

MORE SABRE-RATTLING, MORE ISOLATION

Relevant for: International Relations | Topic: Effect of policies and politics of developed & developing countries on India's interests

The Philippines invoked the dispute settlement mechanism of the UN Convention on the Law of the Sea (UNCLOS) in 2013 to test the legality of China's 'nine-dash line' regarding the disputed Spratlys. In response, the Permanent Court of Arbitration (PCA) at The Hague decreed in its July 12, 2016 judgment that the line had "no legal basis." China dismissed the judgment as "null and void."

The South China Sea (SCS) is important not just to its littoral countries. It has been a transit point for trade since early medieval times, contains abundantly rich fisheries, and is a repository of mineral deposits and hydrocarbon reserves.

The PCA award undermined the Chinese claim. It held that none of the features of the Spratlys qualified them as islands, and there was no legal basis for China to claim historic rights and to the resources within the 'nine-dash line'. The UNCLOS provides that islands must sustain habitation and the capacity for non-extractive economic activity. Reefs and shoals that are unable to do so are considered low-tide elevations.

The award implied that China violated the Philippines Exclusive Economic Zone (EEZ). It noted that China had aggravated the situation by undertaking land reclamation and construction, and had harmed the environment and violated its obligation to preserve the ecosystem. China dismissed the award as "a political farce under the pretext of law."

Given the power equations, the Philippines did not press for enforcement of the award and acquiesced in the status quo. Not one country challenged China, which agreed to settle disputes bilaterally, and to continue work on a Code of Conduct with countries of the ASEAN.

Given that their economic ties with China are deepening, it may appear that the ASEAN countries are bandwagoning with China. In reality, there is growing discontent. While avoiding military confrontation with China, they are seeking political insurance, strengthening their navies, and deepening their military relationships with the United States.

Vietnam has added six Kilo-class, Russian-origin submarines to its navy. France, Germany and the Netherlands, respectively, have supplied Formidable-class stealth ships to Singapore, patrol boats to Brunei Darussalam, and corvettes to Indonesia. Japan is partially funding the upgradation of the Indonesian coast guard. Indonesia and the Philippines are in early stages of exploring procurement of the BrahMos missile from India. The other ASEAN countries that have shown interest are Thailand and Vietnam.

Growing Chinese muscularity in the SCS is visible in the increased patrolling and live-fire exercising by Chinese naval vessels; ramming and sinking of fishing vessels of other claimant countries; renaming of SCS features; and building of runways, bunkers, and habitation for possible long-term stationing of personnel on the atolls claimed by China.

Chinese exploration and drilling vessels compete aggressively with those of other littoral countries in the disputed waters. Petronas has been prospecting for oil in the Malaysian EEZ. A Chinese spokesperson claimed in early June that its own survey vessel in the same area was conducting "normal activities in waters under Chinese jurisdiction."

The festering regional resentment against China resulted in the unmuting of the ASEAN response to the growing Chinese footprint in the SCS at its 36th Summit on June 26, 2020.

China might have overreached by showing its aggressive hand prematurely. There is a growing chorus of protest against China. Having Vietnam, Japan and the U.S. riled up about its actions is nothing new for China. The Philippines and the ASEAN beginning to protest is new, even if their criticism is restrained. This does China little credit, and points to its growing isolation.

Indonesia protested to China about Chinese vessels trespassing into its waters close to the Nantua islands, towards the south of the SCS. The Philippines protested to China earlier this year about violations of Filipino sovereignty in the West Philippine Sea. It also wrote to the UN Secretary General (UNSG) in March disputing China's claim of "historic rights in the South China Sea." Two months later, Indonesia too wrote to the UNSG on this issue. It expressed support for compliance with international law, particularly the UNCLOS, as also for the PCA's 2016 ruling.

President Rodrigo Duterte said he had not followed up on the PCA judgment because the Philippines could not afford to fight China. Yet, when a Chinese firm bid to develop the Subic Bay, this was disallowed on the grounds that the use of archipelagic waters was exclusively reserved for Filipinos and that foreign investment regulations prohibited foreign equity for the utilisation of marine resources in archipelagic waters. Another recent decision, to extend the Visiting Forces Agreement with the U.S. for six months "in light of political and other developments in the region," as expressed by the Philippines Foreign Secretary, is a strategic setback for China. Only this June, the Philippines commissioned a beaching ramp on the Pag-Asa Island. A Filipino C-130 landed on its runway, which is being repaired. The Philippines is about to induct its first missile-capable frigate, built in South Korea, into its navy.

A complicating factor for China is Russia's growing military and economic equities in the SCS. Russia and Vietnam have a defence cooperation relationship, which they are committed to strengthening. China has objected to Rosneft Vietnam BV prospecting within the Chinese defined 'nine-dash line.' Rosneft has also been invited by the Philippines to conduct oil prospecting in its EEZ.

From India's perspective, foreign and security policy in its larger neighbourhood covers the entire expanse of the Asia-Pacific and extends to the Persian Gulf and West Asia. India straddles, and is the fulcrum of, the region between the Suez and Shanghai, between West and East Asia, and between the Mediterranean and the SCS. The SCS carries merchandise to and from India. It follows that India has a stake in the SCS, just as China has in the Indian Ocean.

India must continue to actively pursue its defence diplomacy outreach in the Indo-Pacific region: increase military training and conduct exercises and exchanges at a higher level of complexity, extend Humanitarian Assistance and Disaster Relief activities, share patrolling of the Malacca Strait with the littoral countries, etc. The Comprehensive Strategic Partnerships that India has concluded with Australia, Japan, Indonesia, the U.S., and Vietnam could be extended to Malaysia, the Philippines, Thailand, and Singapore.

India must also buttress the military capacity of the tri-service Andaman and Nicobar Command. According to one of its early Commanders-in-Chief, Lt. Gen. Aditya Singh, the manner in which the 368 islands, have been neglected "can only be termed as criminal." These have immense geo-strategic value, as they overlook Asia's maritime strategic lifeline and the world's most important global sea lane. In this time of turbulence, India cannot afford to continue undervaluing one of its biggest assets.

Jayant Prasad, a former diplomat, served as Director General of the Institute for Defence

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