

The South China Sea Dispute - An EU Perspective

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Importance of SCS

- The SCS is the largest maritime route after the Mediterranean and a vital corridor for EU trade to and from East Asia - 25% of world maritime cargo transit.
- Major fishing area and large potential for hydrocarbon fuel.
- Fragile environment.
- Sensitive military area, US naval presence, China also expanding military capabilities in SCS.

Background

- SCS bordered by 10 countries with long-standing and competing historical claims covering islands, high seas and coastal areas
- Minimal territory at stake
- But oil and gas?
- Geopolitical factors growing – involvement of China and US (two nuclear powers)
- EU not directly involved but keen to promote peaceful resolution – useful experience?

Principles

- Declaration on the Code of Conduct in the SCS in November 2002 – agreed after decade of skirmishes over uninhabited reefs
- Binds the Parties to consultative and peaceful processes of dispute settlement based on equality and mutual respect. Also calls for cooperation in environmental protection, scientific research, safety of navigation, search and rescue, and combating transnational crime.

Recent Developments

- Further skirmishes in 2010/11 - usually involving China - led to 21 July agreement at ARF between ASEAN and China on Implementing Guidelines for the Declaration on Conduct in the SCS. ASEAN countries generally welcomed the agreement, though several felt it did not go far enough. Philippines in particular took a strong position, Vietnam also remains concerned. No prospect on horizon yet for a binding CoC – China open to discuss “when conditions are right”

Problems with status quo

- Uncertainty about the sovereignty on the islands and the overlapping claims on the surrounding waters prevent
- Avoid on holds coherent management of fishing resources,
- avoids proper environmental protection
- exploitation of the continental shelf
- and keeps alive possibility for conflict

Fishing

- the SCS is an important source of protein for 300 million people in the region
- But fishing is not regulated and fishermen from all coastal states seem to exploit marine resources without any restriction. The resources are over-exploited and the fishing methods (dynamite fishing being very common) are dangerous for the environment.

Environment

- There is no multilateral instrument able to protect the very sensitive ecosystem of the SCS. Evidence of coral reef erosion.
- Maritime traffic is one of the heaviest in the planet and is growing rapidly.
- The overlapping claims on the continental shelf prevent any exploitation of the subsoil which holds gas and oil in particular on the coasts of Malaysia, Vietnam, Brunei and China.

EU Views

The EU believes that territorial disputes should be resolved ‘in accordance with international law through peaceful and cooperative solutions’.

Supports rules-based international system (UNCLOS) and liberty of navigation. Risk of tensions impacting on trade and investment. Growing importance of energy security

Encourage all parties to clarify the basis for their claims.

EU experience

- Although far from Europe, the EU has important interests at stake. Keen to promote CBMs
- EU has ample expertise in sharing sovereignty, resolving difficult issues (common fishing policy, PSSA, environment) that could be useful for interested countries as well as ASEAN as a whole.

EU experience (2)

- - OSPAR (Oslo-Paris) Commission protecting and conserving the North East Atlantic and its resources : *mission to conserve marine ecosystems and safeguard human health by preventing and eliminating pollution; by protecting the marine environment from the adverse effects of human activities ; and by contributing to the sustainable use of the seas.*
- - Helcom - Helsinki Commission on the protection of the Marine environment of the Baltic Sea (MS + EC)
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EU experience (3)

- - Bonn Agreement (1983 covers the North Sea and the Channel waters). combating pollution of the sea by oil and other harmful substances : B, DK, F, D, NL, N, S, UK, EC.
- - REMPEC (Regional Maritime Pollution Emergency Response): assists the Mediterranean coastal states in ratifying, transposing, implementing and enforcing international maritime conventions related to the prevention of, preparedness for, and response to marine pollution from ships.

EU experience (4)

- - In 1970 it was agreed that, in principle, EU fishermen should have equal access to member States' waters. MS also later decided that the EU was best placed to manage fisheries in the waters under their jurisdiction and to defend their interests in international negotiations.
- The Common Fisheries Policy deals with conservation measures, fleet management, environmental issues, control and enforcement, conditions of access to waters and resources.

EU experience (5)

- Regional Fisheries Commission :
- Northwest Atlantic Fisheries Organization (NAFO)
- North East Atlantic Fisheries Commission (NEAFC)
- General Fisheries Commission for the Méditerranéan (GFCM)
- Coastal states of the SCS area might be interested by the management of smaller spaces as the Northeast and Northwest Atlantic where the resources are shared and managed in common.

EU experience (6)

- 2002 European Maritime Safety Agency
- Two PSSA have been created in the waters under EU MS jurisdiction :
- PSSA of western Europe (Portugal, Spain, France, Ireland, UK)
- PSSA of the Baltic Sea (Germany, Denmark, Sweden, Finland, Russia + the 3 Baltic States).

Principles of EU Integration

- Tolerance (Shared historical experience –two European civil wars) – need to tackle history and build trust through practical cooperation
- Vision (Founding Fathers) and Leadership (Franco-German) – but where are the statesmen today?
Nationalism on the rise
- Political will – shared sovereignty – unique; Asia seems wedded to national sovereignty

Principles (2)

- Economic Compatibility. Founding Six roughly similar GDP. Enlargements brought greater economic capacity – and 2004 more diversity – but no great differences
- Asia – huge differences in size, types of economy and GDP per head
- Agreed step-by-step programme. All EU member states agreed on gradual programme to establish FTA, Customs Union, Internal Market, Single Currency
- Now some ‘opt outs’ reflecting diversity but broad compatibility

Principles (3)

- Common Institutions and Legal Framework
- European Commission, Council, Court, Parliament ;
rule of law essential
- Institutions promote and protect advances in
integration
- No prospect of such in Asia

Current situation

- EU model still evolving (Lisbon Treaty) and not really appropriate for Asia although principles universally applicable
- EU also not in position to lecture Asians (history, double-standards, current euro crisis)
- But Asia could cherry pick some aspect of EU integration (regional aid, monetary cooperation, internal market)

Relevance for SCS

- EU experience in establishing common fisheries policy (CFP) and setting quotas for member states
- Experience in marine protection and negotiating ever-higher environmental standards for coastal states
- Resolution of disputes - Arctic, Barents, Baltic, North, Atlantic, Mediterranean, Aegean and Black Seas

Conclusion

- EU interested in peaceful resolution of SCS claims
- Unbiased outsider with experience – ASEAN keen to benefit from in other areas
- Could be useful third party for technical assistance
- But ultimately up to involved parties to resolve the disputes
- The only viable solution in the long run is setting aside disputes and joint development