

# AUSTRALIA-CHINA AGENDA 2013

2013

JANUARY 一月

FEBRUARY 二月

MARCH 三月

APRIL 四月

MAY 五月

JUNE 六月

JULY 七月

AUGUST 八月

SEPTEMBER 九月

OCTOBER 十月

NOVEMBER 十一月

DECEMBER 十二月

二〇一四年

## What Should be Done on the South China Sea?

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*THE AUSTRALIAN* Centre on China in the World engages with the public and policy discussion of relations with the People's Republic of China and the Chinese world. Australia-China Agenda 2013 is our contribution to this important election year and the on-going consideration of the bilateral relationship.

This is a relationship that touches on virtually every aspect of our national life. A mature and beneficial engagement of such breadth and depth requires the leadership and support of government at all levels, as well as public stewardship, media understanding, educational enhancement and the strategic involvement of the business community.

Australia-China exchanges are also profoundly influenced by regional and bilateral relationships. Australia and China trade in goods as well as culture, politics and people, ideas and education, community and personalities.

Australia-China Agenda: 2013 brings to the attention of the public and the media, politicians and specialists some reflections and policy ideas authored by specialists with a professional interest and involvement in the relationship.

—Geremie R. Barmé  
Founding Director, CIW

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CONDUIT BETWEEN Indian and Pacific Oceans, bearer of almost one-third of global trade, alleged holder of an improbable bounty of oil and gas – the South China Sea might be the world's most important water passage. Certainly, in no other body of water are so many elements crucial to Australia's overall wellbeing to be found. But the South China Sea's islands and natural resources are subject to overlapping claims of 'indisputable sovereignty' from countries on all sides, creating the most fascinating and convoluted territorial dispute in the world.



**Maritime Claims in the South China Sea.** For a detailed map based on U.S. State Department information go to [http://www.thechinastory.org/?attachment\\_id=5990](http://www.thechinastory.org/?attachment_id=5990)

### All Bets are Off the Mark

The most important principle for outsiders when dealing with the South China Sea disputes is to avoid taking sides, for all the sovereignty claims there are highly dubious. China's nine-dashed line – the 'lolling cow's tongue' of maps produced by the People's Republic of China (PRC), lapping up what appears to be the entire sea – rightly attracts international bewilderment and concern, but Vietnam's claim to 'indisputable sovereignty' over the sprawling Spratly and Paracel archipelagos is almost as expansive, equally ill-defined, and based on similarly debatable historical evidence.

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The Philippines at least has well-defined lines marking the limits of its 'Kalayaan Island Group' (comprising about two-thirds of the Spratly Islands) – but its claim dates back only as far as 1956, when a canned fish entrepreneur named Tomas Cloma 'discovered' one island, proclaimed the founding of his own country called 'Freedomland', and shortly afterwards decided to sell it to the Philippines government for one peso.

Taiwan, as the Republic of China, makes the same claim as the People's Republic of China except that its version of the 'nine-dash line' still retains the eleven dashes it started with (two dashes were shorn off the PRC's version when it reached an agreement with Vietnam to delimit a boundary in the Gulf of Tonkin).

Malaysia, meanwhile, gave notice in 1979 of its claim to the southern Spratly Islands, based on the flimsy contention that because the islands sit on the continental shelf off Borneo, Malaysia is entitled to sovereignty. Brunei's is the most reasonable claim: an ambitious 380-kilometre-long rectangle of Exclusive Economic Zone jutting out sharply from its tiny coast.

Underpinning the entire dispute is the question of sovereignty over maritime territorial features – shoals, reefs, rocks and islands. But no country exercised sovereignty in the area in any meaningful sense – such as continuous occupation or exercise of legal

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jurisdiction – until a 1968 UN report suggested the Spratlys could have black gold in their bellies.

The biggest loser in the ensuing scramble for islands was Mainland China, which, in the grip of the Cultural Revolution, was nowhere in sight as Vietnam and the Philippines occupied one after the other. Taiwan's Generalissimo Chiang Kai-shek, meanwhile, was happy just to maintain a base on the largest island of the South China Sea, Taiping, from which Taiwan could harass PRC shipping.

Forty-five years later, the oil rush has still not materialized, and a US Energy Information

Agency report earlier this year noted that the contested parts of the sea probably contain few commercially viable reserves. But there is a much more reliable, not to say emotive, resource at stake: fish.

For European sailors, the South China Sea was a dangerous thoroughfare beset with treacherous shipwreck shoals. But for fisherfolk (and pirates) from around the region, the archipelagos have long been a bountiful harvesting ground – at least for those adventurous enough to make the perilous journey out there. Stories circulate of a time just a few years ago when the remote lagoons were places of maritime fraternity, goods bartering, cigarette swapping, and assistance for whoever needed it. The fish were plentiful, and the company scarce.

All the claimant states, therefore, are justified in asserting that the South China Sea's islands are traditional fishing grounds of their coastal communities. But they're all wrong when they equate this with exclusive sovereign rights.

## Unintended Consequences

In recent years there has been a notable increase in small-scale provocations and retaliations among the claimants, with a majority of these incidents involving the People's Republic of China. While it is hard to distinguish calculated moves from accidents and overzealous law enforcement activities, what is clear is that unintended negative consequences have often resulted for the original provocateur.

In the first half of 2011, PRC vessels twice cut the seismic cables of Vietnamese energy survey ships operating as close as 120km from Vietnam's coast. This prompted twelve consecutive weeks of anti-China protests in Hanoi and Ho Chi Minh City – an extraordinary occurrence in socialist Vietnam. These and a number of similar incidents have helped spur Vietnam and the Philippines to seek closer relations with the US, Japan and India, the PRC's regional strategic rivals. Dysfunction, loose command structures and competition between different PRC maritime law enforcement agencies may explain such apparently counterproductive behaviour, according to an International Crisis Group report.

A more recent example was a loudly-trumpeted appearance by the PLA Navy at China's southernmost claimed 'territory' (actually it is more than 20 metres below the surface of the water), where soldiers performed a grandiose sovereignty ceremony for accompanying state TV crews. Malaysia has for several years avoided any semblance of tension with the PRC over the issue, even as other claimants have grown increasingly agitated, but this show of Chinese force at James Shoal, just 80 kilometres from the coast of Borneo, prompted a Malaysian government think tank to warn 'Malaysia will have to deal with China's military and enforcement actions by increasing its presence in the South China Sea and be operationally ready to counter Chinese encroachments.'

It also appears to have reignited Malaysia's willingness to join the other ASEAN claimant states in their push for a binding Code of Conduct to regulate behaviour in the South China Sea. Prime Minister Najib Razak has raised the proposal in two recent speeches.

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## Opportunistic Assertiveness

The Philippines and Vietnam have also shot themselves in the foot through operational incompetence and sloppy strategies. Taking advantage of this, China's approach since early 2012 has been to latch onto any perceived provocation, and to use it as a rationale for tough responses that change the *status quo* in its favour.

At Scarborough Shoal last year, the Philippines sent its biggest naval vessel, a reconditioned 1960s US coastguard cutter, to arrest some Chinese fishermen for alleged poaching. The warship was too big to enter the lagoon, so the Filipino officers temporarily returned to their ship, during which time Chinese maritime law enforcement ships had been able to rush to the scene and block the entrance. The ensuing standoff ended two months later with China in control of the shoal.

Likewise, when Vietnam passed a new Maritime Law formalizing its claim to the Paracels and Spratlys in June last year, China announced the very same afternoon that its Paracel Islands outpost would henceforth become 'Sansha City' – an administrative elevation that would entail significant infrastructure upgrades to the outpost, in violation of the Declaration of Conduct the ASEAN countries and China signed in 2002. The plan had been slated for several years but never followed through on, presumably due to international perceptions. The PRC's tactic was to wait for Vietnam's provocation, then immediately respond in kind.

The same approach was evident over the Diaoyu/Senkaku Islands dispute with Japan in the East China Sea last year. China, during a fit of national rage at the Japanese government's purchase of the islands, announced baselines defining its territorial waters and regularised its previously rare patrols there. Academics argue over whether this is better seen as a result of opportunism or reactive insecurity, but the pattern is clear: China, under the cover of national indignation, advances its position on the water. The lesson? It is in other South China Sea claimant countries' interests to not provoke China.

## Australia's Interests

According to Foreign Minister Bob Carr, more than half of Australia's trade passes through the South China Sea. Conventional wisdom, therefore, suggests that Australia's primary interests lie in the ongoing security of these international sea lanes, and regional stability more generally. Elevated tensions will at best drive up shipping costs, may stifle trade and could, at worst, plunge the region into conflict.

There are at least three other Australian interests worthy of note. First, Australia's official position, identical to that of Singapore, is that it does not take sides, Australia's

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official position, identical to that of Singapore, is that it does not take sides, but that the disputes should be resolved in accordance with international law that the disputes should be resolved in accordance with international law. That would appear to put us, if only by default, in support of the Philippines' attempt to seek an international arbitral ruling on China's claims and activities in the disputed areas. China has rejected the proceedings, as is its prerogative under UNCLOS, but they will proceed regardless.

Second, the Oakajee port and rail project in WA, whose delay Western Australian Premier Colin Barnett blames partially on the Diaoyu/Senkaku dispute, illustrates how tensions between Asian countries can have direct impacts on the Australian economy. Australia, in other words, needs Asia to cooperate.

This leads to a third Australian interest: US-China balance and mutual recognition of each other's legitimate role in the region. Whether or not Australia defines its interest on one side or another of the South China Sea disputes will ultimately depend on an assessment of China's intentions, specifically, whether or not its actions are challenging the *status quo* of US military dominance. One positive sign among the plethora of maritime incidents in the disputed sea is that there have been no notable US-PRC incidents since March 2009.

## What Can We Do?

1. **Encourage the PRC-ASEAN process towards a binding Code of Conduct (COC)** for the South China Sea. This is a rather obvious suggestion, and one that is apparently already Australia's policy, but it's hard to overstate the significance of a COC, which could potentially function like the US-Soviet Incidents at Sea Agreement that helped keep the Cold War on ice. While some learned commentators have argued that COC negotiations are a waste of time because the PRC will not negotiate with ASEAN as a bloc, there are in fact some hopeful signs following last year's debacle in Phnom Penh, with China's new Foreign Minister Wang Yi describing the idea in positive terms on three separate occasions this year, in stark contrast to his predecessor.
2. **With the PRC Australia should:** 1. Make clear Australia's overriding interest in stability, while acknowledging the PRC's official view of its recent actions as responses, rather than unilateral aggressive actions; 2. Explain the benefits for China of signing up to Code of Conduct, both in terms of international public

opinion, and improving relations with ASEAN countries, which would thereby diminish ASEAN countries' need for closer relations with, and increased presence of, the US Military; 3. Emphasise how the lack of clarity of the nine-dash line-based claim greatly affects the PRC's international legitimacy, and how clarification of that would require no ceding of territorial claims; and, 4. Affirm also that shelving disputes and jointly developing resources (*gezhi zhengyi, gongtong kaifa* 搁置争议, 共同开发) has long been the official policy of the PRC, and represents a constructive way forward – acknowledging, for example, that in public discourse joint development sometimes gets put forward as a creative solution, without recognition that China has been officially advocating this for many years;

3. **With other claimant countries, notably Vietnam and Philippines**, continue to strengthen ties through military-military exchanges, government consultations, and joint training, while discouraging unnecessary or accidental provocations of PRC by fully and frankly emphasising how counterproductive this has been in the recent past;
4. **Constructively to the above end, Australia could offer training** and organisational management expertise to claimants' law enforcement agencies, especially those of the Philippines, and perhaps Vietnam too. Such expert training could help prevent incidents like the senseless shooting in May of a Taiwanese fisherman, and subsequent diplomatic crisis, which was only the latest in a series of terrible mistakes by Philippines on-the-water staff. This could be particularly important given the Philippines and Vietnam are both boosting their law enforcement presences in disputed areas;
5. **Advocate joint hydrocarbon exploration**, in contrast to counterproductive unilateral projects that elevate tensions and invite retaliation or interference – which in turn disrupts resource development and explorations anyway. Joint explorations are underway between Brunei and Malaysia;
6. **Try to get joint fisheries management initiatives onto the agenda** with all sides, emphasising the importance of long-term sustainability, and promoting the view that the requirement for fisheries to be sustainably managed means they are in fact not zero-sum. Highlight the long and admirable tradition of friendly relations between fisherfolk of different nationalities in the area, and that all sides are correct when they claim the Spratlys are traditional fishing grounds for their coastal communities. In the absence of joint fisheries management, there are at least joint environmental management and search and rescue cooperation among other confidence-building measures that offer obvious immediate payoffs to all sides; and,

7. **Coordinate our approach with Indonesia**, a fellow non-claimant democracy, and large regional trading economy that is directly engaged in the China-ASEAN negotiations. Australia has already harmonised its position with Singapore.

#### AUSTRALIAN CENTRE ON CHINA IN THE WORLD

The Australian Centre on China in the World (CIW), College of Asia & the Pacific (CAP), The Australian National University (ANU) is an initiative of the Commonwealth Government of Australia in collaboration with ANU, a university with the most significant concentration of dedicated Chinese Studies expertise and the publisher of the leading Chinese Studies journals in Australia. CIW is a national research centre that is jointly managed by a body of academics that includes scholars of China at universities in Adelaide, Brisbane, Hobart, Melbourne and Sydney.

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#### CIW sites

<http://ciw.anu.edu.au>

<http://www.thechinastory.org>

#### CIW publications (also available online)

*China Story Yearbook 2013: Civilising China*, October 2013

*China Story Yearbook 2012: Red Rising, Red Eclipse*, August 2012

Stephen FitzGerald, *Australia and China at Forty—Stretch of the Imagination*, 澳大利亚与中国已届四十年—舒展的想象力, February 2013

*Australia and China: A Joint Report on the Bilateral Relationship* 中国和澳大亚：关于双边关系的联合报告, with the China Institutes of Contemporary International Relations (CICIR), February 2012

#### CIW journals

*China Heritage Quarterly*

(<http://www.chinaheritagequarterly.org>)

*East Asian History*

(<http://www.eastasianhistory.org>)

*The China Journal*, co-published

(<http://ips.cap.anu.edu.au/chinajournal/>)

*Danwei*, affiliated

(<http://www.danwei.com>)

