

THE SOUTH CHINA SEA: POLITICS, MARITIME LAW AND DYNAMICS OF DEVELOPMENT

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3 Main Players: China, ASEAN, US

Many important players: Japan, India, Australia, South Korea, EU...



Interests of Concerned Parties

China:

- ◆ “Backyard” to shield the mainland from any sea attack. Through SCS China can project its power over all countries in Southeast Asia.
- ◆ Important part within the “strategic stability belt” in the “near” seas
- ◆ An important piece on the board of the “Wéiqí” (“play of go”) to encircle and isolate Taiwan
- ◆ Chinese navy is shifting to far-seas operations: The South China Sea then becomes an area for training exercises and a springboard for China to move out (to Pacific, Indian Ocean)

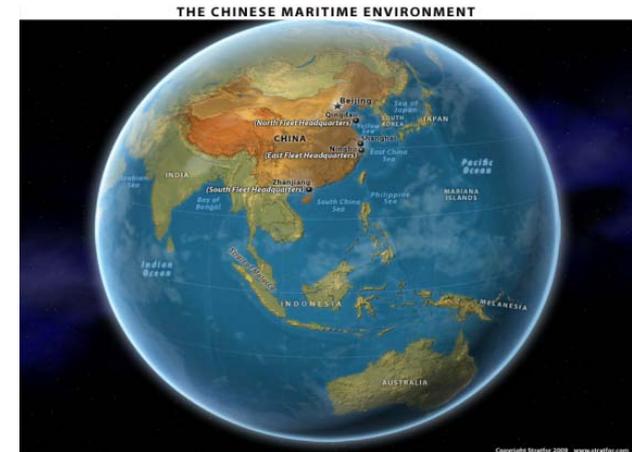
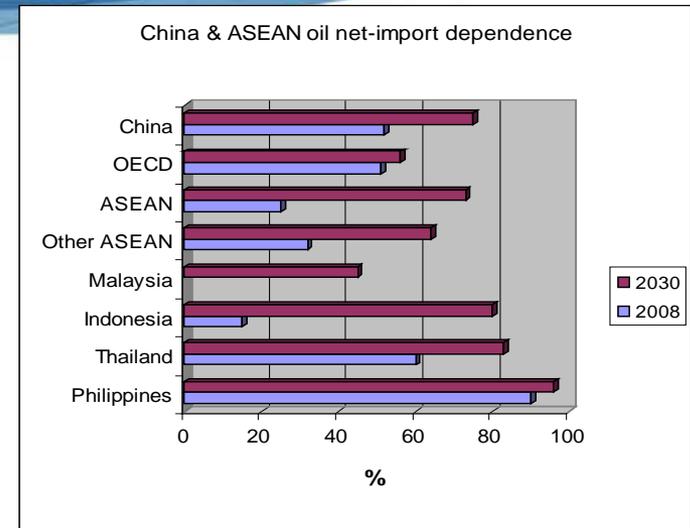
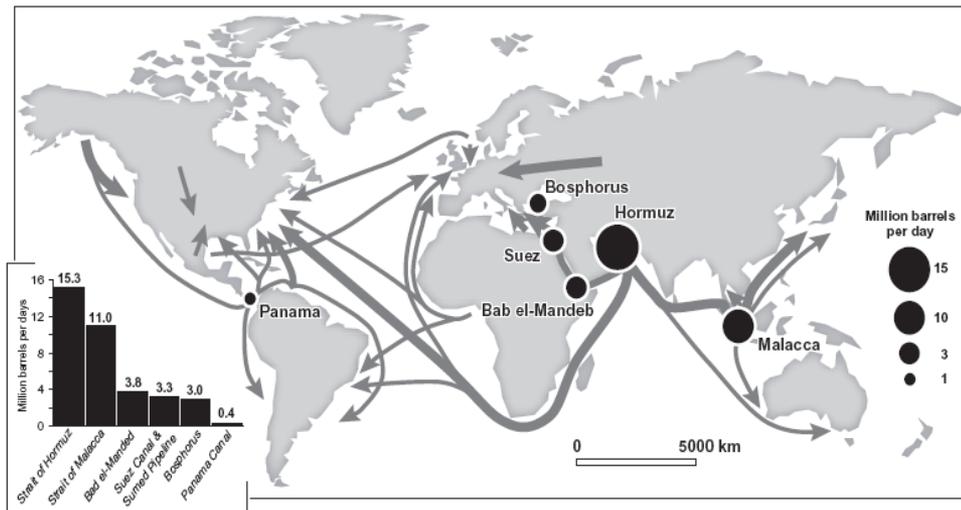


Figure 3. The First and Second Island Chains. PRC military theorists conceive of two island “chains” as forming a geographic basis for China’s maritime defensive perimeter.

Energy Security:

- Resource
- Transportation
- Regime survival

=> Beijing has legitimate concerns to develop naval forces to protect its SLOC.



ASEAN

◆ Divergent interests:

- ◆ Vietnam, Philippines
- ◆ Malaysia, Brunei, Indonesia
- ◆ Singapore
- ◆ Thailand, Laos, Myanmar
- ◆ Cambodia

◆ Convergent interests:

- ◆ Freedom of navigation,
- ◆ Regional stability,
- ◆ Respecting of international law,
- ◆ Maintaining consensus and centrality of ASEAN.



The US

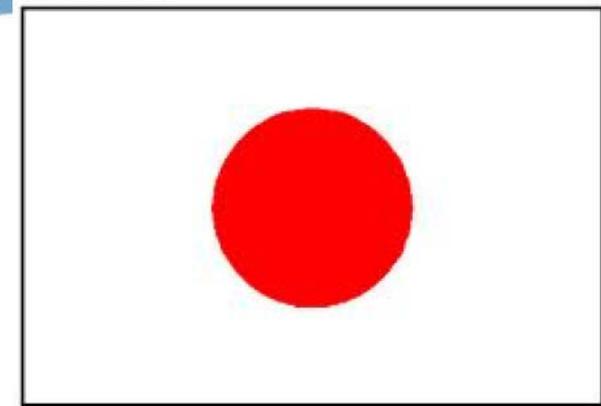
The US has direct interests in the SCS:

- ◆ **Maintaining the US-led order at sea;** especially the freedom of navigation, including the activities of military ships;
- ◆ **Protecting the interests of allies,** especially the strategic maritime routes for Japan, South Korea and the Philippines;
- ◆ **Managing China's (naval) outreach** to ensure that its rise will not upset the present US-dominated system;
- ◆ **Safeguarding the interests of US oil and gas corporations** in the region.



Interest of other Countries (Japan, India, Australia, Russia, EU...)

- ◆ **Freedom of navigation,**
- ◆ **Regional stability,**
- ◆ **Respecting of international law,**
managing China's rise
- ◆ **Economic Interest:** Oil and Gas
development.
- ◆ **Maintaining centrality of ASEAN.**
ASEAN provides platform for these
countries to engaging in multilateral
diplomacy (ASEAN+, ARF, ADMM+,
EAS,...)



Policies of Parties

China:

- ◆ In early 2000s: Policy of “peaceful development”, “charm offensive” :

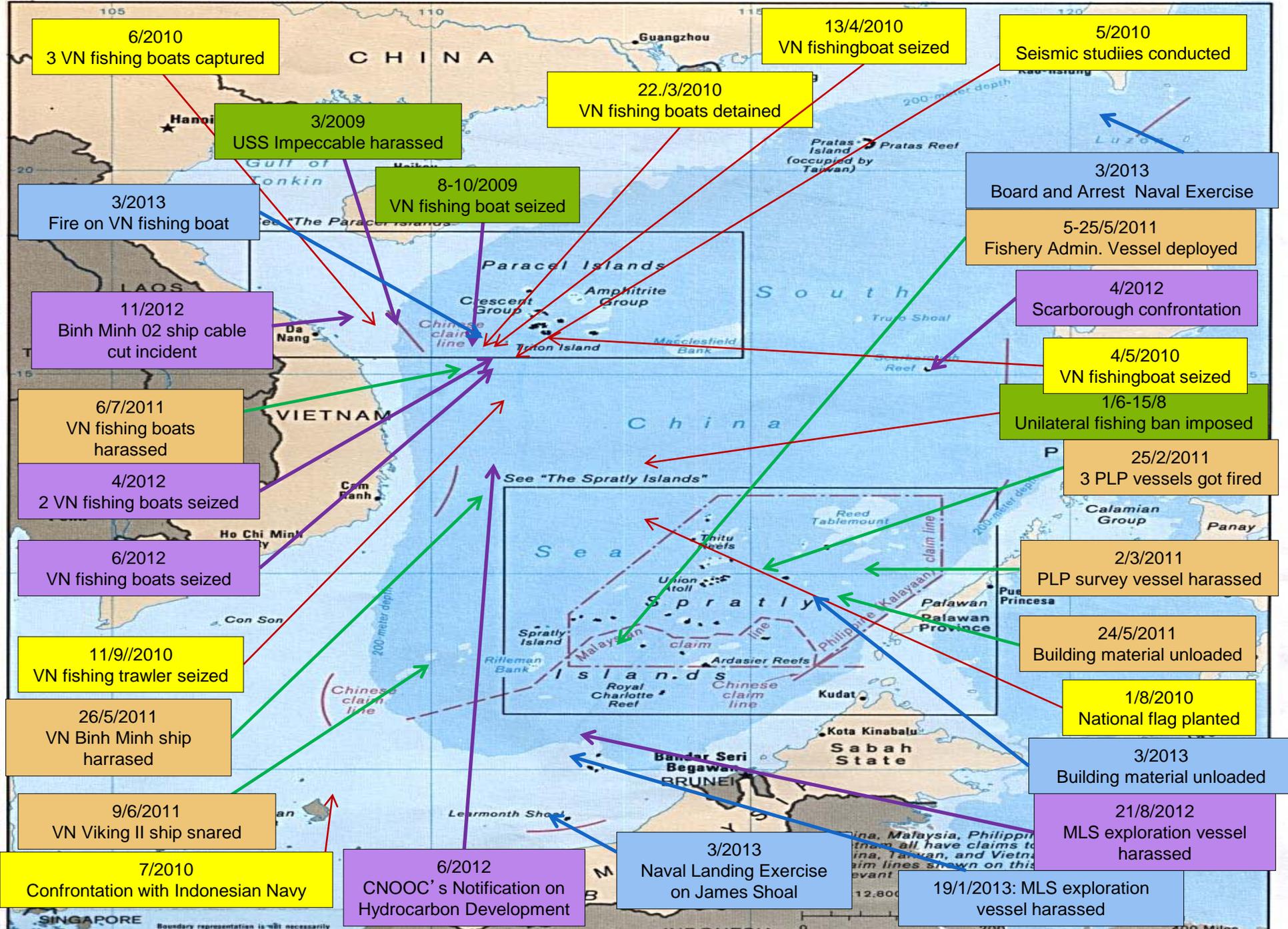
promote cooperation with ASEAN, signed DOC in 2002,

no significant incidents on the SCS

- ◆ Since 2009: become more assertive



South China Sea Islands



Explaining China's renewed assertiveness:

Domestic factors:

- **The rise in nationalism:** Chinese people believe that other claimants are extracting “China’s oil”, and catching “China’s fishes”, while it has not obtained any drop of oil from the Spratly islands, and Chinese fisherman are being captured and driven away;
- **Leadership transition period** and the ensuing internal political struggles: none of the Chinese leaders wants to appear “soft” in protecting territorial sovereignty;
- **Interest groups:** Some activities are carried out by interest groups without approval from center, while top leaders are busy with power transition and other domestic issues;
- **Energy demand:** China considers the South China Sea as a vital source of supply and a critical transportation route for its national development.

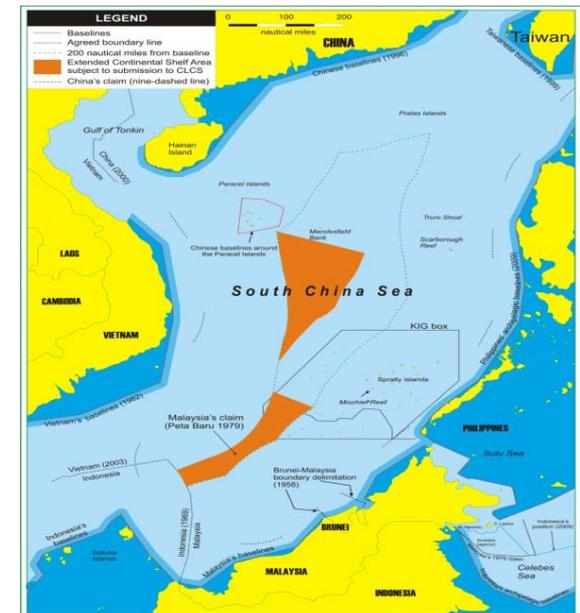
Explaining China's renewed assertiveness:

External factors:

- China believes that the US' power is declining due to economic and financial problems in 2009-2010; China is becoming more confident and seeking to increase its influence and interests in East Asia, of which the South China Sea is the focal point.
- ASEAN claimants' activities have forced China to react:** Main reason: after China made public internationally its map with U-shape line in 2009, any activity violating the line has been regarded as being against China's interests.

Policies of ASEAN Claimants

- Using the international law, especially the UNCLOS, to defend their maritime claims; PLP actively using arbitration process.
- Protested U-shaped Line and Opposing joint development with China in the areas within their internationally recognized maritime zones;
- Bringing up the South China Sea issue to regional forums for discussion with involvement of other external powers;
- Working with other members of ASEAN in engaging China in DOC implementation and in working for a COC;
- Negotiating directly with China to defuse tensions and to settle remaining bilateral issues.





US Rebalancing

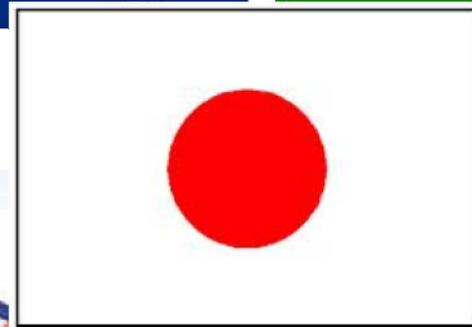
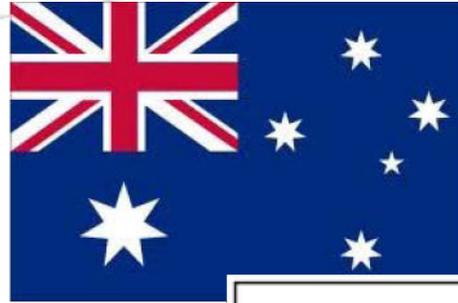
The comprehensive shift in US policy:

- ◆ **Politics and diplomacy:** increasing number of visits of the President, State Secretary and Defense Secretary and other high-ranking officials to the region.
- ◆ **Economically:** concentrating on the Trans-Pacific Partnership Agreement (TPP).
- ◆ **Militarily:** “rotating base” in Australia, plan to move the majority of its naval forces to the Asia-Pacific region.
- ◆ Hillary Clinton **declared its national interests** in the South China Sea; indirectly **rejected U-shaped line**.

**Question of sustainability? budget constraint;
overstretch with other issues**

Policy of other countries

- Japan, Australia, India, Russia, EU pay more attention to the SCS
- Voiced concern on regional diplomatic forums
- Enhance activities with relevant countries; promoting maritime security cooperation



Dynamics of the SCS Development

- ◆ China's assertiveness have made ASEAN claimants countries more concerned about their security and regional stability.
 - ◆ Less attractive of China's soft power in South East Asia.
 - ◆ Many ASEAN countries strengthen security relations with the US and welcome the US presence in the region.
 - ◆ US has more excuses to engage in the region and influence on the South China Sea issue.
- ◆ US policy has spill over effect on position of other countries: The South China Sea disputes have become international issue

Dynamics of the SCS Development

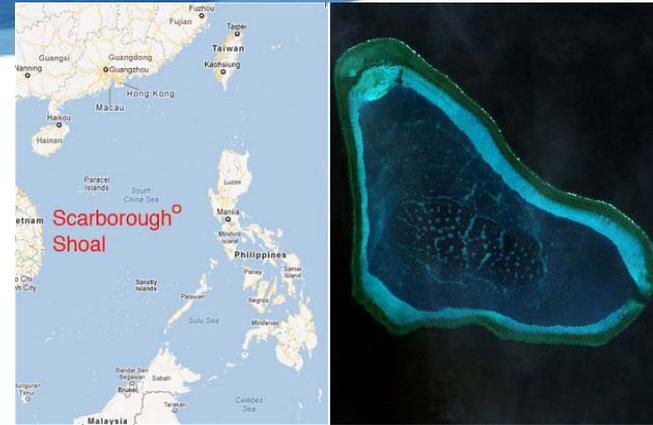
- ◆ China's pressure on international oil and gas companies
 - ◆ US to express views on “unimpeded commerce” and be more determined in protecting interests of American corporations;
 - ◆ ASEAN claimants have sought to cooperate with international oil and gas companies from major powers
 - => the SCS becomes an area of intertwined major powers' interests and more internationalized – the situation that China doesn't expect.

Dynamics of the SCS Development

- **The South China Sea issue** is elevated in priorities of China's foreign policy decision-making process (main issues in China-US, China-ASEAN relations):
 - ⇒ China's approach become much more coordinated and centralized.
 - ⇒ Competition between and independent activities of interest's groups are manageable. (Unifying Maritime Law Enforcement Agencies)
 - ⇒ China's approach toward the South China Sea can be flexibly adjusted when Chinese leaders consider it is necessary.
 - ⇒ China cares about relation with ASEAN in dealing with SCS issue

Scarborough Confrontation

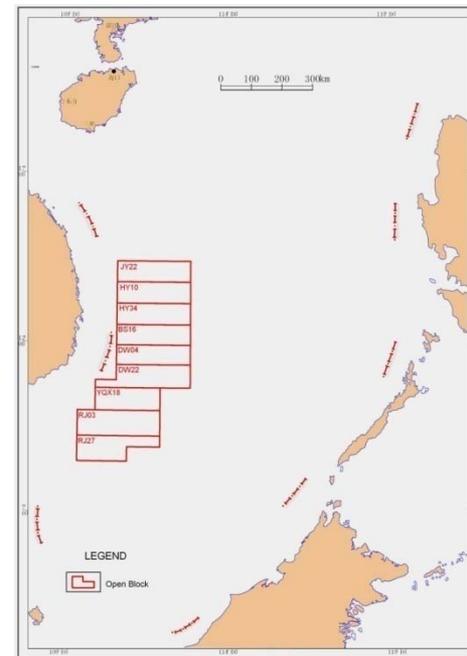
- China: implementing a coordinated and firm strategy:
 - imposing diplomatic pressures,
 - strengthening presence in the disputed area with hundreds of fishing boats and law enforcement vessels from deference agencies (Marine Surveillance and Fishing Patrol),
 - applying economic sanction on Philippine agricultural products
 - promoting international propaganda



Response to adoption of Vietnam's Law of the Sea

China implemented multi-directional measures at the same time:

- Elevation of Sansha City;
- CNOOC's invitation for bids for 9 blocks
- Deploying a large number of paramilitary vessels to patrol the South China Sea,
- Putting the military forces of "Sansha city" under the combat-ready position.



- ◆ China's centralized approach: aiming for **“expanding but low intensified dispute”** in the SCS:
 - ◆ increasing presence and control of civilian and paramilitary force in all areas within the U-shaped line;
 - ◆ refraining from using military forces, but continuing to show forces
 - ◆ offering economic intensives to ASEAN countries, especially to non-claimants;
 - ◆ and actively pushing diplomatic pressure to prevent ASEAN from forming a common position on the South China Sea.
- ⇒ **China is incrementally limiting the possibilities of US and other extra-regional powers to engage into the SCS issue.**
- ⇒ **Incrementally changing the status-quo**

◆ **The US is now facing a dilemma.**

- ◆ **Not ratifying UNCLOS is limiting US' s legitimacy** to criticize other countries for not respecting the maritime law.
- ◆ The increasing presence of the **US naval forces doesn' t have much impact on the contest** for control of resource in the South China Sea, which is mainly among law enforcement vessels from claimant countries. (limit of US involvement in Scarborough Shoal confrontation)
- ◆ On diplomatic arena, **ASEAN countries now have to take more into account Chinese concern than the US' s concern.**
- ◆ On multilateral diplomacy, **the effect of "Clinton' s remark at ARF 17" is not as strong as it used to be**, since the US hasn' t expressed any new viewpoints in recent speeches

Implications for ASEAN

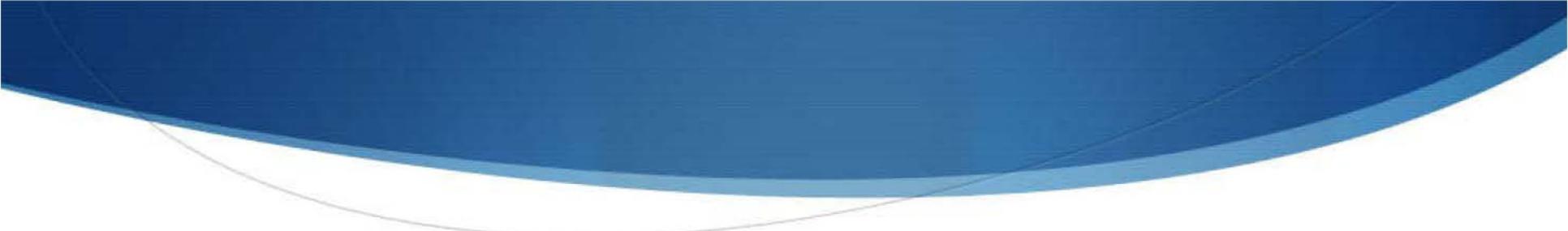
- ◆ **International law is being ignored**
- ◆ ASEAN can be hijacked by any chair or even a single member.
- ◆ **Next 3-4 years: Critical period for ASEAN.**
When Arbitration Panel decides jurisdiction in case between Philippines-China =>encourages parties prefer arbitration channel than diplomatic channel through ASEAN

For conclusion

- ◆ South China Sea: unbalanced equilibrium?
 - ◆ China is dominating on the sea and on diplomatic arena,
 - ◆ For the US, the SCS is not only relating to its strategic interests, but also to the credibility of the US power. However, US is still seeking approach how to deal with a rising China while confronting with budget constraint.
 - ◆ Extra-regional powers have huge interests but limited role to play.
 - ◆ ASEAN' s centrality and block's role in managing the South China Sea disputes can be limited due to intra-bloc division and external impacts.

- ◆ China's actions in the South China Sea has long been regarded as “the test case” whether China pursues the policy of peaceful rise, respects the international law, or it wants to “revise the rules”.
- ◆ However, that China allowed CNOOC's offering of 9 blocks for international bidding within 200 nautical miles of Vietnamese exclusive economic zone is clearly a precedent of disregarding international law.
- ◆ Facing with the situation when international law is being disregarded and ASEAN centrality role is undermined, ASEAN countries have no choice but to raise their common concerns more frequently in regional forums.

- ◆ Regarding the US, the South China Sea is not only relating to its strategic interests, but also to the credibility of the US power.
- ◆ What US can respond to China's strategy is adding other elements to its strategy such as paramilitary and economic elements, which the US has neglected over years.
- ◆ To protect its interest, other powers have to pay more attention to SCS, voice concern on regional diplomatic forums and promote maritime security cooperation

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- ◆ Since Beijing can formulate a coordinated and centralized policy on South China Sea issue, there is possibility that China will put this issue in a broad picture of its overall foreign policy.
 - ◆ When China has to care about other interests in relations with US, ASEAN than specific maritime interests in the SCS, one can expect a more moderated Chinese approach in the SCS.

Questions, comments are welcome.

Thank you!

