MARITIME DISPUTES in the South China Sea have been a major topic of discussion at scores of official and academic conferences over the last three years. The topic is closely related to freedom of navigation, maritime security and conflicting territorial claims among China, Taiwan, Vietnam, the Philippines, Malaysia and Brunei. The conflict is being driven by China’s claims of sovereignty in the South China Sea and its aggressive attempts to enforce those claims. All other concerned nations see China’s actions as excessive and not in conformity with international law.

The conflict in the South China Sea may be seen from several perspectives. At the regional level, it is a conflict of territorial claims among various coastal nations. At the international level, it is a conflict of interests between China, a rising regional power that wants to establish its dominance in the South China Sea, and other major powers — the United States, Japan and India — that are concerned about freedom of navigation in a major sea-lane. At the systemic level, it is an issue of power transition and/or adjustment and accommodation between a rising power, China, and a status quo power, the United States.

THE REGIONAL CONFLICT
The territorial disputes involve two chains of islands: the Paracel Islands and the Spratly Islands. Conflict over the Paracel Islands involves only China and Vietnam. Each country controlled part of the islands until 1974, just prior to the end of the Indochina War, when China took over the remaining islands from the Republic of Vietnam (RVN) after a brief naval engagement. The RVN, which was better known as South Vietnam, immediately protested China’s aggression, vowing to defend its sovereignty and calling on “all justice and peace-loving peoples” in the world to denounce “China’s blatant use of force against an independent and sovereign nation.” After
Recent stand-off between several Philippine boats and a much larger number of Chinese vessels over the Scarborough Shoal — which lies 123 miles from Subic Bay, well within the Philippine exclusive economic zone, and 500 miles from China’s Hainan Island, but within China’s nine-dashed line — led the Philippines to resort to diplomatic action, to bringing the issue to the attention of the United Nations, and to invoking the United States-Philippine Mutual Alliance Treaty for protection.

For Vietnam, total Chinese control of the South China Sea is unacceptable. For centuries, Vietnamese have taken pride in their country’s geographical location as a “balcony looking into the Pacific Ocean.” Losing control of the islands would effectively situate Vietnam on the shores of a Chinese lake, curtail its growth potential and condemn it to live perpetually under China’s shadow.

Since the end of the war in 1975, the winning side, the Socialist Republic of Vietnam (SRV), continued to dispute China’s occupation and vowed never to accept the takeover as a fait accompli.

Conflict over the Spratly Islands involves China, Taiwan, Vietnam, the Philippines, Malaysia and Brunei. While Brunei stakes a claim on one reef (Louisa Reef), Malaysia occupies or controls four islands, and the Philippines eight. China and Vietnam, meanwhile, claim sovereignty over all islands, islets, reefs and atolls in the Spratlys.

China had no presence in the Spratly Islands until 1988, when it took military action to force Vietnam from Johnson South Reef, resulting in the deaths of 64 Vietnamese soldiers. In 1995, China effectively established its control over Mischief Reef in the face of protests from the Philippines. Thus began the process of China extending its control over the Spratly Islands and more of the South China Sea.

The current concerns over maritime security and freedom of navigation are centered on the conflicting claims over the Spratlys. That conflict flared up in 2009 when China officially presented to the United Nations a map containing its infamous nine-dashed line — or “cow’s tongue” line — claiming sovereignty over 80 percent of the South China Sea (see Figure 1 on opposite page) and began asserting its claim by imposing unilateral fishing bans, seizing Vietnamese fishing boats and equipment, arresting and mistreating fishermen, demanding hefty fines from Vietnamese fishermen before releasing them, threatening oil companies that signed contracts to explore in disputed sea areas and harassing American ships beyond the 12-mile territorial limit. If China succeeds in asserting its claims, the South China Sea will become a Chinese lake, and freedom of navigation could be severely impaired.

Vietnam and the Philippines have been the two most vocal protesters of China’s assertiveness. A recent statement on Feb. 14, 1974 vowing to defend the sovereignty and territorial integrity against the “illegal occupation of China” of the Paracel Islands, the Republic of Vietnam issued a White Paper on the Paracel and Spratly Islands in 1975 laying out in full the legal foundations for its sovereignty on the two chains.


3 Viet Nam Minh Chau Tao Duong (Vietnam the Jewel of the East), a popular song among Vietnamese youth in the early 1940s, contains two lines that reflect this national aspiration: “Our damask-like land rules powerfully over a corner of the world, building its shining glory on one side of the Pacific.” (Translation courtesy of Nguyen Ngoc Bich.)

**FIGURE 1 CHINA’S ‘NINE-DASHED LINE’ TERRITORIAL CLAIMS IN THE SOUTH CHINA SEA**

A map submitted by the Chinese government to the UN Commission on the Limits of the Continental Shelf on May 7, 2009, along with a letter protesting at claims made in a joint submission by Vietnam and Malaysia for recognition of their territory. The letter stated that “China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters.”

in September 2012, Chinese Foreign Minister Yang Jiechi told her bluntly, “China has sovereignty over the islands in the South China Sea and their adjacent waters.”

Despite China’s repeated claims that it has not made this assertion, Secretary of State Hillary Clinton confirmed in an interview with reporter Greg Sheridan that the Chinese did tell her during a Strategic and Economic Dialogue in China (The Australian, November 9, 2012), www.theaustralian.com.au/national-affairs/china-actions-meant-as-test-hillary-clinton-says/

story-fn59niix-122594966628. Recently, during her visit to China, she made it clear that “the United states has a national interest in freedom of navigation, open access to Asia’s maritime commons and respect for international law in the south China sea.”

Indication of how volatile the situation is, Vietnamese leaders have vowed to protect Vietnam’s sovereignty at all costs. The most recent attempt to encroach upon Vietnam’s territorial integrity was manifested by China’s invitation to foreign oil companies to explore nine oil and gas blocks within Vietnam’s exclusive economic zone (see Figure 2 on opposite page).

While both Vietnam and the Philippines prefer to resolve the disputes through multilateral negotiation and have tried to enlist support from ASEAN and the international community, China insists on bilateral negotiations and has resorted to a divide-and-conquer approach to weaken ASEAN solidarity.

THE INTERNATIONAL CONFLICT
By 2009-2010, the heightened tension between China and the ASEAN claimants over the contest ed islands led to an internationalization of the conflict, with the US and other powers beginning to express a view on the disputes. That’s understandable, given that the South China Sea is the world’s second-busiest sea-lane, with more than half of the world’s super tankers and $5.3 trillion in annual trade passing through the area (US trade alone accounts for $1.2 trillion of that figure). The concern over China’s claims and assertive behavior, coupled with China’s lack of transparency in its military modernization program, have created an arms race in Southeast Asia and elicited strong reactions from major powers worried about the situation. India and Japan, for their part, are also concerned over freedom of navigation. Both countries have advocated peaceful resolution of the disputes, but have also increased their diplomatic, economic and naval presence in the area. The US, meanwhile, is in the midst of a policy pivot to the Asia-Pacific, committing 60 percent of its naval assets to the Pacific Ocean, and taking actions to strengthen and modernize “historic alliances” with Japan, South Korea, Australia, the Philippines and Thailand, as well as building “robust partnerships” throughout the region. Russia has also begun to voice its concern over the issue of freedom of navigation and “outside meddling” in the South China Sea.

In May 2009, as the deadline for claims based on the United Nations Convention on the Law of the Sea (UNCLOS) approached, China was forced to put its cards on the table and Beijing officially presented its nine-dashed-line map, claiming control over 80 percent of the South China Sea and encroaching on territories claimed by other Southeast Asian countries. Almost immediately, the US Senate held a hearing on the South China Sea and in June unanimously passed a resolution “deploring China’s use of force in the South China Sea and supporting the continuation of operations by US armed forces in support of freedom of navigation rights in international water and air space in the South China Sea.”

In June 2010, at the Shangri-La Dialogue in Singapore, heated exchanges over the South China Sea took place between China and the US, joined by other ASEAN countries. A month earlier, at the Strategic and Economic Dialogue between the US and China in Beijing, Chinese officials, in a move viewed as raising the stakes in the conflict, declared the country’s claims in the South China Sea to be a “core interest.” Influentiel elites in China view the South China Sea as “blue territory” — that is, as much a part of China’s sovereign territory as Tibet, Xinjiang or Taiwan. The US response came in the form of a speech by US Secretary of State Hillary Clinton at the ASEAN Regional Forum (ARF) in Hanoi in July, in which she made it clear that “The United States has a national interest in freedom of navigation, open access to Asia’s maritime commons and respect for international law in the South China Sea.” Significantly, American and Chinese understandings

FIGURE 2 CHINA’S GRAB FOR OIL OFF VIETNAM
A Vietnamese map showing oil and gas exploration blocks that it claims within its 200-nautical-mile Exclusive Economic Zone. Marked in red are nine blocks that China’s state oil producer CNOC suddenly put forward for international tender in June 2012, to the fury of the Vietnamese government. The blocks are inside China’s “nine-dashed line” claim (added in red for reference).

Source: Vietnam News Agency
of “freedom of navigation” differ. The US believes it includes the right to conduct military exercises and collect intelligence and militarily useful data, while China wants foreign naval ships and aircraft to seek China’s permission before entering its “internal waters” in the South China Sea.7

Since conflicts of national interests between major world powers can easily lead to friction and war, the escalating tensions between China and the US over these maritime disputes should be a serious cause for concern.

**THE SYSTEMIC CONFLICT**

From a systemic perspective, the US-China conflict over the South China Sea may be seen as conflict between a rising power and a status quo power. For decades the US, through its Seventh Fleet and its Pacific Command, was the undisputed naval power in the Pacific. The American defeat in Vietnam in the 1970s and its later involvement in the wars in Afghanistan and Iraq have changed the situation. While the US reduced its military presence in Asia and got bogged down in two costly and draining wars, China’s economy was growing and its military modernization program was gaining momentum; Beijing, as a result, has become a dominant regional power economically, politically and militarily. Chinese leaders departed from Deng Xiaoping’s famous dictum to “hide your intention, bide for time,” and began to flex China’s muscles, particularly over the South China Sea.

China’s assertion of its “historical right” to claim the sea is weak and doesn’t conform to either UNCLOS or customary international law. What China has been doing represents nothing less than an attempt to rewrite international law and influence the “rules of the road” for the international order.8 The US, in both words and deeds, has signaled that it does not accept this. It has strengthened its military presence in Asia, revitalized its strategic relations with old allies and helped improve the defense capabilities of small countries in the region. In July 2012, when China created a prefectural-level city at Sansha, a small island in the South China Sea, and established a military garrison there to “exercise sovereignty over all land features inside the South China Sea,” the US State Department reacted by publicly denouncing China’s action as “counter to collaborative diplomatic efforts to resolve differences and risks further escalating tensions in the region,” while Congressman Howard Berman, a leading member of the House Committee on Foreign Relations, confirmed that the administration of US President Barack Obama had “repeatedly made clear to Beijing that the US will not allow China to assert hegemony over the region.”9

Conflicts of interests between rising powers and status quo powers have in the past accelerated arms races and led to war. The key questions are, can such a collision course be altered, and can the core conflicts between the two powers be resolved?

**POSSIBLE END GAMES**

There are a number of possible scenarios for resolving the South China Sea disputes. The first is that China moderates its excessive claims and strikes a deal with other coastal nations, with third-party arbitration or adjudication if necessary, based on recognized international law on territorial seas, exclusive economic zones and continental shelves. Before adopting its nine-dashed line, China had drawn an eleven-dashed line map, two lines of which were in the Gulf of Tonkin.10 This, however, did not prevent China and Vietnam from achieving an agreement on the demarcation of sea borders in that gulf. Moreover, Chinese officials have repeatedly denied that China has officially declared the South China Sea its “core interest,” leaving open the possibility of coming to an understanding regarding conflicting claims. Some Chinese scholars and experts working in government think tanks have privately acknowledged “the problematic nature of China’s policy in the South China Sea,” particularly with regard to “the status of the nine-dotted line.” These analysts and strategic thinkers have expressed concern that the tense situation in the South China Sea could sidetrack China’s “course of reform.”11 This leaves the door open for discussion and provides the space in which China might entertain possible concessions that would avoid embroiling China and its Southeast Asian neighbors in a long argument over China’s excessive claims.

The second scenario is one in which China, taking advantage of the differences between it and other rival claimants, relies on a combination of unilateral actions, brinkmanship, piecemeal advances and divide-and-conquer tactics to gradually and steadily establish actual control of the sea area within the nine-dashed line. The standoff between China and the Philippines at Scarborough Shoal was a perfect example of how this possible scenario might unfold.12

The Scarborough Shoal standoff began in May 2012 when a Philippine Navy frigate was sent to investigate the area and boarded Chinese fishing boats in an area it claimed belonged to the Philippines’ EEZ. China responded by sending two unarmed Chinese Maritime Surveillance vessels to interpose themselves between the frigate and the fishing boats and let them escape. Both sides sent in reinforcements. At the height of the standoff, there were a handful of Philippine boats facing almost 100 Chinese vessels. Faced with the overwhelming number of Chinese ships and without international support, the Philippine had to cut a deal in which both sides withdrew their ships. But after all the Philippine boats had withdrawn, China roped off the entrance to the shoal, effectively establishing its de facto control over the contested area. With that fait accompli, a new status quo in favor of China was established. This tactic of resorting to low-grade pressure to create a series of new “facts” may lead to what Toshi Yoshikawa termed “strategic fatigue,” which could, in the long run, weaken resistance by rival claimants and lead to a grudging acceptance by the US of China’s claims.13 With this achieved, China would have effective control of navigation in the South China Sea and could dictate the use of that important sea-lane of communication.

This approach is being resisted by ASEAN claimants and by other major powers that share the Pacific Ocean. Its success or failure will depend

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7 Ibid.
8 Senator John McCain, in his remarks at the Center for Strategic and International Studies Conference on Maritime Security in the South China Sea, June 20, 2011, maintained that certain Chinese interpretations of international law would erode the long-standing road “for the international order.”
9 See Yun Sun, “Study the South China Sea: The Chinese Perspective,” Center for a New American Century, Bulletin, Jan. 9, 2012. www.cnas.org/files/documents/flashpoints/CHAS_EECS_bulletin1.pdf. On June 16, 2012, Chinese scholars and experts met at the Tsinghua Economic Research Institute in Beijing to discuss “The South China Sea Dispute: National Sovereignty and International Rules.” Many questioned the wisdom of China’s position. Li Ling Hua predicted that the “imagined nine-dotted lines will have to be redrawn.” Shang Hu Ping warned that “the risky use of force can obstruct the rise and long-term development of China,” while whipping up nationalism “could lead to disaster.” Xu Chang Yun
10 The Washington Post, Sept. 12, 2012
11 According to Lin Jinming and Li Dexia, the 11-dotted line was first published by the Republic of China in 1947, and it was “not until 1953, after Premier Zhou Enlai’s approval, that the two-dotted line portion in the Gulf of Tonkin was deleted.” See “The Dotted Line on the Chinese Map of the South China Sea: A Note.” Ocean Development and International Law. July 2003, Vol. 34, Issue 3-4, p. 290.
12 See Yun Sun, “Study the South China Sea: The Chinese Perspective,” Center for a New American Century, Bulletin, Jan. 9, 2012. www.cnas.org/files/documents/flashpoints/CHAS_EECS_bulletin1.pdf. On June 16, 2012, Chinese scholars and experts met at the Tsinghua Economic Research Institute in Beijing to discuss “The South China Sea Dispute: National Sovereignty and International Rules.” Many questioned the wisdom of China’s position. Li Ling Hua predicted that the “imagined nine-dotted lines will have to be redrawn.” Shang Hu Ping warned that “the risky use of force can obstruct the rise and long-term development of China,” while whipping up nationalism “could lead to disaster.” Xu Chang Yun
14 Sen. John McCain said it was only a matter of “how China may choose to exploit the new status quo within the South China Sea.”
15 Ibid.
16 This article was written by China’s national security advisor Fan Feng. It was published by the China Daily on July 20, 2012.
17 Ibid.
18 Ibid.
19 Ibid.
20 Ibid.
on two things: 1) whether China succeeds in its “divide-and-conquer” approach to ASEAN; and 2) whether ASEAN can summon the determination and capacity to act with a united front to resist China’s pressure and involve other major powers, especially the US.

China’s current assertive approach has caused friction and tension and, if unrestrained, may lead to military conflicts. In the long run, it will push many Asian countries closer to the US and may lead to a new kind of Cold War and containment, pitting a bloc of countries supporting the American vision of an Asian regional order against a group supporting the Chinese vision of an Asian regional order. This scenario is a nightmare for Southeast Asian countries that have worked so hard to strengthen ASEAN solidarity and promote the concept of ASEAN centrality, in order to avoid being caught up in the rivalry between the US and China.

The third scenario is that China reaches an accommodation with the US, based on American recognition of China as an undisputed leader in the South China Sea, and a peaceful transition of leadership in the Asia-Pacific area from the US to China occurs. If this were to happen, it would unsettle all other Asian nations, big and small, but once the US began the accommodation process, other countries would simply have to fall in line. This process, however, would be dangerous globally and regionally.

WHERE WOULD CHINA STOP?

There is no guarantee, however, that if China were to dominate Asia, she would stop there. In response to the reality of a spectacularly rising China and an America burdened with economic problems and a dysfunctional government, scholars such as Adam Quinn have focused on the beginning of a power transition from the US, a declining power, to China, a rising power. Chinese strategic thinkers have not missed the possibility that the current contest over the South China Sea may represent the first steps toward this transition. Ding Gang, a senior editor at the Communist Party’s People’s Daily, commented: “It’s still unknown if the US plans to input equally massive manpower and financial resources as China has injected into this region. It’s very likely that the US lacks the motivation to do this in the long run. And China may become the strongest economic, political and military power in Asia.”

The problem with this scenario is that it neglects the extent to which the two key players involved in this transition — China and the US — are regimes that represent incompatible visions of the future of the region and the world. A peaceful transition of power took place from the British Empire to the American Empire, largely because it was a case of one democracy replacing another; trading roles as the sentinels of shared regional interests. The British were willing to relinquish their dominance and were assured that, with another democracy taking the helm, its security and wellbeing were not threatened. But the clash between undemocratic revisionist powers (Germany, Italy and Japan) and democratic powers in the 1930s led to the Second World War.

Regionally, this scenario would be most undesirable for smaller ASEAN countries and is unlikely to occur so long as the US has the capacity and the determination to maintain its supremacy in the Asia-Pacific region, a determination that has been strongly reasserted by US leaders, from the president to the secretaries of defense and state as well as by leading members of Congress. Aaron Friedberg points out that the ideological gap between China and the US is too great and the level of trust too low to facilitate an accommodation. He makes the case that China’s ultimate goal of regional hegemony would run counter to the US “grand strategy, which has remained constant for decades: to prevent the domination of either end of the Eurasian landmass by one or more potentially hostile powers.”

FINDING A FAIR AND LASTING SOLUTION

Any realistic solution to the South China Sea conflict must begin with China backing off from its nine-dashed-line claim and showing its willingness to abide by international law.

Since neither ASEAN nor the US accepts China’s excessive maritime claims, an equitable, long-term solution to the conflict must begin with China backing off from its nine-dashed-line claim and showing its willingness to abide by international law.
can commitment. A strong and united ASEAN is the most important component in this equation. ASEAN solidarity empowers the countries in the region and offers them the advantage of collective bargaining power. It can help deter aggressive Chinese behavior and encourage continued US involvement as a stabilizing factor.

But the failure of ASEAN to support the Philippines in the Scarborough incident last May, its dramatic failure at the July 2012 ASEAN Summit to agree on a joint communiqué and the feeble attempt to form a common ASEAN front as well as the near-impossibility of coming up with a feasible code of conduct in the South China Sea seriously weakens the prospects of ASEAN becoming a much-needed buffer between the US and China. It also magnifies the likelihood of direct conflict between China’s “core interests” and America’s “national interests” in the South China Sea.

COLD WAR WORRIES
During Secretary Clinton’s visit to China in September 2012, Chinese leaders insisted that the US respect its expanded concept of “territorial integrity” and stop interfering in the South China Sea dispute. This was tantamount to demanding that the US abandon its role as the dominant player in the South China Sea. If the US backs off, ASEAN will be forced to accommodate China, and US influence and credibility in the region will be greatly diminished.

The US is unlikely to agree to play second fiddle to China in the Asia-Pacific region. If ASEAN fails to unite and force an equitable solution on China, the US will have no alternative but containment. China’s effort to weaken ASEAN cohesion in order to push the US out may have the unintended consequence of isolating China and triggering Cold War-style containment. The new Cold War, if it occurs, will not be as tense and potentially apocalyptic as the period that was characterized, for example, by the Cuban missile crisis. It will be more like the period of détente between the US and the former Soviet Union, when both confrontation/competition and co-operation took place between the two major protagonists in the context of economic globalization and interdependence. But it could still lead to a face-off between opposing military alliances, a struggle to define spheres of influence and military realignments in Asia, all of which would be an unpleasant reality for smaller ASEAN countries.

The sooner this danger of a new Cold War is recognized and acted upon, the better the chance of avoiding it. If the US wants to preserve its influence and credibility in Asia and does not want to be pushed out of the South China Sea, it must stand firm and find ways to help ASEAN stop further Chinese-orchestrated faits accomplis. If the ASEAN countries do not want to get caught up in the rivalry between the US and China, they must act together as a united group, and fast. If China does not want to be isolated and contained, it must modify its excessive demands and contribute seriously to the peaceful management of the South China Sea conflict.

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