

# China v the Rest

*The Economist*, March 26, 2016

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For years China has sought to divide and rule in the South China Sea. It worked hard to prevent the countries challenging it over some or all of its absurdly aggrandising territorial claims in the sea from ganging up against it. So when tensions with one rival claimant were high, it tended not to provoke others.

Not any more. In a kind of united-front policy in reverse, it now seems content to antagonise them all at the same time. This is both encouraging closer co-operation among neighbours and driving them closer to external powers including India, Australia, Japan and, above all, America.

The latest fight China has picked is with a country with which—unlike Brunei, Malaysia, the Philippines, Taiwan and Vietnam—it has no territorial dispute: Indonesia. On March 21st the *chargé d'affaires* at China's embassy in Jakarta was hauled in to receive a stiff protest. A Chinese coastguard vessel had rammed free a Chinese fishing boat as it was towed into port after being caught allegedly fishing in Indonesian waters. The crew of eight was already in detention. In a similar incident three years ago, Indonesia released detained crew members when confronted by an armed “maritime law-enforcement” vessel belonging to China's fisheries bureau.

Since that incident Indonesia has elected a new president, Joko Widodo, one of whose trumpeted policies has been to look after the interests of fishermen. To deter illegal interlopers, Indonesia now impounds and blows up foreign vessels caught poaching. In this case, it seems clear that the Chinese were in Indonesian waters. Indonesia claims that the boat was just four kilometres off the Natuna islands, well within Indonesia's 12 nautical-mile territorial limit, let alone its 200-nautical-mile “exclusive economic zone” (EEZ).

China explicitly acknowledges Indonesian sovereignty over the Natunas. Yet instead of apologising, China's foreign ministry demanded the fishermen's release, claiming that they had been carrying out “normal operations” in “traditional Chinese fishing grounds”. China is a party to the UN Convention on the Law of the Sea (UNCLOS), under which countries are entitled to territorial waters and EEZs. Yet the government's implicit argument is that a self-proclaimed “tradition” trumps international law. By extension, with 5,000 years of sacred history touted ad nauseam by its Communist Party leaders, who is to deny China anything it wants?

China's tradition-based argument also has implications for its “nine-dash line” delimiting its claim to virtually all of the South China Sea (and passing just north

of the Natunas). It would suggest China believes it has rights over not just land features inside the line, and their territorial seas and EEZs, but also over all the water itself—a concept alien to UNCLOS.

### Flaky Claims, Fake Islands

China has declined to explain how its claims fit within UNCLOS parameters. Indeed it has a record of flouting the law and international agreements when it comes to the sea. In 2002 it signed a joint declaration with the ten-member Association of South-East Asian Nations, in which the parties undertook to “exercise self-restraint” in the South China Sea, and in particular to refrain from occupying uninhabited features such as reefs. That commitment is hard to square with the massive building spree on which China has been engaged for the past two years in the Spratly

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archipelago, turning seven uninhabitable rocks and reefs submerged at high tide into artificial islands. Vietnam and the Philippines, rival claimants, have naturally been outraged. And this month an American admiral has reported Chinese activity at Scarborough Shoal, north of the Spratlys, that suggests it might be the “next possible area of reclamation”. China bullied the Philippines away from the shoal four years ago.

The Philippines has asked an international tribunal, the Permanent Court of Arbitration in The Hague, to rule on some of China’s claims under UNCLOS. The court is expected to announce its verdict soon. If it rules broadly in favour of the Philippines, it would have the effect of making clear that China’s nine-dash line has no legal basis. China is boycotting the case and says it will ignore the verdict. The ruling might embarrass China. But it will not stop it creating artificial islands, or indeed make it dismantle those it has already built.

It seems increasingly likely that the islands will have a military purpose. China denies that, but it is hard to see why else it needs the long airstrip it is building on the Fiery Cross reef in the Spratlys. It is in this context that the threat of building at Scarborough Shoal causes such alarm. China has controlled the whole of the Paracel chain in the north of the South China Sea since 1974, when it drove out the former South Vietnamese from part of it. It has recently installed missile batteries on Woody Island there. In the Spratlys to the south it is building what look like potential air and naval bases, complete with military-grade radars. Scarborough Shoal would complete a “strategic triangle” that would allow it to dominate the sea. China is widely expected one day to declare an “air defence identification zone” over the sea, as it has over parts of the East China Sea, including areas contested with Japan.

Aggressors rarely see themselves as such. Indeed China accuses the United States of being the driving force behind the “militarisation” of the sea. Certainly America is responding to Chinese moves. Last year it resumed naval “freedom of navigation” operations, sending warships close to disputed features. This month it sent an aircraft-carrier strike group into the sea. American naval and marine-corps commanders have been in Vietnam to explore co-operation. Worse, from China’s viewpoint, American forces have just obtained access to five Philippine bases, including an airbase on Palawan, just opposite the Spratlys. For this, China’s official news agency accused America of “muddying the waters” and “making the Asia-Pacific a second Middle East”.

China will not be deterred, confident that America is unlikely to risk a serious crisis, let alone conflict. China’s throwing its weight around in the sea erodes America’s credibility as the pre-eminent military power in the western Pacific, but does not directly threaten it. By contrast, rather than cow China, America’s enhanced military role gives it a pretext to carry on with its build-up. There is still the danger, however, of an accidental flare-up—a skirmish over illegal fishing, for example, and an ensuing escalation. Armed conflict in the South China Sea is a long way from being inevitable. But it is far from unthinkable.

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# ASEAN, China Adopt[s] [a] Framework for Crafting [a] Code on South China Sea

By Christian Shepherd and Manuel Mogato  
*Reuters, August 6, 2017*

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MANILA (Reuters)—Foreign ministers of Southeast Asia and China adopted on Sunday a negotiating framework for a code of conduct in the South China Sea, a move they hailed as progress but seen by critics as [a] tactic to buy China time to consolidate its maritime power.

The framework seeks to advance a 2002 Declaration of Conduct (DOC) of Parties in the South China Sea, which has mostly been ignored by claimant states, particularly China, which has built seven manmade islands in disputed waters, three of which are equipped with runways, surface-to-air missiles and radars.

All parties say the framework is only an outline for how the code will be established but critics say the failure to outline as an initial objective the need to make the code legally binding and enforceable, or have a dispute resolution mechanism, raises doubts about how effective the pact will be.

Chinese Foreign Minister Wang Yi said the adoption of the framework created a solid foundation for negotiations that could start this year, if “the situation in the South China Sea is generally stable and on the premise that there is no major interference from outside parties.”

He told reporters there had been “really tangible progress” so there was “a need to cherish momentum on the South China Sea”.

Signing China up to a legally binding and enforceable code for the strategic waterway has long been a goal for claimant members of the Association of South East Asian Nations (ASEAN), some of which have sparred for years over what they see as China’s disregard for their sovereign rights and its blocking of fishermen and energy exploration efforts.

Beijing insists its activities are for defense purposes, in areas it considers its waters. Malaysia, Taiwan, Brunei, Vietnam and the Philippines, however, all claim some or all of the South China Sea and its myriad shoals, reefs and islands.

Some critics and diplomats believe China’s sudden interest in the code after 15 years of delays is to drag out the negotiating process to buy time to complete its strategic objectives in the South China Sea, through which more than \$3 billion of ship-borne trade passes annually.

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## Weaker Hand

Opponents also say it is being pushed through at a time when the United States, long seen as a crucial buffer against China's maritime assertiveness, is distracted by other issues and providing no real clarity about its security strategy in Asia, thus weakening ASEAN's bargaining position.

The framework has not been made public but a leaked two-page blueprint seen by Reuters is broad and leaves wide scope for disagreement.

It urges a commitment to the "purposes and principles" of the United Nations Convention on the Law of the Sea (UNCLOS) but does not specify adherence to it, for example.

A separate ASEAN document, dated May and seen by Reuters, shows that Vietnam pushed for stronger, more specific text in the framework, wanting mention of a dispute resolution mechanism and respecting "sovereignty, sovereign rights and jurisdiction".

Sovereign rights cover entitlements to fish and extraction of natural resources.

Several ASEAN countries, including Vietnam and the Philippines, have said they still favor making the code legally binding, something experts say China is unlikely to agree to.

Wang said he would not try to anticipate what the code will comprise, but said whatever is signed must be adhered to.

Robespierre Bolivar, foreign ministry spokesman of host Philippines, said the adoption of the framework symbolised the commitment to creating a "substantive and effective" code.

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