



China's sovereignty violations in the East and South China Seas: How should Europe respond?

European View
1–8

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Abstract

The EU has been content to remain a marginal actor in the maritime sovereignty disputes in the East and South China Seas. It has adopted a diplomatic strategy that stresses the importance of upholding freedom of navigation and confidence building between the states party to the conflict. As argued here, this approach does not take account of the crucial interests Europe has at stake in the conflict. It is made even less tenable by China's increasingly assertive behaviour towards securing its sovereignty in the region. Europe is at a crossroads: the EU may seek to overcome internal and external challenges to enhance its hard power capabilities, or it may continue to pursue a wholly soft power approach. Either way, how the EU deals with the current dispute will determine, in large part, its future role as a global security actor.

Keywords

Europe, China, South China Sea, Southeast Asia, ASEAN, Japan, Sovereignty

Introduction

Tensions over maritime territory in the East and South China Seas have risen sharply in recent years. The reasons for this increase are varied and linked to a number of factors, including renewed regional state autonomy in the post–Cold War period, economic growth and competition for maritime resources. However, the critical factor driving the regional conflict is the increasingly assertive behaviour of China, which considers all

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regional maritime territory to be under its control. This has resulted in the East and South China Seas becoming ‘the most contested body of water in the world’ (Kaplan 2014, 14).

This rise in tensions has both regional and international security implications. This article will highlight the factors that have resulted in a muted European response to the crisis to date. These include geographic distance from the conflict, preoccupation with a number of its own pressing crises within the European region and a lack of capabilities to be able to project power into Asia. It will be argued that, in light of China’s continued assertiveness, this approach is no longer tenable. A protracted maritime conflict would have a major impact on trade routes, international rights of passage, regional economic growth and energy security. If China becomes embroiled in conflict with the US, it could become an ‘arena for great power strategic rivalry’ (Buszynski 2019, 68), and spillover cannot be ruled out. The EU has a number of interests that are threatened by the dispute. How it responds will depend on how the Union conceptualises its future role as a global security actor. It is unlikely that the EU will be able to continue to pursue a diplomatic strategy in the East and South China Sea successfully and long-term. Instead, it will need to explore both soft and hard power approaches as it seeks to uphold a rules-based international order.

Regional tensions at boiling point

Under Xi Jinping, China has sought to consolidate its status as a maritime power. This has occurred through an incremental process of expansion and militarisation of rocky outcrops in the Spratly, Paracel and Senkaku Islands. Examples include the installation of anti-ship cruise missiles and surface-to-air missile systems on Fiery Cross Reef and Mischief Reef (Reuters 2018), and the establishment of an air-defence identification zone in the East China Sea (Bitzinger 2013). These actions have brought China into conflict with Vietnam, the Philippines and Japan, all of which have competing regional sovereignty claims.

As a result of China’s actions, instances of regional conflict have been on the rise. This is having a negative impact on security in the Asia-Pacific. An extended stand-off between Chinese and Vietnamese vessels occurred in disputed territory in July 2019 (Pearson and Vu 2019). The month prior, a Chinese vessel rammed and sunk a Philippines fishing vessel, leaving a number of men abandoned at sea (Robles 2019). China’s aggressive approach to upholding its maritime sovereignty has elicited concern from other regional and Pacific powers, including the US, Australia and India. In a show of strength and regional solidarity, the US has stepped up the number of Freedom of Navigation Operations in disputed waters. In May 2019, two US Navy destroyers conducted an operation in the Spratly Islands. The explicit aim was ‘to challenge excessive maritime claims and preserve access to the waterways as governed by international law’, a move which China denounced as being ‘provocative’ (Panda 2019).

Europe’s watered-down diplomacy

The EU has remained on the sidelines of the dispute, even though the conflict has worsened. There are a number of good reasons for adopting this strategy. Disagreements over

maritime territory, ongoing since the Cold War, have traditionally been viewed as a regional issue to be resolved by states party to the sovereignty claims. The dispute is also not particularly within the EU's geopolitical remit. It would be reasonable to expect the US, as a Pacific power, to take the lead in resolving any regional conflict. However, in the post-Cold War period, even the US has viewed the dispute as 'a regional issue' that the Asian states should resolve 'through political channels' (McCarthy 1999).

Moreover, during this same time period, a number of regional crises have taxed the EU's resources. These crises include conflicts in the Middle East, terrorist attacks on EU members, the eurozone crisis, the 2015 migration crisis and Brexit. It is also not clear what influence Europe could have had on the maritime dispute, even if it had sought to become more involved. The EU has few member states with the capabilities to project military power into the Asia Pacific, a situation exacerbated by a European 'aversion . . . to the use of force' (Simón 2015, 971). The EU does have diplomatic and economic power capabilities. However, it lacks a robust relationship with some of the maritime dispute's main actors, particularly those that elicit human rights concerns, such as China and the Philippines. This makes conflict resolution amongst the claimants more challenging.

The EU has not remained completely silent on the issue, however. In 2012 the Council of the European Union issued a statement that 'recall[ed] the great importance of the South China Sea for the EU . . . in the perspective of promoting the rules-based international system, the principle of freedom of navigation, [and] the risk of tensions impacting on the consistent increase in trade and investment' (Council of the European Union 2012). The Council offered those involved in the dispute the opportunity 'to share the experience of the EU and its member states in relation to the consensual, international law-based settlement of maritime border issues, and to the sustainable management of resources and maritime security cooperation' (Council of the European Union 2012). In the same year, Catherine Ashton, the EU High Representative for Foreign Affairs and Security Policy, met with then Secretary of State Hillary Clinton in Cambodia to discuss common security objectives in the Asia Pacific region. Both the US and the EU committed to 'increasing maritime security based on international law' and pledged to 'lend assistance to confidence building measures to reduce the risk of . . . conflict' (US Department of State 2012).

Ashton reiterated the EU's commitment to Asian security at the Shangri-La Dialogue in Singapore in June 2013. The Shangri-La Dialogue is an annual intergovernmental security forum where defence ministers meet to discuss regional security challenges and engage in bilateral talks. At the forum Ashton stressed the EU's approach, which combines diplomacy, development and defence (Ashton 2013). In an EU-Japan joint statement in May 2014, the EU committed to maritime freedom of navigation. The statement highlighted 'the need to seek peaceful solutions through active diplomatic engagement and in accordance with principles of international law, and to work together to build mutual confidence' (European Commission 2014).

The EU also released a declaration following the Permanent Court of Arbitration case that the Philippines had brought against China under Annex VII of the UN Law

of the Sea Convention. The purpose of the arbitration tribunal was to clearly establish the sovereign maritime rights of the Philippines. In July 2016 the Permanent Court of Arbitration found in the Philippines' favour, ruling that 'there was no evidence that China had historically exercised exclusive control over the *waters* or their resources' (Permanent Court of Arbitration 2016). Responding to the ruling, the EU confirmed its support for the UN Law of the Sea Convention as a dispute settlement mechanism and stressed the importance of upholding freedom of navigation. It concluded by supporting a 'swift conclusion of talks aiming at an effective Code of Conduct between ASEAN [the Association of Southeast Asian Nations] and China', with the EU 'ready to facilitate activities which help to build confidence between the parties' (European Union External Action 2016). The watered-down declaration refrained from openly criticising China's maritime actions. This was largely due to the lack of consensus amongst EU members on the declaration's wording, with smaller states such as Hungary and Greece unwilling to jeopardise Chinese investment (Emmott 2016).

Should Europe do more?

As noted by Stanzel (2016, 1), the maritime disputes 'present a serious challenge to Europe . . . However, the EU has not so far played a role proportionate to the magnitude of its interests in the region.' Apart from the occasional offer of diplomatic support, Europe has remained a marginal actor in the maritime disputes. This is despite having a number of interests at stake in the conflict. An exacerbation of hostility in Asian waters could severely disrupt international trade routes and regional economic growth. This is particularly damaging considering that China is the EU's second biggest trading partner, with ASEAN ranking third. The EU also imports 55% of the energy it consumes, primarily from Russia and Norway, including natural gas and crude oil. With concerns over energy security in the future, the EU has begun to search for alternative markets to offset risk, particularly within Asia and with China (Henderson 2018). This makes maintaining a secure and affordable energy supply of critical importance. EU respect for the rules-based global order and adherence to global governance norms is also crucial. One of these core principles is freedom of navigation, which has been increasingly threatened as China seeks to strengthen its maritime claims.

As China's power increases, its maritime ambitions continue to grow. This will continue 'to draw US attention away from Europe and towards Asia', which will ultimately impact on US 'willingness to commit substantial resources to Europe's defence' (Walt 2019). This can only exacerbate the US's waning commitment to European security under President Donald Trump. Moreover, Chinese expansion into Europe cannot be ruled out. China has already invested in ports in Piraeus, hoping to make it a hub for Chinese exports. Italy has also witnessed Chinese infrastructure investment in ports in Trieste and Genoa. This has 'important political and security implications for Europe and the US' (Nakayama 2019). It also makes the EU's current diplomatic strategy much less tenable.

The EU as a global security actor

How should Europe respond to China's sovereignty violations in the East and South China Seas? This ultimately depends on how Europe envisages its future role as a global actor. To date the EU has been content to exert influence through economic and diplomatic channels. This is the approach that has been pursued in South and East Asia, albeit with little discernible impact. As tensions increase, and with a number of vital interests at stake, a more proactive strategy is necessary. This should include a soft power approach that utilises diplomatic initiatives to enhance regional cooperation, confidence building and conflict resolution. This includes engagement in regular dialogue with regional states party to the dispute through regional forums such as the Asia–Europe Meeting and the ASEAN Regional Forum. Having highlighted the importance of an effective maritime Code of Conduct, the EU could also do more to assist ASEAN and China with the Code's design and implementation. This is in addition to sustained and vocal support for the international principles of state sovereignty, maritime law, peaceful resolution of disputes and freedom of navigation.

Whether the EU wants to pursue a more hard power approach will depend on the development of its military capabilities, how willing the organisation and its member states are to engage in the dispute, and the way in which the conflict evolves over the coming years. As it currently stands, the EU lacks credible military power projection to apply pressure on those involved in the dispute. And without this pressure a mediating role is not likely to be successful (Gerstl 2018). Furthermore, in the past NATO has ruled out any form of intervention in the South China Sea. In a statement made in 2016, NATO General Peter Pavel argued the Alliance had 'no legal platforms' to become involved, and 'would not interfere in other region's [*sic*] issues' (Daiss 2016). However, citing concerns regarding China's intentions, Pavel did confirm that NATO would support any regional diplomatic solutions and help to develop defence capabilities within the Asian region, including best practices in maritime security (Daiss 2016). These are initiatives that the EU could engage with. In recent years the EU has taken a number of significant steps to enhance European defence and security cooperation. These include the launch of the European Defence Fund, joint defence initiatives under Permanent Structured Cooperation, and more emphasis on developing infrastructure and regulatory harmonisation to improve military mobility. This being the case, the EU may not always lack the military power capabilities to project influence into Asia.

Undoubtedly a major blow to Europe will be the UK's eventual withdrawal from the EU. The loss of the UK's military capabilities and naval projection power may deter future EU willingness to engage in conflicts beyond Europe. On the other hand, Brexit may act as a catalyst for the enhancement of EU defence and security capabilities. Indeed, there has been a notable increase in EU defence integration since 2016. If this momentum continues, the EU may still develop the necessary capabilities to project force beyond Europe. Moreover, the UK shares many interests with the EU when it comes to regional and international security. Therefore, security cooperation post-Brexit

should not be ruled out. Even with the loss of the UK, the EU still maintains a naval military power—with France, Spain, Italy and the Netherlands notable in this regard. Germany's future role as a military power, and whether it will seek a more active role in European defence and security, is also an important factor.

At a minimum the EU may seek to engage in capacity building in those states on the front line of the dispute, including providing technical maritime training and support. The EU has expertise to offer in this area. The 2014 EU Maritime Security Strategy highlights a number of areas of progress in maritime security, including regional cooperation, capacity building in third countries and the development of civil–military technologies. The EU has also conducted naval operations to combat piracy off the coast of Somalia. As part of Operation ATALANTA, and through EU Capacity Building Mission in Somalia, the EU has provided crucial satellite intelligence, protection for vessels and developmental support for maritime law enforcement. As the EU continues to develop these capabilities, it will become an important source of expertise for those countries tackling Chinese expansion in East and Southeast Asia. Engagement in Freedom of Navigation Operations patrols would also enhance the EU's strategic presence in Asia, whilst showing support for international law and regional allies such as the US.

Conclusion: Europe at a crossroads

How the EU deals with the East and South China Sea dispute will determine, in large part, its future role as a global security power. The Union may continue its current strategy of using diplomatic initiatives, or may seek to implement a more hard power approach. Pursuit of either policy has its challenges. The EU is an organisation that relies on unanimity. However, it would be difficult for all member states to agree an East Asia military policy because of the potential impact on the economic and security interests that certain countries have in maintaining good relations with China. In addition, there are EU and member state financial and budgetary constraints, and a lack of resources and capacity, which are necessary to enhance military capabilities.

Europe's response to the dispute also hinges upon broader questions relating to the role the EU sees itself as playing in the twenty-first century, and how it seeks to exert influence beyond Europe. Its response is also dependent upon the current configuration of the international system and changes in the distribution of power, particularly how this pertains to the US and China. As one of the key supporters and beneficiaries of the liberal world order, it is in the EU's interests to seek to uphold international law and the rules-based system. It is unclear whether a purely diplomatic approach can achieve this in the long term, particularly as China continues to develop its own capabilities. What is clear is that Europe can no longer sit on the sidelines as tensions continue to increase. It will need to work with regional Asia–Pacific powers and those involved in the dispute, including Japan, ASEAN, India and Australia, to push back against Chinese expansion and to uphold maritime law and freedom of navigation in the region's waters.

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