclear programme.<sup>28</sup> That China has been more cooperative with the West in dealing with the larger oil-producing outlaw states than the smaller ones defies the presumed logic that China attaches primary importance to the quest for external oil and gas in dealing with the rest of the world.<sup>29</sup> Therefore, the energy-security argument alone cannot satisfactorily explain China's foreign policy towards oil-rich, unsavoury states. To account for China-Myanmar engagement, one has to look for reasons other than energy motivation.

Proven Reserves of Oil and Gas in China and Four "Pariah" States, 2007

	Oil		Natural Gas	
	Proven reserves (billion barrels)	R/P ratio (years)	Proven reserves (trillion cubic feet)	R/P ratio (years)
China	15.5 – 16.0	11.3	66.54 – 80.00	27.2
Iran	136.27 – 138.4	86.2	974.00 – 981.75	100+
Libya	41.464 – 41.5	61.5	52.65 – 52.80	98.4
Myanmar	0.05	N.A.	10.00 – 21.19	40.8
Sudan	5.0 – 6.6	39.7	3.00	N.A.

Sources: British Petroleum, *BP Statistical Review of World Energy June 2008* (London: British Petroleum, 2008), 6, 22; "Country Energy Profile," Energy Information Administration, U.S. Department of Energy, <http://tonto.eia.doe.gov/country/index.cfm> (accessed October 20, 2008).<sup>30</sup>

Echoing the argument that energy security is not of pivotal significance is an equally widespread assertion that the military junta allows the Chinese navy to set up military facilities in its country's military bases in exchange for China's political support on the world stage. Since 1992 there has been considerable and continuing speculation about the existence of Chinese naval bases on the Great Coco Island and Hainggyi Island in Myanmar.<sup>31</sup> This allegedly forms part of China's emerging assertive maritime diplomacy, otherwise known as a "string of pearls" strategy, which covers ports in Pakistan, Bangladesh, Myanmar, Thailand and Cambodia.<sup>32</sup> However, as put forward forcefully by Andrew Selth, there is no consistent and verifiable evidence for the claims that Chinese naval technicians are permanently stationed in the bases or are in direct control of the operation of the military facilities there.<sup>33</sup> Even

Adm. Arun Prakash, India's chief of naval staff, admitted in August 2005 that there were no Chinese military or intelligence facilities on the Great Coco Island.<sup>34</sup> The speculation is further discredited by the fact that the United States, which possesses the most advanced intelligence collection capability, has not voiced any concern about the reported presence of Chinese bases in the Indian Ocean.

Therefore, factors other than both energy supply and use of military bases should be considered to account for China's pragmatic approach to Myanmar. While the latter has been ostracised by the West since 1988, it has not been isolated by regional powers; we therefore propose to examine in the following sections China-Myanmar relations in the context of regional powers' continuous partnership with the military regime.

### MYANMAR PLAYS THE CHINA CARD

While the popular assumption is that Myanmar is a client state of China, the depth of the relationship between the two is often overstated. In fact, the junta has skillfully played the China card to improve or maintain good relations with its ASEAN brotherly states, especially Thailand, India and Japan. After seizing power in 1988, the SLORC abandoned the autarkic, socialist economic programme adopted by the Ne Win regime. Instead it opted for developing a more "open" economy, inviting foreign,

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*Myanmar makes every effort to maintain cordial relations with all major powers in the region.*

including Chinese, investment into its domestic economy.<sup>35</sup> Largely due to their mounting concern about China's overwhelming dominance over Myanmar, ASEAN, India and Japan have all acknowledged the need to be involved. Hence they have accepted the principle of non-intervention in their dealings with Myanmar, with India and Japan laying aside their initial principled support for human rights and democratisation in the reclusive country. As a result, Myanmar's natural gas sector has not come under Chinese domination.<sup>36</sup> More recently the military junta began to forge relations with fellow outlaw states to counterbalance its growing engagement with China.

Bolstered by xenophobic nationalism, Myanmar makes every effort to maintain cordial relations with all major powers in the region to ward off over-dependence on any one country.<sup>37</sup> This is particularly true when it comes to its interaction with China. Although it was the first non-socialist country to recognize the People's Republic of China in December 1949, the decision was largely made out of a fear of a possible Chinese invasion. Burma's colonial history left a legacy of border disputes between the two countries. Burma's U Nu was wary that China would invade his country under the pretext of pursuing the remnant of Guomindang forces that fled across the border between the two countries and concerned about China's continuous assistance to the Burma Communist Party (BCP; also known as the White Flags).<sup>38</sup> Mutual hostility heightened during China's Cultural Revolution period when anti-Chinese riots broke out in Burma in June 1967. Even today, the Myanmar regime is resentful

of China's support for the BCP which lasted until the mid-1980s.<sup>39</sup> An illegal party in the country, the BCP is often associated with the insurgent armed forces in the politically sensitive ethnic minority areas along the China-Myanmar border. As a consequence of these historical factors, Myanmar is often apprehensive about the potential threat to its sovereignty and security posed by its more powerful north-eastern neighbour.

China is not the only, nor is it the biggest, supporter of the abusive regime. Contrary to what is widely believed, Myanmar's largest trading partner is Thailand, not China, due to natural gas sales.<sup>40</sup> Although Thailand and Myanmar had experienced strained relations in the past, as early as December 1988, shortly after the coup by SLORC, Thailand began to adopt a policy of "constructive engagement" with Myanmar with a visit to Rangoon (renamed Yangon in 1989) by the Thai commander of armed forces, General Chaovalit Yongchaiyut. Thailand made to no avail an appeal to the George H. W. Bush administration in February 1989 to improve relations with Indochina as well as Myanmar.<sup>41</sup> Thailand invited Ohn Gyaw, the then Myanmar foreign minister, to attend ASEAN ministerial meetings in Bangkok in 1994.<sup>42</sup> Commercial interests between the two countries have since developed rapidly, including the offshore Yadana and Yetagun gas fields in the Gulf of Martaban, and forestry and hydroelectric power projects.<sup>43</sup> More recently, Thailand's PTT Exploration and Production (PTT-EP) has begun to explore offshore gas from the Gulf of Martaban.<sup>44</sup> Thailand has refused to cooperate with the West in imposing sanctions on the regime. In December 2003 Thakin Shinawatra invited representatives from 11 countries to Bangkok (known as the "Bangkok process") to discuss Myanmar's seven-point roadmap to democracy proposed by the Prime Minister Khin Nyunt.<sup>45</sup> Other ASEAN member states, with the possible exception of the Philippines which has strong ties with the United States, are all supportive of strengthening political and economic ties with Myanmar.

In Myanmar's effort to balance the pulls of outside influences, India plays a key role. Well aware of the competition and rivalry between China and India, the junta tends to play China against India in the negotiations over potential gas routes.<sup>46</sup> Both India and Burma were parts of British India before independence. Between 1962 and 1991, however, India had fairly strained relations with the military junta, partly because of its moralistic rejection of the legitimacy of the anti-democracy coup d'état. However, as a result of the rise of P. V. Narasimha Rao to power following the death of Rajiv Gandhi in May 1991, the Indian government began to implement pro-market economic reforms domestically and to adopt externally a "Look East Policy" to cement ties with the economically vibrant Southeast Asia and to counter-balance the influence of China.<sup>47</sup> The starting point of the policy of reaching out to Southeast Asia was naturally Myanmar. India also felt compelled to seek the latter's support to rein in anti-Indian insurrections in Indian Northeast.<sup>48</sup> This presaged a complete turnaround in its dealings with its eastern neighbour. U Aye, director general of Myanmar's Ministry of Foreign Affairs, visited New Delhi in October 1992.

Indian foreign secretary, J.N. Dixit, paid a reciprocal visit to Yangon four months later. Both countries agreed in principle not to interfere into each other's internal affairs.<sup>49</sup> Since then, bilateral trade has increased remarkably from US\$87.4 million in 1990-91 to US\$323.4 million in 2001-02 with India becoming a major market for Myanmar exports.<sup>50</sup>

The visit by Jaswant Singh, then Indian minister for external affairs, to Myanmar in February 2001 kicked off a series of protracted negotiations on purchasing natural gas from Myanmar. Two Indian oil and gas companies - ONGC Videsh Ltd and GAIL - are involved in the exploration of the Shwe gas field, of which, as mentioned before, Daewoo International holds the controlling share. Ideally, India wished to deliver Myanmar gas to Kolkata (Calcutta) via a pipeline going through Bangladesh. But New Delhi was reluctant to meet the conditions imposed by Dhaka in 2005.<sup>51</sup> Without waiting for India to sort out the routing problem, the Myanmar government announced in March 2007 selling natural gas from Blocks A1 and A3 to China rather than India. Despite this setback, bilateral cooperation between India and Myanmar continued. In August 2007 India sealed a \$150 million contract for gas exploration in the Gulf of Martaban. During the military crackdown in September 2007, Indian Oil Minister Murli Deora was in Yangon to observe the signing of an additional oil and gas exploration contract between his country's ONGC Videsh Ltd and Myanmar's military leaders.<sup>52</sup> In April 2008 when Maung Aye, vice chairman of the SLORC, visited India, Indian Vice President Hamid Ansari reiterated his country's opposition to imposing international sanctions on Myanmar. In the wake of Cyclone Nargis that killed 138,000 Burmese nationwide in May 2008, India was one of the first countries to provide emergency aid to Myanmar.<sup>53</sup>

Well aware of the geostrategic value of Myanmar, Japan is another major actor in regional politics. Its relations with Burma date back to the Pacific War in 1937-45 when the Japanese forces invaded Burma to cut off the international supply lines to China.<sup>54</sup> In the 1940s the "Thirty Comrades," including Aung San and Ne Win, received military training from the Japanese. Up to 1988 Japan was the principal provider of development aid to Burma. Between 1954, when Japan's official development assistance (ODA) programme started, and 1988 Japan offered it more than \$2 billion in grants and loans. Japan has since 1988 faced a struggle between, on the one hand, the need to prevent Myanmar from leaning heavily on China, to accommodate the strong influence of major Japanese trading firms and to maintain its diplomatic clout in Southeast Asia, and on the other hand, the imperative not to undermine its alliance with the United States which persistently urges it to isolate the military regime. Japan's policy is to occupy the middle ground by exercising "quiet diplomacy" in dealing with the junta.<sup>55</sup> Tokyo formally recognised the military regime in February 1989 and resumed disbursements of funds agreed upon *before* the coup as soon as the SLORC announced the holding of general elections in the following year. In March 1990 the Japanese government annulled Myanmar debt worth \$22.8 million by converting it into a grant. Four years later, it offered two *new*

humanitarian aid grants to Myanmar.<sup>56</sup> Three months after the release of Aung San Ssu Kyi from house arrest in July 1995, Japan approved a grant of 1.6 billion Japanese yen for the renovation and expansion of the Institute of Nursing in Yangon. This was followed by a low-key visit to Tokyo by Maung Aye between late October and early November 1995.<sup>57</sup> Alarmed by China's "aid offensive" in Myanmar, Japan supported the admission of Myanmar to ASEAN in June 1997 in defiance of the United States and European Union.<sup>58</sup> Yoriko Kawaguchi, Japan's Foreign Minister, made a visit to Myanmar in August 2002 after the junta lifted restrictions on Aung San Suu Kyi who was put again under house arrest between September 2000 and May 2002. The visit had enormous symbolic significance, as it was the first visit by a serving Japanese foreign minister in 19 years and the first by any incumbent G8 foreign minister to Myanmar since 1989.<sup>59</sup> The Japanese government did not impose any official economic sanctions on the regime, so direct investment from Japan continued after 1988 and amounted to \$212.57 million in the period 1988-2003.<sup>60</sup> Japanese companies are also active in the Myanmar energy sector. Mitsui Trading Company entered into an agreement in April 1996 to construct a gas pipeline from the Yadana gas field.<sup>61</sup> Nippon Oil Exploration (Myanmar) Ltd holds a 19.3 percent stake in the Yetagun gas field.<sup>62</sup>

Mutual ties have, however, become strained since the Depayin Incident of May 2003.<sup>63</sup> Nevertheless, the Japanese government has steadfastly maintained that "quiet diplomacy" works better than sanctions. Yoshinori Yakabe of the Ministry of Foreign Affairs was quoted as saying that Japan's most important goal is to work together with ASEAN countries rather than support sanctions.<sup>64</sup> Despite that bilateral relations have been frostier than ever after Kenji Nagai, a Japanese video journalist, was shot dead by a Myanmar soldier in the junta's crackdown on the September 2007 anti-government protests, Japan did not end its aid to the military-ruled country, as it pledged in January 2008 to extend humanitarian aid worth \$1.79 million.<sup>65</sup> To assist Myanmar in overcoming the grave humanitarian crisis after the southern Irrawaddy Delta (also known as Ayeyarwady Delta) was devastated by Cyclone Nargis, the Japanese government sent through the United Nations a \$10 million emergency relief package for the victims. Japan also offered through Japan International Cooperation Agency disaster relief supplies worth \$950,000. Japan argued that the relief aid was given after taking into account "the friendly relationship between the two countries and the scale of the disaster."<sup>66</sup>

In an effort to further diversify and balance outside influences, Myanmar began to adopt a proactive diplomacy in 2007 by reaching out to states that have strained relations with the United States and/or the European Union; they include Iran, North Korea, Venezuela and Russia. It resumed diplomatic relations with North Korea, which were broken off in 1983, and was in talks with Russia for setting up a nuclear research reactor.<sup>67</sup>



## THE ASEAN WAY

The ways in which regional powers engage Myanmar have largely shaped how China develops ties with the military regime. In response to the active involvement with Myanmar in the names of "constructive engagement" by Thailand and ASEAN, the "Look East Policy" by India and "quiet diplomacy" by Japan, China has become even more determined to cling to its longstanding "Five Principles of Peaceful Co-existence." In particular, it has stressed the principles of mutual respect for territorial integrity and sovereignty and mutual non-interference in other's internal affairs. Short of regime change in Myanmar, which might result in a spillover of political instability into China's south-western border, China is willing to cooperate with the West in nudging the junta into undertaking limited domestic reforms. It is in China's interests to see a "civilianisation" of the regime, propping up the legitimacy of the ruling generals, and conciliation between Myanmar and the United States. China brokered talks between Eric John, US Deputy Assistant Secretary of State for East Asian and Pacific Affairs, and two Myanmar ministers in Beijing in June 2007. China also backed the effort of the UN special envoy Ibrahim Gambari to promote reconciliation between Aung San Suu Kyi and the generals, and the resumption of the National Convention, which is primarily tasked with drawing up a new constitution.<sup>68</sup> Collectively they would likely help China to earn its reputation in the West as a "responsible great power" while averting the establishment of a pro-Western regime on its south-western border.

Furthermore, there is a nonmaterial or social element in China-Myanmar relations: the "ASEAN Way", a general approach adopted by ASEAN countries that encompasses, among other things, non-confrontational, consensual, incremental and noninterventionist ways to resolve regional conflicts.<sup>69</sup> ASEAN's policy of constructive engagement is characterised by the regional endeavour not to "embarrass and isolate" the military regime and by the commitment to resolving Southeast Asian issues by nations within the region (i.e. regional autonomy).<sup>70</sup> This policy of regional engagement is meant to redress two prominent concerns among ASEAN members: US hegemony in the region and growing Chinese influence on Myanmar.<sup>71</sup> Myanmar's ruling regime has skilfully used the twin threats of instability in minority border regions and increasing reliance on China to dissuade its neighbours from intervening into its internal affairs and pushing it too hard.<sup>72</sup>

China's policy is largely contingent on how ASEAN treats its reclusive member state. In the first place, this is because China believes that regional institutions have the primary right to speak on the issues that directly concern them. China's state-centric approach to global governance is to be built on individual states at the basic level, regional intergovernmental organisations at the middle level and the United Nations at the global level. This would serve to restrain the United States from exercising power unilaterally and meddling in the domestic affairs of other states, indirectly enhancing China's security and freedom of action on various fronts. As we argue elsewhere, the Chinese government was annoyed by the fact that without



UNSC's authorisation, the US-led NATO in March 1999 used armed forces against the former Yugoslavia, a sovereign state that posed no direct threat to it. China has since then demanded that forcible humanitarian intervention be authorised by the UNSC and receive prior consent of the host state.<sup>73</sup> China's appreciation of an increased role of regional organisations in regional and global governance is evident in its "Position Paper on the United Nations Reforms" released in June 2005. China maintains that the reforms should safeguard the principles of sovereign equality and non-interference in internal affairs. Even if a massive humanitarian crisis takes place, China says, the opinions of the country in question and *the regional organisations concerned* should be respected, and that it is eventually the responsibility of the Security Council to make the decision to ease and defuse the crisis within the framework of the UN.<sup>74</sup>

Third, given the prevalence of the "China threat" arguments in the region, China finds that it is in its interests to work in tandem with ASEAN to allay the latter's concern over its increasingly close alignment with Myanmar.<sup>75</sup> It has gone to great lengths to maintain good relations with ASEAN at large and not to marginalise the organisation.<sup>76</sup> Otherwise, China is fearful that it would likely push the regional countries to form an anti-China coalition with Japan as well as the United States.<sup>77</sup> That explains why Beijing is loath to play a proactive role in resolving Myanmar's domestic crises despite the calls by human rights activists on China to use its leverage over the military junta to push it to embrace a more liberal standard of governance. Instead, it is supportive of the involvement of ASEAN in the domestic affairs of Myanmar. When China and Russia vetoed the aforementioned draft resolution submitted to the UNSC in January 2007, China's rationale was that the Myanmar issue was an internal affair of a sovereign state and that Myanmar's immediate neighbours, ASEAN member states, did not believe that the grave challenges Myanmar was facing posed a threat to them. While the first "double veto" by China and Russia since September 1972 came under spotlight, what escaped the notice of many pundits was Indonesia's abstention from the voting and its stance.<sup>78</sup> The Southeast Asian state, a non-permanent UNSC member in 2007-2008, agreed with China that the host of issues such as democratic transition, human rights, HIV/AIDS and narcotics and human trafficking "did not make Myanmar a threat to international peace and security".<sup>79</sup> Jakarta emphasised that both the United Nations and ASEAN could work together to address them.<sup>80</sup>

Both China and Myanmar's ASEAN neighbouring states have been at pains to put ASEAN in the driving seat in multilateral engagement with the military regime. This was particularly evident in the response to Cyclone Nargis, which devastatingly hit Myanmar in May 2008. In the wake of the disaster, 24 countries and the United Nations swiftly offered aid and assistance to the Myanmar government. However, in fear of foreign intervention into its domestic politics and even aggression, the military regime refused to accept aid from Western nations.<sup>81</sup> China was one of a few Asian countries which successfully dispatched relief supplies to the country. US

Secretary of State Condoleezza Rice made an appeal for China to press the military regime to accept more external disaster assistance.<sup>82</sup> While China was more successful than Western countries and non-governmental aid agencies in dispatching relief supplies to Myanmar and had pledged aid worth \$15 million, it resisted putting pressure on Myanmar to open up its borders for emergency relief from other donors. When France argued in the UNSC for invoking the notion of "responsibility to protect" to deliver aid forcibly to the victims of the disaster without the consent of the military regime, China disagreed. But it is worth noting that in addition to China and Russia, Vietnam and Indonesia, both Myanmar's fellow members in ASEAN, rejected the involvement of the UNSC.<sup>83</sup> Eventually it was ASEAN that took the lead to coordinate a "coalition of mercy" to undertake humanitarian relief. An ASEAN-UN International Pledging Conference was held in Yangon on May 25, 2008, which received international aid amounting to \$50 million.<sup>84</sup>

Mounting evidence indicates that a quest for national and regional autonomy and international legitimacy occupies a more central place in China's grand strategy than a hunt for energy resources in countries with moderate oil wealth. The former, which has a direct bearing on its regime security, requires an international order built less on US hegemony than on heightened cooperation between sovereign states and regional intergovernmental organisations. China increasingly relies on the support of nation-states and regional organisations that share the cardinal principles of inviolability of national sovereignty and non-interference

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*National and regional  
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the hunt for resources.*

in the internal affairs of other states to constrain the sole superpower, the United States. This is more salient in Southeast Asia due to several reasons. First, ASEAN is an important political ally of China not only because the Southeast Asian states are on its periphery but also because they share a commitment to repudiating the post-Cold War normative assertion that only liberal democracies are rightful and legitimate members of the "civilised" international society and to resisting an increased temptation of liberal democracies to intervene into the internal affairs of other states.<sup>85</sup> China acts in accordance with the norms and rules of a regional order fashioned by both ASEAN and it: a pluralist order based on a common commitment to the fundamental institution of state sovereignty enshrined in both the United Nations Charter and the ASEAN Treaty of Amity and Cooperation. According to the English School of International Relations, this pluralist conception of international society does not undermine cooperation between states and international peace even if they hold varying political values and ideologies.<sup>86</sup> Second, American political influence and authority in Southeast Asia was on the wane under the George W. Bush administration. Since the United States started the wars in Afghanistan and Iraq in the wake of Sept. 11, it has shown reduced interest in Southeast Asian affairs. Condoleezza Rice has skipped two ASEAN Regional Forum meetings since 2005. George W. Bush was absent from a summit

meeting with ASEAN in September 2007, which marked the 40th anniversary of the founding of the organisation.<sup>87</sup> In a way, as a gradual shift in power balance in favour of China in East and Southeast Asia seems to be taking shape, China is at pains to carve out a normative buffer zone on its border with Southeast Asia to counter American hegemony. Third, critics of the West charge that the sheer moral hypocrisy of Western powers is evident in Southeast Asia. In spite of economic sanctions against Myanmar by both the United States and the European Union, Chevron/Unocal (United States) and Total (France), two major international oil companies, have not ceased their operation in the Yadana and Yetagun gas pipeline projects.<sup>88</sup> China and Asian nations are convinced of the moral grounds for adopting a “business-as-usual” approach to Myanmar.

### NORMS, ENERGY AND BEYOND

Although ASEAN, China, India and Japan form partnerships with Myanmar for different reasons, interactions among the regional stakeholders with regard to Myanmar have reinforced the regional norm of non-intervention into other states’ internal affairs. Despite their initial preference for supporting and promoting political liberalisation in the reclusive country, both India and Japan, the two democratic countries in the region, have been socialised, though in varying degrees, into the norm when they engage Myanmar as well as ASEAN.<sup>89</sup> The regional normative environment in which all stakeholders find themselves defines and constitutes their Asian identities, national interests, and more importantly, what counts as rightful action. At the same time, regional actors create and reproduce the dominant norms when they interact with each other.<sup>90</sup> This approach prompts us to look beyond such material forces and concerns as the quest for energy resources as well as military prowess to explain China’s international behaviour. Both material self-interest and normative factor are at work in China’s relations with Myanmar and ASEAN. But pundits grossly overstate the former at the expense of the latter. To redress this imbalance, this paper asserts that China adopts a “business-as-usual” approach to Myanmar largely because this approach is regarded as appropriate and legitimate by Myanmar and ASEAN and practised by India and Japan as well, and because China wants to strengthen the moral legitimacy of an international society based on the state-centric principles of national sovereignty and non-intervention.

As a corollary, we argue that regional politics at play have debunked the commonly held simplistic belief that China’s thirst for Myanmar’s energy resources is a major determinant of China’s policy towards the regime. A close examination of the energy assets in Myanmar reveals that it is less likely to be able to become a significant player in international energy politics. Whereas Myanmar may offer limited material benefits to China, it and ASEAN at large are of significant normative value to the latter. Ostensibly China adopts a *realpolitik* approach to Myanmar; however, the approach also reflects China’s recognition of the presence and prominence of a regional normative structure and its firm support for it.

The arguments of this paper may be fruitful in furthering research on China's engagement with pariah states in a number of ways. First, analysts may examine how the Gulf Cooperation Council, the League of Arab States and the African Union deal with the unsavoury states of Iran, Libya and Sudan to see whether China follows closely the policy lines established by the regional organisations. Second, one may study how China adjusts its approach to Myanmar if and when ASEAN shifts to assume a more interventionist stance with regard to Myanmar's political stalemate.<sup>91</sup> Finally, if the new Obama administration comes to an understanding that "democracies will have to work with rising autocracies if they are to tackle global challenges"<sup>92</sup> and fosters a cooperative international order made up of a concert of great powers of diverse political systems and values, would China become more receptive to the preferences of the West in bringing about positive political changes in Myanmar? ☹

## NOTES

<sup>1</sup> Michael Klare, *Rising Powers, Shrinking Planet: How Scarce Energy Is Creating a New World Order* (Oxford: Oneworld Publications, 2008), 150.

<sup>2</sup> Ibid, 166-68; Erica S. Downs, "The fact and fiction of Sino-African energy relations," *China Security* 3, no.3 (2007): 42-68.

<sup>3</sup> The United Nations Security Council passed Resolution 1769 to deploy a hybrid international force of up to 26,000 UN and African Union soldiers and police officers to Darfur. British officials argued that China dropped its objections to the vote because a possible international human rights backlash from human rights activists against the 2008 Olympic Games in Beijing outweighed China's oil interests in Sudan. <http://daccessdds.un.org/doc/UNDOC/GEN/N07/445/52/PDF/N0744552.pdf>. (accessed March 1, 2009) Patrick Wintour and Julian Borger, "UN vote backs Brown's call for action to end Darfur conflict," *Guardian*, August 1, 2007, <http://www.guardian.co.uk/politics/2007/aug/01/uk.topstories3> (accessed August 1, 2007). See Daniel Large, "From non-interference to constructive engagement? China's evolving relations in Sudan," in Chris Alden, Daniel Large and Ricardo Soares de Oliveira (eds.), *China Returns to Africa: A Rising Power and a Continent Embrace* (London: Hurst & Company, 2008), 275-94 and Sharath Srinivasan, "A marriage less convenient: China, Sudan and Darfur," in Kweku Ampiah and Sanusha Naidu (eds.), *Crouching Tiger, Hidden Dragon? Africa and China* (Scottsville: University of Kwazulu-Natal Press, 2008), 55-85 for two studies of the role of China in the Darfur crisis.

<sup>4</sup> Since early 2004, Hu Jintao has visited 18 African countries. He was in Mali, Senegal, Mauritius and Tanzania in February 2009. Eric Watkins of *Oil & Gas Journal* argues that the hunt for oil and gas motivates Hu to visit the four "resource-poor" countries because of their location. Eric Watkins, "Hu eyes African oil," *Oil & Gas Journal*, February 16, 2009.

<sup>5</sup> Peter Brookes, "Into Africa: China's grab for influence and oil," *Heritage Lectures*, no. 1006, February 9, 2007, 2, <http://www.heritage.org/research/Africa/hl1006.cfm> (accessed March 1, 2009).

<sup>6</sup> David M. Lampton, *The Three Faces of Chinese Power: Might, Money, and Mind* (Berkeley, CA: University of California Press, 2008), 246. Despite the fact that Beijing no longer provides uncritical support for such pariah states as North Korea, Iran and Sudan in its "new dictatorship diplomacy," Stephanie Kleine-Ahlbrandt and Andrew Small maintain, Beijing's "main motivations [behind the new approach] remain energy security and economic growth." Stephanie Kleine-Ahlbrandt and Andrew Small, "China's new dictatorship diplomacy: is Beijing parting with

pariahs?" *Foreign Affairs* 87, no. 1 (2008): 38-56. See also David Zweig and Bi Jianhai, "China's global hunt for energy," *Foreign Affairs* 84, no. 5 (2005): 25-38.

<sup>7</sup> The State Law and Order Restoration Council changed the name of the country from Burma to the Union of Myanmar in June 1989 and it itself was renamed the State Peace and Development Council (SPDC) in November 1997.

<sup>8</sup> Many commentators attribute the close China-Myanmar relations to military or strategic reasons. See below for more discussion.

<sup>9</sup> Tin Maung Maung Than, "Myanmar and China: a special relationship?" *Southeast Asian Affairs 2003* (Singapore: Institute of Southeast Asian Studies, 2003), 189-210.

<sup>10</sup> According to Mi Gongsheng, the director of Yunnan Provincial Development and Reform Commission, the pipelines would be built at a total cost of \$2.54 billion in the first half of 2009. China National Petroleum Corporation (CNPC) will hold a 50.9 percent stake of the project while Myanmar Oil and Gas Enterprise (MOGE) will own the remaining 49.1 percent. Wan Zhihong, "Yunnan to build new gas pipeline," *China Daily*, November 19, 2008, [http://www.chinadaily.com.cn/regional/2008-11/19/content\\_7219714.htm](http://www.chinadaily.com.cn/regional/2008-11/19/content_7219714.htm)

(accessed November 20, 2008).

<sup>11</sup> "Myanmar pipelines yet to be approved," *South China Morning Post*, March 6, 2008. Myanmar is an oil-importing country due to the depletion of its onshore oilfields. See Tin Maung Maung Than, "Myanmar's energy sector: banking on natural gas," *Southeast Asian Affairs 2005* (Singapore: Institute of Southeast Asian Studies, 2006), 257-89, and Marie Lall, "Indo-Myanmar relations in the era of pipeline diplomacy," *Contemporary Southeast Asia* 28, no. 3 (2006): 424-46.

<sup>12</sup> Xuegang Zhang, "China's energy corridors in Southeast Asia," *China Brief* 8, no.3 (2008), [http://www.jamestown.org/single/?no\\_cache=1&tx\\_ttnews%5Btt\\_news%5D=4693](http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=4693) (accessed November 27, 2008); Zhang Xuegang, "Southeast Asia and energy: gateway to stability," *China Security* 3, no. 2 (2007): 18-35, [http://www.wsichina.org/cs6\\_2.pdf](http://www.wsichina.org/cs6_2.pdf) (accessed November 27, 2008). According to Zhang, China has grounds to be suspicious of American motives regarding the Regional Maritime Security Initiative because it is not open to Chinese participation and because of the unpleasant memories of the *Yinhe* incident in 1993. Although China is a signatory to the Container Security Initiative, with Shanghai and Shenzhen participating in it, the country is loath to join the Proliferation Security Initiative. It began to be concerned that the United States would use the war on terrorism as a cloak for controlling the Malacca Strait as soon as the US proposed in 2004 that its elite forces be allowed to patrol the Strait. See Marc Lanteigne, "China's maritime security and the "Malacca dilemma,"" *Asian Security* 4, no. 2 (2008): 143-61; You Ji, "Dealing with the Malacca Dilemma: China's effort to protect its energy supply," *Strategic Analysis* 31, no. 3 (2007): 467-89.

<sup>13</sup> Zhang, "Southeast Asia and energy."

<sup>14</sup> Zhang, "China's energy corridors in Southeast Asia."

<sup>15</sup> Åshild Kolås, "Burma in the balance: the geopolitics of gas," *Strategic Analysis* 31, no. 4 (2007): 625-43.

<sup>16</sup> Zhang, "China's energy corridors in Southeast Asia.;" "China-Myanmar oil pipeline project approved," *Alexander's Gas and Oil Connections News & Trends: E & SE Asia* 13, no. 7, April 15, 2008, <http://www.gasandoil.com/goc/news/nts81610.htm> (accessed November 27, 2008).

<sup>17</sup> Daewoo International began in 2000 to explore natural gas in the Bay of Bengal in partnership with Myanmar Oil and Gas Enterprise (MOGE). Four years later Daewoo International announced the discovery of a gas field in Shwe. Daewoo International holds a 51 percent stake in the Shwe field. Minor partners include India's Oil and Natural Gas Corporation (17 percent), MOGE (15 percent), GAIL of India (8.5 percent) and Korea Gas Corporation (8.5 percent). Kolås, "Burma in



the balance"; Charles Lee, "Myanmar gas sales, transport to CNPC set," *Platts Oilgram News*, June 24, 2008.; Song Yen Ling, "Daewoo signs Myanmar pact with CNPC," *International Oil Daily*, June 24, 2008.

<sup>18</sup> See, e.g. Amy Kazmin, "Beijing holds key to change in Burma," *Financial Times*, August 7, 2008 and Brian McCartan, "China's footprint in Myanmar expands," *Asia Times Online*, November 1, 2008, [http://www.atimes.com/atimes/China\\_Business/JK01Cb02.html](http://www.atimes.com/atimes/China_Business/JK01Cb02.html) (accessed November 2, 2008); Stephanie Kleine-Ahlbrandt and Andrew Small, "China's new dictatorship diplomacy: is Beijing parting with pariahs?" *Foreign Affairs* 87, no.1 (2008): 38-56.

<sup>19</sup> Pak K. Lee, "China's quest for oil security: oil (war) in the pipeline?" *Pacific Review* 18, no. 2 (2005): 265-301.

<sup>20</sup> John Bray, *Burma: The Politics of Constructive Engagement*, Discussion Paper 58 (London: Royal Institute of International Affairs, 1995), 44-48. This has been echoed by Lin Xixing of Jinan University, Guangzhou, who argues that the central government is less than determined in implementing the pipeline plan. Lin Xixing, "Miandian-Zhongguo: xin shiyou liuxiang," ("Myanmar-China: new direction of oil flow") *Zhongguo shiyou shihua (China's Petroleum and Petrochemicals)*, April 1, 2006, 28-29; "Zhong Mian guandao weihe haoshi duo mo" ("Why is the road to China-Myanmar pipeline strewn with setbacks?"), *Ibid.*, March 1, 2007, 30-31.

<sup>21</sup> Liu Shaohua, "Lun Zhong Mian guanxi," ("On China-Myanmar relations") *Wuhan daxue xuebao (renwen kexue ban) Journal of Wuhan University* 54, no. 3 (2001): 325-29.

<sup>22</sup> The cost of constructing the 2,380 km gas pipeline would be up to \$1.04 billion and China has to offer Myanmar credit of \$83 million to help it develop the gas reserves. B. Raman, *Myanmar Gas: The Pipeline Psywar*, South Asia Analysis Group Paper, no. 2244, May 12, 2007, <http://www.southasiananalysis.org/papers23/paper2244.html> (accessed October 19, 2008). See also Lee, "China's quest for oil security," 270, 286.

<sup>23</sup> Renaud Egreteau, *Woing the Generals: India's New Burma Policy* (New Delhi: Authorspress, 2003), 113-14.; Angel M. Rabasa, *Political Islam in Southeast Asia: Moderates, Radicals and Terrorists*, Adelphi Paper no. 358 (Oxford: Oxford University Press, 2003), 22-23.

<sup>24</sup> China urges both countries to settle the dispute "through equal and peaceful negotiations." "Bangladesh looks to end offshore gas dispute with India and Myanmar," *Alexander's Gas and Oil Connections News & Trends: E & SE Asia* 13, no. 13, July 21, 2008, <http://www.gasandoil.com/goc/news/nts83007.htm> (accessed November 27, 2008); Andrew Symon, "Bangladesh and Myanmar in fuel spat," *Asia Times Online*, November 20, 2008, [http://www.atimes.com/atimes/Southeast\\_Asia/JK20Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/JK20Ae01.html) (accessed November 22, 2008); Nirmal Ghosh, "Dhaka reinforces border security; high alert comes after Myanmar said to have mobilised ground troops," *Straits Times* (Singapore), November 10, 2008.

<sup>25</sup> In spite of the fact that China National Petroleum Corporation and Libya's National Oil Corporation signed a cooperative agreement during Jiang Zemin's visit to Libya in April 2002, China did not import oil from the African country until 2003. China bought merely 128,900 tonnes of oil that year. Even in 2006 China only imported 3.4 million tonnes of crude oil from Libya or 2.3 percent of China's total annual imports. Angola, Republic of Congo, Equatorial Guinea and Sudan are China's major sources of imported African crude oil. Since the state visit by Jiang, Hu Jintao has not ever visited Tripoli. Chinese Foreign Minister Li Zhaoxing's African diplomatic tour in January 2006 took him to Libya. Wang Youyong, "Zhongguo yu Libiya de nengyuan hezuo," (China-Libya energy cooperation) *Guoji guancha (International Survey)*, no. 3, 2007, 47-52; Zhongguo shangwu bu (Ministry of Commerce, PRC), *Zhongguo shangwu nianjian 2007 (China Commerce Yearbook 2007)* (Beijing: Zhongguo shangwu chubanshe, 2007), 246. The United Nations Security Council lifted sanctions against Libya in its Resolution 1506 of September 12, 2003, [http://www.un.org/Docs/sc/unscl\\_resolutions03.html](http://www.un.org/Docs/sc/unscl_resolutions03.html) (accessed November 27, 2008).



<sup>26</sup> According to Michael Klare, only 15 oil-producing countries still have great untapped potential to increase output. They include Iran and Libya but not Sudan. See Klare, *Rising Powers, Shrinking Planet*, 43.

<sup>27</sup> John W. Garver, *China and Iran: Ancient Partners in a Post-Imperial World* (Seattle, WA: University of Washington Press, 2006), 139-65; Lee, "China's quest for oil security," 282.; Associated Press, "China gave IAEA intel on Iran's nuclear activities," *USA Today*, April 2, 2008, [http://www.usatoday.com/news/world/2008-04-02-nuclear-iran\\_N.htm](http://www.usatoday.com/news/world/2008-04-02-nuclear-iran_N.htm) (accessed January 6, 2009). China supported United Nations Security Council Resolution (UNSCR) 1696 of July 31, 2006, UNSCR 1737 of December 23, 2006 UNSCR 1747 of March 24, 2007, and UNSCR 1803 of March 3, 2008. Full texts of the resolutions are available at: <http://www.un.org/News/Press/docs/2006/sc8792.doc.htm>; <http://www.un.org/News/Press/docs/2006/sc8928.doc.htm>; <http://www.un.org/News/Press/docs/2007/sc8980.doc.htm> (accessed November 20, 2008) and <http://www.un.org/News/Press/docs/2008/sc9268.doc.htm> (accessed January 5, 2009).

<sup>28</sup> Chen Aizhu, "China-Iran oil talks slowed by terms, not politics," Reuters, November 13, 2007, <http://www.reuters.com/article/worldNews/idUSPEK8099820071113> (accessed November 13, 2007); "China's Sinopec, Iran ink Yadavaran deal," China Mining Association, December 11, 2007, <http://www.chinamining.org/Investment/2007-12-11/1197342543d8153.html> (accessed January 4, 2009); "SINOPEC starts Yadavaran oilfield BOD operation," *Tehran Times International Daily*, September 18, 2008, <http://www.tehrantimes.com/PDF/10416/10416-3.pdf> (accessed January 4, 2009).

<sup>29</sup> The case of Iran demonstrates that China has multiple interests in its international relations, of which maintaining good relations with the United States, non-proliferation and denuclearisation matter more than energy in China's calculus. With Iran supplying 13.6 percent of China's oil imports in the period 1998-2003, China's primary interest in Iran, according to Dingli Shen of Fudan University, is energy security. But China has to be mindful of damaging its relations with the United States. Dingli Shen, "Iran's nuclear ambitions test China's wisdom," *The Washington Quarterly* 29, no. 2 (2006): 55-66. See Gerald Chan, *China's Compliance in Global Affairs: Trade, Arms Control, Environmental Protection* (Singapore: World Scientific, 2006); and Evan S. Medeiros, *Reluctant Restraint: The Evolution of China's Nonproliferation Policies and Practices, 1980-2004* (Stanford, CA: Stanford University Press, 2007) for two studies of how and why China complies with the international non-proliferation regime.

<sup>30</sup> *The BP Statistical Review of World Energy June 2008* does not give any data about Myanmar proven oil reserves and Sudanese proven natural gas reserves. R/P ratio, defined as the length of time, in years, that the remaining reserves would last at the prevailing annual rate of production, measures the life span of the energy resources for individual countries.

<sup>31</sup> For journalistic reports, see, e.g. "Myanmar and China: new horizons," *The Economist*, January 23, 1993; Bilveer Singh, "China gives S-E Asia two causes for anxiety," *Business Times* (Singapore), June 9, 1993; David Blair, "India targets China's oil supplies as tensions grow between rivals," *Daily Telegraph* (London), September 15, 2008; "Blue water marks," *Indian Express*, December 22, 2008; For an academic study, see Brahma Chellaney, "Assessing India's reactions to China's peaceful development doctrine," *NBR Analysis* 18, no. 5, 2008, 23-36, <http://www.nbr.org/publications/analysis/pdf/vol18no5.pdf> (accessed January 5, 2009). The Great Coco Island is in the Bay of Bengal, 45 kilometers north of India's Andaman and Nicobar Islands; Hainggyi Island is located in the Irrawaddy/Ayeyarwady estuary.

<sup>32</sup> Christopher J. Pehrson, "String of pearls: meeting the challenge of China's rising power across the Asian littoral," Strategic Studies Institute, U.S. Army War College, June 2006, <http://www.strategicstudiesinstitute.army.mil/pdf/files/PUB721.pdf> (January 3, 2009).

<sup>33</sup> Andrew Selth, "Burma, China and the myth of military bases," *Asian Security* 3, no.3 (2007):

279-307. His arguments are echoed by Wayne Bert, "Burma, China and the U.S.A.," *Pacific Affairs* 77, no. 2 (2004): 263-82; and Renaud Egreteau, "India's ambitions in Burma: more frustration than success?" *Asian Survey* 48, no. 6 (2008): 936-57.

<sup>34</sup> "India says no China defence posts on Myanmar island, but will verify," *EagleSpeak*, August 24, 2005, <http://www.eaglespeak.us/2005/08/india-says-no-china-defence-posts-on.html> (accessed January 3, 2009).; "No report of anti-India activity at Coco Island," *Indiainfo.com*, August 25, 2005, <http://news.indiainfo.com/2005/08/25/2508coco-island-navy.html> (accessed January 3, 2009); "India says no China defence posts on Myanmar island," *Reuters News*, August 24, 2005.

<sup>35</sup> David I. Steinberg, *Burma: The State of Myanmar* (Washington, D.C.: Georgetown University Press, 2001), chapter 5, 133-39.

<sup>36</sup> China's Xinhua News Agency quotes official sources of Myanmar as saying that a total of 13 foreign oil companies, from Australia, Britain, Canada, China, India, Russia, South Korea, in addition to three ASEAN member states, are operating in Myanmar. Xinhua News Agency, "Companies from China, Myanmar, S. Korea sign gas pact in Myanmar," *Xinhuanet.com*, December 24, 2008, [http://news.xinhuanet.com/english/2008-12/24/content\\_10555064.htm](http://news.xinhuanet.com/english/2008-12/24/content_10555064.htm) (accessed January 3, 2009).

<sup>37</sup> It is an argument shared by Myanmar specialists. See Haacke, *Myanmar's Foreign Policy*; Helen James, "Myanmar's international relations strategy: the search for security," *Contemporary Southeast Asia* 26, no. 3, 2004, 530-53; Andrew Selth, *Burma's China Connection and the Indian Ocean Region* (Working Paper No. 377) (Canberra: Strategic and Defence Studies Centre, Australian National University, 2003).

<sup>38</sup> Cheng Ruisheng, "Cong Zhong Mian guanxi kan wu xiang yuanze de qiangda shengmingli" ("To look at the great vitality of the Five Principles [of Peaceful Co-existence] from Sino-Myanmar relations"), *Yafei zongheng (Exploring Asia and Africa)*, no. 4, 2004, 35-41. The author was a former Chinese ambassador to Myanmar; Jay Taylor, *China and Southeast Asia: Peking's Relations with Revolutionary Movements* (New York: Praeger Publishers, 1974), 192-94.

<sup>39</sup> Kolås, "Burma in the balance"; Liu Wu, "Miandian waijiao zhengce de xin tiaozheng: cong dui hua youhao dao daguo pingheng waijiao" ("The new adjustment of Myanmar's foreign policy: from a China-friendly to a balance of great powers policy"), *Dongnan Ya yanjiu (Southeast Asian Studies)*, no. 2, 2007, 44-49.

<sup>40</sup> Thomas Fuller, "Region's energy needs enable Myanmar junta," *International Herald Tribune*, October 2, 2007, <http://www.ihf.com/articles/2007/10/01/news/yanon.php> (accessed October 2, 2007). More than 43 percent of Myanmar exports in 2004-2005 went to Thailand, which also provided by March 2005 more than half of the foreign direct investment in Myanmar. Robert H. Taylor, *The State in Myanmar* (London: Hurst & Company, 2009), 465-66.

<sup>41</sup> Steinberg, *Burma*, 230.

<sup>42</sup> Myanmar became an observer to ASEAN and began to participate in the ASEAN Regional Forum two years later. Tin Maung Maung Than, "Myanmar: preoccupation with regime survival, national unity, and stability," In Muthiah Alagappa (ed.), *Asian Security Practice: Material and Ideational Influence* (Stanford, CA: Stanford University Press, 1998), 390-416.

<sup>43</sup> Bray, *Burma*, 40-42.

<sup>44</sup> Brian McCartan, "Myanmar signs up energy partners," *Asia Times Online*, July 10, 2008, [http://www.atimes.com/atimes/Southeast\\_Asia/JG10Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/JG10Ae01.html) (accessed August 11, 2008).

<sup>45</sup> Ian Holliday, "Japan and the Myanmar stalemate: regional power and resolution of a regional problem," *Japanese Journal of Political Science* 6, no. 3 (2005): 404, 408.

<sup>46</sup> Zhang, "China's energy corridors in Southeast Asia."

<sup>47</sup> Lall, "Indo-Myanmar relations in the era of pipeline diplomacy." The closer links between China and Myanmar since 1988 and the increasing Chinese influence on the military junta were perceived by India as potential threats to its national security. The alleged installation of electronic surveillance facilities along the Myanmar coasts and on the Great Coco Island was denounced in 1998 by George Fernandes, then India's Defence Minister, as a military threat to his country. In order to avoid the Myanmar junta becoming a Chinese military pawn against Indian interests, India chose to reconcile with Myanmar rather than confronting head-on with the junta. See Renaud Egreteau, "India courts a junta," *Asia Times Online*, September 20, 2003, [http://www.atimes.com/atimes/South\\_Asia/EI20Df08.html](http://www.atimes.com/atimes/South_Asia/EI20Df08.html) (accessed October 17, 2008).

<sup>48</sup> There were as many as 20,000 anti-Indian insurgents operating within Myanmar. Egreteau, *Wooing the Generals*, chapter 6, especially 130-32, 150-58; Robert H. Taylor, "Myanmar in 2007: growing pressure for change but the regime remains obdurate," in Daljit Singh and Tin Maung Maung Than (eds.), *Southeast Asian Affairs 2008* (Singapore: Institute of Southeast Asian Studies, 2008), 247-73.

<sup>49</sup> The non-intervention policy was confirmed in 1996 by Pranab Mukherjee, Indian Minister of Foreign Affairs. Egreteau, *Wooing the Generals*, 133.

<sup>50</sup> Egreteau, *Wooing the Generals*, 132-33; Lall, "Indo-Myanmar relations in the era of pipeline diplomacy."

<sup>51</sup> India proposed an alternative pipeline which would bypass Bangladesh and yet be 40 percent longer and at a cost of three times of the original route. Lall, "Indo-Myanmar relations in the era of pipeline diplomacy."

<sup>52</sup> "China and Myanmar: our friends in the north," *The Economist*, February 9-15, 2008; Manik Mehta, "On their own, India and China won't pressure Myanmar," *World Politics Review*, October 10, 2007, <http://www.worldpoliticsreview.com/article.aspx?ID=1225> (accessed October 11, 2007). Another example is Myanmar's endorsement in October 2005 of India's endeavour to become a member of the United Nations Security Council in spite of China's reservation about India's membership. Haacke, *Myanmar's Foreign Policy*, 33.

<sup>53</sup> Siddharth Srivastava, "India lays out a red carpet for Myanmar," *Asia Times Online*, April 5, 2008, [http://www.atimes.com/atimes/Southeast\\_Asia/JD05Df01.html](http://www.atimes.com/atimes/Southeast_Asia/JD05Df01.html) (accessed November 27, 2008); Brian McCartan, "Myanmar Signs up Energy Partners," *Asia Times Online*, July 2008, [http://www.atimes.com/atimes/Southeast\\_Asia/JG10Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/JG10Ae01.html) (accessed October 17, 2008).

<sup>54</sup> John W. Garver, *Protracted Contest: Sino-Indian Rivalry in the Twentieth Century* (Seattle and London: University of Washington Press, 2001), 248.

<sup>55</sup> For a general discussion of Japan's policy towards Myanmar since 1988, see Michael J. Green, *Japan's Reluctant Realism: Foreign Policy Challenges in an Era of Uncertain Power* (New York: Palgrave Macmillan, 2003), 179-84.

<sup>56</sup> Bray, *Burma*, 52-53; Haacke, *Myanmar's Foreign Policy*, 73; Donald M. Seekins, *Burma and Japan since 1940: From 'Co-prosperity' to 'Quiet Dialogue'* (Copenhagen: NIAS Press, 2007), 97-98, 132.

<sup>57</sup> Seekins, *Burma and Japan since 1940*, 133.

<sup>58</sup> Green, *Japan's Reluctant Realism*, 181, 183.

<sup>59</sup> Ministry of Foreign Affairs of Japan, "Minister for Foreign Affairs Yoriko Kawaguchi's visit to Myanmar (overview and evaluation)," August 6, 2002, <http://www.mofa.go.jp/region/asia-paci/asean/fmv0207/myanmar.html> (accessed October 31, 2008).

<sup>60</sup> Ministry of Foreign Affairs of Japan, "Japan-Myanmar relations," July 2008, <http://www.mofa.go.jp/region/asia-paci/myanmar/index.html> (accessed October 31, 2008).

<sup>61</sup> The investment was later called off or postponed. Seekins, *Burma and Japan since 1940*, 119,

122.

<sup>62</sup> Japan Oil, Gas and Metals National Corporation (JOGMEC), "Major projects; Southeast Asia," [http://www.jogmec.go.jp/english/activities/financial\\_oil/southeastasia.html](http://www.jogmec.go.jp/english/activities/financial_oil/southeastasia.html) (accessed October 31, 2008).

<sup>63</sup> New grants were suspended and technical assistance has largely been restricted to the grant aid for reforestation and improvement in maternal and child health care service under the Initiative for the Mekong Region Development. Haacke, *Myanmar's Foreign Policy*, 74; Ministry of Foreign Affairs of Japan, "Major projects of Japan's Initiative for the Mekong Region Development (Dec. 2004 – Present)," December 13, 2005, <http://www.mofa.go.jp/region/asia-paci/clv/project0512.html> (accessed October 31, 2008).

<sup>64</sup> Suvendrini Kakuchi, "Japan: activists pressure Tokyo on Burma sanctions," *Inter Press Service*, July 5, 2006.

<sup>65</sup> "Japan pledges 1.79 million dollars in aid to sanction-hit Myanmar," *Myanmar News Update*, no. 75, January 14-18, 2008, <http://www.aseanmp.org/docs/mnu/MNU%2075.pdf> (accessed November 2, 2008).

<sup>66</sup> Embassy of Japan in Myanmar, "The handling over ceremony of emergency relief goods for the Cyclone NARGIS victims of Myanmar," May 18, 2008, <http://www.mm.emb-japan.go.jp/profile/english/press/2008-05-18.htm> (accessed November 8, 2008).

<sup>67</sup> Taylor, "Myanmar in 2007," 264.

<sup>68</sup> Ian Storey, "China, Burma and the "Saffron Revolution,"" *China Brief* 7, no. 19, October 17, 2007, [http://www.jamestown.org/programs/chinabrief/single/?tx\\_ttnews%5Btt\\_news%5D=4485&tx\\_ttnews%5BbackPid%5D=197&no\\_cache=1](http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews%5Btt_news%5D=4485&tx_ttnews%5BbackPid%5D=197&no_cache=1) (accessed January 7, 2009).

<sup>69</sup> A classic work on the "ASEAN Way" is Acharya, *Constructing a Security Community in Southeast Asia*, chapter 2.

<sup>70</sup> Amitav Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order* (London: Routledge, 2001), 110.

<sup>71</sup> The US decision to impose sanctions on Myanmar in May 1997 prompted ASEAN to grant Myanmar a membership in July of the year. Acharya, *Constructing a Security Community in Southeast Asia*, 113. The growth of regionalism as a response to external influence is what Mark Beeson calls "reactionary regionalism" in his "ASEAN plus three and the rise of reactionary regionalism," *Contemporary Southeast Asia* 25, no. 2, 2003, 251-68.

<sup>72</sup> Haacke, *Myanmar's Foreign Policy*, 20, 27-29.

<sup>73</sup> Both conditions were fulfilled in the resolution of the independence crisis of East Timor in September 1999. Lai-Ha Chan, Pak K. Lee and Gerald Chan, "Rethinking global governance: A China model in the making?" *Contemporary Politics* 14, no. 1, 2008, 3-19.

<sup>74</sup> Ministry of Foreign Affairs of the People's Republic of China, "Position paper of the People's Republic of China on the United Nations reforms," June 7, 2005, <http://www.fmprc.gov.cn/eng/zxxx/t199318.htm> (accessed September 14, 2007).

<sup>75</sup> Despite the misgivings about accepting the autocratic Myanmar into ASEAN on the part of the latter's dialogue partners in the West, ASEAN was determined to welcome Myanmar in 1997 because, among others, it wanted to draw Myanmar away from China's orbit. Selth, *Burma's China Connection and the Indian Ocean Region*, 6.

<sup>76</sup> China acceded to ASEAN's Treaty of Amity and Cooperation (TAC) in October 2003. The guiding principles of the TAC are mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of nations; non-interference in the internal affairs of one another; peaceful settlement of differences or disputes; and renunciation of the threat or use of force. See "The Treaty of Amity and Cooperation in Southeast Asia," ASEAN Secretariat,



February 24, 1976, <http://www.aseansec.org/1217.htm> (accessed June 18, 2008) and "ASEAN-China Dialogue Relations," ASEAN Secretariat, <http://www.aseansec.org/5874.htm> (accessed June 18, 2008).

<sup>77</sup> Michael A. Glosny, "Heading toward a win-win future? Recent developments in China's policy towards Southeast Asia," *Asian Security* 2, no. 1 (2006): 24-57. On its part, China had also harboured reservation till 1997 about participation in ASEAN-based regional institutions. For analyses of its changing views about regional multilateralism, see Alastair Iain Johnston and Paul M. Evans, "China's engagement with multilateral security institutions," in Alastair Iain Johnston and Robert S. Ross (eds.), *Engaging China: The Management of an Emerging Power* (London: Routledge, 1999), 235-72; David Shambaugh, "China engages Asia," *International Security* 29, no. 3 (2004-2005): 64-99; Rosemary Foot, "China's regional activism: leadership, leverage, and protection," *Global Change, Peace & Security* 17, no. 2 (2005): 141-53.

<sup>78</sup> See Warren Hoge, "U.S. rebuke to Myanmar is defeated by U.N. vetoes," *The New York Times*, January 13, 2007; Colum Lynch, "Russia, China veto resolution on Burma," *The Washington Post*, January 13, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/12/AR2007011201115.html> (accessed February 2, 2009). An exception was Frank Ching, "An eminently respectable stand," *South China Morning Post*, January 17, 2007.

<sup>79</sup> In September 2005 Vacláv Havel and Bishop Desmond Tutu called for the UNSC to take action against the Myanmar regime in their report entitled "Threat to the Peace: A Call for the United Nations Security Council to Act in Burma" (<http://www.burmacampaign.org.uk/reports/Burmaunscreport.pdf>; accessed January 5, 2009). They argue that the problems of the country were not restricted to human rights abuses. The outflow of refugees, drug production and trafficking and the spread of HIV/AIDS have led the country to "become a problem for the region and international community" (in the foreword). However, both China and ASEAN do not endorse this view. We thank Ian Holliday for bringing the report to our notice.

<sup>80</sup> United Nations Security Council, "Security Council fails to adopt draft resolution on Myanmar, owing to negative votes by China, Russian Federation," January 12, 2007, <http://www.un.org/News/Press/docs/2007/sc8939.doc.htm> (accessed November 21, 2008).

<sup>81</sup> For a study of the threat perception on the part of the military junta, see Andrew Selth, "Even paranoids have enemies: Cyclone Nargis and Myanmar's fears of invasion," *Contemporary Southeast Asia* 30, no. 3 (2008), 379-402.

<sup>82</sup> "Redai fengbao tuxi Miandian" (Tropical cyclone swiftly attacks Myanmar), *Wanxia (Sunset Clouds)*, June 2008, 40-43.

<sup>83</sup> Jason Leow, "China is urged to use influence with junta," *The Wall Street Journal Online*, May 12, 2008, <http://online.wsj.com/article/SB121054394987883529.html> (accessed May 13, 2008); Louis Charbonneau, "China, Indonesia reject France's Myanmar push," *Reuters News*, May 8, 2008.; Global Policy Forum, "Security Council Update: Myanmar," May 14, 2008, <http://www.globalpolicy.org/security/issues/burmamyanmar/2008/0514screport.htm> (accessed November 21, 2008). Note that Ramesh Thakur, one of the authors of the Responsibility to Protect report, also warned against invoking the concept to intervene into Myanmar's humanitarian aid programme. See his "Should the UN invoke the 'responsibility to protect?'" *The Globe and Mail*, May 8, 2008.

<sup>84</sup> "Myanmar after the cyclone: a modest opening," *The Economist*, May 24-30, 2008; "Myanmar: a turning point?" *Straits Times*, May 30, 2008.

<sup>85</sup> Ian Clark, *Legitimacy in International Society* (Oxford: Oxford University Press, 2005). During the 2008 US presidential election campaign, key advisors to both Barack Obama and John McCain were supportive of the idea of establishing a league or concert of liberal democracies to promote international security, democracy and human rights protection, and economic integration. Ivo

Daalder and James Lindsay, "Democracies of the world, unite," *The American Interest* 2, no. 3, January-February 2007, <http://www.the-american-interest.com/ai2/article.cfm?Id=220&MI=7> (accessed November 4, 2008); Charles A. Kupchan, "Minor league, major problems: the case against a league of democracies," *Foreign Affairs* 87, no. 6 (2008): 96-109.

<sup>86</sup> A pluralist international society is marked first by the claim that sovereign states are its primary members and they mutually recognise each other's rights to national sovereignty. Second, members of the pluralist international society have common interests in maintaining the order of the modern states system and the survival of the units within it. Tim Dunne, "The English School," in Christian Reus-Smit and Duncan Snidal (eds.), *The Oxford Handbook of International Relations* (Oxford: Oxford University Press, 2008), 267-85. We have argued elsewhere that the recent Chinese notion of a "harmonious world" (*hexie shijie*) bears a resemblance to the English School. See Chan, Lee and Chan, "Rethinking global governance," 14.

<sup>87</sup> Philip Bowring, "Neglecting East Asia," *International Herald Tribune*, August 3, 2007, <http://www.iht.com/articles/2007/08/03/opinion/edbwing.php> (accessed October 31, 2008); Ashwini Devare, "USA elections: impact on Southeast Asia," *Jakarta Post*, October 26, 2008, <http://www.thejakartapost.com/news/2008/10/26/usa-elections-impact-southeast-asia.html> (accessed October 31, 2008); Yoichi Funabashi, "Keeping up with Asia: America and the new balance of power," *Foreign Affairs* 87, no. 5, 2008, 110-25.

<sup>88</sup> Earthrights International, *The Human Cost of Energy: Chevron's Continuing Role in Financing Oppression and Profiting from Human Rights Abuses in Military-Ruled Burma (Myanmar)* (Washington, D.C. and Chiang Mai: Earthrights International, 2008), [http://www.earthrights.org/files/Reports/HCoE\\_final.pdf](http://www.earthrights.org/files/Reports/HCoE_final.pdf) (accessed November 6, 2008); "Oil companies look to exploit Burma," *Sydney Morning Herald*, September 30, 2007, <http://www.smh.com.au/news/World/Oil-companies-look-to-exploit-Burma/2007/09/30/1191090915956.html> (accessed November 6, 2008); Earthrights International, *Total Denial Continues: Earth Rights Abuses along the Yadana and Yetagun Pipelines in Burma* (Washington, D.C. and Chiang Mai: Earthrights International, 2003), <http://www.earthrights.org/files/Reports/TotalDenialCont-2ndEdition.pdf> (accessed November 6, 2008). Chevron Corporation acquired Unocal (Union Oil Company of California) in August 2005.

<sup>89</sup> It is, however, open to dispute whether observance of the non-interference norm is conducive to resolving the political impasse of the country. Ian Holliday is sceptical about it. See Holliday, "Japan and the Myanmar stalemate."

<sup>90</sup> This lends support to the constructivist argument that both agent and structure are mutually constitutive. Thomas Risse, "Social constructivism meets globalization," in David Held and Anthony McGrew (eds.), *Globalization Theory: Approaches and Controversies* (Cambridge: Polity Press, 2007), 126-47; Ian Hurd, "Constructivism," in Reus-Smit and Snidal (eds.), *The Oxford Handbook of International Relations*, 298-316. Glen Hook and the other authors have noted a revival of shared Asianist norms in Japan and the ASEAN member states. Glen D. Hook, Julie Gilson, Christopher W. Hughes and Hugo Dobson, *Japan's International Relations: Politics, Economics and Security* (Abingdon, Oxon: Routledge, 2005), 223.

<sup>91</sup> Constructivists claim that collective meanings and practices of world politics are socially constructed and are never fixed and permanent. The meaning and practice of national sovereignty and non-intervention have thereby undergone changes in recent years as a result of massive human rights violations in the Balkans, Africa and Southeast Asia in the 1990s. Hurd, "Constructivism," 300-02. For a succinct study of humanitarian intervention, see Thomas G. Weiss, *Humanitarian Intervention: Ideas in Action* (Cambridge: Polity Press, 2007).

<sup>92</sup> Cited in Kupchan, "Minor league, major problems," 109.