

China, the Philippines and the US Security Guarantee

by Donald E. Weatherbee

Donald E. Weatherbee [dew621@verizon.net] is the Russell Distinguished Professor Emeritus at the University of South Carolina. He is the author of "International Relations in Southeast Asia: The Struggle for Autonomy"

Three days before his Jan. 20, 2012 retirement, the Commander of the US Pacific Fleet, Adm. Patrick Walsh, gave a departing interview to the Associated Press. In it, he expressed his concern about security and stability in the South China Sea. He warned of the potential for incidents in its contested areas to intensify and escalate into state-to-state confrontation with serious implications for all of the countries with security interests in the region.

Less than three months after Adm. Walsh's comments, just such a confrontation has developed between China and the Philippines in the waters of the Scarborough Shoal. The shoal, known to the Philippines as Panatag, encircles a 90-square-mile lagoon rich with marine and coral life. It is well within the Philippines' Exclusive Economic Zone (EEZ) and is administratively part of the town of Masinloc in Zambales Province. Although separate from the better-known Spratly Islands, Scarborough Shoal, called by the Chinese Huangyan, also lies within China's infamous nine-dash line delimiting its claim to sovereignty in the South China Sea, overlapping the EEZs and claims of other littoral states.

On April 8, Philippines air surveillance spotted eight Chinese fishing vessels in the lagoon. The flagship of the Philippines navy, the BRP *Gregorio del Pilar*, rushed to the scene. On April 10, Philippine sailors boarded the Chinese boats, but the attempt to arrest them was foiled by the arrival of two Chinese maritime surveillance ships that interposed themselves between the fishing boats and the Philippine warship. The fishing vessels sailed away unmolested. The *Gregorio del Pilar* was recalled, ostensibly to defuse the situation as the diplomatic wires burned. One small Philippine coast guard search and rescue craft was left to assert Philippines sovereignty.

This show of the Philippines flag was soon overshadowed by the arrival on station of the largest and most advanced of the new class of armed Chinese fisheries patrol and enforcement ships, the 361-foot, 2,589-ton *Yuzheng 310*. Its deployment according to the Chinese is to protect Chinese interests in its territorial waters. It joined two other Chinese marine surveillance vessels with more on the way. For Manila, the Chinese show of forces was an "aggravation" of an already tense situation.

What has been called by Filipino officials a "standoff" really is not a standoff. China has had its way. Beijing has refused any diplomatic concessions, arbitration, or appeal to

the International Tribunal on the Law of the Sea (ITLOS). China demands that the Philippines stop harassing Chinese ships or carrying out other activities in Chinese sovereign waters. China has demonstrated again to the Philippines, and to other countries with overlapping claims with China, that it will forcefully enforce its unilateral definition of its sea space. Chinese assertiveness raises new questions about the security environment for Philippine ongoing oil and gas exploration and potential exploitation on the Reed Bank (renamed by Manila the Recto Bank) Manila has repeatedly complained of Chinese intrusion and interference in Philippine operations there. China has also challenged the Philippines' sovereignty over the Malampaya offshore gas field west of Palawan's west coast.

Manila bravely proclaims that it will not be bullied and intimidated by China and will continue to assert its sovereign rights in its EEZ. However, self-help is not a choice. The Philippine government fully recognizes that even with new inflows of United States military assistance, including shortly a sister ship to the *Gregorio del Pilar*, it cannot challenge overwhelming Chinese superiority.

The Philippines' efforts to enhance capabilities to project its sovereign presence in its waters claimed by China are angrily denounced by Beijing. Accusing Manila of "militarizing" its infringement of Chinese sovereignty, Beijing has warned that the Philippines could pay a high price for any misjudgment. Manila has appealed to its ASEAN partners to close ranks behind the Philippines in the crisis. President Aquino has warned ASEAN of the consequences of China's aggressive policy. If the Philippines is forced out of its EEZ by Chinese power, intransigence, and refusal to allow recourse to the international mechanisms of the Law of the Sea, other countries in similar circumstances are at risk of the same fate. Top of the list, of course, is Vietnam.

Rather than address the plight of its ASEAN partner, ASEAN's collective response has been to fasten onto, as it has since 1992, the mirage of a code of conduct in the South China Sea that would be voluntarily binding on China. Given Chinese unremitting pressure on the Philippines and Vietnam, the prospect for any normative restraints on China seems more remote today than it did a year ago. To China's satisfaction, ASEAN to date sees the Philippines' issues with China as their bilateral problem. With China's aspiring client state Cambodia chairing ASEAN in 2012, it is unlikely that the grouping will move to multilateralize any issue that would displease the giant to its north. Chinese President Hu Jintao's April weekend visit to Phnom Penh two days before Prime Minister Hun Sen chaired the first ASEAN Summit under his auspices may be indicative. Hu pledged millions of dollars in new loans and assistance to Cambodia while the Cambodian leader agreed that disputes in the South China Sea would not be internationalized as part of ASEAN's official agenda. While

Chinese patrol vessels trolled through the Philippine EEZ, Cambodia as chair, made sure that South China Sea issues would not be part of the agenda of the April 24-26 ASEAN Defense Senior Officials Meeting Ministers of Defense, the prelude to the defense ministerial meeting in May.

For the United States, China's willingness to make the Philippines the poster boy for Chinese policy in the South China Sea raises policy questions that Washington would rather not be forced to address. At the November 2011 Bali East Asia Summit (EAS), before the assembled ASEAN heads of state and Chinese Premier Wen Jiabao, President Obama stated that the United States had a "powerful stake in maritime security in general and in the resolution of the South China Seas issues specifically — as a resident Pacific power, as a maritime nation, as a trading nation, as a *guarantor of security in the Asia-Pacific*" (emphasis added). As China gradually by salami slicing closes off the South China Sea to other "resident" states — except on China's terms — what does the US guarantee mean? More apropos, beneath the general regional guarantee, what is specifically guaranteed to the Philippines in its long-standing military alliance with the US, having at its core the six-decade-old Mutual Defense Treaty (MDT)? The presumption — which is only a hope — is that the US security guarantee will act as a deterrent to Chinese military adventurism.

The United States is helping the Armed Forces of the Philippines in its slow-moving and underfunded modernization programs. Speaking from the deck of the guided missile destroyer USS *Fitzgerald* in Manila Bay at the 60th anniversary celebration of the MDT, Secretary of State Hillary Clinton promised to support Philippines security in the maritime domain as "you move to improve your territorial defense and interdiction capabilities." There was no hint that the *Fitzgerald* or other elements of the Seventh Fleet would be standing by as part of those capabilities. On the sidelines of the EAS, President Obama told President Aquino that the MDT assures "that we are looking out for each other when it comes to security." But does that mean, as some Filipinos have interpreted it, that the US has Manila's back in its confrontation with China in the South China Sea?

China carefully parses every word and examines every activity in the US–Philippines security relationship. Simultaneously with the unfolding of the Scarborough Shoal episode, the annual US–Philippines "Balikatan" ("Shoulder-to-Shoulder") two-week joint military exercise took place with some of the gamed operations in Philippine waters west of Palawan. They included retaking oil and gas platforms seized by a mock enemy. Both the US and the Philippines denied that the routine "Balikatan" was aimed at China. The Chinese thought otherwise, warning that this was the kind of provocation "that will lead the South China Sea issue down the fork in the road towards a military confrontation and resolution through armed force." The question is where that fork in the road is.

At the time of this writing, the only relevant comment on the record by a senior US official was made by Marine Lt. Gen. Duane Thiessen at "Balikatan" headquarters. He was asked whether the US would come to their assistance if Chinese armed forces attacked Philippine units over the

conflicting claims to the Scarborough Shoal. Gen. Thiessen's answer was, "The United States and the Philippines have a mutual defense treaty which guarantees that we get involved in each other's defense and that is self-explanatory." It is not in fact self-explanatory, nor is there a guarantee that the US would automatically come to the direct military support of Filipino forces in an armed engagement with the Chinese in the South China Sea zone. At this level of analysis, it would seem realistically that the MDT has little deterrent value.

Article 5 of the MDT states that in the event of an armed attack on either of the two parties in the Pacific area, they would act to meet the common danger in accordance with constitutional processes. There is a lot of wiggle-room for the US to escape legally from responsibility for joining a Philippines — China clash in the reaches of the South China Sea. Not the least, using Bill Clinton legal logic, how do you define "armed attack"? The Philippines has been dismayed by the lack of strong public support from top US officials. The US line on the South China Sea has remained consistent: we do not take sides in jurisdictional issues but want disputes solved peacefully. The US certainly does not want to embolden Manila with false expectations that there is any guarantee to the Philippines that US military resources will be used against China to defend the Philippines' claims at Scarborough Shoal or, more significantly, in the Spratly Islands.

If the operationalization of the US security guarantee to the Philippines leaves the Philippines militarily isolated with China in the South China Sea, what will this mean for other ASEAN nations that have welcomed closer military ties to the US? Will they continue to hedge as the US security guarantee is devalued? What will be the impact on the other stakeholders in the South China Sea? China probably understands, and the ASEAN nations now realize, that the United States is not going to chance a wider armed conflict with China over South China Sea jurisdictional issues and China's enforcement of its sovereignty in the disputed areas — unless freedom of navigation is threatened.

What might this mean with respect to resolution of the South China Sea issues? In the absence of ASEAN collective measures that threaten other Chinese regional interests and given US reluctance to take the fork in the road to armed conflict with China, it would seem that with China holding the trump cards, the Philippines, Vietnam, and other claimants to sea and land space behind the nine-dash line realistically have two choices. They can die the death of a thousand cuts as China picks off or blocks their national exploitation of resources in the disputed areas. Alternatively, they can cut their losses by accepting on Chinese terms the offer of joint development in the disputed areas. Understanding that this would be a result of China's *force majeure*, in the absence of counter-force, to use the cliché, a half a loaf is probably better than none. The other ASEAN states would be relieved. They would not be forced to choose sides.

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