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Competing Approaches in Resolving Territorial Disputes in the South China Sea: Realpolitik versus Liberalism during the 2012 Scarborough Shoal Standoff

Abstract

Using the Scarborough Shoal standoff between China and the Philippines as a case study, this paper examines two ways of addressing territorial disputes—the realpolitik and liberal/legal approaches. On the one hand, as a big and emergent power, China uses realpolitik in pursuing its expansive claim in the South China Sea. On the other hand, as a small power with the weakest military in Southeast Asia, the Philippines adopt the liberal/legal approach. It relies on the instrumentalities of the ASEAN and other international bodies, and applies on China a balancing policy that is predicated on a limited territorial defense build-up and a security guarantee from the U.S. During the standoff, China drove the Philippines out of the shoal—a move that stopped short of an armed clash—and effected a de facto occupation of the contested area. As a countermeasure, the Philippines files a statement of claim with the International Tribunal for the Law of the Sea (ITLOS) not only to confront China’s strategy of power politics but also to test if the age-old aphorism, “the strong do what they have the power to do, and the weak accept what they have to accept” still holds true in 21st century global society.

On 2 March 2011, two Chinese patrol boats harassed an unarmed Philippine-commissioned oil exploration ship at the Reed Bank off the western Philippine island of Palawan. Immediately, the Philippine Air Force (PAF) dispatched an OV-10 Bronco and an Islander light aircraft but the two Chinese vessels had left the area by the time the slow flying obsolete, piston-engine planes arrived. In May 2011, China counteracted when its two jet fighters buzzed two PAF OV-10 Broncos on a reconnaissance flight over the Reed Bank.¹ Then in June 2011, the Philippine Navy (PN) discovered a number of Chinese structures in the vicinity of the Philippine-claimed Iroquois Reef (Amy Douglas Bank) near Palawan and within the country’s 200-nautical mile Exclusive Economic Zone (EEZ).

¹ Anonymous, “Philippines Protests against China’s Planned Oil Rig, Constructions in Spratlys,” *BBC Monitoring Asia-Pacific* (June 2, 2011), p. 2.
<http://proquest.umi.com/pqdweb?index=329did=329&did=2363645341&Sr...>

On 8 April 2012 the Philippine Navy's (PN's) flagship, the *BRP Gregorio del Pilar*, tried to apprehend several Chinese fishing boats at the Scarborough Shoal. However, two Chinese maritime surveillance vessels arrived and blocked the arrest of the Chinese fishermen who were hauling corals, clams, and live sharks into their boats. To prevent the incident might escalate from escalating, the Philippines replaced its surface combatant with a smaller coast guard vessel. Instead of reciprocating, China raised the stakes by deploying the Yuzheng 310—the most advanced and largest patrol ship equipped with machine guns, light cannons and electronic sensors. When the Philippines filed a diplomatic protest, the Chinese Embassy contended that the three Chinese surveillance vessels in Scarborough Shoal are “in the area fulfilling the duties of safeguarding Chinese maritime rights and interests,” and added that the shoal “is an integral part of the Chinese territory and the waters around the traditional fishing area for Chinese fishermen.”² These incidents underscore an international reality—Chinese naval power casts a long shadow over the Philippines which (along with Vietnam) is at the forefront of the South China Sea dispute with China.³ Clearly, China specifically targets the Philippines in a brinkmanship game because the latter is standing up to China's expansive maritime claim in the South China Sea.

Confronted by China's realpolitik approach in the South China Sea dispute, the Aquino Administration relies on a delicate balancing policy on an assertive China. In mid-2011, it resumes efforts to modernize the Armed Forces of the Philippines (AFP) which is engrossed in domestic counterinsurgency. President Benigno Simeon Aquino III ordered the Philippine Navy (PN) to acquire second-hand cutters from the U.S. Coast Guard, and the Philippine Air Forces (PAF) to scour the international market for affordable jet fighters to rebuild the country's air defense system. His administration also acknowledged the need for U.S. diplomatic support and military assistance in the Philippines' territorial row with China. In mid-June 2011, a ranking administration official commented that the Philippines could invoke the 60-year-old 1951 Philippine-U.S. Mutual Defense Treaty (MDT) if the Spratly dispute becomes a military problem.⁴

The Aquino Administration balancing policy on China, however, is an extremely risky undertaking. The Philippine government lacks resources even for a modest territorial defense capability. Moreover, the Philippines

² James Hookway, “Philippine, China Ships Square Off,” *The Wall Street Journal Asia* (12 April 2012), p. 2. <http://search.proquest.com/docview/993221572/fulltext/1368A3AE...>

³ William Chong, “Path to Scarborough Far from Fair: South China Sea Rivals no Match for China's Economic, Military Clout,” *The Strait Times* (21 April 2012), p. 1. <http://search.proquest.com/docview/1008636649/fulltext/1368A3A...>

⁴ Alastair McIndoe “Manila Ups the Ante in Spratly Tussle,” *Tribune Business News* (14 June 2011), p. 2. <http://proquest.umi.com/pqdweb?index=156&did=2373539321&SrchMode=1&sid=1&Fmt>.

is simply no match for an affluent and militarily powerful China. It also desperately seeks to clarify the extent of American security guarantee as provided under the 61-year-old Mutual Defense Treaty (MDT). The Obama Administration remains supportive at best, but is seemingly non-committal and wary of triggering an all-out strategic/diplomatic confrontation with China, one of the U.S. major trading partners. Faced by these daunting problems associated with its balancing policy, the Philippines has opted for a two-track approach—a balancing policy based on a limited arms build-up and a security guarantee from its ally, the U.S., and more significantly, a liberal/legal approach that relies on the instrumentalities of a regional organization—the Association of Southeast Asian Nations (ASEAN)—and international law, specifically the United Nations Convention on the Law of the Sea (UNCLOS), to constrain an emerging and assertive China.

This article examines two contrasting approaches in the South China Sea dispute: a) China's realpolitik approach; and b) the Philippines' liberal/legal approach. Focusing on the 2012 Scarborough Shoal standoff, the article addresses this main problem: What approaches did the two countries use during the tense two-month standoff at the Scarborough Shoal? It also addresses these corollary questions: What are the internal and external factors behind the two countries' approaches to the territorial dispute? What are the components of their respective approaches? What are their attendant risks and problems? And what is the future of the two countries' approaches to their territorial dispute?

Territorial Dispute, Realpolitik, and Conflict

Territorial disputes are recurring phenomena in international relations, and a constant cause of conflicts among states. They are triggered by two situations:⁵ First, two states disagree over the limits or boundaries of their territories. Second, one state challenges the right of other states to exercise sovereignty over some or all of its homeland, colonial, or maritime territory. In these cases, two or more states seek control of and sovereignty over the same territory.

However, territorial disputes do not automatically lead to war; rather, they provide the necessary, but not the sufficient, conditions for the occurrence of an armed conflict between or among states. Instead of outright triggering armed conflict, territorial disputes produce a sequence of events that may or may not lead to war. They do lead to war if the claimant states apply realpolitik tactics that increase the

⁵ Paul K. Huth, "Why Are Territorial Disputes between States a Central Cause of International Conflict?" in *What Do we Know about War?* (Ed) John Vasquez (Lanham, Maryland: Rowman and Littlefield Publishers, Inc., 2000). p. 86.

chances for the outbreak of hostilities. Realpolitik (or power politics) is not the only way to settle territorial disputes. If this approach is discarded, war is avoidable.⁶ When claims over a disputed territory are resolved at one point in the history or course of struggle of the claimant states, it is unlikely that an armed conflict will break out between two contiguous states regardless of other issues that may be generated in the future. This means that territorial disputes are of causal significance in a way that their existence makes armed conflict a possibility, not an eventuality.⁷ One study noted that “territory and borders (disputes) do not cause wars; they at least create structure of risks and opportunities in which confliction behavior is apparently more likely to occur.”⁸

Disputing states can end up in a military confrontation if they apply realpolitik tactics in resolving disputes. As an approach to conflict resolution, power politics assumes the world as insecure and anarchic. Thus, it prescribes a foreign policy action that smacks of distrust; struggles for power; national interests taking precedence over norms, rules, and collective interests; Machiavellian stratagems; coercion; tilting the balance of power; reliance on self-help; and the use of force and war as the ultimo ratio of international relations.⁹ Power politics serves as a guidepost for policy-makers (and their societies) to act or behave according to a particular situation—e.g. a territorial dispute—and given international realities.¹⁰ This approach rests largely on a test of power—through conquest, and forcible submission, or deterrence of other states. It is also considered a form of a particularistic policy based on unilateral actions that can lead to confrontation and ultimately, to an armed conflict between or among disputing states.¹¹

The realpolitik approach, however, is only one means of resolving a territorial dispute. Other methods include compromise, third-party mediation or arbitration, or adjudication of some sort.¹² Collectively, these methods comprise the liberal/legal institutional approach. In turn, this approach pursues conflict resolution through negotiation, bargaining, adherence to international norms or law, and debates that promote problem-solving rather than contention and subjugation. It can effectively manage a crisis situation by creating rules and norms that provide general standards of

⁶ John Vasquez, *The War Puzzle* (Cambridge, UK: Cambridge University Press, 1993). p 124.

⁷ *Ibid.* p. 124.

⁸ Paul R. Hensel, “Theory and Evidence on Geography and Conflict,” in *What Do we Know about War?* (Ed) John Vasquez (Lanham, Maryland: Rowman and Littlefield Publishers, Inc., 2000).p. 61.

⁹ Vasquez, *op. cit.* p. 86.

¹⁰ *Ibid.* p. 87.

¹¹ *Ibid.* p. 269.

¹² Bruce Russett and Harvey Starr, *World Politics: The Menu of Choice* (USA: W. H. Freeman and Company, 1996). pp. 143-144.

behavior to defuse tension. It also prompts states to consider pacific measures before making drastic moves. Hence, this approach rejects certain types of state policy or behavior, particularly unilateral actions or realpolitik goals, while preferring alternative styles of conflict management. It also fosters interactive communication to reduce the possibility of war, even in the presence of a conflict.¹³

Adopting a realpolitik approach or a liberal/legal institutional approach is a foreign policy-making matter. Both approaches provide a set of world-views, goals, and means that decision-makers consider as guidelines on specific issues and actors in a territorial dispute.¹⁴ Eventually, they draw out social behaviors that become institutionalized if decision-makers accept them as the customary and logical way of dealing with a conflict situation. In perceiving international reality, decision-makers create expectations, and customize their role behavior to conform or fit into a construct of the mechanism of inter-state relations. If used against other states, power-politics becomes a series of actions and interactions. In this sense, this approach is analogous to social games that have their own rules, dictate what present and future actions can be anticipated and taken.¹⁵ The game a state will play during a territorial dispute will be determined by key decision-makers who will exhibit different behavioral patterns to support their actions, advance their specific cause, and devise strategic and innovative practices (like alliance-formation, tough negotiating techniques, coercive diplomacy, and even war itself) that tomorrow's breed of leaders can adopt.

China's *Realpolitik* Approach

With its booming economy and heightened political self-confidence, China has staked its sovereign claims over its expanded borderlands—from Tibet to Taiwan to the South China Sea—that negates all its diplomatic gains and generates tension between itself and its neighbors. This increasing assertiveness is backed by the PLAN's growing fleet of Russian-made diesel-electric Kilo-class submarines and Sovremenny-class destroyers, along with several types of indigenously built destroyers, frigates, and nuclear-powered submarines. China's naval heavy-handedness has become more pronounced in its behavior in the South China Sea. In March 2009, Chinese naval and fishing vessels harassed the *U.S.S. Impeccable* which was openly conducting surveying operations in the area. The following year, China admonished the U.S. to respect its extensive claims in the South China Sea. In March

¹³ Vasquez, *op. cit.* p. 271.

¹⁴ *Ibid.*, p. 90.

¹⁵ *Ibid.* p. 271.

2010, Chinese officials told to two visiting U.S. State Department senior officials that China would not tolerate any U.S. interference in the South China Sea since it now part of the country's "core interests" of sovereignty on a par with Taiwan and Tibet.¹⁶

Since 2006, with its annual double-digit increase in defense budget, China has gradually established a formidable navy. This navy has shifted from pre-empting possible U.S. intervention in a Taiwan Straits crisis to developing the capacity to deny the U.S. Navy access to East China Sea and South China Sea or inside the so-called First Island Chain (an imaginary line that runs from Japan-Okinawa-Taiwan and down to the Philippines). At the advent of the 21st century, the Chinese navy has introduced and added three new classes of destroyers (Luyang I, Luyang II, and Luzhou) with more capable radar and air-defense weapon system as well as frigates (Jiangwei II, Jingkai I and Jingkai II) with improved war-fighting capabilities and seaworthiness.¹⁷

China's aggressiveness in the South China Sea and East China Sea has intensified in tandem with the expansion of its navy and maritime services.¹⁸ To back its maritime claim, China conducts numerous naval exercises that employ more modern surface combatants and even submarines.¹⁹ These naval drills reflect China's determination to settle the dispute militarily and unilaterally, to flaunt its naval capabilities, and to impress upon the other claimant states its "de facto" ownership of these contested maritime territories. In late August 2010, a month after President Benigno Aquino III assumed office, Beijing sent a clearly belligerent signal to the other claimant states (specifically to Vietnam and the Philippines) and the U.S. that its claim of sovereignty over the South China Sea and its islands are "indisputable." The People's Liberation Army's Navy's (PLAN's) three major fleets deployed surface combatants—along with fighter planes strikes and missile launches against hypothetical long-range targets--when it conducted a live-fire exercise in the South China Sea.²⁰ Such show of force confirmed the observation of a 2009 study on the South China Sea dispute regards as China's: "...more assertive posture in consolidating its jurisdictional claims, expanding its military reach and seeking to

¹⁶ Edward Wong, "China Asserts Role as a Naval Power," *International Herald Tribune* (23 April 2010), pp. 1 and 4.

¹⁷ Ronald O' Rourke, "PLAN Force Structure: Submarines, Ships, and Aircraft," in (eds.) Phillip C. Saunders, Christopher Yung, Michael Swaine, and Andrew Nien-Dzu-Yang, *The Chinese Navy: Expanding Capabilities, Evolving Roles* (Washington, D.C.: National Defense University Press, 2011), pp. 154-155.

¹⁸ Peter Dutton, "Three Disputes and Three Objectives: China and the South China Sea," *Naval War College Review* (Autumn 2011) 54, 4. p. 47.

¹⁹ For details on China's recent training exercises in its surrounding waters see National Institute for Defense Studies, *National Institute for Defense Studies China Security Report* (Tokyo: The National Institute for Defense Studies, 2011). 14-21.

²⁰ Barry Wain, "Chinese Diplomacy off Course," *Wall Street Journal*, 5 August 2010, p. 13.

undermine the claims of other states through coercive diplomacy.”²¹ These developments demolished the image of China’s peaceful emergence and created a wedge between itself and its small Southeast Asian neighbors.²²

The Philippines’ Liberal/Legalistic Approach

Since its independence in 1946, the Philippines have been plagued by domestic insurgency. For more than six decades, the government has concentrated its efforts and resources on containing rebel and secessionist groups. The Philippine government’s preoccupation with internal security was most evident during the Arroyo Administration. Alarmed by the communist resurgence and the persistent growth of the secessionist movement in Mindanao in the early years of the 21st century, the government prioritized domestic security. In June 2001, President Gloria Macapagal-Arroyo issued Executive Order 21-S-2001 creating “A Coordinative and Integrative System for Internal Security.” A committee drafted the National Internal Security Plan (NISP) containing the general framework and policy guidelines for coordination, integration, and acceleration of all government actions on local insurgencies. The NISP committed the entire government machinery to eliminate the root causes of the insurgencies and neutralize the insurgents by applying the “strategy of holistic approach.”²³ This strategy maximized the use of grass-roots intelligence; required intensive coordination of all policies and actions at all government levels; and promoted active government-civil society partnership.

In January 2002, the AFP released an Internal Security Plan (ISO) called “*Bantay Laya*” (Freedom Watch) to contain the insurgency within the NISP’s framework. The road map envisioned the AFP decisively defeating the armed component of the communist insurgency within five years. This timetable, however, was derailed by the AFP’s operations against the Abu Sayyaf Group (ASG). Thus, the ISO was revised with the stipulation that once the ASG was eradicated, the AFP was to redeploy its resources to reduce the number of communist-influenced communities, manpower, and firearms, and to dismantle the insurgents’ politico-military structure. The ISO revised in 2006 provided for the strategic defeat of the CPP/NPA/NDF by 2010. It pointed out that the AFP’s goal of containing the armed insurgencies with finality

²¹ Clive Schofield and Ian Storey, *The South China Sea Dispute: Increasing Stakes and Rising Tension* (Washington Dc: The Jamestown Foundation, November 2009). p. 1.

²² Edward Wong, “As Beijing asserts itself: U.S. Senses an Opening,” *International Herald Tribune* (27 September 2010). pp. 1-3.

²³ Romulo Yap, “A Review of the Government’s Counter-Insurgency Strategies,” *National Security Review* (August 2007). p. 36.

warranted a holistic approach. Hence, the AFP adopted the comprehensive methodology of “Clear-Hold-Consolidate-Develop.” In the C-H-C-D approach, the AFP used the extent of its combat power on the enemy to achieve maximum, tangible, and decisive effect. In doing so, however, it either ignored or downplayed external security threats to the country.

Implementing the C-H-C-D concept on the local rebels left the AFP with scarce resources and little time to develop a modest air and naval capabilities against China’s creeping occupation of the Spratlys. In 2005, the Philippine Air Force (PAF) decommissioned its ten F-5 fighter planes that formed the core of the country’s air defense capability, because they were too old and very expensive to maintain. Before they were decommissioned, these planes were used extensively for patrolling areas claimed by the Philippines in the disputed Spratly islands and in the Scarborough Shoals.²⁴ Meanwhile the AFP’s focus on internal security forced it to utilize its existing materiel continuously under “adverse combat conditions” causing excessive wear and tear on them which reduced their effectiveness and reliability.²⁵ In addition, the Philippine Navy’s (PN) deployment of its patrol crafts in the counter-insurgency/counter-terrorism operations in southern Philippines reduced patrol visibility in other critical areas of the country. Hence, there frequent encroachments of foreign vessels on the country’s territorial waters.

The September 2007 AFP Capability Assessment indicated that the poor condition of AFP equipment adversely affected the military’s effectiveness and efficiency in counter-insurgency operations. The report noted that low-intensity conflicts (LICs) diverted the military’s attention and resources away from external defense-related modernization projects.²⁶ Regarding the AFP’s conventional military capabilities, it cited that the “PN lacks the assets for conduct of maritime patrols over territorial waters, since it does not have any anti-air capability and is incapable of conducting anti-submarine and mine warfare operations.” The assessment report likewise underscored the inadequacies of the PAF’s air defense, surveillance, air-lift and ground attack capabilities. Unequivocally, it concluded that “basic capabilities which enable the AFP to move, shoot, and communicate were still wanting.” Ranking AFP officers even admitted that the Philippine military’s aging equipment, limited in combat readiness, insufficient logistic support, and inter-service inoperability

²⁴ “PAF Retires Ageing Fleet of F-5 Fighter Planes,” *Asian Defense Journal* (November 2-5 2005), p. 42.

²⁵ Raymond G. Quilop, Darwin Moya, and Czarina Ordinario-Ducusin, *Putting an End to Insurgency: An Assessment of the AFP’s Internal Security Operations* (Camp Aguinaldo, Quezon City: Office of Strategic and Special Studies, 2007). pp. 42-43.

²⁶ Office of Plans and Program, *AFP’s Capability Assessment*, presented during the National Defense and Security Review Module Priming Session (Camp Aguinaldo, Quezon City: National Defense College of the Philippines, 3-6 September 2007).p. 25.

constrained its capability for joint operations against any external/conventional threats.²⁷

On the country's territorial defense incapacity, the report candidly acknowledged: "This situation (limited combat capabilities) is nowhere more manifest than in the *Kalayaan* Island Group (in the Spratlys) wherein the AFP is unable to prevent and respond to intrusion into our EEZ or show our resolve in defending areas we are claiming." Thus, initially, the Philippine government had no choice but to propose diplomatic/security measures with China and other claimant states to foster confidence-building, and forge bilateral military cooperation agreements (for joint patrols and exercises).²⁸

Lacking a credible military capability to back up its diplomatic efforts, the Philippine opts for the liberal/legal approach to resolve its maritime dispute with China. Philippine Foreign Secretary Roberto del Rosario acknowledges the importance of the liberal/legal approach by asserting that the "UNCLOS has never been more important for the Philippines than today, when overlapping maritime claims threatens as never before the peace and prosperity in our part of the world."²⁹ For a militarily weak country like the Philippines, "the legal track presents the most durable option to defend the national interests and territory on the basis of international law."³⁰

Applying *Realpolitik* on the Philippines

The two-month Scarborough Shoal impasse is the proverbial tipping point caused by China's pattern of protracted series of aggressive actions against the Philippines which began in mid- 2010. In the last quarter of 2010, the Department of Foreign Affairs (DFA) noted increased Chinese naval presence and activities in the Spratlys and monitored around six or seven major intrusions by Chinese vessels into the waters claimed by the Philippines. Then on 25 February 2011, Filipino fishermen alleged that they were fired upon by a Jianghu-B class missile frigate off Jackson Atoll, 140

²⁷ Interview with mid-level AFP Officers, Foreign Service Institute, Department of Foreign Affairs, 17 September 2010.

²⁸ Rey Ardo, "The Military Dimension of National Security," in Jose G. Quilop (ed) *Peace and Development' Towards Ending Insurgency* (Quezon City: Office of Strategic and Special Studies, 2007), pp. 16-17.

²⁹ "Rules-Based Approach is Key" *Gulf News* (09 May 2012). p.1. <http://search.proquest.com/docview/1011488703?accountid=28547>

³⁰ Bernice Camille V. Bauzon, "Philippine Sues China," *McClatchy—Tribune Business News* (23 January 2013). P. 1 <http://search.proquest.com/docview/1271937475?accountid=28547>

miles west of Palawan.³¹ On 2 March 2011, two Chinese patrol boats reportedly harassed a survey vessel commissioned by the Philippine Department of Energy (DOE) to conduct oil exploration in the Reed Bank, 150 kilometers east of the Spratly Islands and 250 kilometers west of the Philippine island of Palawan. According to Philippine sources, the two Chinese patrol crafts maneuvered dangerously closely to the Philippine vessel twice as they ordered it to leave the area. The vessel radioed for help and the Philippine Air Force (PAF) immediately dispatched two light planes. However, the two Chinese patrol crafts had left the area before the PAF aircraft arrived.

On 4 March, the Philippine government filed a letter of protest with the Chinese Embassy in Manila, seeking an explanation for the incident. Brushing aside the Philippine complaint, an embassy official insisted that China has indisputable sovereignty over the Nansha Islands and their adjacent territory. Shrugging off the condescending response, President Aquino announced that an unarmed Philippine Coast Guard patrol craft would be deployed to secure the survey ship at the Reed Bank and a Filipino maritime affairs specialist would discuss the matter with Chinese officials in Beijing.

The following month, the Philippines filed a formal protest with the United Nations against China's so-called "nine-dash" line covering almost the entire South China Sea. It argued that the *Kalayaan* (Freedom) group of islands in the Spratlys is an integral part of the Philippines, and that China's claim over these islands and the adjacent waters has no basis under international law, specifically under the United Nations Convention on the Law of the Sea (UNCLOS). In its counter-response, China accused the Philippines of illegally occupying some of the islands and reefs in the Nansha Islands. It contented that these islands are part of its Nansha Islands and China's sovereignty and related rights over them are supported by historical and legal evidence.³² It also declared that the contents of the Philippine diplomatic note to the UN were totally unacceptable to the Chinese government.

China's provocative moves in the South China Sea continued. As mentioned earlier, in mid-May 2011, two unidentified (believed to be Chinese) jet fighters flew over two PAF OV-10 Broncos conducting reconnaissance patrol over the Reed Bank.³³ Then in early June 2011, the PN discovered a number of Chinese structures in

³¹ See Carl A. Thayer, "China's New Wave of Aggressive Assertiveness in the South China Sea," *International Journal of China Studies* (December 2011) 2, 3. 561. pp. 561-562.

³² Associated Press, "Philippines Invaded Spratlys in 1970s, China Tells UN," *Philippine Daily Inquirer* (24 April 2011). pp. 1 and 6.

³³ Anonymous, "Philippines Protests against China's Planned Oil Rig, Constructions in Spratlys," *BBC Monitoring Asia-Pacific* (June 2, 2011).p. 2. <http://proquest.umi.com/pqdweb?index=329did=329&did=2363645341&Sr...>

the vicinity of Philippine-claimed Iroquois Reef-Amy Douglas Bank near Palawan and within the country's 200-nautical mile EEZ. AFP observers reported that China Marine Surveillance (CMS) vessels and PLAN ships unloaded building materials, erected an undetermined number of posts, and placed a buoy near the breaker of the Douglas Bank. Again filing a diplomatic protest with the Chinese Embassy in Manila, the DFA maintained that any new construction in the vicinity of the uninhabited Amy Douglas Bank is a clear violation of the 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea.³⁴

In response, the Chinese foreign ministry sternly told the Philippines to stop "harming China's sovereignty and maritime rights and interests, which leads to unilateral actions that can expand and complicate [sic] South China Sea dispute."³⁵ It was Beijing's reaction to the Philippines' diplomatic protest against China's plan to construct an oil rig deep within the Philippines EEZ. The Philippines also sought clarification on the recent sightings of China CMS and PLAN ships near the Kalayaan group of islands. Beijing went on to demand that Manila seek Chinese permission before it can conduct oil exploration activities even within the Philippines EEZ. China, actually, was badgering the Philippines and other claimant states to recognize China's sovereign claim over the South China Sea.³⁶

At the same time, the Chinese ambassador in Manila also justified the actions of the two Chinese patrol boats that harassed a Philippine survey ship at the Reed Bank as an exercise of jurisdiction over an area that is a part of China's territory.³⁷ He added that the Philippine surveying activity in the area is a "violation of Chinese sovereignty and that is something that we (China) are against." Thus, China's heavy-handed actions against the Philippines and Vietnam in the first half of 2011 heightened the tension in the contested sea. More importantly, it made the Aquino Administration realize that the Philippines are potentially on a collision course with China relative to the South China Sea imbroglio.³⁸

³⁴ *Ibid.* p. 2.

³⁵ Anonymous, "China Says Philippines Harming Sovereignty, Interests in Spratlys," *BBC Monitoring Asia-Pacific* (9 June 2011), p. 1.
<http://proquest.umi.com/pqdweb?index=64&did=2369715781&Src...>

³⁶ "China Wants Philippines to Seek Permission before Spratlys Oil Search," *BBC Monitoring Asia-Pacific* (10 June 2011), p. 1.
<http://proquest.umi.com/pqdweb?index=281&did=2370661661&Sr...>

³⁷ *Ibid.* p. 3.

³⁸ See Edward Wong, "China Asserts Role as a Naval Power," *International Herald Tribune* (23 April 2010), pp. 1 and 4.

The Philippines' Recourse: Liberal/Legal Approach

In July 2011, the Philippines brought its case before the ASEAN. This action was taken to goad China into accepting a more binding code of conduct in the South China Sea and to prevent it from building more military outposts on the islets and taking a provocative stance against the other claimant states. China, however, vetoed the move and insisted that the ASEAN member-states should first consult China on the formulation and approval of such an agreement. Consequently, ASEAN and China found themselves back to square one after signing an ineffectual non-binding code of conduct in 2001. Needless to say, in the last 12 years, China and the ASEAN are merely engaged in a political-diplomatic propaganda game rather than trying to manage and avoid a potential armed conflict in the South China Sea.³⁹

Furthermore, the ASEAN-China meeting did not come up with clear rules and procedures on the implementation of the 2001 maritime code of conduct. The guidelines simply mentioned certain confidence-building measures and cooperative ventures in the South China Sea to tackle marine and environmental degradation, Severe Acute Respiratory Syndrome (SAR), transnational crime, navigation, and biodiversity issues.⁴⁰ The provisions did not include the rules of engagement or the behavior of claimant countries' warships in the disputed waters. The meeting also ignored the Philippines' proposal that China and the ASEAN states should devise a framework to segregate the disputed areas from the uncontested ones. Citing the impracticality of the proposed code of conduct, Philippine Foreign Secretary Albert del Rosario pointedly remarked that "that China's claim (on the South China Sea) is so all encompassing that if allowed to stand, it makes developing a code of conduct with China a useless exercise."⁴¹

Before the Scarborough Shoal standoff, the Philippine has been trying to elicit the ASEAN support for its proposal for a creation of a "Zone of Peace, Freedom, Friendship, and Cooperation." This proposal sought to clarify the maritime boundary claims in the South China Sea by all parties, as well as turning the disputed areas into special enclaves where disputing parties can jointly develop projects.⁴² China,

³⁹ Barry Wain, "South China Sea Charade; China continues stalling multilateral efforts to resolve territorial disputes," *Wall Street Journal* (22 August 2011). pp. 1-2. <http://proquest.umi.com/pqdweb?index=1&did=2431087331&Src...>

⁴⁰ Anonymous, "Guidelines Prove that ASEAN, China can Deliver Results: Marty," *The Jakarta Post* (21 July 2011), p. 2. <http://proquest.umi.com/pqdweb?index=42&did=2405158651&Src...>

⁴¹ Brian Padden, "South China Sea Dispute Continues to Dominate ASEAN Forum," *Voice of America* (20 July 2011). p. 1. <http://proquest.umi.com/pqdweb?index=56&did=2404091041&Src...>

⁴² See International Crisis Group, "Stirring Up the South China Sea II: Regional Responses" *Asia Report N 229-24* (July 2012) p. 8.

however, did not want the issue to be multilateralized, preferring to resolve the dispute bilaterally. Furthermore, in a serious vein, the delimitation of maritime borders involves the clarification of China's ambiguous and expansive nine-dash line claim. Beijing likewise took note of Vietnam's and the Philippines' proposals for ASEAN to issue an official position on the South China Sea dispute during the ASEAN summit in Cambodia in 3-4 April 2012. However, China pressured Cambodia to keep the South China Sea dispute out of the summit agenda. Interestingly, the 9 April 2012 issue of the unofficial *Global Times* empathetically and prophetically warned the Philippines against underestimating "the strength and will-power of China to defend its territorial integrity."⁴³

The 2012 Scarborough Shoal Standoff

The crisis began on 8 April 2012, when a Philippine Air Force (PAF) reconnaissance plan spotted eight Chinese fishing boats around the shoal. Following the sighting of the several Chinese fishing vessels, President Aquino directed the AFP and the Philippine Navy to step up its monitoring activities in the line with its enforcement of the country's fisheries and maritime environmental protections laws. Accordingly, the PN deployed the recently-purchased U.S. patrol cutter—the *BRP Gregorio del Pilar*—that sailed from its homeport in Palawan into the shoal located near Luzon after the reported presence of eight Chinese fishing vessels in the area. Accordingly, the ship was deployed to protect the marine environment and resources in shoal and in the process, assert Philippine sovereignty over the area as a coastal state.

In the morning of 10 April, the *BRP Gregorio del Pilar* confirmed the presence of eight Chinese fishing vessels anchored inside lagoon. After monitoring the vessels, the PN ship, in accordance with its established rules of engagement, dispatched a boarding team to inspect the fishing vessels. The boarding team reported that large amounts of illegally collected corals, giant clams and live sharks were found inside the compartments of first fishing vessel boarded. At that time, the apprehension of the Chinese fishermen was seen as a routine maritime law enforcement operation since this was not the first time the Philippines had conducted this type of operation at Scarborough Shoal.

In March 2001, PN ships arrested Chinese fishermen in shoal and were charged with illegal entry, illegal fishing, and violation of the International Convention on International Trade in Endangered Species of Wild Fauna and Flora. The PN also

⁴³ Robert Sutter and Chin-huo Huang, "'Hu Visits Cambodia as South China Sea Simmers,'" *Comparative Connections* (May 2012), p. 5.

confiscated the fishing vessels' catch the electric blasting caps, time fuses, dynamite sticks and cyanide allegedly used by the Chinese fishermen. In response, the Chinese Embassy in Manila protested the apprehension of their fishermen but did not challenge Philippine jurisdiction over shoal which is deemed a traditional fishing ground for Chinese fisherman but not a Chinese territory.⁴⁴ Interestingly the Chinese ambassador even explained apologetically that the number of Chinese fishermen in the area has increased tremendously and that government had difficulty controlling them. In fact, after the PN arrested 10 Chinese fishing vessels the Chinese foreign ministry even disclosed to the Philippine government that it had started looking for alternative sources of livelihood for the arrested fisherman so that they would stop fishing at the Scarborough Shoal. This position, however, dramatically changed during the 2012 Scarborough Shoal crisis.

Instead of allowing the PN to apprehend the fishing vessels at the shoal, however, two Chinese marine surveillance vessels suddenly arrived and placed themselves between the arresting Philippine warship and the Chinese fishing vessels. The two Chinese ships effectively prevented the PN from arresting the Chinese fishermen. The two Chinese maritime surveillance vessels then contacted the captain of the *BRP Del Pilar* informing him that he has strayed into Chinese territorial waters. He was then immediately ordered by the Chinese ships to leave the shoal. Chinese actions and statements at the onset of the standoff marked a dramatic departure from China's earlier response to the apprehension of its fisherman in the area. For one, Chinese vessel prevented the PN from arresting its fisherman. More significantly, China challenged Philippine territorial rights over a shoal that is only 124 nautical miles from the main island of Luzon and well within the country's 200 nautical miles EEZ.

The following day, Manila realized that it was engaged in a potentially and dangerous standoff with an emergent and assertive China. President Aquino decided to withdraw *the BRP del Pilar* and replaced it with a smaller coast guard vessel in an effort to lower the tension generated by the stand-off. Instead of reciprocating Manila's gesture, *Xinhua* News agency announced that Beijing would deploy its most advanced and latest fishery patrol ship, the *Yuzheng-310* to join the two other civilian vessels already in the shoal. Then the Chinese foreign ministry announced that "the Philippines' attempt to carry out so-called law enforcement activities in the waters of Huangyan Island has infringed upon China's sovereignty, and runs counters to the consensus reached by both sides on maintaining the peace and stability in the South

⁴⁴ "Philippines Eyes Tougher Policy in Disputed Scarborough Shoal," *BBC Monitoring Asia-Pacific-Political* (27 March 2011). p.1.
<http://search.proquest.com/docview/450024706/138D11202A04E...>

China Sea.”⁴⁵ It also warned the Philippine “not to complicate and escalate the situation.”

On 15 April, the Chinese foreign ministry ordered the Philippines to withdraw its lone coast guard ship from the disputed area. Then, a few days later, the Philippines filed a diplomatic protest over the alleged harassment of the *MV Sarangani*, a Philippine research boat commissioned by National Museum to conduct an archeological survey of sunken Chinese junks in the area. Manila withdrew the *MV Saranagani* from the shoal in the light of the stand-off between Chinese and Philippine civilian vessels. The Philippines then dared China to bring the dispute before the International Tribunal on the Law of the Sea. However, the Chinese foreign ministry rejected Manila’s proposal for the legal and rules-based track through mediation of the International Tribunal on the Law of the Sea (ITLOS). Instead, it insisted on quite bilateral diplomatic talks to defuse the standoff.

Clearly, at the beginning of the standoff, China immediately gained the upper hand as it forced the Philippines to back away from confronting the Chinese civilian presence with a surface combatant. With its growing armada of armed civilian maritime vessels at its disposal, China was able to put the onus on escalating the dispute on the Philippines and forcing it to think twice before using force to resolve a matter of maritime jurisdiction. Then China sent an additional patrol ship, and consequently, three Chinese ships confronted one lone Filipino coastguard vessel in the shoal. The incident showed that China has become more adept at handling territorial dispute using brinkmanship. More significantly, it also showed that China is expanding its operational reach to every corner of the South China Sea and is capable and prepared to provide its fishing vessels with physical protection while at the same time, depriving rival claimants of control over maritime territories that are deemed as Chinese waters. Analyzing the impact of the Chinese tactic of brinkmanship during the standoff, an American analyst commented:

It is clear that Beijing is doing little, if anything, to rein in the fishing boats that have precipitated nearly every maritime confrontation in Asia over several years. Before the Philippines, Japan and Indonesia were forced to act Chinese fishermen in disputed waters. Tellingly, China now no longer hesitates to send armed patrol ships to prevent those fishermen from being arrested by foreign nations. The Scarborough incident reflects at least the second time that these Chinese ships have faced down the navies of smaller nations.

⁴⁵ Thai News Service Group, “China/Philippines: China Seeks Preservation of Over-All Friendly Relations with Philippines as Tension over Scarborough Shoal Ebbs Momentarily,” *Asia News Monitor* (12 April 2012). p.1. <http://search.proquest.com/docview/993552886/138B64F7C71082...>

...While it is a good thing that open conflict did not break out in any of these cases, the fact that China has come out on top in every dispute in shifting the perceived balance of power in Asian waters. Aggrieved nations protest and cite the rule of law, but they are ultimately accepting the principles that might makes right.⁴⁶

China's *Realpolitik* Approach

While Chinese and Philippine patrol vessels were facing each other at the Scarborough Shoal, the Chinese Embassy in Manila confirmed that both sides were engaged in a series of protracted and tedious diplomatic negotiations to resolve the impasse and to maintain the friendly state of Philippine-China relations. However, the Chinese Embassy reiterated its position that the Scarborough Shoal is an integral part of Chinese territory and warned Manila not to instigate new troubles and incidents that can adversely affect China-Philippine relations and the stability in the South China Sea.⁴⁷ Then on 16 April 2011, the Philippines and the U.S. conducted the annual *Balikatan* military exercise along the coast of Palawan facing the South China Sea. Immediately, the Chinese media and analysts interpreted the military exercise as a catalysts and response to the impasse. Official Chinese commentary criticized the exercise, while more hawkish unofficial commentary in the *Global Times* called for retaliation by conducting a PLA military exercise in the South China Sea “close enough to put pressure on Manila.”⁴⁸ Philippine officials deflected Chinese criticism of the military exercise by emphasizing that it had been planned “way ahead of the current impasse at the Scarborough Shoal.”⁴⁹

On 25 April, the DFA spokesperson reiterated the Philippines invitation to put the dispute over the shoal for arbitration by the international tribunal on the Law of the Sea. He justified Manila's insistence on multilateral approach to the dispute given the fact that the freedom of navigation and unimpeded commerce in the South China Sea is a concern not only of the Philippines but also other countries in the area and beyond.⁵⁰ The Chinese Embassy did not respond to the Philippines' challenge as it

⁴⁶ Michael Auslin “Scarborough Scare in the South China Sea: Beijing Best Manila in a Naval Stand-off, Worrying its Neighbors. *Wall Street Journal* (18 April 2012). p. 1. <http://search.proquest.com/docview/1002347505/138B6447C71708...>

⁴⁷ Thai News Service Group, “Philippines/China: China Seeks Preservation of Over-All Friendly Relations with Philippines as tension Over Scarborough Ebbs Momentarily,” *Asia News Monitor* (12 April 2012) p. 2. <http://search.proquest.com/docview/993552866/138B64F7C717082...>

⁴⁸ Robert Sutter and Chin-hao Huang, “Hu Visits Cambodia as South China Simmers,” *Comparative Connections* (May 2012). p. 4.

⁴⁹ *Ibid.* p. 4.

⁵⁰ “Philippines: Philippines Prepared to do it alone on Scarborough before ITLOS, Says DFA,” *Asia News Monitor* (25 April 2012). p. 1 <http://search.prquest.com/docview/1009068410?>

maintained its silence. Instead, it reiterated the standard mantra that China is ready to settle this dispute through friendly diplomatic consultations on a bilateral basis.⁵¹

By the end of April 2012, both sides admitted that their negotiations aimed at diffusing the standoff was going no-where. The Chinese Embassy blamed Manila for the prolonged impasses for negotiating in bad-faith by distorting the facts surrounding the stand-off. It also “urged the Philippines to stop illegal activities and leave this area,” as it insisted that China has sovereign rights all of the South China Sea. The embassy also reminded the its host country, “that ever since the ancient times, numerous documents on Chinese history have put down definitely in writing that Huangyan Island belongs to Chinese territory.” Manila, in turn, accused China of being more assertive in pressing its territorial disputes against other claimant states like the Philippines.⁵² It also reminded China that the “responsibility for resolving the standoff in the South China Sea rest not just with one party but both parties” and challenged it to join the Philippines in seeking mediation by the ITLOS.

Exasperated by the Philippines’ refusal to withdraw its lone coast guard vessel from the shoal, China decided to raise the ante. On 9 May 2012, Vice-Foreign Minister Fu Ying summoned the charges d’affaires at the Philippine Embassy in Beijing and was told that “the Philippine government has repeatedly made erroneous remarks which misled the Philippine public and the international community, thus severely damaging the atmosphere of the bilateral relations between China and the Philippines.”⁵³ She also told the Filipino diplomat that the Philippines should withdraw all its vessels from the waters surrounding the shoal and to stop operations against Chinese fishing boats and Chinese law enforcement vessels. Then she warned the Filipino diplomat that “that it is hard for us (China) to be optimistic about the situation.”⁵⁴ To exert more pressure on the Philippines, China deployed another civilian patrol boat and addition fishing boats to the Scarborough Shoal. By 9 May 2012, a month after the beginning of the standoff, four Chinese surveillance ships and 10 fishing boats were facing a Philippine coast guard ship and a fisheries bureau vessel.

The following day, the Chinese General Administration of Quality Supervision announced that 1,200 containers of fruits from the Philippines were being held at

⁵¹ *Ibid.* p. 1.

⁵² “Philippines/China: No Agreement Reached with Chinese Government on Pull-Out of Philippine Vessels from Scarborough Shoal—DFA,” *Asia News Monitor* (26 April 2012). <http://serach.proquest.com/docview/1009600955/138FC30C1134...>

⁵³ Agence France-Presse, Reuter, “Beijing Warns Manila Over Shoal Stand-Off,” *The Strait Times* (9 May 2012). p. 1. <http://search.proquest.com/docview/10116020161/1386FC1134...>

⁵⁴ *Ibid.* p. 1.

various ports on the ground of “quarantine concerns.”⁵⁵ On the, the China International Travel Service suspended all scheduled flights to the Philippines on “safety grounds.”⁵⁶ Because of the travel ban, Chinese tour groups cancelled their trips to the Philippines. Then in May and June 2012, China Southern Airlines cut flights between Guangzhou and Manila due to the relatively small number of passengers.

These developments—perceived fallout of the Scarborough Shoal standoff—made Filipino businessmen apprehensive.⁵⁷ The Philippine Banana Growers and Exporters Association warned the Aquino Administration that up to 200,000 banana farmers and ancillary workers could lose their livelihood without the huge and lucrative China market. The president of the association, Stephen Antig, said: “With 70 percent of Philippine bananas exported to China, a lengthy ban could affect the livelihood of half a million Filipinos.”⁵⁸ Consequently, other prominent Filipino businessmen asked the Philippine government to immediately resolve the impasse to stop the rapid deterioration of Philippine-China economic relations. The president of the Philippine Exporters Confederation (PHILEXPORT) Sergio Ortiz warned the government that “We (the Philippines) have more to lose than them (China).” A Filipino legislator also cautioned the Aquino Administration not to provoke China since this might lead to a considerable slump in Philippine-China trade relations. Party-list Representative Teodorico Haresco told the Aquino Administration that “Beijing might decide to send Filipino workers in Macau and Hong Kong back to the Philippines, which would surely devastate the national economy.”⁵⁹

To put more pressure on Manila, the Chinese military floated the idea of using force against the Philippines, and possibly against other claimant states in the South China Sea. The *China’s Liberation Army Daily* warned that the regular annual Philippine-U.S. *Balikatan* military exercises increase the risk of an armed confrontation over the contested South China Sea.⁶⁰ On 22 April 2012, *The Global Times* editorial urged the Chinese government to engage the Philippines in a small-

⁵⁵ Jane Perlez, “China-Feud over Shoal Heats Up: Tourist Visits Suspended as Beijing Sharpens its Criticism of Philippines,” *International Herald Tribune* (11 May 2012), p. 9. <http://search.proquest.com/docview/1012049155/1386FC30C1134...>

⁵⁷ Raiisa Robles, Filipino Business Chiefs Urge Peaceful Solution Industry Leaders in Manila Say Scarborough Shoal Row Could Jeopardise Exports to China, *South China Morning Post* (15 May 2012), p. 1. <http://search.proquest.com/docview/1013646356/1386FC30C1134...>

⁵⁸ *Ibid.* p. 1.

⁵⁹ Pia Lee-Brago, Christina Mendez, Marvin Sy, and Paolo Romero, “Philippines Willing To Hold “Diplomatic Talks with China Over Disputed Reef,” *BBC Monitoring Asia Pacific* (11 May 2012), p.2. <http://search.proquest.com/docview/1012177297/139036B9A3359...>

⁶⁰ “China Paper Warns of Armed Confrontation over Seas,” *Right Vision News* (24 April 2012), p. 1 <http://search.proquest.com/docview/1009068603/13900036CBC48...>

scale war to end the stalemate. It stated that “once war erupts, China must take resolute action and deliver a clear message to the outside world that it does not want a war, but definitely has no fear of it.”⁶¹ It exhorted the Chinese leadership to apply “cold treatment to Manila that should last for a certain period.”⁶² Major General Luo Yuan of the People’s Liberation Army Academy of Military Sciences suggested taking a proactive stance against the Philippines by “strengthening Chinese sovereign presence on Huangyan Island (Scarborough Shoal) by hosting the national flag, erecting a sovereignty monument, building military bases or at least setting up fisheries bases.”⁶³ Further, he said that the Scarborough impasse creates an opportunity for China to formulate “a model for cracking the South China Sea dilemma.”⁶⁴

The volley of threatening rhetoric from the PLA continued way into the month of May. On 9 May, *The People’s Liberation Army Daily* ran a toughly-worded editorial saying that China would not tolerate any violation of Chinese sovereignty on Huangyan Island. According to the editorial: “Not only will the Chinese government not agree, nor will the Chinese people, and the Chinese Army will disagree even more.”⁶⁵ This statement is indicative of the PLA’s non-compromising position when it comes to territorial disputes.

On 14 May, media reports from Japan and Taiwan alleged that China’s South Sea Fleet had forward-deployed a landing ships flotilla and a naval task force consisting of destroyers and amphibious assault ships in waters off the Philippines.⁶⁶ Two days later, the PLA denied that the Guangzhou Military Region, the South Sea Fleet, and other units of the army assumed a state of readiness for possible military action against the Philippines.⁶⁷ The PLA’s denial underscored the heightened tension between the Philippines and China and the growing national belligerency against the Philippines in particular and other claimant states in general. This media revelation was a double edge sword. On the one hand, it disclosed the domestic clamor for a stronger and more confrontational action against the Philippines. On the other hand, it

⁶¹ “Chinese Daily Calls for Small-Scale War against the Philippines,” *The Statesman* (23 April 2012), p.1.

⁶² <http://search.proquest.com/docview/1009075215/139091870A75BB1E5FF/50?accountid=2>

⁶³ *Ibid.* p. 1.

⁶⁴ “BBC Monitoring Quotes from China, Taiwan Press 26 April 2012,” *BBC Monitoring Asia-Pacific* (26 April 2012). pp. 1-2.

⁶⁵ *Ibid.* p. 1.

⁶⁶ Perlez, *op. cit.* p. 1.

⁶⁷ Alec Almazan, “U.S. N-sub in Subic a Strong Signal to China: Routine Visit Comes amid Reports China is Mobilizing Fleet for Philippines Ops,” *The Business Times* (18 May 2012). p.1.

<http://search.proquest.com/docview/1014157381/13914D940E373>

⁶⁷ Brian Spegele, “China: China Denies War-Preparation Rumors,” *The Wall Street Journal Asia* (14 May 2012). p. 4. <http://search.proquest.com/docview/1012770819/13900036CBC48...>

brought to light that some elements in the Chinese government and in the PLA were considering the use of force to resolve the impasse. PLA Major General Luo Yuan scolded the “nationalist warmongers” in the Philippines” and commented China could rein them if Manila could not do it...”⁶⁸ The general was referring to a naval battle to teach the Philippines a lesson. Also, condescendingly, he quipped: “We have repeatedly exercised forbearance and our patience has run its course. There is no more need to take caution.”

The Scarborough Shoal impasse enabled the hawkish elements in the PLA to articulate their belligerent position against the Philippines (and the U.S.) in the official media. This was unimaginable during the Deng Xiaoping’s and Jiang Zemin’s administrations when military officers were banned from speaking out.⁶⁹ Observing the plethora of bashing by the PLA and the Chinese media, two American China specialists noted: “The coverage of the China-Philippine standoff was accompanied by an uptick and broadening in Chinese criticism of others over the South China Sea dispute. Official Chinese media in mid-April averred that the tension was rising in the South China Sea, [and this] underlined Chinese determination to protect its interest against foreign encroachment and interference.”⁷⁰

China’s diplomatic, verbal, and economic pressures against the Philippines, however, generated a “rally-around effect” in the country. The majority of Filipino legislators backed up the embattled Aquino Administration and allocated more funds for the AFP modernization program. At the height of the standoff, the Philippines’ fractious power blocs, as well as the normally apathetic public, became united and solidly swung behind the government as Philippine civilian vessels confronted their Chinese counter-parts at the Scarborough Shoal.⁷¹ The Catholic Bishops’ Conference of the Philippines stopped its criticism of the pending government-sponsored reproductive health bill, and supported rallies and demonstrations in front of Chinese embassies and consulates around the world. Even the Communist Party of the Philippines, in principle, even goaded the government to assert the national sovereignty and territorial integrity against Chinese encroachments on the shoal.

⁶⁸ Willy Lam, “China’s Hawk in Command,” *The Wall Street Journal Asia* (2 July 2012). p. 1. <http://search.proquest.com/docview/1022781671/139036B9A3359...>

⁶⁹ *Ibid.* p. 1.

⁷⁰ Robert Sutter and Chin-hao Huang, “Hu Visits Cambodia as South China Sea Simmers,” *Comparative Connections: A Triannual E-Journal on East Asian Bilateral Relations* (May 2012). p.6.

⁷¹ Alan Robles, “Filipino United in Shoal Row Power Blocs and the Public Appear behind the Philippine Government in its Stand-Off with Beijing over A Sovereignty Claim in the South China Sea,” *South China Morning Post* (16 May 2012). p.1. <http://search.proquest.com/docview/1013883456/1386FC30C1134...>

Emboldened by the strong public support, the beleaguered Aquino Administration hastened to establish a modest but “comprehensive border protection program” against Chinese creeping expansionism in the South China Sea. This program is anchored on the surveillance, deterrence, and border patrol capabilities of the PAF, the PN, and the Philippine Coast Guard that extend from the country’s territorial waters to its contiguous and exclusive economic zone.⁷² This task involves upgrading the AFP’s capabilities, prioritizing its needs, and gradually restructuring its forces from internal security to territorial defense. The long-term goal, according to the 2011 *AFP’s Strategic Intent*, is to develop the force structure and capabilities enabling the Philippine military to maintain a “credible deterrent posture against foreign intrusion or external aggression, and other illegal activities while allowing free navigation to prosper.”⁷³

The Philippines appealed for diplomatic and military support, from its strategic ally, the United States. During the standoff, the *U.S.S. North Carolina* (SSN 777), a Virginia-class fast attack submarine, arrived at Subic Bay on 13 May 2012. The submarines’ visit hinted to China that the U.S. is prepared to honor its defense treaty commitments to its Southeast Asian ally in case of an armed confrontation at the Scarborough Shoal. It also coincided with the report that the PLAN had mobilized its Southern Fleet for any eventuality.⁷⁴ A month later, another nuclear-powered attack submarine, the *U.S.S. Louisville*, made a port call to Subic Bay. Although these visits are actually routine port calls, the fact that they were made during the standoff and were much-publicized intimated that the U.S. will not stand idly its treaty ally is threatened by any form of armed aggression.⁷⁵ The Philippines also called on its fellow ASEAN member-states to take a common position against Chinese assertiveness in the South China Sea.

Pushing the Realpolitik Approach

In mid- June 2012, the tensions generated by the standoff started abated when the civilian vessels left the shoal on the pretext of the onset of the typhoon season. On 16 June, President Aquino recalled all Philippine vessels because of the onslaught of a

⁷² National Security Council, *National Security Policy 2011-2016* (Quezon City: National Security Council, April 2011). p. 39.

⁷³ Office of the Deputy Chief of Staff, *Armed Forces of the Philippines: Strategic Intent* (Quezon City: Camp Aguinaldo, 2011). p. 27.

⁷⁴ Alec Almazan, “U.S. N-sub in Subic a Strong Signal to China: Routine Visit Comes amid Reports China is Mobilizing Fleet for Philippines Ops,” *The Business Times* (18 May 2012). p.1. <http://search.proquest.com/docview/1014157381/13914D940E373...>

⁷⁵ *Ibid.* p. 1.

seasonal typhoon.⁷⁶ On 18 June, Beijing announced that Chinese fishing boats were heading back to port. A Chinese foreign ministry spokesperson stated that with the withdrawal of the civilian ships, “We (China) hope (that) there will continue to be an easing in the situation and hope bilateral cooperation will recover and be safeguarded.”⁷⁷ The following day, the China Maritime Search and Rescue Center sent a rescue ship to assist Chinese fishing boats leaving the area due to “rough sea conditions.”⁷⁸ The coordinated withdrawal of Filipino and Chinese civilian vessels from the shoal happened while consultations between the two countries were ongoing. Despite the withdrawal of the vessels, both countries persisted in their claim of sovereignty over the shoal.

Notwithstanding the dissipation of the tension, the prospects for the resolution of the maritime row were dim. The disputed Scarborough Shoal has become a potential regional flashpoint. Suspicion and antagonism between the Philippines and China lingered because of three factors, to wit: a) China’s growing naval power and assertiveness attendant to its expansive maritime claim in the South China Sea; b) the Aquino Administration’s balancing policy on an emergent China; and c) the U.S. policy of hedging against China.

Even before becoming the second largest economy in the world, China has been gradually developing a modern and formidable navy. The country has had an annual double-digit increase in defense spending since 2006. In recent years, the People’s Liberation Army Navy has acquired a growing fleet of Russian-made diesel-electric Kilo-class submarines, and Sovremenny-class destroyers, along with several types of indigenously-built destroyers, frigates, and nuclear-powered attack submarines. Consequently, with its naval capabilities, China can generate regional tension by challenging the claims of small littoral states over parts of the South China Sea, and by changing the strategic pattern of the maritime commons of the Asia-Pacific where the U.S. Navy still predominates.

Currently, the Philippines dubbed the military laggard of Southeast Asia, applies a balancing policy on China. This policy is reflected in the Philippines’ standing up against China’s claim in the South China Sea. This stance necessitates shifting the AFP focus from internal security to

⁷⁶ Jane Perlez, “Stand-off Over South China Sea Shoal Eases: Beijing and Manila Pull their ships from Area, but the Dispute is not settle,” *International Herald Tribune* (19 June 2012). p. 4. <http://search.proquest.com/docview/1020884288/1386FC0C1134...>

⁷⁷ *Ibid.* p. 2.

⁷⁸ Teddy Ng, “Stand-Off Eases as Sides Withdraw Ships from Shoal Beijing Follows Manila in Pulling Vessels out of Disputed Area because of Bad Weather,” *South China Morning Post* (19 June 2012). p. 1. <http://search.proquest.com/docview/1020927910/139091870A75BB1E5FF/15?accounti=2..>

territorial defense; and getting U.S. military assistance under the Philippine-U.S. Mutual Defense Treaty (MDT). Interestingly, this official position stemmed from President Aquino's aversion to the foreign policy directions of his predecessor, former President Gloria Arroyo, particularly her policy of equi-balancing China and the U.S. that led to a Philippine-China entente.

External factors such as China's emergence as a regional military power and the U.S.'s strategic hedging against China prompted the Obama Administration to help develop the territorial defense capabilities of its long-time ally in East Asia. Then U.S. Secretary of State Hillary Clinton reaffirmed U.S. defense commitment to the Philippines even before the Scarborough Shoal standoff began.⁷⁹ During her 23 June 2011 meeting in Washington with Philippine foreign affairs secretary, Albert del Rosario, she announced that the U.S. would honor both its mutual defense treaty and strategic alliance with the Philippines. In November 2011, aboard the *U.S.S. Fitzgerald*, she reiterated U.S. support to the Philippines and called for updating the defense treaty that "will require...greater support for external defense, particularly maritime domain awareness."⁸⁰

In January 2012, during the Philippine-U.S. Bilateral Security Dialogue in Washington D.C., Filipino diplomats and defense officials determined the necessity of a strong and substantial U.S. military presence in the Philippines.⁸¹ They proposed an expanded presence to counter China's naval capabilities and to dovetail with the Obama Administration's 2012 Defense Strategic Guidance on rebalancing U.S. force structure and resources to meet recurring and potential threats in the Asia-Pacific and the Middle East, and to advance capabilities for maintaining access and projecting power globally.⁸² The U.S. government support to its ally, and American strategic footprint in Philippine territory gave the Aquino Administration a degree of confidence in standing up against an assertive China in the South China Sea imbroglio.

After green lighting the withdrawal of Filipino civilian vessels from the Scarborough Shoal on 8 June 2012, President Aquino admitted that

⁷⁹ David Gollust, "Clinton Reaffirms U.S. Commitment to Philippines amid Islands Dispute," *Voice of America News/Find* (23 June 2011). p. 1. <http://proquest.umi.com/pqdweb?index=171&did=2383500951&Sr...>

⁸⁰ Sheldon Simon, "U.S.-Southeast Asia Relations: Rebalancing," *Comparative Connections: A Triannual E-Journal on East Asian Bilateral Relations* (January 2012). p. 4. http://csis.org/files/publication/1103gus_seasia.pdf

⁸¹ Floyd Whaley, "Philippines in Talks to Expand U.S. Military Ties," *The International Herald Tribune* (27 January 2012), p. 1 and 3.

⁸² Cheryl Pellerin, "Carter: Strategic Guidance is Compass for 2013," *American Forces Press Service* (2-13-20012). p. 2. <http://www.defense.gov/News/NewsArticle.aspx?ID=66705>

Philippine-China relations have not normalized. The following month, Philippine Foreign Affairs Secretary Albert del Rosario raised the issue of the Scarborough Shoal standoff during the plenary session of the 2nd East Asia Summit (EAS) of Foreign Ministers in Phnom Penh. Then in his state-of-the-nation address in late July 2012, President Aquino said that his administration would not back down from its territorial row with China and that the Philippine military would fighter jet planes, long-range reconnaissance planes, and frigates for the country's territorial defense requirements.

In response to the Philippines' actions, China created a new administration unit to govern the 1,100 Chinese citizens living on the island groups of the Spratlys, the Paracels, and the Macclessfield Bank. At the same time, the powerful Central Military Commission approved the deployment of PLA units to guard these islands. These moves are intended to concretize China's sovereign claim to these maritime territories. The National Institute of South China Sea Studies based in Hainan Island admitted that China's goal: "is to allow Beijing to "exercise sovereignty over all land features inside the South China Sea including more than 40 islands now illegally occupied by Vietnam, the Philippines, and Malaysia."⁸³ The Philippines' and China's actions after the standoff confirmed the 24 July 2012 Report of the International Crisis Group which observed that:

Increasingly assertive positions among claimants have pushed regional tensions to new heights. Driven by potential hydrocarbon reserves and declining fish stocks, Vietnam and the Philippines in particular are taking a more confrontational posture with China. All claimants are expanding their military and law enforcement capabilities, while growing nationalism at home is empowering hardliners pushing for a tougher stance on territorial claims.⁸⁴

Challenging Realpolitik: The Philippine Files a Case

After the easing of tension at the Scarborough Shoal, China began consolidating its control over the area. CMSU vessels constructed a chain barrier across the mouth of the shoal to block Philippine access to it. China has also deployed these vessels to protect the fleet of Chinese fishing boats operating deep into the Philippines EEZ. In October 2012, Chinese Foreign Minister Fu Ying, seeking a diplomatic solution to the dispute, visited Manila. Minister Fu's visit occurred at the time when tension between Beijing and Tokyo was high because of the Senkaku Island territorial row. This high-

⁸³ Perlez, "China flexes its Muscle to Reassert Sea Claims..." p.1.

⁸⁴ International Crisis Group, *op. cit.* p. 1.

level dialogue between Manila and Beijing was seen as China's stop-gap measure to prevent a similar Scarborough Shoal or Senkaku impasse from escalating in to full-blown military confrontation. However, instead of finding a mutually acceptable solution, the high-ranking official warned Manila not to do the following: 1) to appeal to the U.N; 2) to internationalize the issue in forums such as the ASEAN; and 3) to coordinate with other countries such as the U.S.; and 4) issue any press release regarding the negotiations.⁸⁵ In effect, she badgered the Philippines to accept in silence China's exercise of *de facto* occupation of the Scarborough Shoal.

Philippine officials, however, were not cowed into accepting China's *fait accompli*. In January 2013, the Philippines confronted Chinese coercive diplomacy head on by filing a statement of claim against China in the Arbitral Tribunal of the United Nations Convention on the Law of the Sea. In its Notification and Statement of Claim to the Arbitral Tribunal, the Philippines laid its claims to the Spratly Islands, Scarborough Shoal, Mischief Reef, and other land features within its 200-mile EEZ based on the provisions of the UNCLOS specifically to its rights to a Territorial Sea and Contiguous Zone under Part II, to an Exclusive Economic Zone under Part V, and to a Continental Shelf under Part VI.⁸⁶

In its statement of claim, the Philippines made it clear that it does not seek arbitration over which party has sovereignty over the islands claimed by both the Philippines and China. Rather, it merely requests the Arbitral Tribunal to issue an opinion on the following issues: a) whether China's maritime claim in the South China Sea based on its so-called nine-dash line claim is valid or contrary to UNCLOS; and b) whether Scarborough Shoal, Johnson Reef, Cuarteron Reef, and Fiery Reef, which are submerged features and that are below sea level at high tide are islands or rocks under Article 121 (3) of the Convention. It also petitions the Tribunal to declare that the Philippines is entitled to a 12-mile Territorial Sea, a 200-mile EEZ, and a Continental under Parts II, V, and VI of UNCLOS and that China has unlawfully prevented the Philippines from exercising its right to exploit resources in its EEZ and to its rights to navigation within and beyond the 200-mile of the Philippines' archipelagic baselines.⁸⁷

The filing of its Notification and Statement of Claim to the arbitral tribunal of the UNCLOS aims to show that the Philippines' ownership of its six-islands in the Spratlys and other land features within its legitimate maritime jurisdiction is firmly

⁸⁵ Anonymous, "Manila Takes a Stand," *The Wall Street Journal Asia* (25 January 2013). p. 1. <http://search.proquest.com/docview/1272368093?accountid=28547>

⁸⁶ Department of Foreign Affairs, "Notification and Statement of Claim to the United Nations Convention of Law of the Sea (UNCLOS) Arbitral Tribunal," (Manila, 22 January 2013). pp. 12-14.

⁸⁷ *Ibid.* p. 18-19.

grounded on international law—specifically the UNCLOS. It is to request the arbitral tribunal as well to require China to “bring its domestic legislation into conformity with its obligations under the UNCLOS and for it to stop any activities that violate the rights of the Philippines in its maritime domain in the ‘West Philippine Sea (South China Sea).”⁸⁸

As expected, China refused to participate in the international arbitration and openly expressed its opposition to the Philippines’ filing of a case to the arbitrage tribunal. On 20 February 2013, the Chinese ambassador in Manila returned the notice of arbitration to the Department of Foreign Affairs. At the same time, Mr. Hong Lei, Chinese foreign ministry spokesperson in Beijing branded the filing as “factually flawed” and accused Manila of violating the non-binding 2001 Declaration of Conduct of the Parties in the South China Sea which provides for ASEAN and China to settle their maritime disputes among themselves.⁸⁹ The foreign ministry announcement of its refusal to participate in the international arbitration came a week after the Chinese media announced that three Chinese frigates would patrol and conduct drilling operations in the South China Sea after passing through the East China Sea and the Bashi Strait. On 30 March, four Chinese frigates conducted a live fire-exercise at the farthest point of its nine-dash line claim in the South China Sea, some 50 miles from the coast of Malaysia. The two-month standoff at Scarborough Shoal, China’s refusal to participate in the arbitral tribunal, and this live-fire exercise are telling of China’s position regarding the dispute—that is sovereignty over the South China Sea is non-negotiable, and this stance is unlikely to change, as to do so would be politically compromising to its long-held logic of indivisible territorial sovereignty.⁹⁰

Conclusion

The 2012 Scarborough Shoal standoff between the Philippines and China highlighted two approaches in resolving a territorial dispute. As the bigger power, confident of its newly acquired status as an economic dynamo and the second largest economy in the world, China readily applied the realpolitik approach on the Philippines at the onset of the stand-off. It reacted adversely to the Philippines’ use of a naval vessel in

⁸⁸ Bernice Camille V. Bauzon, “PH Sues China,” *Tribune Business News* (23 January 2013). p. 1. <http://search.proquest.com/docview/1271937475?accountid=28547>

⁸⁹ Simone Orendain, “Philippines to Forge Ahead with Sea Dispute Arbitration,” *Voice of America/FIND* (21 February 2013). p.1. <http://search.proquest.com/docview/1291089711?accountid=28547>

⁹⁰ Kailash K. Prasad, “An Assessment of the Goals, Drivers, and Capabilities of China’s Modernizing Navy,” *Korean Journal of Defense Analysis*, Vol. 24, No. 1 (March 2012). p. 56.

apprehending Chinese fishermen around the shoal by deploying a flotilla of civilian vessels that the Philippines could not match. Then it used the crowding-out tactic of sending more civilian ships and fishing boats to impress upon the Philippines that China will assert its sovereign claims over the shoal short of actually utilizing force. In addition, it imposed unofficial trade sanctions against the Philippines for the latter's alleged intransigence. In mid-June 2012, both sides agreed to withdraw their civilian vessels from the Scarborough Shoal. After the Philippines had withdrawn its lone coast guard vessel, China announced that it was sending two rescue ships to assist some fishermen. But after the three CMSU vessels left the shoal, the two rescue ships remained in the vicinity to effect China's de facto occupation of the shoal.

Undaunted by China's realpolitik approach, the Philippines challenged China to bring the dispute for international arbitration. China flatly rejected Manila's plan to present the case to the arbitral tribunal of the UNCLOS and insisted that the issue should be resolved through diplomacy and bilateral negotiations. The Philippines sought assistance from the ASEAN but only one country, Vietnam, expressed support to the Philippines. Some member-states faulted the Philippines, while others viewed the stand-off as a bilateral dispute that should be addressed by the concerned countries.

Although alone in its row with China, the Philippines stand pat in its opposition to China's *powerpolitik* approach and strong-arm method. It continued hounding the ASEAN to come out a binding code of conduct to govern maritime activities in the South China Sea. More significantly, it has filed a statement of claim against China in the arbitral tribunal of the UNCLOS. In doing so, it seeks a multilateral and legal solution to the territorial dispute in the South China Sea in which the interests of the international society is at stake.

The Philippines is making the society of states aware that the appropriate approach for resolving dispute involving overlapping claims to the global commons should be the liberal/legal approach based on multilateralism and international law, and not *powerpolitik*. In the final analysis, as a militarily weak and small power, the Philippines is also testing if the age-old aphorism "the strong do what they have the power to do and the weak accept what they have to accept," holds true in the 21st century global society.⁹¹

⁹¹ Thucydides, "Melian Dialogue," in *Classics of International Relations*, (ed.) John A. Vasquez, ed. (New Jersey: Prentice-Hall, 1996). p. 17.